
HOUSE BILL 1718

State of Washington

61st Legislature

2009 Regular Session

By Representatives Upthegrove, Williams, Hudgins, McCoy, Dickerson, Hunt, Dunshee, and Nelson

Read first time 01/27/09. Referred to Committee on Ecology & Parks.

1 AN ACT Relating to reducing greenhouse gases in Washington;
2 amending RCW 19.27A.020, 35.92.360, 54.16.280, 36.94.460, 70.164.020,
3 70.164.040, 70.164.050, 70.164.060, 36.70A.108, 36.70A.030, 84.14.020,
4 84.14.100, 47.66.030, 36.120.180, 43.185A.110, 43.185A.120, 43.185.050,
5 39.92.040, 43.82.010, 39.33.010, 47.12.063, 53.08.090, 70.44.300,
6 28A.335.120, 35.61.132, 35.94.040, 47.80.030, 47.80.050, 47.01.440,
7 47.56.830, 47.56.820, 47.56.785, 82.08.813, 70.95.010, 70.95.020,
8 70.95.030, 70.95.080, 70.95.090, 70.95.092, 70.95.100, 70.95.110,
9 70.95.167, 70.95.212, 70.95.260, 70.95.263, 70.95.285, 81.77.185,
10 42.56.270, 43.19A.020, 36.70A.020, 36.70A.070, 36.70A.100, 36.70A.190,
11 36.70A.210, 36.70A.490, 36.70A.500, 43.21C.240, 81.104.015, and
12 82.14.0455; amending 2005 c 296 s 6 (uncodified); reenacting and
13 amending RCW 84.14.010; adding a new section to chapter 35.92 RCW;
14 adding new sections to chapter 19.27A RCW; adding new sections to
15 chapter 36.70A RCW; adding new sections to chapter 47.01 RCW; adding
16 new sections to chapter 43.31 RCW; adding a new section to chapter
17 39.92 RCW; adding a new section to chapter 47.80 RCW; adding a new
18 section to chapter 19.112 RCW; adding new sections to chapter 70.95
19 RCW; adding a new section to chapter 43.21C RCW; adding a new section
20 to chapter 81.112 RCW; adding a new chapter to Title 47 RCW; adding new
21 chapters to Title 70 RCW; creating new sections; prescribing penalties;

1 providing effective dates; providing expiration dates; and declaring an
2 emergency.

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

4 **PART 1**

5 **Energy Efficiency and Green Building Recommendations**

6 NEW SECTION. **Sec. 101.** The legislature finds that:

7 (1) Buildings have a lifespan of fifty to one hundred years during
8 which they continually consume energy and produce carbon dioxide
9 emissions. Existing homes, commercial buildings, and public
10 institutions consume seventy percent of the electricity load in
11 Washington state and account for more than thirty percent of the
12 state's carbon dioxide emissions. Those emissions need to decline in
13 order to meet our state's climate pollution reduction requirements in
14 RCW 70.235.020.

15 (2) Energy use in buildings is responsible for more than thirty
16 percent of Washington's global-warming emissions. Existing buildings
17 are far and away the region's greatest energy wasters, and thus our
18 greatest savings opportunity.

19 (3) State government can lead Washington into the clean energy
20 economy by making public buildings models of energy efficiency, while
21 saving public dollars.

22 (4) Energy efficiency is the cheapest and fastest way to meet
23 Washington's growing demand for electricity. A kilowatt saved is a
24 kilowatt earned. Put another way, saving a kilowatt-hour through
25 efficiency improvements frees up a kilowatt-hour to be used to meet our
26 growing demand for electricity. Energy efficiency typically costs
27 about three cents per kilowatt-hour saved compared with seven to twelve
28 cents per kilowatt-hour for electricity generated by new power plants.

29 (5) The United States population and economy are projected to grow
30 significantly over the coming decades, increasing the desire for new
31 buildings to meet this demand, with approximately fifteen million new
32 buildings projected to be constructed by 2015 nationwide.

33 (6) Making Washington homes and businesses more energy efficient
34 reduces the load on our electricity grid, the energy interstate we all
35 depend on and pay for. Washington's energy needs will grow along with

1 predicted population growth. Everyone who pays an electricity bill
2 broadly shares the cost of new power plants and power lines. Energy
3 efficiency can defer and even replace the need for expensive new energy
4 infrastructure helping to keep everyone's energy costs down and to meet
5 projected energy demand growth.

6 (7) Energy efficiency investments also create good local jobs, so
7 when utilities, businesses, or families invest in energy efficiency,
8 they are investing in the local community and the regional economy.

9 (8) The Washington state energy code is updated every three years
10 and reductions in energy use can be achieved by strengthening building
11 codes for new buildings and major retrofits.

12 (9) Funding for the state building code, responsible for
13 developing, evaluating, monitoring, and adopting fire, safety, public
14 health, and energy codes, is limited to building permit fees of four
15 dollars and fifty cents per permit collected by local governments. The
16 building permit fee has not changed in twenty-seven years.

17 (10) Facilitating a benchmarking system that provides energy
18 performance information for existing commercial and public buildings in
19 the state would enable building owners and operators to better manage
20 energy use and costs associated with those buildings.

21 (11) Up-front financing for energy efficiency improvements can be
22 a barrier to investments in energy efficiency upgrades and needs to be
23 addressed to rapidly increase energy efficiency, to reduce energy use,
24 and to meet our state's climate goals.

25 (12) Low-income households pay a higher percentage of their income
26 on energy bills than other households. Policies and programs should
27 focus on increasing home weatherization and energy-conserving services
28 to reduce energy bills.

29 (13) According to the American council for an energy-efficient
30 economy, improving buildings' energy efficiency by twenty percent by
31 2030 could create an estimated eight hundred thousand net jobs
32 nationwide, and by thirty percent could create up to one million three
33 hundred thousand net jobs.

34 NEW SECTION. **Sec. 102.** The definitions in this section apply to
35 sections 101 through 103 and 105 through 108 of this act and RCW
36 19.27A.020 unless the context clearly requires otherwise.

1 (1) "Benchmark" means the energy used by a facility as recorded
2 monthly for at least one year and the facility characteristics
3 information inputs required for a portfolio manager.

4 (2) "Conditioned space" means conditioned space, as defined in the
5 Washington state energy code.

6 (3) "Consumer-owned utility" includes a municipal electric utility
7 formed under Title 35 RCW, a public utility district formed under Title
8 54 RCW, an irrigation district formed under chapter 87.03 RCW, a
9 cooperative formed under chapter 23.86 RCW, a mutual corporation or
10 association formed under chapter 24.06 RCW, a port district formed
11 under Title 53 RCW, or a water-sewer district formed under Title 57
12 RCW, that is engaged in the business of distributing electricity to one
13 or more retail electric customers in the state.

14 (4) "Cost-effectiveness" means energy conservation measures that
15 the investment grade audit concludes will generate savings sufficient
16 to finance a portfolio of energy savings projects for not more than ten
17 years.

18 (5) "Council" means the state building code council.

19 (6) "Department" means the department of community, trade, and
20 economic development.

21 (7) "Energy service company" has the same meaning as in RCW
22 43.19.670.

23 (8) "General administration" means the department of general
24 administration.

25 (9) "Greenhouse gas" and "greenhouse gases" includes carbon
26 dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons,
27 and sulfur hexafluoride.

28 (10) "Investment grade energy audit" means an intensive engineering
29 analysis of energy conservation and management measures for the
30 facility, net energy savings, and a cost-effectiveness determination.

31 (11) "Investor-owned utility" means a corporation owned by
32 investors that meets the definition of "corporation" as defined in RCW
33 80.04.010 and is engaged in distributing either electricity or natural
34 gas, or both, to more than one retail electric customer in the state.

35 (12) "Major facility" means any publicly owned or leased building,
36 or a group of such buildings at a single site, having ten thousand
37 square feet or more of conditioned floor space.

1 (13) "National energy performance rating" means the score provided
2 by the energy star program, to indicate the energy efficiency
3 performance of the building compared to similar buildings in that
4 climate as defined in the United States environmental protection agency
5 "ENERGY STAR® Performance Ratings Technical Methodology."

6 (14) "Net zero energy use" means a building with net energy
7 consumption of zero over a typical year as measured at utility. This
8 is done in part by maximizing energy efficiency.

9 (15) "Portfolio manager" means the United States environmental
10 protection agency's energy star portfolio manager or an equivalent tool
11 adopted by the department.

12 (16) "Preliminary energy audit" means a quick evaluation by an
13 energy service company of the energy savings potential of a building.

14 (17) "Qualifying public agency" includes all state agencies,
15 colleges, universities, and school districts.

16 (18) "Qualifying utility" means a consumer-owned or investor-owned
17 gas or electric utility that serves more than twenty-five thousand
18 customers in the state of Washington.

19 (19) "Reporting public facility" means any of the following:

20 (a) A building or structure, or a group of buildings or structures
21 at a single site, owned by a qualifying public agency, that exceed ten
22 thousand square feet of conditioned space;

23 (b) Buildings, structures, or spaces leased by a qualifying public
24 agency that exceeds ten thousand square feet of conditioned space,
25 where the qualifying public agency purchases energy directly from the
26 energy provider;

27 (c) A wastewater treatment facility owned by a qualifying public
28 agency; or

29 (d) Other facilities selected by the qualifying public agency.

30 (20) "State portfolio manager master account" means a portfolio
31 manager account established to provide a single shared portfolio that
32 includes reports for all the reporting public facilities.

33 NEW SECTION. **Sec. 103.** (1) The department shall develop and
34 implement a strategic plan for enhancing energy efficiency in and
35 reducing greenhouse gas emissions from homes, buildings, districts, and
36 neighborhoods. Primarily, the strategic plan must be used to direct
37 the future code increases in RCW 19.27A.020, with targets for new

1 buildings similar to the architecture 2030 challenge schedule. The
2 strategic plan will identify barriers to achieving net zero energy use
3 in homes and buildings and identify how to overcome these barriers in
4 updated energy codes and through complementary policies.

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

8 (3) The strategic plan must include recommendations to the council
9 on energy code upgrades. At a minimum, the strategic plan 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 optional standards in lieu of
14 or in addition to complying with the standards set forth in the state
15 energy code;

16 (b) Determine the appropriate methodology to measure achievement of
17 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 enforcement;

20 (d) Include state strategies to support research, demonstration,
21 and education programs designed to achieve the targets in section 105
22 of this act and enhance energy efficiency and on-site renewable energy
23 production in buildings;

24 (e) Develop incentives, education, training programs and
25 certifications, particularly state-approved training or certification
26 programs, joint apprenticeship programs, or labor-management
27 partnership programs that train workers for energy-efficiency projects
28 to ensure proposed programs are designed to increase building
29 professionals' ability to design, construct, and operate buildings that
30 meet the energy efficiency targets in section 105 of this act;

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

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

36 (h) Create tax incentives, rebates, innovative or discounted
37 financing, and nonfinancial support in motivating energy consumers to
38 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 in
9 homes and buildings; and

10 (k) Address barriers to one hundred percent carbon free energy
11 consumption in all buildings.

12 (4) The department and the council shall convene a work group to
13 inform the initial development of the strategic plan. Membership of
14 the work group may include, but is not limited to, representatives
15 from:

16 (a) A municipal code enforcement officer employed by a
17 municipality;

18 (b) A residential builder;

19 (c) A commercial builder;

20 (d) An architect licensed in the state who is accredited by a
21 nationally recognized organization that administers credentialing
22 programs related to environmentally sound building practices and
23 standards, recommended by the American institute of architects
24 Washington chapter;

25 (e) A professional engineer licensed in Washington state,
26 recommended by a statewide association of structural engineers;

27 (f) A historic preservation representative, recommended by the
28 Washington historic preservation commission, with experience
29 implementing the state's standards for the treatment of historic
30 properties;

31 (g) A conservation group working in energy efficiency;

32 (h) The Northwest power planning and conservation council;

33 (i) An investor-owned utility providing electricity service;

34 (j) An investor-owned utility providing natural gas service;

35 (k) A public utility district;

36 (l) A municipal electric utility;

37 (m) An electric cooperative;

38 (n) A representative of the energy services companies industry;

1 (o) A representative from the legal profession;

2 (p) A representative from a financial institution or entity
3 familiar with municipal bonds;

4 (q) An electrical engineer licensed in Washington state,
5 recommended by a statewide association of electrical engineers;

6 (r) A consulting design firm working on building renewable energy
7 solutions;

8 (s) A representative from a labor union representing workers in
9 energy or building and construction industries or labor affiliates
10 administering state-approved, joint apprenticeship programs or labor-
11 management partnership programs that train workers for these
12 industries;

13 (t) A representative of an equipment manufacturer; and

14 (u) A mechanical HVAC engineer licensed in Washington state,
15 recommended by a statewide association of mechanical HVAC engineers.

16 **Sec. 104.** RCW 19.27A.020 and 1998 c 245 s 8 are each amended to
17 read as follows:

18 (1) (~~No later than January 1, 1991,~~) The state building code
19 council shall adopt rules to be known as the Washington state energy
20 code as part of the state building code.

21 (2) The council shall follow the legislature's standards set forth
22 in this section to adopt rules to be known as the Washington state
23 energy code. The (~~Washington~~) state energy code shall be designed
24 to:

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

29 (b) Require new buildings to meet a certain level of energy
30 efficiency, but allow flexibility in building design, construction, and
31 heating equipment efficiencies within that framework(~~(. The Washington~~
32 state energy code shall be designed to)); and

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

35 (3) The Washington state energy code shall take into account
36 regional climatic conditions. Climate zone 1 shall include all

1 counties not included in climate zone 2. Climate zone 2 includes:
2 Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend
3 Oreille, Spokane, Stevens, and Whitman counties.

4 (4) The Washington state energy code for residential buildings
5 shall ~~((require:~~

6 ~~(a) New residential buildings that are space heated with electric
7 resistance heating systems to achieve energy use equivalent to that
8 used in typical buildings constructed with:~~

9 ~~(i) Ceilings insulated to a level of R-38. The code shall contain
10 an exception which permits single rafter or joist vaulted ceilings
11 insulated to a level of R-30 (R value includes insulation only);~~

12 ~~(ii) In zone 1, walls insulated to a level of R-19 (R value
13 includes insulation only), or constructed with two by four members,
14 R-13 insulation batts, R-3.2 insulated sheathing, and other normal
15 assembly components; in zone 2 walls insulated to a level of R-24 (R
16 value includes insulation only), or constructed with two by six
17 members, R-22 insulation batts, R-3.2 insulated sheathing, and other
18 normal construction assembly components; for the purpose of determining
19 equivalent thermal performance, the wall U-value shall be 0.058 in zone
20 1 and 0.044 in zone 2;~~

21 ~~(iii) Below grade walls, insulated on the interior side, to a level
22 of R-19 or, if insulated on the exterior side, to a level of R-10 in
23 zone 1 and R-12 in zone 2 (R value includes insulation only);~~

24 ~~(iv) Floors over unheated spaces insulated to a level of R-30 (R
25 value includes insulation only);~~

26 ~~(v) Slab on grade floors insulated to a level of R-10 at the
27 perimeter;~~

28 ~~(vi) Double glazed windows with values not more than U-0.4;~~

29 ~~(vii) In zone 1 the glazing area may be up to twenty one percent of
30 floor area and in zone 2 the glazing area may be up to seventeen
31 percent of floor area where consideration of the thermal resistance
32 values for other building components and solar heat gains through the
33 glazing result in thermal performance equivalent to that achieved with
34 thermal resistance values for other components determined in accordance
35 with the equivalent thermal performance criteria of (a) of this
36 subsection and glazing area equal to fifteen percent of the floor area.
37 Throughout the state for the purposes of determining equivalent thermal~~

1 performance, the maximum glazing area shall be fifteen percent of the
2 floor area; and

3 ~~(viii) Exterior doors insulated to a level of R-5; or an exterior~~
4 ~~wood door with a thermal resistance value of less than R-5 and values~~
5 ~~for other components determined in accordance with the equivalent~~
6 ~~thermal performance criteria of (a) of this subsection.~~

7 ~~(b) New residential buildings which are space heated with all other~~
8 ~~forms of space heating to achieve energy use equivalent to that used in~~
9 ~~typical buildings constructed with:~~

10 ~~(i) Ceilings insulated to a level of R-30 in zone 1 and R-38 in~~
11 ~~zone 2 the code shall contain an exception which permits single rafter~~
12 ~~or joist vaulted ceilings insulated to a level of R-30 (R value~~
13 ~~includes insulation only);~~

14 ~~(ii) Walls insulated to a level of R-19 (R value includes~~
15 ~~insulation only), or constructed with two by four members, R-13~~
16 ~~insulation batts, R-3.2 insulated sheathing, and other normal assembly~~
17 ~~components;~~

18 ~~(iii) Below grade walls, insulated on the interior side, to a level~~
19 ~~of R-19 or, if insulated on the exterior side, to a level of R-10 in~~
20 ~~zone 1 and R-12 in zone 2 (R value includes insulation only);~~

21 ~~(iv) Floors over unheated spaces insulated to a level of R-19 in~~
22 ~~zone 1 and R-30 in zone 2 (R value includes insulation only);~~

23 ~~(v) Slab on grade floors insulated to a level of R-10 at the~~
24 ~~perimeter;~~

25 ~~(vi) Heat pumps with a minimum heating season performance factor~~
26 ~~(HSPF) of 6.8 or with all other energy sources with a minimum annual~~
27 ~~fuel utilization efficiency (AFUE) of seventy-eight percent;~~

28 ~~(vii) Double glazed windows with values not more than U-0.65 in~~
29 ~~zone 1 and U-0.60 in zone 2. The state building code council, in~~
30 ~~consultation with the department of community, trade, and economic~~
31 ~~development, shall review these U-values, and, if economically~~
32 ~~justified for consumers, shall amend the Washington state energy code~~
33 ~~to improve the U-values by December 1, 1993. The amendment shall not~~
34 ~~take effect until July 1, 1994; and~~

35 ~~(viii) In zone 1, the maximum glazing area shall be twenty one~~
36 ~~percent of the floor area. In zone 2 the maximum glazing area shall be~~
37 ~~seventeen percent of the floor area. Throughout the state for the~~

1 ~~purposes of determining equivalent thermal performance, the maximum~~
2 ~~glazing area shall be fifteen percent of the floor area.~~

3 ~~(c) The requirements of (b)(ii) of this subsection do not apply to~~
4 ~~residences with log or solid timber walls with a minimum average~~
5 ~~thickness of three and one half inches and with space heat other than~~
6 ~~electric resistance.~~

7 ~~(d) The state building code council may approve an energy code for~~
8 ~~pilot projects of residential construction that use innovative energy~~
9 ~~efficiency technologies intended to result in savings that are greater~~
10 ~~than those realized in the levels specified in this section.~~

11 ~~(5) U-values for glazing shall be determined using the area~~
12 ~~weighted average of all glazing in the building. U-values for vertical~~
13 ~~glazing shall be determined, certified, and labeled in accordance with~~
14 ~~the appropriate national fenestration rating council (NFRC) standard,~~
15 ~~as determined and adopted by the state building code council.~~
16 ~~Certification of U-values shall be conducted by a certified,~~
17 ~~independent agency licensed by the NFRC. The state building code~~
18 ~~council may develop and adopt alternative methods of determining,~~
19 ~~certifying, and labeling U-values for vertical glazing that may be used~~
20 ~~by fenestration manufacturers if determined to be appropriate by the~~
21 ~~council. The state building code council shall review and consider the~~
22 ~~adoption of the NFRC standards for determining, certifying, and~~
23 ~~labeling U-values for doors and skylights when developed and published~~
24 ~~by the NFRC. The state building code council may develop and adopt~~
25 ~~appropriate alternative methods for determining, certifying, and~~
26 ~~labeling U-values for doors and skylights. U-values for doors and~~
27 ~~skylights determined, certified, and labeled in accordance with the~~
28 ~~appropriate NFRC standard shall be acceptable for compliance with the~~
29 ~~state energy code. Sealed insulation glass, where used, shall conform~~
30 ~~to, or be in the process of being tested for, ASTM E-774-81 class A or~~
31 ~~better)) be the 2006 edition of the Washington state energy code, as~~
32 ~~amended by rule by the council.~~

33 ~~((+6)) (5) The minimum state energy code for new nonresidential~~
34 ~~buildings shall be the Washington state energy code, ((1986)) 2006~~
35 ~~edition, as amended by the council by rule.~~

36 ~~((+7)) (6)(a) Except as provided in (b) of this subsection, the~~
37 ~~Washington state energy code for residential structures shall preempt~~

1 the residential energy code of each city, town, and county in the state
2 of Washington.

3 (b) The state energy code for residential structures does not
4 preempt a city, town, or county's energy code for residential
5 structures which exceeds the requirements of the state energy code and
6 which was adopted by the city, town, or county prior to March 1, 1990.
7 Such cities, towns, or counties may not subsequently amend their energy
8 code for residential structures to exceed the requirements adopted
9 prior to March 1, 1990.

10 ~~((+8))~~ (7) The state building code council shall consult with the
11 department of community, trade, and economic development as provided in
12 RCW 34.05.310 prior to publication of proposed rules. ~~((The department
13 of community, trade, and economic development shall review the proposed
14 rules for consistency with the guidelines adopted in subsection (4) of
15 this section.))~~ The director of the department of community, trade,
16 and economic development shall recommend to the state building code
17 council any changes necessary to conform the proposed rules to the
18 requirements of this section.

19 (8) The definitions in section 102 of this act apply throughout
20 this section.

21 NEW SECTION. Sec. 105. (1) The council shall adopt state energy
22 codes that require homes and buildings constructed from 2016 through
23 2031 to meet the following energy efficiency targets, using the adopted
24 2006 Washington state energy code as a baseline:

25 (a) By 2013, new homes and buildings must be designed and
26 constructed to achieve a forty percent reduction in energy use for that
27 building type;

28 (b) By 2016, new homes and buildings must be designed and
29 constructed to achieve a forty-five percent reduction in energy use for
30 that building type;

31 (c) By 2019, new homes and buildings must be designed and
32 constructed to achieve a fifty percent reduction in energy use for that
33 building type;

34 (d) By 2022, new homes and buildings must be designed and
35 constructed to achieve a fifty-five percent reduction in energy use for
36 that building type;

1 (e) By 2025, new homes and buildings must be designed and
2 constructed to achieve a sixty percent reduction in energy use for that
3 building type;

4 (f) By 2028, new homes and buildings must be designed and
5 constructed to achieve a sixty-five percent reduction in energy use for
6 that building type; and

7 (g) By 2031, new homes and buildings must be designed and
8 constructed to achieve a seventy percent reduction in energy use for
9 that building type.

10 (2) If the council determines that economic, technological, or
11 process factors would significantly impede adoption of or compliance
12 with state energy codes incorporating the energy efficiency targets in
13 subsection (1) of this section, the council shall report its findings
14 to the legislature by December 31st of the year prior to the year in
15 which those codes would otherwise be enacted under its proposed action
16 plan.

17 NEW SECTION. **Sec. 106.** (1) On and after January 1, 2010,
18 qualifying utilities shall maintain records of the energy consumption
19 data of all nonresidential and qualifying public agency buildings to
20 which they provide service. This data must be maintained for at least
21 the most recent twelve months in a format compatible for uploading to
22 the portfolio manager.

23 (2) On and after January 1, 2010, upon the written authorization or
24 secure electronic authorization of a nonresidential building owner or
25 operator, a qualifying utility shall upload all of the energy
26 consumption data for the accounts specified for a building to the
27 portfolio manager in a manner that preserves the confidentiality of the
28 customers.

29 (3) In carrying out the requirements of this section, a qualifying
30 utility shall use any method for providing the specified data in order
31 to maximize efficiency and minimize overall program cost. Qualifying
32 utilities are encouraged to consult with the United States
33 environmental protection agency and their customers in developing
34 reasonable reporting options.

35 (4) Disclosure of nonpublic nonresidential building performance
36 data will be phased in as follows:

1 (a) By January 1, 2011, for buildings greater than fifty thousand
2 square feet; and

3 (b) By January 1, 2012, for buildings greater than ten thousand
4 square feet.

5 (5) Based on the size guidelines in subsection (4) of this section,
6 a property owner or operator, or their agent, of a nonresidential
7 building shall complete and disclose the portfolio manager data and
8 ratings for the most recent continuously occupied twelve-month period
9 to a prospective buyer, lessee, or lender. If the data is delivered to
10 a prospective buyer, lessee, or lender, a property owner, operator, or
11 their agent is not required to provide additional information regarding
12 energy consumption, and the information is deemed to be adequate to
13 inform the prospective buyer, lessee, or lender regarding the portfolio
14 manager data and ratings for the most recent twelve-month period for
15 the building that is being sold, leased, financed, or refinanced.

16 (6) Notwithstanding subsections (4) and (5) of this section,
17 nothing in this section increases or decreases the duties, if any, of
18 a property owner, operator, or their agent under this chapter or alters
19 the duty of a seller, agent, or broker to disclose the existence of a
20 material fact affecting the real property.

21 NEW SECTION. **Sec. 107.** By December 31, 2009, the department shall
22 recommend to the legislature a methodology to determine an energy
23 performance score for residential buildings and an implementation
24 strategy to ensure disclosure of that score at the time of sale.

25 NEW SECTION. **Sec. 108.** (1) By July 1, 2010, each qualifying
26 public agency shall:

27 (a) Create an energy benchmark for each reporting public facility
28 using a portfolio manager;

29 (b) Report the environmental protection agency national energy
30 performance rating for each reporting public facility included in the
31 technical requirements for this rating; and

32 (c) Link all portfolio manager accounts to the state portfolio
33 manager master account to facilitate public reporting.

34 (2) By January 1, 2010, general administration shall establish a
35 state portfolio manager master account. The account must be designed
36 to provide shared reporting for all reporting public facilities.

1 (3) By July 1, 2010, general administration shall select a
2 standardized portfolio manager report for reporting public facilities.
3 General administration, in collaboration with the United States
4 environmental protection agency, shall make the standard report of each
5 reporting public facility available to the public through the portfolio
6 manager web site.

7 (4) General administration shall prepare a biennial report
8 summarizing the statewide portfolio manager master account reporting
9 data. The first report must be completed by December 1, 2012.
10 Subsequent reporting shall be completed every two years thereafter.

11 (5) By July 1, 2010, general administration shall develop a
12 technical assistance program to facilitate the implementation of a
13 preliminary audit and the investment grade energy audit. General
14 administration shall design the technical assistance program to utilize
15 no-cost audit services provided by utilities or energy services
16 contracting companies when possible.

17 (6) For each reporting public facility with a national energy
18 performance rating score below fifty, the qualifying public agency, in
19 consultation with general administration, shall undertake a preliminary
20 energy audit by July 1, 2011. If potential cost-effective energy
21 savings are identified, an investment grade energy audit must be
22 completed by July 1, 2012. Implementation of cost-effective energy
23 conservation measures are required by July 1, 2015. For a major
24 facility that is leased by a state agency, college, university, or
25 school district, energy audits and implementation of cost-effective
26 energy conservation measures are required only for that portion of the
27 facility that is leased by the state agency, college, university, or
28 school district.

29 (7) The state may not renew leases with buildings that have a
30 portfolio manager score below fifty.

31 (8) By July 1, 2011, general administration shall conduct a review
32 of facilities not covered by the national energy performance rating.
33 Based on this review, general administration shall develop a portfolio
34 of additional facilities that require preliminary energy audits. For
35 these facilities, the qualifying public agency, in consultation with
36 general administration, shall undertake a preliminary energy audit by
37 July 1, 2012. If potential cost-effective energy savings are

1 identified, an investment grade energy audit must be completed by July
2 1, 2013.

3 NEW SECTION. **Sec. 109.** A new section is added to chapter 35.92
4 RCW to read as follows:

5 (1) A municipality may construct, purchase, acquire, add to,
6 extend, maintain, and operate a system of conservation facilities,
7 equipment, and programs for the conservation of energy, within or
8 without its limits, for the purpose of providing to its inhabitants and
9 other persons, services that lead to the more efficient consumption of
10 energy resources, from whatever source generated, with full power to
11 regulate and control the use, distribution, and price of such
12 efficiency measures, and to enter into agreements for the maintenance
13 and operation of conservation facilities under terms and conditions
14 determined by the legislative authority of the municipality. A
15 conservation utility may be operated as a separate utility or may be
16 combined with an existing electric, water, wastewater, solid waste,
17 heating or other utility operated by the municipality.

18 (2) For the purposes of meeting the state's goals relating to
19 greenhouse gas emissions in RCW 70.235.020 and reducing the state's
20 dependence on foreign oil, the provision of conservation services and
21 the establishment and operation of conservation utilities by a
22 municipality under this section are declared to be a public use and a
23 public and municipal purpose. A municipality that forms a conservation
24 utility under this section is declared to be engaged in the sale or
25 distribution of energy services for purposes of Article VIII, section
26 10 of the state Constitution, and is authorized to operate the loan
27 programs authorized in RCW 35.92.360 or 54.16.280, as applicable.

28 (3)(a) The legislative authority of the municipality has full
29 authority to control the use, distribution, and rates or charges for
30 energy conservation services and facilities provided to customers of
31 the system if the rates charged are uniform for the same class of
32 customer or service.

33 (b) In classifying customers served or service furnished, the
34 legislative authority may consider:

35 (i) The difference in cost of service to the various customers;

36 (ii) The location of the various customers within or without the
37 municipality;

1 (iii) The difference in cost of maintenance, operation, repair, and
2 replacement of the various parts of the system;

3 (iv) The different character of the service furnished various
4 customers;

5 (v) The quantity and quality of the conservation services
6 furnished; and

7 (vi) Any other matters that present a reasonable difference as a
8 ground for distinction.

9 (4) The legislative authority of the municipality has full
10 authority to regulate and control the conservation services delivered,
11 together with the right to handle and sell or lease any meters, lamps,
12 motors, transformers, and conservation equipment or accessories of any
13 kind, necessary and convenient for the use, distribution, and sale
14 thereof.

15 (5) The associated reductions in greenhouse gas emissions from any
16 energy conservation services and facilities provided by the
17 conservation utility are owned by the conservation utility unless
18 otherwise expressly provided in the rates and charges or contracts for
19 energy conservation.

20 (6) The associated reductions in greenhouse gas emissions from any
21 energy conservation services and facilities provided by the
22 conservation utility may be sold by the conservation utility to:

23 (a) Cities, counties, and public utility districts to mitigate the
24 greenhouse gas emissions of those jurisdictions pursuant to the
25 authority to purchase offsets provided in RCW 35.92.430, 36.01.250, and
26 54.16.390; or

27 (b) Electric utilities as renewable energy credits under chapter
28 19.285 RCW to the extent that the reductions in greenhouse gas
29 emissions result from a reduction in electric energy usage.

30 (7) This authority is in addition to any authority granted in other
31 law and does not limit the ability to provide conservation services
32 through an existing electric, water, wastewater, or heating utility.
33 The election procedures under RCW 35.92.070 and 54.08.070 and chapter
34 80.52 RCW or other law have no application to the formation of a
35 conservation utility formed under this section. Nothing in this
36 section authorizes any municipality to generate, transmit, distribute,
37 or sell electricity. Nothing in this section may be construed to

1 restrain or limit the authority of any individual, partnership,
2 corporation, or private utility from establishing and providing
3 conservation services.

4 (8) For purposes of this section, "municipality" means any city,
5 town, county, or public utility district.

6 **Sec. 110.** RCW 35.92.360 and 2002 c 276 s 2 are each amended to
7 read as follows:

8 (1) Any city or town engaged in the generation, sale, or
9 distribution of energy is hereby authorized, within limits established
10 by the Constitution of the state of Washington, to assist the owners of
11 structures or equipment in financing the acquisition and installation
12 of materials and equipment, for compensation or otherwise, for the
13 conservation or more efficient use of energy in such structures or
14 equipment pursuant to an energy conservation plan adopted by the city
15 or town if the cost per unit of energy saved or produced by the use of
16 such materials and equipment is less than the cost per unit of energy
17 produced by the next least costly new energy resource which the city or
18 town could acquire to meet future demand. Any financing authorized
19 under this chapter shall only be used for conservation purposes in
20 existing structures, and such financing shall not be used for any
21 purpose which results in a conversion from one energy source to
22 another.

23 (2) For the purposes of this section, "conservation purposes in
24 existing structures" may include projects to allow a municipal electric
25 utility's customers to generate all or a portion of their own
26 electricity through the on-site installation of a distributed
27 electricity generation system that uses as its fuel solar, wind,
28 geothermal, or hydropower, or other renewable resource that is
29 available on-site and not from a commercial source. Such projects
30 shall not be considered "a conversion from one energy source to
31 another" which is limited to the change or substitution of one
32 commercial energy supplier for another commercial energy supplier.

33 (3) Except where otherwise authorized, such assistance shall be
34 limited to:

35 ((+1)) (a) Providing an inspection of the structure or equipment,
36 either directly or through one or more inspectors under contract, to
37 determine and inform the owner of the estimated cost of purchasing and

1 installing conservation materials and equipment for which financial
2 assistance will be approved and the estimated life cycle savings in
3 energy costs that are likely to result from the installation of such
4 materials or equipment;

5 ~~((+2))~~ (b) Providing a list of businesses who sell and install
6 such materials and equipment within or in close proximity to the
7 service area of the city or town, each of which businesses shall have
8 requested to be included and shall have the ability to provide the
9 products in a workmanlike manner and to utilize such materials in
10 accordance with the prevailing national standards~~((-))~~;

11 ~~((+3))~~ (c) Arranging to have approved conservation materials and
12 equipment installed by a private contractor whose bid is acceptable to
13 the owner of the residential structure and verifying such installation;
14 and

15 ~~((+4))~~ (d) Arranging or providing financing for the purchase and
16 installation of approved conservation materials and equipment. Such
17 materials and equipment shall be purchased from a private business and
18 shall be installed by a private business or the owner.

19 ~~((+5))~~ (4) Pay back shall be in the form of incremental additions
20 to the utility bill, billed either together with use charge or
21 separately. Loans shall not exceed one hundred twenty months in
22 length. The city or town may make assistance available in the form of
23 grants made under this section for conservation improvements to
24 existing structures owned or occupied by persons qualifying as poor or
25 infirm consistent with the state Constitution.

26 (5) The legislative authority of the city or town shall approve the
27 aggregate amount of such loans and repayment terms by ordinance and
28 may, by ordinance, delegate to staff to approve individual loans
29 consistent with the terms set forth in the ordinance. The city or town
30 and the property owner shall enter into a loan agreement setting forth
31 the terms of the loan, which agreement may provide for acceleration in
32 the event a loan installment is delinquent. In order to secure loans,
33 the city or town must have a statutory lien on the property on which
34 conservation improvements so financed are installed or constructed.
35 The lien is paramount and superior to any other lien or encumbrance
36 theretofore or thereafter created, except a lien for general taxes and
37 special assessment district assessments. The loan is a lien upon
38 property from the time the loan agreement is executed. If the

1 legislative authority of the city or town has acted in good faith and
2 without fraud in granting a loan, the loan is valid and enforceable as
3 such and the lien upon the property is valid.

4 (6) The city or town may foreclose a lien in an action in the
5 superior court. All or any of the tracts subject to such a lien may be
6 proceeded against in a single action, and all parties appearing of
7 record as owning or claiming to own or having an interest in or lien
8 upon the tracts involved must be impleaded in the action as parties
9 defendant. An action to foreclose a lien must be commenced within two
10 years after the date the loan first becomes subject to acceleration
11 under the loan documents. Liens to secure loans may be foreclosed in
12 the manner provided by RCW 35.67.250, 35.67.260, and 35.67.270.

13 (7) Loans may be used to secure and repay general obligation or
14 revenue bonds, notes, or other forms of indebtedness issued by or on
15 behalf of the city or town. For the purpose of securing the payment of
16 the principal of and interest on any bonds or notes, the city or town
17 may create a reserve fund. The principal amount of any loan may
18 include a proportionate share of the costs of issuing the bonds, notes,
19 or other indebtedness, and may include up to an additional ten percent
20 of the loan amount to fund a reserve fund.

21 (8) The amendments to this section made by this act apply
22 prospectively and do not affect the validity of any loan issued under
23 this section prior to the effective date of this section.

24 **Sec. 111.** RCW 54.16.280 and 2002 c 276 s 3 are each amended to
25 read as follows:

26 (1) Any district is hereby authorized, within limits established by
27 the Constitution of the state of Washington, to assist the owners of
28 structures or equipment in financing the acquisition and installation
29 of materials and equipment, for compensation or otherwise, for the
30 conservation or more efficient use of energy in such structures or
31 equipment pursuant to an energy conservation plan adopted by the
32 district if the cost per unit of energy saved or produced by the use of
33 such materials and equipment is less than the cost per unit of energy
34 produced by the next least costly new energy resource which the
35 district could acquire to meet future demand. Any financing authorized
36 under this chapter shall only be used for conservation purposes in

1 existing structures, and such financing shall not be used for any
2 purpose which results in a conversion from one energy source to
3 another.

4 (2) For the purposes of this section, "conservation purposes in
5 existing structures" may include projects to allow a district's
6 customers to generate all or a portion of their own electricity through
7 the on-site installation of a distributed electricity generation system
8 that uses as its fuel solar, wind, geothermal, or hydropower, or other
9 renewable resource that is available on-site and not from a commercial
10 source. Such projects shall not be considered "a conversion from one
11 energy source to another" which is limited to the change or
12 substitution of one commercial energy supplier for another commercial
13 energy supplier.

14 (3) Except where otherwise authorized, such assistance shall be
15 limited to:

16 ~~((+1))~~ (a) Providing an inspection of the structure or equipment,
17 either directly or through one or more inspectors under contract, to
18 determine and inform the owner of the estimated cost of purchasing and
19 installing conservation materials and equipment for which financial
20 assistance will be approved and the estimated life cycle savings in
21 energy costs that are likely to result from the installation of such
22 materials or equipment;

23 ~~((+2))~~ (b) Providing a list of businesses who sell and install
24 such materials and equipment within or in close proximity to the
25 service area of the district, each of which businesses shall have
26 requested to be included and shall have the ability to provide the
27 products in a workmanlike manner and to utilize such materials in
28 accordance with the prevailing national standards~~((+))~~i

29 ~~((+3))~~ (c) Arranging to have approved conservation materials and
30 equipment installed by a private contractor whose bid is acceptable to
31 the owner of the residential structure and verifying such installation;
32 and

33 ~~((+4))~~ (d) Arranging or providing financing for the purchase and
34 installation of approved conservation materials and equipment. Such
35 materials and equipment shall be purchased from a private business and
36 shall be installed by a private business or the owner.

37 ~~((+5))~~ (4) Pay back shall be in the form of incremental additions
38 to the utility bill, billed either together with use charge or

1 separately. Loans shall not exceed one hundred twenty months in
2 length. The district may make assistance available in the form of
3 grants made under this section for conservation improvements to
4 existing structures owned or occupied by persons qualifying as poor or
5 infirm consistent with the state Constitution.

6 (5) The legislative authority of the district shall approve the
7 aggregate amount of such loans and repayment terms by ordinance and
8 may, by ordinance, delegate to staff to approve individual loans
9 consistent with the terms set forth in the ordinance. The district and
10 the property owner shall enter into a loan agreement setting forth the
11 terms of the loan, which agreement may provide for acceleration in the
12 event a loan installment is delinquent. In order to secure loans, the
13 district must have a statutory lien on the property on which
14 conservation improvements so financed are installed or constructed.
15 The lien is paramount and superior to any other lien or encumbrance
16 theretofore or thereafter created, except a lien for general taxes and
17 special assessment district assessments. The loan is a lien upon
18 property from the time the loan agreement is executed. If the
19 legislative authority of the district has acted in good faith and
20 without fraud in granting a loan, the loan is valid and enforceable as
21 such and the lien upon the property is valid.

22 (6) The district may foreclose a lien in an action in the superior
23 court. All or any of the tracts subject to such a lien may be
24 proceeded against in a single action, and all parties appearing of
25 record as owning or claiming to own or having an interest in or lien
26 upon the tracts involved must be impleaded in the action as parties
27 defendant. An action to foreclose a lien must be commenced within two
28 years after the date the loan first becomes subject to acceleration
29 under the loan documents. Liens to secure loans may be foreclosed in
30 the manner provided by RCW 35.67.250, 35.67.260, and 35.67.270.

31 (7) Loans may be used to secure and repay general obligation or
32 revenue bonds, notes, or other forms of indebtedness issued by or on
33 behalf of the city or town. For the purpose of securing the payment of
34 the principal of and interest on any bonds or notes, the district may
35 create a reserve fund. The principal amount of any loan may include a
36 proportionate share of the costs of issuing the bonds, notes, or other
37 indebtedness, and may include up to an additional ten percent of the
38 loan amount to fund a reserve fund.

1 (8) The amendments to this section made by this act apply
2 prospectively and do not affect the validity of any loan issued under
3 this section prior to the effective date of this section.

4 **Sec. 112.** RCW 36.94.460 and 1992 c 25 s 3 are each amended to read
5 as follows:

6 (1) Any county engaged in the sale or distribution of water or in
7 the sale and distribution of energy services through an energy
8 conservation utility formed under section 109 of this act, is hereby
9 authorized, within limits established by the Constitution of the state
10 of Washington, to assist the owners of structures that are provided
11 water or energy conservation services by the county in financing the
12 acquisition and installation of fixtures, systems, and equipment, for
13 compensation or otherwise, for the conservation or more efficient use
14 of water or energy in the structures under a water or energy
15 conservation plan adopted by the county if the cost per unit of water
16 saved or conserved by the use of the fixtures, systems, and equipment
17 is less than the cost per unit of water supplied by the next least
18 costly new water source available to the county to meet future demand.

19 (2) Except where otherwise authorized, assistance shall be limited
20 to:

21 ~~((1))~~ (a) Providing an inspection of the structure, either
22 directly or through one or more inspectors under contract, to determine
23 and inform the owner of the estimated cost of purchasing and installing
24 conservation fixtures, systems, and equipment for which financial
25 assistance will be approved and the estimated life cycle savings to the
26 water system and the consumer that are likely to result from the
27 installation of the fixtures, systems, or equipment;

28 ~~((2))~~ (b) Providing a list of businesses that sell and install
29 the fixtures, systems, and equipment within or in close proximity to
30 the service area of the county, each of which businesses shall have
31 requested to be included and shall have the ability to provide the
32 products in a workmanlike manner and to utilize the fixtures, systems,
33 and equipment in accordance with the prevailing national standards;

34 ~~((3))~~ (c) Arranging to have approved conservation fixtures,
35 systems, and equipment installed by a private contractor whose bid is
36 acceptable to the owner of the structure and verifying the
37 installation; and

1 (~~(4)~~) (d) Arranging or providing financing for the purchase and
2 installation of approved conservation fixtures, systems, and equipment.
3 The fixtures, systems, and equipment shall be purchased or installed by
4 a private business, the owner, or the utility.

5 (3) Pay back shall be in the form of incremental additions to the
6 utility bill, billed either together with (~~the~~) the use charge or
7 separately. Loans shall not exceed one hundred twenty months in
8 length. The county may make assistance available in the form of grants
9 made under this section for conservation improvements to existing
10 structures owned or occupied by persons qualifying as poor or infirm
11 consistent with the state Constitution.

12 (4) The legislative authority of the county shall approve the
13 aggregate amount of such loans and repayment terms by ordinance and
14 may, by ordinance, delegate to staff to approve individual loans
15 consistent with the terms set forth in the ordinance. The county and
16 the property owner shall enter into a loan agreement setting forth the
17 terms of the loan, which agreement may provide for acceleration in the
18 event a loan installment is delinquent. In order to secure loans, the
19 county must have a statutory lien on the property on which conservation
20 improvements so financed are installed or constructed. The lien is
21 paramount and superior to any other lien or encumbrance theretofore or
22 thereafter created, except a lien for general taxes and special
23 assessment district assessments. The loan is a lien upon property from
24 the time the loan agreement is executed. If the legislative authority
25 of the county has acted in good faith and without fraud in granting a
26 loan, the loan is valid and enforceable as such and the lien upon the
27 property is valid.

28 (5) The county may foreclose a lien in an action in the superior
29 court. All or any of the tracts subject to such a lien may be
30 proceeded against in a single action, and all parties appearing of
31 record as owning or claiming to own or having an interest in or lien
32 upon the tracts involved must be impleaded in the action as parties
33 defendant. An action to foreclose a lien must be commenced within two
34 years after the date the loan first becomes subject to acceleration
35 under the loan documents. Liens to secure loans may be foreclosed in
36 the manner provided by RCW 35.67.250, 35.67.260, and 35.67.270.

37 (6) Loans may be used to secure and repay general obligation or
38 revenue bonds, notes, or other forms of indebtedness issued by or on

1 behalf of the city or town. For the purpose of securing the payment of
2 the principal of and interest on any bonds or notes, the county may
3 create a reserve fund. The principal amount of any loan may include a
4 proportionate share of the costs of issuing the bonds, notes, or other
5 indebtedness, and may include up to an additional ten percent of the
6 loan amount to fund a reserve fund.

7 (7) The amendments made to this section by this act apply
8 prospectively and do not affect the validity of any loan issued under
9 this section prior to the effective date of this section.

10 **Sec. 113.** RCW 70.164.020 and 1995 c 399 s 199 are each amended to
11 read as follows:

12 ~~((Unless the context clearly requires otherwise,))~~ The definitions
13 in this section apply throughout this chapter unless the context
14 clearly requires otherwise.

15 (1) "Department" means the department of community, trade, and
16 economic development.

17 (2) "Energy ~~((assessment))~~ audit" means an analysis of a dwelling
18 unit to determine the need for cost-effective energy conservation
19 measures as determined by the department.

20 (3) "Household" means an individual or group of individuals living
21 in a dwelling unit as defined by the department.

22 (4) "Low income" means household income ~~((that is at or below one~~
23 ~~hundred twenty five percent of the federally established poverty~~
24 ~~level))~~ as defined by the department.

25 (5) "Nonutility sponsor" means any sponsor other than a public
26 service company, municipality, public utility district, mutual or
27 cooperative, furnishing gas or electricity used to heat low-income
28 residences.

29 (6) "Residence" means a dwelling unit as defined by the department.

30 (7) "Sponsor" means any entity that submits a proposal under RCW
31 70.164.040, including but not limited to any local community action
32 agency, tribal nation, community service agency, or any other
33 participating agency or any public service company, municipality,
34 public utility district, mutual or cooperative, or any combination of
35 such entities that jointly submits a proposal.

36 (8) "Sponsor match" means the share~~((, if any,))~~ of the cost of
37 weatherization to be paid by the sponsor.

1 (9) "Sustainable residential weatherization" or "weatherization"
2 means (~~(materials or measures, and their installation, that are used to~~
3 ~~improve the thermal efficiency of a residence)~~) using funds
4 administered by the department to preserve a dwelling unit occupied by
5 a low-income household for activities and materials that result in
6 energy and resource conservation and energy efficiency improvements;
7 repair, indoor air quality, and health and safety investments; and
8 client education. To the extent feasible, funds must be used to
9 support and advance sustainable technologies.

10 (10) "Weatherizing agency" means any approved department grantee,
11 tribal nation, or any public service company, municipality, public
12 utility district, mutual or cooperative, or other entity that bears the
13 responsibility for ensuring the performance of weatherization of
14 residences under this chapter and has been approved by the department.

15 **Sec. 114.** RCW 70.164.040 and 1987 c 36 s 4 are each amended to
16 read as follows:

17 (1) The department shall solicit proposals for low-income
18 weatherization programs from potential sponsors. A proposal shall
19 state the amount of the sponsor match, the amount requested (~~(from the~~
20 ~~low-income weatherization assistance account)~~), the name of the
21 weatherizing agency, and any other information required by the
22 department.

23 (2)(a) A sponsor may use its own moneys, including corporate or
24 ratepayer moneys, or moneys provided by landlords, charitable groups,
25 government programs, the Bonneville Power Administration, or other
26 sources to pay the sponsor match.

27 (b) Moneys provided by a sponsor pursuant to requirements in this
28 section shall be in addition to and shall not supplant any funding for
29 low-income weatherization that would otherwise have been provided by
30 the sponsor or any other entity enumerated in (a) of this subsection.

31 (c) No proposal may require any contribution as a condition of
32 weatherization from any household whose residence is weatherized under
33 the proposal.

34 (d) Proposals shall provide that full levels of all cost-effective,
35 structurally feasible, sustainable residential weatherization
36 materials, measures, and practices, as determined by the department,
37 shall be installed when a low-income residence is weatherized.

1 (3)(a) The department may in its discretion accept, accept in part,
2 or reject proposals submitted. The department shall allocate funds
3 appropriated from the low-income weatherization assistance account
4 among proposals accepted or accepted in part so as to:

5 (i) Achieve the greatest possible expected monetary and energy
6 savings by low-income households and other energy consumers (~~and~~)
7 over the longest period of time;

8 (ii) Identify and correct, to the extent practical, health and
9 safety problems for residents of low-income households; and

10 (iii) Leverage, to the extent feasible, environmentally friendly
11 sustainable technologies, practices, and designs.

12 (b) The department shall, to the extent feasible, ensure a balance
13 of participation in proportion to population among low-income
14 households for: (~~a~~) (i) Geographic regions in the state; (~~b~~)
15 (ii) types of fuel used for heating, except that the department shall
16 encourage the use of energy efficient sustainable technologies; (~~c~~)
17 (iii) owner-occupied and rental residences; and (~~d~~) (iv) single-
18 family and multifamily dwellings.

19 (c) The department may allocate funds to a nonutility sponsor
20 without requiring a sponsor match if the department determines that
21 such an allocation is necessary to provide the greatest benefits to
22 low-income residents of the state.

23 (4)(a) A sponsor may elect to: (i) Pay a sponsor match as a lump
24 sum at the time of weatherization, or (ii) make yearly payments to the
25 low-income weatherization assistance account over a period not to
26 exceed ten years. If a sponsor elects to make yearly payments, the
27 value of the payments shall not be less than the value of the lump sum
28 payment that would have been made under (a)(i) of this subsection.

29 (b) The department may permit a sponsor to meet its match
30 requirement in whole or in part through providing labor, materials, or
31 other in-kind expenditures.

32 (5) The department shall adopt rules to carry out this section.

33 **Sec. 115.** RCW 70.164.050 and 1987 c 36 s 5 are each amended to
34 read as follows:

35 (1) The department is responsible for ensuring that sponsors and
36 weatherizing agencies comply with the state laws, the department's
37 rules, and the sponsor's proposal in carrying out proposals.

1 (2) Before a residence is weatherized, the department shall require
2 that an energy ((assessment)) audit be conducted.

3 **Sec. 116.** RCW 70.164.060 and 1987 c 36 s 6 are each amended to
4 read as follows:

5 Before a leased or rented residence is weatherized, written
6 permission shall be obtained from the owner of the residence for the
7 weatherization. The department shall adopt rules to ensure that: (1)
8 The benefits of weatherization assistance ((in connection with a leased
9 or rented residence)), including utility bill reduction, and
10 preservation of affordable housing stock, accrue primarily to low-
11 income tenants occupying a leased or rented residence; (2) as a result
12 of weatherization provided under this chapter, the rent on the
13 residence is not increased and the tenant is not evicted; and (3) as a
14 result of weatherization provided under this chapter, no undue or
15 excessive enhancement occurs in the value of the residence. This
16 section is in the public interest and any violation by a landlord of
17 the rules adopted under this section shall be an act in trade or
18 commerce violating chapter 19.86 RCW, the consumer protection act.

19 NEW SECTION. **Sec. 117.** Sections 102, 103, and 105 through 108 of
20 this act are each added to chapter 19.27A RCW.

21 **PART 2**

22 **Transportation Recommendations**

23 **Sec. 201.** RCW 36.70A.108 and 2005 c 328 s 1 are each amended to
24 read as follows:

25 (1) The transportation element required by RCW 36.70A.070 may
26 include, in addition to improvements or strategies to accommodate the
27 impacts of development authorized under RCW 36.70A.070(6)(b),
28 multimodal transportation improvements or strategies that are made
29 concurrent with the development. These transportation improvements or
30 strategies may include, but are not limited to, measures implementing
31 or evaluating:

32 (a) Multiple modes of transportation with peak and nonpeak hour
33 capacity performance standards for locally owned transportation
34 facilities; ((and))

1 (b) Modal performance standards meeting the peak and nonpeak hour
2 capacity performance standards; and

3 (c) Transit-oriented development or other compact development
4 strategies. For purposes of this subsection (1)(c) the following
5 definitions apply:

6 (i) "Compact development" means an area designated for mixed-use,
7 higher density development patterns that encourage walking, bicycling,
8 and plans for a multimodal network that may include transit services
9 and facilities; and

10 (ii) "Transit-oriented development" means a type of compact
11 development that provides compact, walkable communities with densities
12 that support transit service and have convenient access to transit
13 systems with frequent peak travel period service.

14 (2) The transportation element required by RCW 36.70A.070 must
15 include, in addition to improvements or strategies to accommodate the
16 impacts of development authorized under RCW 36.70A.070(6)(b), a plan to
17 promote compact and transit-oriented development as provided in section
18 202 of this act.

19 (3) Nothing in this section or RCW 36.70A.070(6)(b) shall be
20 construed as prohibiting a county or city planning under RCW 36.70A.040
21 from exercising existing authority to develop multimodal improvements
22 or strategies to satisfy the concurrency requirements of this chapter.

23 ~~((+3))~~ (4) Nothing in this section is intended to affect or
24 otherwise modify the authority of jurisdictions planning under RCW
25 36.70A.040.

26 NEW SECTION. Sec. 202. A new section is added to chapter 36.70A
27 RCW to read as follows:

28 (1) In order to satisfy the transportation element requirements of
29 RCW 36.70A.070 and the requirement to promote compact and transit-
30 oriented development in RCW 36.70A.108, the applicable city or county
31 must satisfy the criteria of compact and transit-oriented development
32 outlined in this section.

33 (2) A satisfactory compact and transit-oriented development plan
34 must include at least the following features:

35 (a) Street facilities for walking and bicycling, such as sidewalks
36 and bike lanes;

1 (b) High employment and residential densities, no less than eight
2 units per acre, sited within a ten minute walking circle around the
3 center of the compact and transit-oriented development, which has, or
4 is planned to have, a transit station or transit access;

5 (c) Transit access and transit facilities designed with transit
6 headways of fifteen minutes or less;

7 (d) Street connectivity and traffic calming features designed to
8 control vehicle speeds, including average block perimeters of no
9 greater than one thousand three hundred fifty feet;

10 (e) Mixed-use development that includes retail, commercial, office,
11 and residential, with different types and affordability levels, in a
12 design that encourages walking or biking;

13 (f) Parking management efforts designed to reduce the land devoted
14 to parking and that charges full market rates for parking privileges;

15 (g) Plans to provide subsidized housing within the compact and
16 transit-oriented development for low-income residents who are displaced
17 during the transition to compact and transit-oriented development;

18 (h) Facilitation of bike and car-sharing programs;

19 (i) Building, street, and amenity designs that encourage biking and
20 walking; and

21 (j) When appropriate, the identification of urban brownfields that
22 may be utilized as a component of a compact and transit-oriented
23 development.

24 **Sec. 203.** RCW 36.70A.030 and 2005 c 423 s 2 are each amended to
25 read as follows:

26 (~~Unless the context clearly requires otherwise,~~) The definitions
27 in this section apply throughout this chapter unless the context
28 clearly requires otherwise.

29 (1) "Adopt a comprehensive land use plan" means to enact a new
30 comprehensive land use plan or to update an existing comprehensive land
31 use plan.

32 (2) "Agricultural land" means land primarily devoted to the
33 commercial production of horticultural, viticultural, floricultural,
34 dairy, apiary, vegetable, or animal products or of berries, grain, hay,
35 straw, turf, seed, Christmas trees not subject to the excise tax
36 imposed by RCW 84.33.100 through 84.33.140, finfish in upland

1 hatcheries, or livestock, and that has long-term commercial
2 significance for agricultural production.

3 (3) "City" means any city or town, including a code city.

4 (4) "Comprehensive land use plan," "comprehensive plan," or "plan"
5 means a generalized coordinated land use policy statement of the
6 governing body of a county or city that is adopted pursuant to this
7 chapter.

8 (5) "Critical areas" include the following areas and ecosystems:

9 (a) Wetlands; (b) areas with a critical recharging effect on aquifers
10 used for potable water; (c) fish and wildlife habitat conservation
11 areas; (d) frequently flooded areas; and (e) geologically hazardous
12 areas.

13 (6) "Department" means the department of community, trade, and
14 economic development.

15 (7) "Development regulations" or "regulation" means the controls
16 placed on development or land use activities by a county or city,
17 including, but not limited to, zoning ordinances, critical areas
18 ordinances, shoreline master programs, official controls, planned unit
19 development ordinances, subdivision ordinances, and binding site plan
20 ordinances together with any amendments thereto. A development
21 regulation does not include a decision to approve a project permit
22 application, as defined in RCW 36.70B.020, even though the decision may
23 be expressed in a resolution or ordinance of the legislative body of
24 the county or city.

25 (8) "Forest land" means land primarily devoted to growing trees for
26 long-term commercial timber production on land that can be economically
27 and practically managed for such production, including Christmas trees
28 subject to the excise tax imposed under RCW 84.33.100 through
29 84.33.140, and that has long-term commercial significance. In
30 determining whether forest land is primarily devoted to growing trees
31 for long-term commercial timber production on land that can be
32 economically and practically managed for such production, the following
33 factors shall be considered: (a) The proximity of the land to urban,
34 suburban, and rural settlements; (b) surrounding parcel size and the
35 compatibility and intensity of adjacent and nearby land uses; (c) long-
36 term local economic conditions that affect the ability to manage for
37 timber production; and (d) the availability of public facilities and
38 services conducive to conversion of forest land to other uses.

1 (9) "Geologically hazardous areas" means areas that because of
2 their susceptibility to erosion, sliding, earthquake, or other
3 geological events, are not suited to the siting of commercial,
4 residential, or industrial development consistent with public health or
5 safety concerns.

6 (10) "Headway" means the time between two vehicles passing the same
7 point traveling in the same direction on a given route.

8 (11) "Long-term commercial significance" includes the growing
9 capacity, productivity, and soil composition of the land for long-term
10 commercial production, in consideration with the land's proximity to
11 population areas, and the possibility of more intense uses of the land.

12 ~~((+11))~~ (12) "Minerals" include gravel, sand, and valuable
13 metallic substances.

14 ~~((+12))~~ (13) "Public facilities" include streets, roads, highways,
15 sidewalks, street and road lighting systems, traffic signals, domestic
16 water systems, storm and sanitary sewer systems, parks and recreational
17 facilities, and schools.

18 ~~((+13))~~ (14) "Public services" include fire protection and
19 suppression, law enforcement, public health, education, recreation,
20 environmental protection, and other governmental services.

21 ~~((+14))~~ (15) "Recreational land" means land so designated under
22 RCW 36.70A.1701 and that, immediately prior to this designation, was
23 designated as agricultural land of long-term commercial significance
24 under RCW 36.70A.170. Recreational land must have playing fields and
25 supporting facilities existing before July 1, 2004, for sports played
26 on grass playing fields.

27 ~~((+15))~~ (16) "Rural character" refers to the patterns of land use
28 and development established by a county in the rural element of its
29 comprehensive plan:

30 (a) In which open space, the natural landscape, and vegetation
31 predominate over the built environment;

32 (b) That foster traditional rural lifestyles, rural-based
33 economies, and opportunities to both live and work in rural areas;

34 (c) That provide visual landscapes that are traditionally found in
35 rural areas and communities;

36 (d) That are compatible with the use of the land by wildlife and
37 for fish and wildlife habitat;

1 (e) That reduce the inappropriate conversion of undeveloped land
2 into sprawling, low-density development;

3 (f) That generally do not require the extension of urban
4 governmental services; and

5 (g) That are consistent with the protection of natural surface
6 water flows and groundwater and surface water recharge and discharge
7 areas.

8 ~~((+16+))~~ (17) "Rural development" refers to development outside the
9 urban growth area and outside agricultural, forest, and mineral
10 resource lands designated pursuant to RCW 36.70A.170. Rural
11 development can consist of a variety of uses and residential densities,
12 including clustered residential development, at levels that are
13 consistent with the preservation of rural character and the
14 requirements of the rural element. Rural development does not refer to
15 agriculture or forestry activities that may be conducted in rural
16 areas.

17 ~~((+17+))~~ (18) "Rural governmental services" or "rural services"
18 include those public services and public facilities historically and
19 typically delivered at an intensity usually found in rural areas, and
20 may include domestic water systems, fire and police protection
21 services, transportation and public transit services, and other public
22 utilities associated with rural development and normally not associated
23 with urban areas. Rural services do not include storm or sanitary
24 sewers, except as otherwise authorized by RCW 36.70A.110(4).

25 ~~((+18+))~~ (19) "Urban growth" refers to growth that makes intensive
26 use of land for the location of buildings, structures, and impermeable
27 surfaces to such a degree as to be incompatible with the primary use of
28 land for the production of food, other agricultural products, or fiber,
29 or the extraction of mineral resources, rural uses, rural development,
30 and natural resource lands designated pursuant to RCW 36.70A.170. A
31 pattern of more intensive rural development, as provided in RCW
32 36.70A.070(5)(d), is not urban growth. When allowed to spread over
33 wide areas, urban growth typically requires urban governmental
34 services. "Characterized by urban growth" refers to land having urban
35 growth located on it, or to land located in relationship to an area
36 with urban growth on it as to be appropriate for urban growth.

37 ~~((+19+))~~ (20) "Urban growth areas" means those areas designated by
38 a county pursuant to RCW 36.70A.110.

1 ((+20+)) (21) "Urban governmental services" or "urban services"
2 include those public services and public facilities at an intensity
3 historically and typically provided in cities, specifically including
4 storm and sanitary sewer systems, domestic water systems, street
5 cleaning services, fire and police protection services, public transit
6 services, and other public utilities associated with urban areas and
7 normally not associated with rural areas.

8 ((+21+)) (22) "Wetland" or "wetlands" means areas that are
9 inundated or saturated by surface water or groundwater at a frequency
10 and duration sufficient to support, and that under normal circumstances
11 do support, a prevalence of vegetation typically adapted for life in
12 saturated soil conditions. Wetlands generally include swamps, marshes,
13 bogs, and similar areas. Wetlands do not include those artificial
14 wetlands intentionally created from nonwetland sites, including, but
15 not limited to, irrigation and drainage ditches, grass-lined swales,
16 canals, detention facilities, wastewater treatment facilities, farm
17 ponds, and landscape amenities, or those wetlands created after July 1,
18 1990, that were unintentionally created as a result of the construction
19 of a road, street, or highway. Wetlands may include those artificial
20 wetlands intentionally created from nonwetland areas created to
21 mitigate conversion of wetlands.

22 NEW SECTION. **Sec. 204.** A new section is added to chapter 36.70A
23 RCW to read as follows:

24 The department shall have the responsibility to clarify land
25 aggregation tools and concurrency options for use in compact and
26 transit-oriented developments outlined in section 202 of this act. The
27 department shall also offer resources that support community
28 discussions regarding the role of compact and transit-oriented
29 developments in sustainable communities.

30 **Sec. 205.** RCW 84.14.010 and 2007 c 430 s 3 and 2007 c 185 s 1 are
31 each reenacted and amended to read as follows:

32 ((Unless the context clearly requires otherwise,)) The definitions
33 in this section apply throughout this chapter unless the context
34 clearly requires otherwise.

35 (1) "Campus facilities master plan" means the area that is defined

1 by the University of Washington as necessary for the future growth and
2 development of its campus facilities for branch campuses authorized
3 under RCW 28B.45.020.

4 (2) "City" means either (a) a city or town with a population of at
5 least fifteen thousand, (b) the largest city or town, if there is no
6 city or town with a population of at least fifteen thousand, located in
7 a county planning under the growth management act, or (c) a city or
8 town with a population of at least five thousand located in a county
9 subject to the provisions of RCW 36.70A.215, or, only when relating to
10 compact and transit-oriented development, a city or town of any size.

11 (3) "Affordable housing" means residential housing that is rented
12 by a person or household whose monthly housing costs, including
13 utilities other than telephone, do not exceed thirty percent of the
14 household's monthly income. For the purposes of housing intended for
15 owner occupancy, "affordable housing" means residential housing that is
16 within the means of low or moderate-income households.

17 (4) "Compact and transit-oriented development" means a land use
18 development that satisfies the criteria provided in section 202 of this
19 act.

20 (5) "Household" means a single person, family, or unrelated persons
21 living together.

22 ((+5)) (6) "Low-income household" means a single person, family,
23 or unrelated persons living together whose adjusted income is at or
24 below eighty percent of the median family income adjusted for family
25 size, for the county where the project is located, as reported by the
26 United States department of housing and urban development. For cities
27 located in high-cost areas, "low-income household" means a household
28 that has an income at or below one hundred percent of the median family
29 income adjusted for family size, for the county where the project is
30 located.

31 ((+6)) (7) "Moderate-income household" means a single person,
32 family, or unrelated persons living together whose adjusted income is
33 more than eighty percent but is at or below one hundred fifteen percent
34 of the median family income adjusted for family size, for the county
35 where the project is located, as reported by the United States
36 department of housing and urban development. For cities located in
37 high-cost areas, "moderate-income household" means a household that has

1 an income that is more than one hundred percent, but at or below one
2 hundred fifty percent, of the median family income adjusted for family
3 size, for the county where the project is located.

4 ~~((+7))~~ (8) "High cost area" means a county where the third quarter
5 median house price for the previous year as reported by the Washington
6 center for real estate research at Washington State University is equal
7 to or greater than one hundred thirty percent of the statewide median
8 house price published during the same time period.

9 ~~((+8))~~ (9) "Governing authority" means the local legislative
10 authority of a city having jurisdiction over the property for which an
11 exemption may be applied for under this chapter.

12 ~~((+9))~~ (10) "Growth management act" means chapter 36.70A RCW.

13 ~~((+10))~~ (11) "Multiple-unit housing" means a building having four
14 or more dwelling units not designed or used as transient accommodations
15 and not including hotels and motels. Multifamily units may result from
16 new construction or rehabilitated or conversion of vacant,
17 underutilized, or substandard buildings to multifamily housing.

18 ~~((+11))~~ (12) "Owner" means the property owner of record.

19 ~~((+12))~~ (13) "Permanent residential occupancy" means multiunit
20 housing that provides either rental or owner occupancy on a
21 nontransient basis. This includes owner-occupied or rental
22 accommodation that is leased for a period of at least one month. This
23 excludes hotels and motels that predominately offer rental
24 accommodation on a daily or weekly basis.

25 ~~((+13))~~ (14) "Rehabilitation improvements" means modifications to
26 existing structures, that are vacant for twelve months or longer, that
27 are made to achieve a condition of substantial compliance with existing
28 building codes or modification to existing occupied structures which
29 increase the number of multifamily housing units.

30 ~~((+14))~~ (15) "Residential targeted area" means an area within an
31 urban center that has been designated by the governing authority as a
32 residential targeted area in accordance with this chapter. With
33 respect to designations after July 1, 2007, "residential targeted area"
34 may not include a campus facilities master plan.

35 ~~((+15))~~ (16) "Substantial compliance" means compliance with local
36 building or housing code requirements that are typically required for
37 rehabilitation as opposed to new construction.

1 ((+16+)) (17) "Urban center" means a compact identifiable district
2 where urban residents may obtain a variety of products and services.
3 An urban center must contain:

4 (a) Several existing or previous, or both, business establishments
5 that may include but are not limited to shops, offices, banks,
6 restaurants, governmental agencies;

7 (b) Adequate public facilities including streets, sidewalks,
8 lighting, transit, domestic water, and sanitary sewer systems; and

9 (c) A mixture of uses and activities that may include housing,
10 recreation, and cultural activities in association with either
11 commercial or office, or both, use.

12 **Sec. 206.** RCW 84.14.020 and 2007 c 430 s 4 are each amended to
13 read as follows:

14 (1)(a) The value of new housing construction, conversion, and
15 rehabilitation improvements qualifying under this chapter is exempt
16 from ad valorem property taxation, as follows:

17 (i) For properties for which applications for certificates of tax
18 exemption eligibility are submitted under this chapter ((84.14-RCW))
19 before July 22, 2007, the value is exempt for ten successive years
20 beginning January 1st of the year immediately following the calendar
21 year of issuance of the certificate; and

22 (ii) For properties for which applications for certificates of tax
23 exemption eligibility are submitted under this chapter ((84.14-RCW)) on
24 or after July 22, 2007, the value is exempt:

25 (A) For eight successive years beginning January 1st of the year
26 immediately following the calendar year of issuance of the certificate;
27 or

28 (B) For twelve successive years beginning January 1st of the year
29 immediately following the calendar year of issuance of the certificate,
30 if the property otherwise qualifies for the exemption under this
31 chapter ((84.14-RCW)) and meets the conditions in this subsection

32 (1)(a)(ii)(B). For the property to qualify for the twelve-year
33 exemption under this subsection, the applicant must commit to building
34 a compact and transit-oriented development or renting or selling at
35 least twenty percent of the multifamily housing units as affordable
36 housing units to low and moderate-income households, and the property
37 must satisfy that commitment and any additional affordability and

1 income eligibility conditions adopted by the local government under
2 this chapter. In the case of projects intended exclusively for owner
3 occupancy, the minimum requirement of this subsection (1)(a)(ii)(B) may
4 be satisfied solely through housing affordable to moderate-income
5 households.

6 (b) The exemptions provided in (a)(i) and (ii) of this subsection
7 do not include the value of land or, except for compact and transit-
8 oriented development, nonhousing-related improvements not qualifying
9 under this chapter.

10 (2) When a local government adopts guidelines pursuant to RCW
11 84.14.030(2) and includes conditions that must be satisfied with
12 respect to individual dwelling units, rather than with respect to the
13 multiple-unit housing as a whole or some minimum portion thereof, the
14 exemption may, at the local government's discretion, be limited to the
15 value of the qualifying improvements allocable to those dwelling units
16 that meet the local guidelines.

17 (3) In the case of rehabilitation of existing buildings, the
18 exemption does not include the value of improvements constructed prior
19 to the submission of the application required under this chapter. The
20 incentive provided by this chapter is in addition to any other
21 incentives, tax credits, grants, or other incentives provided by law.

22 (4) This chapter does not apply to increases in assessed valuation
23 made by the assessor on nonqualifying portions of building and value of
24 land nor to increases made by lawful order of a county board of
25 equalization, the department of revenue, or a county, to a class of
26 property throughout the county or specific area of the county to
27 achieve the uniformity of assessment or appraisal required by law.

28 (5) At the conclusion of the exemption period, the new or
29 rehabilitated housing cost shall be considered as new construction for
30 the purposes of chapter 84.55 RCW.

31 **Sec. 207.** RCW 84.14.100 and 2007 c 430 s 10 are each amended to
32 read as follows:

33 (1) Thirty days after the anniversary of the date of the
34 certificate of tax exemption and each year for the tax exemption
35 period, the owner of the rehabilitated or newly constructed property
36 shall file with a designated authorized representative of the city an
37 annual report indicating the following:

1 (a) A statement of occupancy and vacancy of the rehabilitated or
2 newly constructed property during the twelve months ending with the
3 anniversary date;

4 (b) A certification by the owner that the property has not changed
5 use and, if applicable, that the property has been in compliance with
6 the affordable housing requirements as described in RCW 84.14.020 since
7 the date of the certificate approved by the city;

8 (c) A description of changes or improvements constructed after
9 issuance of the certificate of tax exemption; and

10 (d) Any additional information requested by the city in regards to
11 the units receiving a tax exemption.

12 (2) All cities, which issue certificates of tax exemption for
13 multiunit housing or compact and transit-oriented development that
14 conform to the requirements of this chapter, shall report annually by
15 December 31st of each year, beginning in 2007, to the department of
16 community, trade, and economic development. The report must include
17 the following information, when applicable:

18 (a) The number of tax exemption certificates granted;

19 (b) The total number and type of units produced or to be produced;

20 (c) The number and type of units produced or to be produced meeting
21 affordable housing requirements;

22 (d) The actual development cost of each unit produced;

23 (e) The total monthly rent or total sale amount of each unit
24 produced;

25 (f) The income of each renter household at the time of initial
26 occupancy and the income of each initial purchaser of owner-occupied
27 units at the time of purchase for each of the units receiving a tax
28 exemption and a summary of these figures for the city; and

29 (g) The value of the tax exemption for each project receiving a tax
30 exemption and the total value of tax exemptions granted.

31 NEW SECTION. **Sec. 208.** A new section is added to chapter 47.01
32 RCW to read as follows:

33 Unless otherwise constricted by a more specific state or federal
34 law, the department shall give priority consideration to any applicant
35 or project that forwards the criteria of compact and transit-oriented
36 development provided in section 202 of this act in any grant program or

1 other program that directs or permits the department to provide funding
2 to local governments.

3 **Sec. 209.** RCW 47.66.030 and 2005 c 318 s 4 are each amended to
4 read as follows:

5 (1) The department shall establish a regional mobility grant
6 program. The purpose of the grant program is to aid local governments
7 in funding projects such as intercounty connectivity service, park and
8 ride lots, rush hour transit service, and capital projects that improve
9 the connectivity and efficiency of our transportation system. The
10 department shall identify cost-effective projects that reduce delay for
11 people and goods and improve connectivity between counties and regional
12 population centers, with a preference given to projects that forward
13 the criteria of compact and transit-oriented development provided in
14 section 202 of this act. The department shall submit a prioritized
15 list of all projects requesting funding to the legislature by December
16 1st of each year.

17 (2) The department may establish an advisory committee to carry out
18 the mandates of this chapter.

19 (3) The department must report annually to the transportation
20 committees of the legislature on the status of any grants projects
21 funded by the program created under this section.

22 **Sec. 210.** RCW 36.120.180 and 2002 c 56 s 118 are each amended to
23 read as follows:

24 The legislature finds that regional solutions to the state's
25 transportation needs are of paramount concern. The legislature further
26 recognizes that different areas of the state will need the flexibility
27 to fashion local solutions to their transportation problems, and that
28 regional transportation systems may evolve over time. Areas of the
29 state outside of King, Snohomish, and Pierce counties are eligible for
30 grants from the state of no more than two hundred thousand dollars each
31 to study and develop regional transportation models. Regions receiving
32 these grants shall:

33 (1) Develop a model that can be used within their region to select,
34 fund, and administer regional transportation solutions that include an
35 element that forwards the criteria of compact and transit-oriented
36 development provided in section 202 of this act;

- 1 (2) Adopt a county resolution approving the model proposed;
- 2 (3) Form interlocal agreements among counties as appropriate;
- 3 (4) Report to the transportation committees in the senate and house
- 4 of representatives, petitioning the legislature to grant them authority
- 5 to implement their proposed model.

6 NEW SECTION. **Sec. 211.** A new section is added to chapter 43.31
7 RCW to read as follows:

8 Unless otherwise constricted by a more specific state or federal
9 law, the department shall give priority consideration to any applicant
10 or project that forwards the criteria of compact and transit-oriented
11 development provided in section 202 of this act in any grant program or
12 other program that directs or permits the department to provide
13 funding.

14 **Sec. 212.** RCW 43.185A.110 and 2008 c 112 s 1 are each amended to
15 read as follows:

16 (1) The affordable housing land acquisition revolving loan fund
17 program is created in the department to assist eligible organizations,
18 described under RCW 43.185A.040, to purchase land for affordable
19 housing development. The department shall contract with the Washington
20 state housing finance commission to administer the affordable housing
21 land acquisition revolving loan fund program. Within this program, the
22 Washington state housing finance commission shall establish and
23 administer the Washington state housing finance commission land
24 acquisition revolving loan fund.

25 (2) As used in this chapter, "market rate" means the current
26 average market interest rate that is determined at the time any
27 individual loan is closed upon using a widely recognized current market
28 interest rate measurement to be selected for use by the Washington
29 state housing finance commission with the department's approval. This
30 interest rate must be noted in an attachment to the closing documents
31 for each loan.

32 (3) Under the affordable housing land acquisition revolving loan
33 fund program:

34 (a) Loans may be made to purchase land on which to develop
35 affordable housing. In addition to affordable housing, facilities

1 intended to provide supportive services to affordable housing residents
2 and low-income households in the nearby community may be developed on
3 the land.

4 (b) Eligible organizations applying for a loan must include in the
5 loan application a proposed affordable housing development plan
6 indicating the number of affordable housing units planned, a
7 description of any other facilities being considered for the property,
8 and an estimated timeline for completion of the development. The
9 Washington state housing finance commission may require additional
10 information from loan applicants and may consider the efficient use of
11 land, project readiness, organizational capacity, and other factors as
12 criteria in awarding loans.

13 (c) Forty percent of the loans shall go to eligible applicants
14 operating homeownership programs for low-income households in which the
15 households participate in the construction of their homes. Sixty
16 percent of loans shall go to other eligible organizations. If the
17 entire forty percent for applicants operating self-help homeownership
18 programs cannot be lent to these types of applicants, the remainder
19 shall be lent to other eligible organizations.

20 (d) Within five years of receiving a loan, a loan recipient must
21 present the Washington state housing finance commission with an updated
22 development plan, including a proposed development design, committed
23 and anticipated additional financial resources to be dedicated to the
24 development, and an estimated development schedule, which indicates
25 completion of the development within eight years of loan receipt. This
26 updated development plan must be substantially consistent with the
27 development plan submitted as part of the original loan application as
28 required in (b) of this subsection.

29 (e) Within eight years of receiving a loan, a loan recipient must
30 develop affordable housing on the property for which the loan was made
31 and place the affordable housing into service.

32 (f) A loan recipient must preserve the affordable rental housing
33 developed on the property acquired under this section as affordable
34 housing for a minimum of thirty years.

35 (4) If a loan recipient does not place affordable housing into
36 service on a property for which a loan has been received under this
37 section within the eight-year period specified in subsection (3)(e) of
38 this section, or if a loan recipient fails to use the property for the

1 intended affordable housing purpose consistent with the loan
2 recipient's original affordable housing development plan, then the loan
3 recipient must pay to the Washington state housing finance commission
4 an amount consisting of the principal of the original loan plus
5 compounded interest calculated at the current market rate. The
6 Washington state housing finance commission shall develop guidelines
7 for the time period in which this repayment must take place, which must
8 be noted in the original loan agreement. The Washington state housing
9 finance commission may grant a partial or total exemption from this
10 repayment requirement if it determines that a development is
11 substantially complete or that the property has been substantially used
12 in keeping with the original affordable housing purpose of the loan.
13 Any repayment funds received as a result of noncompliance with loan
14 requirements shall be deposited into the Washington state housing
15 finance commission land acquisition revolving loan fund for the
16 purposes of the affordable housing land acquisition revolving loan fund
17 program.

18 (5) The Washington state housing finance commission, with approval
19 from the department, may adopt guidelines and requirements that are
20 necessary to administer the affordable housing land acquisition
21 revolving loan fund program. In adopting guidelines, preferences in
22 awards must be provided to applicants with proposals that forward the
23 criteria of compact and transit-oriented development provided in
24 section 202 of this act.

25 (6) Interest rates on property loans granted under this section may
26 not exceed one percent. All loan repayment moneys received shall be
27 deposited into the Washington state housing finance commission
28 affordable housing land acquisition revolving loan fund for the
29 purposes of the affordable housing land acquisition revolving loan fund
30 program.

31 (7) The Washington state housing finance commission must develop
32 performance measures for the program, which must be approved by the
33 department, including, at a minimum, measures related to:

34 (a) The ability of eligible organizations to access land for
35 affordable housing development;

36 (b) The total number of dwelling units by housing type and the
37 total number of low-income households and persons served; and

1 (c) The financial efficiency of the program as demonstrated by
2 factors, including the cost per unit developed for affordable housing
3 units in different areas of the state and a measure of the effective
4 use of funds to produce the greatest number of units for low-income
5 households.

6 (8) By December 1st of each year, beginning in 2007, the Washington
7 state housing finance commission shall report to the department and the
8 appropriate committees of the legislature using, at a minimum, the
9 performance measures developed under subsection (7) of this section.

10 **Sec. 213.** RCW 43.185A.120 and 2008 c 112 s 2 are each amended to
11 read as follows:

12 (1) The affordable housing and community facilities rapid response
13 loan program is created in the department to assist eligible
14 organizations, described under RCW 43.185A.040, to purchase land or
15 real property for affordable housing and community facilities
16 preservation or development in rapidly gentrifying neighborhoods or
17 communities with a significant low-income population that is threatened
18 with displacement by such gentrification. The department shall
19 contract with the Washington state housing finance commission to
20 establish and administer the program.

21 (2) Loans or grants may be made through the affordable housing and
22 community facilities rapid response loan program to purchase land or
23 real property for the preservation or development of affordable housing
24 or community facilities, including reasonable costs and fees.

25 (3) The Washington state housing finance commission, with approval
26 from the department, may adopt guidelines and requirements that are
27 necessary to administer the affordable housing and community facilities
28 rapid response loan program. In adopting guidelines, preferences in
29 awards must be provided to applicants with proposals that forward the
30 criteria of compact and transit-oriented development provided in
31 section 202 of this act.

32 (4) A loan or grant recipient must preserve affordable rental
33 housing acquired or developed under this section as affordable housing
34 for a minimum of thirty years.

35 (5) Interest rates on loans made under this section may be as low
36 as zero percent but may not exceed three percent. All loan repayment

1 moneys received must be deposited into a program account established by
2 the Washington state housing finance commission for the purpose of
3 making new loans and grants under this section.

4 (6) By December 1st of each year, beginning in 2008, the Washington
5 state housing finance commission shall report to the department and the
6 appropriate committees of the legislature: The number of loans and
7 grants that were made in the program; for what purposes the loans and
8 grants were made; to whom the loans and grants were made; and when the
9 loans are expected to be paid back.

10 **Sec. 214.** RCW 43.185.050 and 2006 c 371 s 236 are each amended to
11 read as follows:

12 (1) The department shall use moneys from the housing trust fund and
13 other legislative appropriations to finance in whole or in part any
14 loans or grant projects that will provide housing for persons and
15 families with special housing needs and with incomes at or below fifty
16 percent of the median family income for the county or standard
17 metropolitan statistical area where the project is located, with
18 preferences in awards provided to applicants with proposals that
19 forward the criteria of compact and transit-oriented development
20 provided in section 202 of this act. At least thirty percent of these
21 moneys used in any given funding cycle shall be for the benefit of
22 projects located in rural areas of the state as defined by the
23 department. If the department determines that it has not received an
24 adequate number of suitable applications for rural projects during any
25 given funding cycle, the department may allocate unused moneys for
26 projects in nonrural areas of the state.

27 (2) Activities eligible for assistance from the housing trust fund
28 and other legislative appropriations include, but are not limited to:

29 (a) New construction, rehabilitation, or acquisition of low and
30 very low-income housing units;

31 (b) Rent subsidies;

32 (c) Matching funds for social services directly related to
33 providing housing for special-need tenants in assisted projects;

34 (d) Technical assistance, design and finance services and
35 consultation, and administrative costs for eligible nonprofit community
36 or neighborhood-based organizations;

1 (e) Administrative costs for housing assistance groups or
2 organizations when such grant or loan will substantially increase the
3 recipient's access to housing funds other than those available under
4 this chapter;

5 (f) Shelters and related services for the homeless, including
6 emergency shelters and overnight youth shelters;

7 (g) Mortgage subsidies, including temporary rental and mortgage
8 payment subsidies to prevent homelessness;

9 (h) Mortgage insurance guarantee or payments for eligible projects;

10 (i) Down payment or closing cost assistance for eligible first-time
11 home buyers;

12 (j) Acquisition of housing units for the purpose of preservation as
13 low-income or very low-income housing;

14 (k) Projects making housing more accessible to families with
15 members who have disabilities; and

16 (l) During the 2005-2007 fiscal biennium, a manufactured/mobile
17 home landlord-tenant ombudsman conflict resolution and park
18 registration program.

19 (3) During the 2005-2007 fiscal biennium, revenues generated under
20 RCW 36.22.178 may be used for the development of affordable housing
21 projects and other activities funded in section 108, chapter 371, Laws
22 of 2006.

23 (4) Legislative appropriations from capital bond proceeds may be
24 used only for the costs of projects authorized under subsection (2)(a),
25 (i), and (j) of this section, and not for the administrative costs of
26 the department.

27 (5) Moneys from repayment of loans from appropriations from capital
28 bond proceeds may be used for all activities necessary for the proper
29 functioning of the housing assistance program except for activities
30 authorized under subsection (2)(b) and (c) of this section.

31 (6) Administrative costs of the department shall not exceed five
32 percent of the annual funds available for the housing assistance
33 program.

34 **Sec. 215.** RCW 39.92.040 and 1989 c 296 s 1 are each amended to
35 read as follows:

36 (1) The program shall describe the formula or method for
37 calculating the amount of the transportation impact fees to be imposed

1 on new development within the plan area. The program may require
2 developers to pay a transportation impact fee for off-site
3 transportation improvements not yet constructed and for those jointly-
4 funded improvements constructed since the commencement of the program.
5 The program must assess an additional transportation impact fee on any
6 development that does not satisfy the criteria of compact and transit-
7 oriented development provided in section 202 of this act.

8 (2) The program shall define the event in the development approval
9 process that triggers a determination of the amount of the
10 transportation impact fees and the event that triggers the obligation
11 to make actual payment of the fees. However, the payment obligation
12 shall not commence before the date the developer has obtained a
13 building permit for the new development or, in the case of residential
14 subdivisions or short plats, at the time of final plat approval, at the
15 developer's option. If the developer of a residential subdivision or
16 short plat elects to pay the fee at the date a building permit has been
17 obtained, the option to pay the transportation impact fee by
18 installments as authorized by this section is deemed to have been
19 waived by the developer. The developer shall be given the option to
20 pay the transportation impact fee in a lump sum, without interest, or
21 by installment with reasonable interest over a period of five years or
22 more as specified by the local government.

23 (3) The local government shall require security for the obligation
24 to pay the transportation impact fee, in the form of a recorded
25 agreement, deed of trust, letter of credit, or other instrument
26 determined satisfactory by the local government. The developer shall
27 also be given credit against its obligations for the transportation
28 impact fee, for the fair market value of off-site land and/or the cost
29 of constructing off-site transportation improvements dedicated to the
30 local government. If the value of the dedication exceeds the amount of
31 transportation impact fee obligation, the developer is entitled to
32 reimbursement from transportation impact fees attributable to the
33 dedicated improvements and paid by subsequent developers within the
34 plan area.

35 (4) Payment of the transportation impact fee entitles the developer
36 and its successors and assigns to credit against any other fee, local
37 improvement district assessment, or other monetary imposition made
38 specifically for the designated off-site transportation improvements

1 intended to be covered by the transportation impact fee imposed
2 pursuant to this program. The program shall also define the criteria
3 for establishing periodic fee increases attributable to construction
4 and related cost increases for the improvements designated in the
5 program.

6 NEW SECTION. **Sec. 216.** A new section is added to chapter 39.92
7 RCW to read as follows:

8 Any revenue collected under RCW 39.92.040 on development that does
9 not satisfy the criteria of compact and transit-oriented development
10 provided in section 202 of this act must be used by the local
11 government on programs that support the development and enhancement of
12 compact and transit-oriented developments and multimodal transportation
13 improvements.

14 NEW SECTION. **Sec. 217.** A new section is added to chapter 43.31
15 RCW to read as follows:

16 The department shall coordinate with any applicable statewide
17 associations representing the interests of counties to publicize
18 opportunities for using public land in urbanized areas for private
19 development that contributes density, necessary uses, or other factors
20 that contribute to the successful implementation of the criteria of
21 compact and transit-oriented developments provided in section 202 of
22 this act.

23 NEW SECTION. **Sec. 218.** (1) By January 31, 2010, the department of
24 community, trade, and economic development shall coordinate with
25 applicable local governments to develop model ordinances that outline
26 housing choices that address both the demands of housing consumers and
27 that satisfies the density objectives in multiple settings.

28 (2) By June 30, 2010, the department of community, trade, and
29 economic development shall coordinate with applicable local governments
30 to develop educational and technical tools and models demonstrating how
31 to market developable properties.

32 **Sec. 219.** RCW 43.82.010 and 2007 c 506 s 8 are each amended to
33 read as follows:

34 (1) The director of general administration, on behalf of the agency

1 involved and after consultation with the office of financial
2 management, shall purchase, lease, lease purchase, rent, or otherwise
3 acquire all real estate, improved or unimproved, as may be required by
4 elected state officials, institutions, departments, commissions,
5 boards, and other state agencies, or federal agencies where joint state
6 and federal activities are undertaken and may grant easements and
7 transfer, exchange, sell, lease, or sublease all or part of any surplus
8 real estate for those state agencies which do not otherwise have the
9 specific authority to dispose of real estate. When possible, property
10 disposals should be prioritized to further future land uses that
11 advance increased housing densities, mixed land uses, and the criteria
12 of compact and transit-oriented development provided in section 202 of
13 this act. This section does not transfer financial liability for the
14 acquired property to the department of general administration.

15 (2) Except for real estate occupied by federal agencies, the
16 director shall determine the location, size, and design of any real
17 estate or improvements thereon acquired or held pursuant to subsection
18 (1) of this section. Facilities acquired or held pursuant to this
19 chapter, and any improvements thereon, shall conform to standards
20 adopted by the director and approved by the office of financial
21 management governing facility efficiency unless a specific exemption
22 from such standards is provided by the director of general
23 administration. The director of general administration shall report to
24 the office of financial management and the appropriate committees of
25 the legislature annually on any exemptions granted pursuant to this
26 subsection.

27 (3) The director of general administration may fix the terms and
28 conditions of each lease entered into under this chapter, except that
29 no lease shall extend greater than twenty years in duration. The
30 director of general administration may enter into a long-term lease
31 greater than ten years in duration upon a determination by the director
32 of the office of financial management that the long-term lease provides
33 a more favorable rate than would otherwise be available, it appears to
34 a substantial certainty that the facility is necessary for use by the
35 state for the full length of the lease term, and the facility meets the
36 standards adopted pursuant to subsection (2) of this section. The
37 director of general administration may enter into a long-term lease
38 greater than ten years in duration if an analysis shows that the life-

1 cycle cost of leasing the facility is less than the life-cycle cost of
2 purchasing or constructing a facility in lieu of leasing the facility.

3 (4) Except as permitted under chapter 39.94 RCW, no lease for or on
4 behalf of any state agency may be used or referred to as collateral or
5 security for the payment of securities offered for sale through a
6 public offering. Except as permitted under chapter 39.94 RCW, no lease
7 for or on behalf of any state agency may be used or referred to as
8 collateral or security for the payment of securities offered for sale
9 through a private placement without the prior written approval of the
10 state treasurer. However, this limitation shall not prevent a lessor
11 from assigning or encumbering its interest in a lease as security for
12 the repayment of a promissory note provided that the transaction would
13 otherwise be an exempt transaction under RCW 21.20.320. The state
14 treasurer shall adopt rules that establish the criteria under which any
15 such approval may be granted. In establishing such criteria the state
16 treasurer shall give primary consideration to the protection of the
17 state's credit rating and the integrity of the state's debt management
18 program. If it appears to the state treasurer that any lease has been
19 used or referred to in violation of this subsection or rules adopted
20 under this subsection, then he or she may recommend that the governor
21 cause such lease to be terminated. The department of general
22 administration shall promptly notify the state treasurer whenever it
23 may appear to the department that any lease has been used or referred
24 to in violation of this subsection or rules adopted under this
25 subsection.

26 (5) It is the policy of the state to encourage the colocation and
27 consolidation of state services into single or adjacent facilities,
28 whenever appropriate, to improve public service delivery, minimize
29 duplication of facilities, increase efficiency of operations, and
30 promote sound growth management planning.

31 (6) The director of general administration shall provide
32 coordinated long-range planning services to identify and evaluate
33 opportunities for colocating and consolidating state facilities. Upon
34 the renewal of any lease, the inception of a new lease, or the purchase
35 of a facility, the director of general administration shall determine
36 whether an opportunity exists for colocating the agency or agencies in
37 a single facility with other agencies located in the same geographic
38 area. If a colocation opportunity exists, the director of general

1 administration shall consult with the affected state agencies and the
2 office of financial management to evaluate the impact colocation would
3 have on the cost and delivery of agency programs, including whether
4 program delivery would be enhanced due to the centralization of
5 services. The director of general administration, in consultation with
6 the office of financial management, shall develop procedures for
7 implementing colocation and consolidation of state facilities.

8 (7) The director of general administration is authorized to
9 purchase, lease, rent, or otherwise acquire improved or unimproved real
10 estate as owner or lessee and to lease or sublet all or a part of such
11 real estate to state or federal agencies. The director of general
12 administration shall charge each using agency its proportionate rental
13 which shall include an amount sufficient to pay all costs, including,
14 but not limited to, those for utilities, janitorial and accounting
15 services, and sufficient to provide for contingencies; which shall not
16 exceed five percent of the average annual rental, to meet unforeseen
17 expenses incident to management of the real estate.

18 (8) If the director of general administration determines that it is
19 necessary or advisable to undertake any work, construction, alteration,
20 repair, or improvement on any real estate acquired pursuant to
21 subsection (1) or (7) of this section, the director shall cause plans
22 and specifications thereof and an estimate of the cost of such work to
23 be made and filed in his or her office and the state agency benefiting
24 thereby is hereby authorized to pay for such work out of any available
25 funds: PROVIDED, That the cost of executing such work shall not exceed
26 the sum of twenty-five thousand dollars. Work, construction,
27 alteration, repair, or improvement in excess of twenty-five thousand
28 dollars, other than that done by the owner of the property if other
29 than the state, shall be performed in accordance with the public works
30 law of this state.

31 (9) In order to obtain maximum utilization of space, the director
32 of general administration shall make space utilization studies, and
33 shall establish standards for use of space by state agencies. Such
34 studies shall include the identification of opportunities for
35 colocation and consolidation of state agency office and support
36 facilities.

37 (10) The director of general administration may construct new
38 buildings on, or improve existing facilities, and furnish and equip,

1 all real estate under his or her management. Prior to the construction
2 of new buildings or major improvements to existing facilities or
3 acquisition of facilities using a lease purchase contract, the director
4 of general administration shall conduct an evaluation of the facility
5 design and budget using life-cycle cost analysis, value-engineering,
6 and other techniques to maximize the long-term effectiveness and
7 efficiency of the facility or improvement.

8 (11) All conveyances and contracts to purchase, lease, rent,
9 transfer, exchange, or sell real estate and to grant and accept
10 easements shall be approved as to form by the attorney general, signed
11 by the director of general administration or the director's designee,
12 and recorded with the county auditor of the county in which the
13 property is located.

14 (12) The director of general administration may delegate any or all
15 of the functions specified in this section to any agency upon such
16 terms and conditions as the director deems advisable. By January 1st
17 of each year, beginning January 1, 2008, the department shall submit an
18 annual report to the office of financial management and the appropriate
19 committees of the legislature on all delegated leases.

20 (13) This section does not apply to the acquisition of real estate
21 by:

22 (a) The state college and universities for research or experimental
23 purposes;

24 (b) The state liquor control board for liquor stores and
25 warehouses; and

26 (c) The department of natural resources, the department of fish and
27 wildlife, the department of transportation, and the state parks and
28 recreation commission for purposes other than the leasing of offices,
29 warehouses, and real estate for similar purposes.

30 (14) Notwithstanding any provision in this chapter to the contrary,
31 the department of general administration may negotiate ground leases
32 for public lands on which property is to be acquired under a financing
33 contract pursuant to chapter 39.94 RCW under terms approved by the
34 state finance committee.

35 (15) The department of general administration shall report annually
36 to the office of financial management and the appropriate fiscal
37 committees of the legislature on facility leases executed for all state

1 agencies for the preceding year, lease terms, and annual lease costs.
2 The report must include leases executed under RCW 43.82.045 and
3 subsection (12) of this section.

4 **Sec. 220.** RCW 39.33.010 and 2003 c 303 s 1 are each amended to
5 read as follows:

6 (1) The state or any municipality or any political subdivision
7 (~~thereof~~) of the state, may sell, transfer, exchange, lease, or
8 otherwise dispose of any property, real or personal, or property
9 rights, including but not limited to the title to real property, to the
10 state or any municipality or any political subdivision (~~thereof~~) of
11 the state, or the federal government, on such terms and conditions as
12 may be mutually agreed upon by the proper authorities of the state
13 and/or the subdivisions concerned. In addition, the state, or any
14 municipality or any political subdivision (~~thereof~~) of the state, may
15 sell, transfer, exchange, lease, or otherwise dispose of personal
16 property, except weapons, to a foreign entity.

17 (2) This section shall be deemed to provide an alternative method
18 for the doing of the things authorized herein, and shall not be
19 construed as imposing any additional condition upon the exercise of any
20 other powers vested in the state, municipalities or political
21 subdivisions.

22 (3) No intergovernmental transfer, lease, or other disposition of
23 property made pursuant to any other provision of law prior to May 23,
24 1972, shall be construed to be invalid solely because the parties
25 thereto did not comply with the procedures of this section.

26 (4) When possible, intergovernmental transfers should be
27 prioritized to further future land uses that advance increased housing
28 densities, mixed land uses, and the criteria of compact and transit-
29 oriented development provided in section 202 of this act.

30 **Sec. 221.** RCW 47.12.063 and 2006 c 17 s 2 are each amended to read
31 as follows:

32 (1) It is the intent of the legislature to continue the
33 department's policy giving priority consideration to abutting property
34 owners in agricultural areas when disposing of property through its
35 surplus property program under this section. In addition, when
36 possible, property disposals should be prioritized to further future

1 land uses that advance increased housing densities, mixed land uses,
2 and the criteria of compact and transit-oriented development provided
3 in section 202 of this act.

4 (2) Whenever the department determines that any real property owned
5 by the state of Washington and under the jurisdiction of the department
6 is no longer required for transportation purposes and that it is in the
7 public interest to do so, the department may sell the property or
8 exchange it in full or part consideration for land or improvements or
9 for construction of improvements at fair market value to any of the
10 following governmental entities or persons:

- 11 (a) Any other state agency;
- 12 (b) The city or county in which the property is situated;
- 13 (c) Any other municipal corporation;
- 14 (d) Regional transit authorities created under chapter 81.112 RCW;
- 15 (e) The former owner of the property from whom the state acquired
16 title;

17 (f) In the case of residentially improved property, a tenant of the
18 department who has resided thereon for not less than six months and who
19 is not delinquent in paying rent to the state;

20 (g) Any abutting private owner but only after each other abutting
21 private owner (if any), as shown in the records of the county assessor,
22 is notified in writing of the proposed sale. If more than one abutting
23 private owner requests in writing the right to purchase the property
24 within fifteen days after receiving notice of the proposed sale, the
25 property shall be sold at public auction in the manner provided in RCW
26 47.12.283;

27 (h) To any person through the solicitation of written bids through
28 public advertising in the manner prescribed by RCW 47.28.050;

29 (i) To any other owner of real property required for transportation
30 purposes;

31 (j) In the case of property suitable for residential use, any
32 nonprofit organization dedicated to providing affordable housing to
33 very low-income, low-income, and moderate-income households as defined
34 in RCW 43.63A.510 and is eligible to receive assistance through the
35 Washington housing trust fund created in chapter 43.185 RCW; or

36 (k) A federally recognized Indian tribe within whose reservation
37 boundary the property is located.

1 (3) Sales to purchasers may at the department's option be for cash,
2 by real estate contract, or exchange of land or improvements.
3 Transactions involving the construction of improvements must be
4 conducted pursuant to chapter 47.28 RCW or Title 39 RCW, as applicable,
5 and must comply with all other applicable laws and rules.

6 (4) Conveyances made pursuant to this section shall be by deed
7 executed by the secretary of transportation and shall be duly
8 acknowledged.

9 (5) Unless otherwise provided, all moneys received pursuant to the
10 provisions of this section less any real estate broker commissions paid
11 pursuant to RCW 47.12.320 shall be deposited in the motor vehicle fund.

12 **Sec. 222.** RCW 53.08.090 and 1994 c 26 s 1 are each amended to read
13 as follows:

14 (1) A port commission may, by resolution, authorize the managing
15 official of a port district to sell and convey port district property
16 of ten thousand dollars or less in value. The authority shall be in
17 force for not more than one calendar year from the date of resolution
18 and may be renewed from year to year. Prior to any such sale or
19 conveyance the managing official shall itemize and list the property to
20 be sold and make written certification to the commission that the
21 listed property is no longer needed for district purposes. Any large
22 block of the property having a value in excess of ten thousand dollars
23 shall not be broken down into components of ten thousand dollars or
24 less value and sold in the smaller components unless the smaller
25 components be sold by public competitive bid. A port district may sell
26 and convey any of its real or personal property valued at more than ten
27 thousand dollars when the port commission has, by resolution, declared
28 the property to be no longer needed for district purposes, but no
29 property which is a part of the comprehensive plan of improvement or
30 modification thereof shall be disposed of until the comprehensive plan
31 has been modified to find the property surplus to port needs. The
32 comprehensive plan shall be modified only after public notice and
33 hearing provided by RCW 53.20.010.

34 (2) Nothing in this section shall be deemed to repeal or modify
35 procedures for property sales within industrial development districts
36 as set forth in chapter 53.25 RCW.

1 ~~((+2))~~ (3) When possible, property disposals should be prioritized
2 to further future land uses that advance increased housing densities,
3 mixed land uses, and the criteria of compact and transit-oriented
4 development provided in section 202 of this act.

5 (4) The ten thousand dollar figures in subsection (1) of this
6 section shall be adjusted annually based upon the governmental price
7 index established by the department of revenue under RCW 82.14.200.

8 **Sec. 223.** RCW 70.44.300 and 1997 c 332 s 17 are each amended to
9 read as follows:

10 (1) The board of commissioners of any public hospital district may
11 sell and convey at public or private sale real property of the district
12 if the board determines by resolution that the property is no longer
13 required for public hospital district purposes or determines by
14 resolution that the sale of the property will further the purposes of
15 the public hospital district. When possible, property disposals should
16 be prioritized to further future land uses that advance increased
17 housing densities, mixed land uses, and the criteria of compact and
18 transit-oriented development provided in section 202 of this act.

19 (2) Any sale of district real property authorized pursuant to this
20 section shall be preceded, not more than one year prior to the date of
21 sale, by market value appraisals by three licensed real estate brokers
22 or professionally designated real estate appraisers as defined in RCW
23 74.46.020 or three independent experts in valuing health care property,
24 selected by the board of commissioners, and no sale shall take place if
25 the sale price would be less than ninety percent of the average of such
26 appraisals.

27 (3) When the board of commissioners of any public hospital district
28 proposes a sale of district real property pursuant to this section and
29 the value of the property exceeds one hundred thousand dollars, the
30 board shall publish a notice of its intention to sell the property.
31 The notice shall be published at least once each week during two
32 consecutive weeks in a legal newspaper of general circulation within
33 the public hospital district. The notice shall describe the property
34 to be sold and designate the place where and the day and hour when a
35 hearing will be held. The board shall hold a public hearing upon the
36 proposal to dispose of the public hospital district property at the

1 place and the day and hour fixed in the notice and consider evidence
2 offered for and against the propriety and advisability of the proposed
3 sale.

4 (4) If in the judgment of the board of commissioners of any
5 district the sale of any district real property not needed for public
6 hospital district purposes would be facilitated and greater value
7 realized through use of the services of licensed real estate brokers,
8 a contract for such services may be negotiated and concluded. The fee
9 or commissions charged for any broker service shall not exceed seven
10 percent of the resulting sale price for a single parcel. No licensed
11 real estate broker or professionally designated real estate appraisers
12 as defined in RCW 74.46.020 or independent expert in valuing health
13 care property selected by the board to appraise the market value of a
14 parcel of property to be sold may be a party to any contract with the
15 public hospital district to sell such property for a period of three
16 years after the appraisal.

17 **Sec. 224.** RCW 28A.335.120 and 2006 c 263 s 913 are each amended to
18 read as follows:

19 (1) The board of directors of any school district of this state
20 may:

21 (a) Sell for cash, at public or private sale, and convey by deed
22 all interest of the district in or to any of the real property of the
23 district which is no longer required for school purposes; and

24 (b) Purchase real property for the purpose of locating thereon and
25 affixing thereto any house or houses and appurtenant buildings removed
26 from school sites owned by the district and sell for cash, at public or
27 private sale, and convey by deed all interest of the district in or to
28 such acquired and improved real property.

29 (2) When the board of directors of any school district proposes a
30 sale of school district real property pursuant to this section and the
31 value of the property exceeds seventy thousand dollars, the board shall
32 publish a notice of its intention to sell the property. The notice
33 shall be published at least once each week during two consecutive weeks
34 in a legal newspaper with a general circulation in the area in which
35 the school district is located. The notice shall describe the property
36 to be sold and designate the place where and the day and hour when a
37 hearing will be held. The board shall hold a public hearing upon the

1 proposal to dispose of the school district property at the place and
2 the day and hour fixed in the notice and admit evidence offered for and
3 against the propriety and advisability of the proposed sale.

4 (3) The board of directors of any school district desiring to sell
5 surplus real property shall publish a notice in a newspaper of general
6 circulation in the school district. School districts shall not sell
7 the property for at least forty-five days following the publication of
8 the newspaper notice.

9 (4) Private schools shall have the same rights as any other person
10 or entity to submit bids for the purchase of surplus real property and
11 to have such bids considered along with all other bids.

12 (5) Any sale of school district real property authorized pursuant
13 to this section shall be preceded by a market value appraisal by a
14 professionally designated real estate appraiser as defined in RCW
15 74.46.020 or a general real estate appraiser certified under chapter
16 18.140 RCW selected by the board of directors and no sale shall take
17 place if the sale price would be less than ninety percent of the
18 appraisal made by the real estate appraiser: PROVIDED, That if the
19 property has been on the market for one year or more the property may
20 be reappraised and sold for not less than seventy-five percent of the
21 reappraised value with the unanimous consent of the board.

22 (6) If in the judgment of the board of directors of any district
23 the sale of real property of the district not needed for school
24 purposes would be facilitated and greater value realized through use of
25 the services of licensed real estate brokers, a contract for such
26 services may be negotiated and concluded: PROVIDED, That the use of a
27 licensed real estate broker will not eliminate the obligation of the
28 board of directors to provide the notice described in this section:
29 PROVIDED FURTHER, That the fee or commissions charged for any broker
30 services shall not exceed seven percent of the resulting sale value for
31 a single parcel: PROVIDED FURTHER, That any professionally designated
32 real estate appraiser as defined in RCW 74.46.020 or a general real
33 estate appraiser certified under chapter 18.140 RCW selected by the
34 board to appraise the market value of a parcel of property to be sold
35 may not be a party to any contract with the school district to sell
36 such parcel of property for a period of three years after the
37 appraisal.

1 (7) If in the judgment of the board of directors of any district
2 the sale of real property of the district not needed for school
3 purposes would be facilitated and greater value realized through sale
4 on contract terms, a real estate sales contract may be executed between
5 the district and buyer.

6 (8) When possible, property disposals should be prioritized to
7 further future land uses that advance increased housing densities,
8 mixed land uses, and the criteria of compact and transit-oriented
9 development provided in section 202 of this act.

10 **Sec. 225.** RCW 35.61.132 and 1989 c 319 s 4 are each amended to
11 read as follows:

12 Every metropolitan park district may, by unanimous decision of its
13 board of park commissioners, sell, exchange, or otherwise dispose of
14 any real or personal property acquired for park or recreational
15 purposes when such property is declared surplus for park or other
16 recreational purposes: PROVIDED, That where the property is acquired
17 by donation or dedication for park or recreational purposes, the
18 consent of the donor or dedicator, his or her heirs, successors, or
19 assigns is first obtained if the consent of the donor is required in
20 the instrument conveying the property to the metropolitan park
21 district. In the event the donor or dedicator, his or her heirs,
22 successors, or assigns cannot be located after a reasonable search, the
23 metropolitan park district may petition the superior court in the
24 county where the property is located for approval of the sale. If
25 sold, all sales shall be by public bids and sale made only to the
26 highest and best bidder, except that, when possible, property disposals
27 should be prioritized to further future land uses that advance
28 increased housing densities, mixed land uses, and the criteria of
29 compact and transit-oriented development provided in section 202 of
30 this act.

31 **Sec. 226.** RCW 35.94.040 and 1973 1st ex.s. c 95 s 1 are each
32 amended to read as follows:

33 (1) Whenever a city shall determine, by resolution of its
34 legislative authority, that any lands, property, or equipment
35 originally acquired for public utility purposes is surplus to the
36 city's needs and is not required for providing continued public utility

1 service, then such legislative authority by resolution and after a
2 public hearing may cause such lands, property, or equipment to be
3 leased, sold, or conveyed. Such resolution shall state the fair market
4 value or the rent or consideration to be paid and such other terms and
5 conditions for such disposition as the legislative authority deems to
6 be in the best public interest.

7 (2) When possible, property disposals should be prioritized to
8 further future land uses that advance increased housing densities,
9 mixed land uses, and the criteria of compact and transit-oriented
10 development provided in section 202 of this act.

11 (3) The provisions of RCW 35.94.020 and 35.94.030 shall not apply
12 to dispositions authorized by this section.

13 NEW SECTION. Sec. 227. A new section is added to chapter 47.01
14 RCW to read as follows:

15 It is the intent of the legislature for the department to work with
16 local transit agencies in an effort to coordinate increased housing
17 density around park and ride lots, including the utilization of
18 airspace over park and ride lots for commercial and residential uses.

19 NEW SECTION. Sec. 228. A new section is added to chapter 47.80
20 RCW to read as follows:

21 The department of transportation shall coordinate with regional
22 transportation planning organizations in the development of measures
23 that reduce the per capita vehicle miles traveled. Once developed and
24 subjected to a public review, the measures must be considered in the
25 updating of regional transportation plans.

26 NEW SECTION. Sec. 229. A new section is added to chapter 47.01
27 RCW to read as follows:

28 (1) The department of transportation, in collaboration with the
29 department of community, trade, and economic development and statewide
30 associations representing the interest of counties, shall develop
31 educational programs and assistance relating to parking assistance,
32 incentives, and management.

33 (2) The materials developed under this section must:

34 (a) Include illustrations of case studies with successful

1 implementation of parking management that advances low-carbon emissions
2 goals;

3 (b) Include assistance for compact and transit-oriented developers
4 in forming transportation management associations that are designed to
5 advance self-sustaining parking management and commute trip reduction
6 organizations;

7 (c) Describe the role of car sharing in parking management in dense
8 areas;

9 (d) Educate developers, and inform the public, regarding the cost
10 of parking policies that do not charge money to the car driver.

11 **Sec. 230.** RCW 47.80.030 and 2005 c 328 s 2 are each amended to
12 read as follows:

13 (1) Each regional transportation planning organization shall
14 develop in cooperation with the department of transportation, providers
15 of public transportation and high capacity transportation, ports, and
16 local governments within the region, adopt, and periodically update a
17 regional transportation plan that:

18 (a) Is based on a least cost planning methodology that identifies
19 the most cost-effective facilities, services, and programs;

20 (b) Identifies existing or planned transportation facilities,
21 services, and programs, including but not limited to major roadways
22 including state highways and regional arterials, transit and
23 nonmotorized services and facilities, multimodal and intermodal
24 facilities, marine ports and airports, railroads, and noncapital
25 programs including transportation demand management that should
26 function as an integrated regional transportation system, giving
27 emphasis to those facilities, services, and programs that exhibit one
28 or more of the following characteristics:

29 (i) Crosses member county lines;

30 (ii) Is or will be used by a significant number of people who live
31 or work outside the county in which the facility, service, or project
32 is located;

33 (iii) Significant impacts are expected to be felt in more than one
34 county;

35 (iv) Potentially adverse impacts of the facility, service, program,
36 or project can be better avoided or mitigated through adherence to
37 regional policies;

1 (v) Transportation needs addressed by a project have been
2 identified by the regional transportation planning process and the
3 remedy is deemed to have regional significance; and

4 (vi) Provides for system continuity;

5 (c) Establishes level of service standards for state highways and
6 state ferry routes, with the exception of transportation facilities of
7 statewide significance as defined in RCW 47.06.140. These regionally
8 established level of service standards for state highways and state
9 ferries shall be developed jointly with the department of
10 transportation, to encourage consistency across jurisdictions. In
11 establishing level of service standards for state highways and state
12 ferries, consideration shall be given for the necessary balance between
13 providing for the free interjurisdictional movement of people and goods
14 and the needs of local commuters using state facilities;

15 (d) Includes a financial plan demonstrating how the regional
16 transportation plan can be implemented, indicating resources from
17 public and private sources that are reasonably expected to be made
18 available to carry out the plan, and recommending any innovative
19 financing techniques to finance needed facilities, services, and
20 programs;

21 (e) Assesses regional development patterns, capital investment and
22 other measures necessary to:

23 (i) Ensure the preservation of the existing regional transportation
24 system, including requirements for operational improvements,
25 resurfacing, restoration, and rehabilitation of existing and future
26 major roadways, as well as operations, maintenance, modernization, and
27 rehabilitation of existing and future transit, railroad systems and
28 corridors, and nonmotorized facilities; and

29 (ii) Make the most efficient use of existing transportation
30 facilities to relieve vehicular congestion and maximize the mobility of
31 people and goods;

32 (f) Sets forth a proposed regional transportation approach,
33 including capital investments, service improvements, programs, and
34 transportation demand management measures to guide the development of
35 the integrated, multimodal regional transportation system. For
36 regional growth centers, the approach must address transportation
37 concurrency strategies required under RCW 36.70A.070 and include a

1 measurement of vehicle level of service for off-peak periods and total
2 multimodal capacity for peak periods; (~~and~~)

3 (g) Where appropriate, sets forth the relationship of high capacity
4 transportation providers and other public transit providers with regard
5 to responsibility for, and the coordination between, services and
6 facilities;

7 (h) Includes maximum regional parking levels designed to address
8 parking thresholds at the state and regional level, and works toward
9 prohibiting the construction of principle-use long-term parking in
10 favor of shared parking; and

11 (i) Includes provisions that provide regional transportation
12 funding for transit and multimodal infrastructure facilities in return
13 for commitments from developers to maximize development densities and
14 minimize project parking.

15 (2) Regional transportation planning organizations encompassing:
16 (a) One county planning under RCW 36.70A.040 with one hundred thousand
17 or more residents; or (b) two or more counties planning under RCW
18 36.70A.040, one of which has one hundred thousand or more residents,
19 must ensure that the regional transportation plan for those counties
20 implements the goals to reduce annual per capita vehicle miles traveled
21 adopted under RCW 47.01.440.

22 (3) The organization shall review the regional transportation plan
23 biennially for currency and forward the adopted plan along with
24 documentation of the biennial review to the state department of
25 transportation. In satisfying the requirements of this subsection, the
26 organization shall provide notice reasonably calculated to inform the
27 public of the review, and opportunities for the public to comment on
28 the review and plan adoption.

29 ~~((3))~~ (4) All transportation projects, programs, and
30 transportation demand management measures within the region that have
31 an impact upon regional facilities or services must be consistent with
32 the plan and with the adopted regional growth and transportation
33 strategies.

34 **Sec. 231.** RCW 47.80.050 and 1990 1st ex.s. c 17 s 57 are each
35 amended to read as follows:

36 Biennial appropriations to the department of transportation to

1 carry out the regional transportation planning program shall set forth
2 the amounts to be allocated as follows:

3 (1) A base amount per county for each county within each regional
4 transportation planning organization, to be distributed to the lead
5 planning agency;

6 (2) An amount to be distributed to each lead planning agency on a
7 per capita basis; (~~and~~)

8 (3) An amount to be administered by the department of
9 transportation as a discretionary grant program for special regional
10 planning projects, including grants to allow counties which have
11 significant transportation interests in common with an adjoining region
12 to also participate in that region's planning efforts;

13 (4) An amount that can be distributed when appropriate, with
14 support from the department of community, trade, and economic
15 development, for focused trip reduction programs in compact and
16 transit-oriented developments that satisfy the criteria of section 202
17 of this act. When possible, these amounts should be modeled after the
18 growth and transportation efficiency centers outlined in RCW 70.94.528.

19 NEW SECTION. Sec. 232. By January 1, 2010, the department of
20 transportation shall prepare a report to the appropriate committees of
21 the legislature that:

22 (1) Outlines parking-related revenue and funding options, including
23 parking taxes in dense urban areas, for projects and programs located
24 in compact and transit-oriented developments that satisfy the criteria
25 of section 202 of this act and funding for tax credits for lower
26 parking ratios; and

27 (2) Identifies, with the assistance of the department of community,
28 trade, and economic development, which of the following parking
29 management strategies best forward the goals of compact and transit-
30 oriented development identified in the criteria set forth in section
31 202 of this act, including an analysis of the impact each strategy
32 would have on businesses and housing projects and on the different size
33 compact and transit-oriented developments either already existing or
34 currently planned:

35 (a) Changes in state law regarding the commercial parking tax
36 authorizing monthly reserved parking to be taxed, with the revenues
37 dedicated to developing alternatives to driving;

1 (b) Creation of the ability to charge higher parking taxes for
2 monthly, long-term, or commuter parking than for short-term parking;

3 (c) Development and implementation of variable parking pricing for
4 different areas and times of the day;

5 (d) Development and implementation of congestion pricing for
6 special events parking;

7 (e) Consideration of charging at high use park and ride lots as a
8 way to manage demand and raise revenue;

9 (f) Identify opportunities for funding incentives to developers who
10 develop housing facilities that reduce or intercept traffic impacts on
11 already overburdened major roadways;

12 (g) Increases in density and a reduction in parking requirements
13 for valet parking;

14 (h) Reduction in parking rates or the provision of priority parking
15 for rideshare vehicles and other high occupancy vehicles;

16 (i) Provision of incentives to employees and employers for parking
17 management, such as employer-provided mini-fleets for employees and the
18 option for employees to cash out their free parking privileges;

19 (j) Restrictions on special parking rates that reward early morning
20 parking in congested downtown areas;

21 (k) Reconfiguration of street parking for bicycles and scooters and
22 to consider the benefits of angled or parallel parking.

23 NEW SECTION. **Sec. 233.** The legislature finds that walking and
24 bicycling for transportation purposes offers many benefits to
25 individuals, their communities, and the state. These benefits include
26 improved health and a reduction in the emissions of carbon and other
27 harmful pollutants. When incorporated into a balanced transportation
28 system, walking and bicycling can reduce the amount of car trips made,
29 and thereby reduce the greenhouse gas emissions caused by motor
30 vehicles.

31 NEW SECTION. **Sec. 234.** (1) Except as otherwise provided in this
32 chapter, transportation decisions made by state, regional, and local
33 entities must give recognition, consideration, and prioritization to
34 the complete street principles provided in this section.

35 (2) Complete streets are roads that are designed and operated to

1 enable safe access for all users, including pedestrians, bicyclists,
2 motorists, and bus riders of all ages and abilities. The principles of
3 complete streets are as follows:

4 (a) Specification that the infrastructure is designed for all
5 users, including pedestrians, bicyclists, transit vehicles and users,
6 and motorists of all ages and abilities;

7 (b) Aiming to create a comprehensive, integrated, connected
8 network;

9 (c) Recognition of the need for flexibility and the idea that all
10 streets are different and user needs will be balanced;

11 (d) The ability to be adopted by all agencies to cover all roads;

12 (e) Applicability to both new and retrofit projects, including
13 design, planning, maintenance, and operations for the entire right-of-
14 way;

15 (f) Making any exceptions to these principles specific with a clear
16 procedure that requires high-level approval of exceptions;

17 (g) Direction for the use of the latest and best design standards;

18 (h) Direction that complete streets solutions fit in with the
19 context of the community;

20 (i) Establishment of performance standards with measurable
21 outcomes.

22 NEW SECTION. **Sec. 235.** The implementation of the complete streets
23 principles identified in section 234 of this act must be prioritized
24 and implemented in the following order:

25 (1) By September 1, 2009, the superintendent of public instruction
26 shall work with local communities and school districts to develop an
27 investment strategy that ensures:

28 (a) All elementary and middle schools in urban areas are connected
29 to pedestrian routes within a one and one-half mile circumference of
30 the school entrance; and

31 (b) All high schools in urban areas are connected to pedestrian
32 routes within a two-mile circumference of the school entrance.

33 (2) By December 15, 2009, the superintendent of public instruction
34 shall review school-siting policies and practices and deliver a report
35 to the appropriate committees of the legislature recommending practices
36 and changes that can reduce total vehicle miles traveled to and from
37 schools.

1 (3) By December 31, 2009, the department of transportation shall:

2 (a) Deliver to the appropriate committees of the legislature the
3 identification of a funding strategy to fulfill all elements of the
4 adopted 2008 Washington state bicycle facilities and pedestrian
5 walkways plan, including funding for training and facilities; and

6 (b) Work with cities and counties to begin training all traffic
7 engineers and planners on the design and engineering elements that
8 promote walking and bicycling.

9 (4) By December 31, 2010, all state transportation funds and state
10 public works transportation funding must include the complete streets
11 criteria identified in section 234 of this act when completing state
12 projects or awarding state funding for local projects.

13 (5) By December 31, 2011, all cities must adopt rules or ordinances
14 modeled on the complete streets criteria identified in section 234 of
15 this act. Compliance with this section is a necessary prerequisite for
16 receiving state transportation grant and loan funding. Cities not in
17 compliance with this section may only apply for state transportation
18 grant and loan funding if the city can justify their noncompliance by
19 the provision of alternative plans for reducing total vehicle miles
20 traveled.

21 (6) By December 31, 2012, all school districts must develop
22 transportation plans that identify strategies to encourage nonsingle-
23 occupancy vehicle driving to school.

24 (7) By December 31, 2013, the secretary shall require all planners
25 and engineers employed by the department to have completed an approved
26 course on walking and bicycling.

27 (8) By December 31, 2014, all urban areas required to have a growth
28 management plan under chapter 36.70A RCW must produce a bicycle and
29 walking master plan, either as two separate plans or as a unified
30 document, and identify funding strategies to complete the execution of
31 the plan or plans within their six-year capital facilities plans.

32 (9) By December 31, 2018, all urban areas required to take action
33 under subsection (8) of this section must be able to demonstrate
34 progress towards completing projects identified in their bicycle and
35 walking master plans.

36 NEW SECTION. **Sec. 236.** Requirements of this chapter related to

1 the complete streets principles outlined in section 234 of this act do
2 not apply if:

3 (1) Conformance to the complete streets principles would represent
4 more than twenty percent of an overall project's cost;

5 (2) There is no identified need for compliance with complete
6 streets principles; or

7 (3) The secretary expressly exempts a project from compliance with
8 this chapter.

9 NEW SECTION. **Sec. 237.** By September 1, 2010, the department of
10 community, trade, and economic development, together with the
11 department of ecology, shall prepare for the appropriate committees of
12 the legislature a report recommending funding sources for the
13 encouragement of the redevelopment of brownfields. In addition, the
14 report must outline the mechanisms of a grants component that augments
15 the state's brownfields revolving loan. Recommendations must advance
16 opportunities for land aggregation, promoting town centers, and
17 promoting compact development.

18 **Sec. 238.** RCW 47.01.440 and 2008 c 14 s 8 are each amended to read
19 as follows:

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

25 (1) Establish the following benchmarks using a statewide baseline
26 of seventy-five billion vehicle miles traveled less the vehicle miles
27 traveled attributable to vehicles licensed under RCW 46.16.070 and
28 weighing ten thousand pounds or more, which are exempt from this
29 section:

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

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

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

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

7 (a) Be jointly facilitated by the department, the department of
8 ecology, and the department of community, trade, and economic
9 development;

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

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

21 (d) Identify potential new revenue options for local and regional
22 governments to authorize to finance vehicle miles traveled reduction
23 efforts;

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

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

36 (g) Estimate the projected reductions in greenhouse gas emissions
37 if the benchmarks are achieved, taking into account the expected

1 implementation of existing state and federal mandates for vehicle
2 technology and fuels, as well as expected growth in population and
3 vehicle travel;

4 (h) Examine access to public transportation for people living in
5 areas with affordable housing to and from employment centers, and make
6 recommendations for steps necessary to ensure that areas with
7 affordable housing are served by adequate levels of public
8 transportation; and

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

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

19 (4) Prior to implementation of the goals in this section, the
20 department, in consultation with the department of community, trade,
21 and economic development, cities, counties, local economic development
22 organizations, and local and regional chambers of commerce, shall
23 provide a report to the appropriate committees of the legislature on
24 the anticipated impacts of the goals established in this section on the
25 following:

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

29 (b) Impacts on low-income residents;

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

32 (d) Impacts on distressed rural counties; and

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

35 (5)(a) Subsequent to the completion of the 2008 report required by
36 this section, the department shall reconvene the original stakeholders
37 and identify options for aligning state, regional, and local
38 transportation investments with the vehicle miles traveled benchmarks

1 presented in this section. This process must include the reexamination
2 of existing investments to ensure that greenhouse gas emissions and
3 vehicle miles traveled reduction goals, as well as the traditional
4 goals of transportation spending, are reflected in the state's
5 transportation spending.

6 (b) The report required by this subsection must be delivered to the
7 appropriate committees of the legislature by December 31, 2010.

8 **Sec. 239.** RCW 47.56.830 and 2008 c 122 s 5 are each amended to
9 read as follows:

10 Any proposal for the establishment of eligible toll facilities
11 shall consider the following policy guidelines:

12 (1) Overall direction. Washington should use tolling to encourage
13 effective use of the transportation system (~~and~~), provide a source of
14 transportation funding, and reduce per capita vehicle miles traveled
15 and greenhouse gas emissions.

16 (2) When to use tolling. Tolling should be used when it can be
17 demonstrated to contribute a significant portion of the cost of a
18 project that cannot be funded solely with existing sources or optimize
19 the performance of the transportation system. Such tolling should, in
20 all cases, be fairly and equitably applied in the context of the
21 statewide transportation system and not have significant adverse
22 impacts through the diversion of traffic to other routes that cannot
23 otherwise be reasonably mitigated. Such tolling should also consider
24 relevant social equity, environmental, and economic issues, and should
25 be directed at making progress toward the state's greenhouse gas
26 reduction goals. When using tolling, strategies should be incorporated
27 to reduce per capita vehicle miles traveled and greenhouse gas
28 emissions by developing toll rate policies that encourage drivers to
29 make shorter and fewer trips, use less polluting vehicles, and consider
30 alternative modes other than single-occupancy use driving.

31 (3) Use of toll revenue. All revenue from an eligible toll
32 facility must be used only to improve, preserve, manage, or operate the
33 eligible toll facility on or in which the revenue is collected.
34 Additionally, toll revenue should provide for and encourage the
35 inclusion of recycled and reclaimed construction materials.

36 (4) Setting toll rates. Toll rates, which may include variable

1 pricing, must be set to meet anticipated funding obligations. To the
2 extent possible, the toll rates should be set to optimize system
3 performance, recognizing necessary trade-offs to generate revenue.

4 (5) Duration of toll collection. Because transportation
5 infrastructure projects have costs and benefits that extend well beyond
6 those paid for by initial construction funding, tolls on future toll
7 facilities may remain in place to fund additional capacity, capital
8 rehabilitation, maintenance, management, and operations, and to
9 optimize performance of the system.

10 **Sec. 240.** RCW 47.56.820 and 2008 c 122 s 4 are each amended to
11 read as follows:

12 (1) Unless otherwise delegated, only the legislature may authorize
13 the imposition of tolls on eligible toll facilities.

14 (2) All revenue from an eligible toll facility must be used only to
15 construct, improve, preserve, maintain, manage, or operate the eligible
16 toll facility on or in which the revenue is collected or to support
17 sustainable travel options, such as transit and ridesharing, or to
18 increase freight mobility. Expenditures of toll revenues are subject
19 to appropriation and must be made only:

20 (a) To cover the operating costs of the eligible toll facility,
21 sustainable travel option, or increased freight mobility, including
22 necessary maintenance, preservation, administration, and toll
23 enforcement by public law enforcement within the boundaries of the
24 facility;

25 (b) To meet obligations for the repayment of debt and interest on
26 the eligible toll facilities, sustainable travel option, or increased
27 freight mobility, and any other associated financing costs including,
28 but not limited to, required reserves and insurance;

29 (c) To meet any other obligations to provide funding contributions
30 for any projects or operations on the eligible toll facilities,
31 sustainable travel option, or increased freight mobility;

32 (d) To provide for the operations of conveyances of people or
33 goods; or

34 (e) For any other improvements to the eligible toll facilities,
35 sustainable travel option, or increased freight mobility.

1 NEW SECTION. **Sec. 241.** (1) By December 31, 2010, the department
2 of transportation shall assemble a task force of interested and
3 appropriate stakeholders to review state and local transportation
4 funding and to propose tolls and other pricing mechanisms that could
5 fund transportation and transit needs and create price incentives to
6 reduce per capita vehicle miles traveled and greenhouse gas emissions
7 in the transportation sector.

8 (2) Pricing mechanisms considered by the task force should give
9 priority to transit and freight operations and be fair and consistent.

10 (3) The task force shall also review the state's tolling authority
11 and explore how a move towards a system-wide application of tolling,
12 rather than a project-by-project approach, can reduce per capita
13 vehicle miles traveled and greenhouse gas emissions in the
14 transportation sector.

15 (4) Results of the task force must be delivered to the appropriate
16 committees of the legislature by December 31, 2011.

17 (5) This section expires June 30, 2012.

18 **Sec. 242.** RCW 47.56.785 and 2008 c 270 s 4 are each amended to
19 read as follows:

20 (1) Following the submission of the report required in section 6,
21 chapter 270, Laws of 2008, the department may seek authorization from
22 the legislature to collect tolls on the existing (~~state route number~~
23 ~~520~~) bridge or on a replacement (~~state route number 520~~) bridge for
24 state route number 520 or Interstate 90. Any tolls established for
25 Interstate 90 must be designed to implement a system-wide application
26 of tolling that has the potential to reduce per capita vehicle miles
27 traveled and greenhouse gas emissions in the transportation sector.

28 (2) The schedule of toll charges must be established by the
29 transportation commission and collected in a manner determined by the
30 department.

31 NEW SECTION. **Sec. 243.** (1) By December 31, 2010, the department
32 of transportation shall deliver to the appropriate committees of the
33 legislature a report that estimates the costs of investments in rail
34 improvements that are necessary to reduce the usage of trucks and
35 passenger vehicles, and thus lower greenhouse gas emissions.

1 (2) The report required by this section must have the following
2 components:

3 (a) The costs of the following improvements to freight and
4 passenger rail service:

5 (i) Establishing a triple track on the mainline between Seattle and
6 Tacoma;

7 (ii) Improving West Vancouver freight access;

8 (iii) Developing a Point Defiance bypass;

9 (iv) Improving Blakeslee Junction;

10 (v) Developing a third mainline for Martin's Bluff;

11 (vi) Developing Green river industrial leads;

12 (vii) Improving access to the port of Seattle and the port of
13 Tacoma; and

14 (viii) Improving east/west service;

15 (b) The costs of developing and maintaining a joint operation and
16 tracking agreement with private rail carriers to allow equal access to
17 mainline infrastructure;

18 (c) The cost of improving the Stampede Pass line to allow for
19 double-stack service;

20 (d) The cost of working with class 1 railroads to improve
21 operations to lines along the Columbia river as directional running
22 corridors;

23 (e) The cost of maintaining a substantive program for improving and
24 maintaining short line railroads that have sufficient projected freight
25 to make a difference in air quality;

26 (f) The costs of needed work to facilitate links to other rail
27 forms and nonsingle-occupancy vehicle travel;

28 (g) The cost of reactivating the old Milwaukee road line between
29 Ellensburg and Lind;

30 (h) The minimum useful funding level for a state grant or loan
31 program targeted at helping smaller class 1 railroads invest in
32 technologies that reduce fuel consumption and air emissions; and

33 (i) Identify a methodology for determining when rail
34 electrification might become a viable option in Washington, including
35 strategies for leveraging federal grants and loans for rail
36 electrification projects.

1 NEW SECTION. **Sec. 244.** By December 31, 2010, the department of
2 licensing, together with the department of revenue, shall develop
3 options that would decrease the up-front cost of purchasing plug-in
4 electric vehicles and other high mileage vehicles relative to the cost
5 of purchasing less efficient vehicles.

6 **Sec. 245.** RCW 82.08.813 and 2005 c 296 s 2 are each amended to
7 read as follows:

8 (1) The tax levied by RCW 82.08.020 does not apply to sales of new
9 passenger cars, light and heavy duty trucks, and medium duty passenger
10 vehicles, which utilize hybrid technology and have a United States
11 environmental protection agency estimated highway gasoline mileage
12 rating of at least forty miles per gallon.

13 (2) The seller must keep records necessary for the department to
14 verify eligibility under this section.

15 (3) As used in this section, "hybrid technology" means propulsion
16 units powered by both electricity and gasoline.

17 **Sec. 246.** 2005 c 296 s 6 (uncodified) is amended to read as
18 follows:

19 This act expires January 1, (~~(2011)~~) 2020.

20 NEW SECTION. **Sec. 247.** By December 31, 2009, the department of
21 transportation shall deliver to the appropriate committees of the
22 legislature a report that:

23 (1) Reviews the relevancy of the current exclusions of higher
24 weight battery electric vehicles. If practical, the report must
25 recommend amending the gross vehicle weight limit for medium speed
26 electric vehicles; and

27 (2) Studies possible financial incentives that may stimulate the
28 production of six-plus-passenger vans for vanshare or shuttle programs
29 and the initiation of electric vehicle demonstration projects.

30 NEW SECTION. **Sec. 248.** A new section is added to chapter 19.112
31 RCW to read as follows:

32 By December 31, 2011, the departments of agriculture, ecology,
33 transportation, and community, trade, and economic development shall
34 evaluate and implement low-carbon fuel standard requirements that are

1 appropriate for Washington. Initiation of this requirement may not
2 commence until California has implemented a low-carbon fuel standard
3 and lessons can be learned from California's experience.

4 NEW SECTION. **Sec. 249.** Section 245 of this act expires January 1,
5 2020.

6 NEW SECTION. **Sec. 250.** Sections 233 through 236 of this act
7 constitute a new chapter in Title 47 RCW.

8 **PART 3**

9 **Beyond Waste Recommendations**

10 **Sec. 301.** RCW 70.95.010 and 2002 c 299 s 3 are each amended to
11 read as follows:

12 The legislature finds:

13 (1) Continuing technological changes in methods of manufacture,
14 packaging, and marketing of consumer products, together with the
15 economic and population growth of this state, the rising affluence of
16 its citizens, and its expanding industrial activity have created new
17 and ever-mounting problems involving disposal of garbage, refuse, and
18 solid waste materials resulting from domestic, agricultural, and
19 industrial activities.

20 (2) Traditional methods of disposing of solid wastes in this state
21 are no longer adequate to meet the ever-increasing problem. Improper
22 methods and practices of handling and disposal of solid wastes pollute
23 our land, air and water resources, blight our countryside, adversely
24 affect land values, and damage the overall quality of our environment.

25 (3) Considerations of natural resource limitations, energy
26 shortages, economics and the environment make necessary the development
27 and implementation of solid waste recovery and/or recycling plans and
28 programs.

29 (4) Waste reduction must become a fundamental strategy of solid
30 waste management. It is therefore necessary to change manufacturing
31 and purchasing practices and waste generation behaviors to reduce the
32 amount of waste that becomes a governmental responsibility.

33 (5) ~~Source ((separation of waste must become a fundamental strategy~~
34 ~~of solid waste management. Collection and handling strategies should~~

1 ~~have, as an ultimate goal, the source))~~ separation of all materials
2 with resource value or environmental hazard is necessary to protect
3 human health and the environment.

4 (6)(a) It should be the goal of every person and business to
5 minimize their production of wastes and to separate recyclable or
6 hazardous materials from mixed waste.

7 (b) It is the responsibility of state, county, and city governments
8 to provide for a waste management infrastructure to fully implement
9 waste reduction and source separation strategies and to process and
10 dispose of remaining wastes in a manner that is environmentally safe
11 and economically sound. It is further the responsibility of state,
12 county, and city governments to monitor the cost-effectiveness and
13 environmental safety of combusting separated waste, processing mixed
14 municipal solid waste, and recycling programs.

15 (c) It is the responsibility of county and city governments to
16 assume primary responsibility for solid waste management and to develop
17 and implement aggressive and effective waste reduction and source
18 separation strategies.

19 (d) It is the responsibility of state government to ensure that
20 local governments are providing adequate source reduction and
21 separation opportunities and incentives to all, including persons in
22 both rural and urban areas, and nonresidential waste generators such as
23 commercial, industrial, and institutional entities, recognizing the
24 need to provide flexibility to accommodate differing population
25 densities, distances to and availability of recycling markets, and
26 collection and disposal costs in each community; and to provide county
27 and city governments with adequate technical resources to accomplish
28 this responsibility.

29 (7) Environmental and economic considerations in solving the
30 state's solid waste management problems requires strong consideration
31 by local governments of regional solutions and intergovernmental
32 cooperation.

33 (8) The following priorities for the collection, handling, and
34 management of solid waste are necessary and should be followed in
35 descending order as applicable:

36 (a) Waste reduction;

37 (b) Recycling, with source separation of recyclable materials as
38 the preferred method;

1 (c) Energy recovery, incineration, or landfill of separated waste;

2 (d) Energy recovery, incineration, or landfill of mixed municipal
3 solid wastes.

4 (9) It is the state's goal to achieve a fifty percent recycling
5 rate by 2007.

6 (10) It is the state's goal that programs be established to
7 eliminate residential or commercial yard debris in landfills by 2012 in
8 those areas where alternatives to disposal are readily available and
9 effective.

10 (11) Steps should be taken to make recycling at least as affordable
11 and convenient to the ratepayer as mixed waste disposal.

12 (12) It is necessary to compile and maintain adequate data on the
13 types and quantities of solid waste that are being generated and to
14 monitor how the various types of solid waste are being managed.

15 (13) Vehicle batteries should be recycled and the disposal of
16 vehicle batteries into landfills or incinerators should be
17 discontinued.

18 (14) Excessive and nonrecyclable packaging of products should be
19 avoided.

20 (15) Comprehensive education should be conducted throughout the
21 state so that people are informed of the need to reduce, source
22 separate, and recycle solid waste.

23 (16) All governmental entities in the state should set an example
24 by implementing aggressive waste reduction and recycling programs at
25 their workplaces and by purchasing products that are made from recycled
26 materials and are recyclable.

27 (17) To ensure the safe and efficient operations of solid waste
28 disposal facilities, it is necessary for operators and regulators of
29 landfills and incinerators to receive training and certification.

30 (18) It is necessary to provide adequate funding to all levels of
31 government so that successful waste reduction and recycling programs
32 can be implemented.

33 (19) The development of stable and expanding markets for recyclable
34 materials is critical to the long-term success of the state's recycling
35 goals. Market development must be encouraged on a state, regional, and
36 national basis to maximize its effectiveness. The state shall assume
37 primary responsibility for the development of a multifaceted market
38 development program to carry out the purposes of this act.

1 (20) There is an imperative need to anticipate, plan for, and
2 accomplish effective storage, control, recovery, and recycling of
3 discarded tires and other problem wastes with the subsequent
4 conservation of resources and energy.

5 NEW SECTION. **Sec. 302.** A new section is added to chapter 70.95
6 RCW to read as follows:

7 (1) It is the responsibility of every person and business to
8 minimize their production of wastes, to separate recyclable or
9 hazardous materials from mixed waste, and to participate in available
10 materials collection programs.

11 (2) It is the responsibility of state, county, and city governments
12 to provide for a waste management infrastructure to fully implement
13 waste reduction and source separation strategies and to process and
14 dispose of remaining wastes in a manner that is environmentally safe
15 and economically sound. It is further the responsibility of state,
16 county, and city governments to monitor the cost-effectiveness and
17 environmental safety of combusting separated waste, processing mixed
18 municipal solid waste, and recycling programs.

19 (3) It is the responsibility of county and city governments to
20 assume primary responsibility for solid waste management and to develop
21 and implement aggressive and effective waste reduction and source
22 separation strategies.

23 (4) It is the responsibility of state government: To ensure that
24 local governments are providing adequate source reduction and
25 separation opportunities and incentives to all, including persons in
26 both rural and urban areas, and nonresidential waste generators such as
27 commercial, industrial, and institutional entities, recognizing the
28 need to provide flexibility to accommodate differing population
29 densities, distances to and availability of recycling markets, and
30 collection and disposal costs in each community; and to provide county
31 and city governments with adequate technical resources to accomplish
32 this responsibility.

33 (5) Environmental and economic considerations in solving the
34 state's solid waste management problems require strong consideration by
35 local governments of regional solutions and intergovernmental
36 cooperation.

1 NEW SECTION. **Sec. 303.** A new section is added to chapter 70.95
2 RCW to read as follows:

3 The following priorities are established for the collection,
4 handling, and management of solid waste to be followed in descending
5 order as applicable:

- 6 (1) Waste reduction;
- 7 (2) Recycling, with source separation of recyclable materials as
8 the preferred method;
- 9 (3) Energy recovery, incineration, or landfill of separated waste;
- 10 (4) Energy recovery, incineration, or landfill of mixed municipal
11 solid wastes.

12 NEW SECTION. **Sec. 304.** A new section is added to chapter 70.95
13 RCW to read as follows:

14 (1) It is the state's goal to achieve an eighty percent recycling
15 rate by 2020.

16 (2) To accomplish this goal, it is the solid waste management
17 strategy of the state that source separation of recyclable materials
18 and products, organic material, and wastes be practiced by all persons
19 and collection services be provided to all residents to eliminate
20 disposal of recyclable, compostable, and disgestable materials and
21 ensure their reutilization.

22 (3) It is the state's goal that programs be established to
23 eliminate residential or commercial yard debris in landfills by 2012 in
24 those areas where alternatives to disposal are readily available and
25 effective.

26 (4) Steps should be taken to make recycling at least as affordable
27 and convenient to the ratepayer as mixed waste disposal.

28 (5) It is necessary to compile and maintain adequate data on the
29 types and quantities of solid waste that are being generated and to
30 monitor the effectiveness of these goals and strategies.

31 (6) Vehicle batteries must be recycled and the disposal of vehicle
32 batteries into landfills or incinerators must be discontinued.

33 (7) Excessive and nonrecyclable packaging of products should be
34 avoided.

35 (8) Comprehensive education must be conducted throughout the state
36 so that people are informed of the requirements to reduce, source
37 separate, and recycle solid waste.

1 (9) Governmental entities in the state shall participate in source
2 reduction, source separation, and recycling programs in the various
3 communities where they are located, unless governmental entities have
4 already established waste reduction and recycling programs that achieve
5 equal or greater rates of material diversion.

6 (10) All governmental entities shall purchase products that are
7 made from recycled materials and are recyclable.

8 (11) To ensure the safe and efficient operations of solid waste
9 disposal facilities, it is necessary for operators and regulators of
10 landfills and incinerators to receive training and certification.

11 (12) It is necessary to provide adequate funding to all levels of
12 government so that successful waste reduction and recycling programs
13 can be implemented.

14 (13) The development of stable and expanding markets for recyclable
15 materials is critical to the long-term success of the state's recycling
16 goals. Market development must be encouraged on a state, regional, and
17 national basis to maximize its effectiveness. The state shall assume
18 primary responsibility for the development of a multifaceted market
19 development program to carry out the purposes of this act.

20 (14) There is an imperative need to anticipate, plan for, and
21 accomplish effective storage, control, recovery, and recycling of
22 discarded tires and other problem wastes with the subsequent
23 conservation of resources and energy.

24 **Sec. 305.** RCW 70.95.020 and 2005 c 394 s 2 are each amended to
25 read as follows:

26 The purpose of this chapter is to establish a comprehensive
27 statewide program ((for)) to manage solid waste ((~~handling, and solid~~
28 ~~waste recovery and/or recycling~~)), which will prevent land, air, and
29 water pollution and conserve the natural, economic, and energy
30 resources of this state. To this end it is the purpose of this
31 chapter:

32 (1) To assign primary responsibility for adequate solid waste
33 handling to local government, reserving to the state, however, those
34 functions necessary to assure effective programs throughout the state;

35 (2) To provide for adequate planning for solid waste handling by
36 local government;

1 (3) To provide for the adoption and enforcement of basic minimum
2 performance standards for solid waste handling, including that all
3 sites where recyclable materials are generated and transported from
4 shall provide a separate container for solid waste;

5 (4) To encourage the development and operation of waste recycling
6 facilities needed to accomplish the management priority of waste
7 recycling, to promote consistency in the requirements for such
8 facilities throughout the state, and to ensure that recyclable
9 materials diverted from the waste stream for recycling are routed to
10 facilities in which recycling occurs;

11 (5) To provide technical and financial assistance to local
12 governments in the planning, development, and conduct of solid waste
13 handling programs;

14 (6) To encourage storage, proper disposal, and recycling of
15 discarded vehicle tires and to stimulate private recycling programs
16 throughout the state; (~~and~~)

17 (7) To encourage the development and operation of waste recycling
18 facilities and activities needed to accomplish the management priority
19 of waste recycling and to promote consistency in the permitting
20 requirements for such facilities and activities throughout the state(~~(-~~
21 ~~it is the intent of the legislature that)~~); and

22 (8) To encourage local governments (~~(be encouraged)~~) to use the
23 expertise of private industry and to contract with private industry to
24 the fullest extent possible to carry out solid waste recovery and/or
25 recycling programs.

26 **Sec. 306.** RCW 70.95.030 and 2004 c 101 s 1 are each amended to
27 read as follows:

28 (~~(As used in)~~) The definitions in this section apply throughout
29 this chapter(~~(7)~~) unless the context (~~(indicates)~~) clearly requires
30 otherwise(~~(+)~~).

31 (1) "Anaerobic digestion" means a process in which microorganisms
32 break down biodegradable material in the absence of oxygen, resulting
33 in the production of methane and carbon dioxide rich biogas suitable
34 for energy production or use as fuel and nutrients in the effluent that
35 can be used as fertilizer.

36 (2) "City" means every incorporated city and town.

1 ~~((+2))~~ (3) "Collection services" means services provided as
2 universal residential collection and comprehensive commercial
3 collection.

4 (4) "Commission" means the utilities and transportation commission.

5 ~~((+3))~~ (5) "Committee" means the state solid waste advisory
6 committee.

7 ~~((+4))~~ (6) "Composted material" means organic solid waste that has
8 been subjected to controlled aerobic degradation at a solid waste
9 facility in compliance with the requirements of this chapter. Natural
10 decay of organic solid waste under uncontrolled conditions does not
11 result in composted material.

12 ~~((+5))~~ (7) "Comprehensive commercial collection" means the
13 services provided to commercial generators in the state to collect
14 source separated recyclable materials and products, organic materials,
15 and wastes separately. Commercial generators may transport recyclable
16 materials or organic materials themselves or may secure recycling
17 services from any transporter of recyclable materials or recycling
18 business in the state registered under this chapter.

19 (8) "Department" means the department of ecology.

20 ~~((+6))~~ (9) "Director" means the director of the department of
21 ecology.

22 ~~((+7))~~ (10) "Disposal site" means the location where any final
23 treatment, utilization, processing, or deposit of solid waste occurs.

24 ~~((+8))~~ (11) "Energy recovery" means a process operating under
25 federal and state environmental laws and regulations for converting
26 solid waste into usable energy and for reducing the volume of solid
27 waste.

28 ~~((+9))~~ (12) "Functional standards" means criteria for solid waste
29 handling expressed in terms of expected performance or solid waste
30 handling functions.

31 ~~((+10))~~ (13) "Incineration" means a process of reducing the volume
32 of solid waste operating under federal and state environmental laws and
33 regulations by use of an enclosed device using controlled flame
34 combustion.

35 ~~((+11))~~ (14) "Inert waste landfill" means a landfill that receives
36 only inert waste, as determined under RCW 70.95.065, and includes
37 facilities that use inert wastes as a component of fill.

1 ((+12+)) (15) "Jurisdictional health department" means city,
2 county, city-county, or district public health department.

3 ((+13+)) (16) "Landfill" means a disposal facility or part of a
4 facility at which solid waste is placed in or on land and which is not
5 a land treatment facility.

6 ((+14+)) (17) "Local government" means a city, town, or county.

7 ((+15+)) (18) "Modify" means to substantially change the design or
8 operational plans including, but not limited to, removal of a design
9 element previously set forth in a permit application or the addition of
10 a disposal or processing activity that is not approved in the permit.

11 ((+16+)) (19) "Multiple family residence" means any structure
12 housing two or more dwelling units.

13 ((+17+)) (20) "Person" means individual, firm, association,
14 copartnership, political subdivision, government agency, municipality,
15 industry, public or private corporation, or any other entity
16 whatsoever.

17 ((+18+)) (21) "Recyclable materials" means those solid wastes that
18 are separated for recycling or reuse(~~(, such as papers, metals, and~~
19 ~~glass, that are identified as recyclable material pursuant to)) within~~
20 a local comprehensive solid waste plan according to RCW 70.95.080.
21 Prior to the adoption of the local comprehensive solid waste plan,
22 adopted pursuant to RCW 70.95.110(2), local governments may identify
23 additional recyclable materials by ordinance (~~(from July 23, 1989))~~).

24 ((+19+)) (22) "Recycling" means transforming or remanufacturing
25 waste materials into usable or marketable materials for use other than
26 landfill disposal or incineration.

27 ((+20+)) (23) "Residence" means the regular dwelling place of an
28 individual or individuals.

29 ((+21+)) (24) "Sewage sludge" means a semisolid substance
30 consisting of settled sewage solids combined with varying amounts of
31 water and dissolved materials, generated from a wastewater treatment
32 system, that does not meet the requirements of chapter 70.95J RCW.

33 ((+22+)) (25) "Soil amendment" means any substance that is intended
34 to improve the physical characteristics of the soil, except composted
35 material, commercial fertilizers, agricultural liming agents,
36 unmanipulated animal manures, unmanipulated vegetable manures, food
37 wastes, food processing wastes, and materials exempted by rule of the

1 department, such as biosolids as defined in chapter 70.95J RCW and
2 wastewater as regulated in chapter 90.48 RCW.

3 ~~((+23+))~~ (26) "Solid waste" or "wastes" means all putrescible and
4 nonputrescible solid and semisolid wastes including, but not limited
5 to, garbage, rubbish, ashes, industrial wastes, swill, sewage sludge,
6 demolition and construction wastes, abandoned vehicles or parts
7 thereof, and recyclable materials.

8 ~~((+24+))~~ (27) "Solid waste handling" means the management, storage,
9 collection, transportation, treatment, utilization, processing, and
10 final disposal of solid wastes, including the recovery and recycling of
11 materials from solid wastes, the recovery of energy resources from
12 solid wastes or the conversion of the energy in solid wastes to more
13 useful forms or combinations thereof.

14 ~~((+25+))~~ (28) "Source separation" means the separation of
15 ~~((different kinds of solid waste at the place where the waste
16 originates))~~ recyclable materials and products and organic materials
17 from mixed solid waste at the place where those materials are
18 generated.

19 ~~((+26+))~~ (29) "Universal residential collection" means the services
20 required to be provided throughout the state to collect source
21 separated recyclable materials and products, organic materials, and
22 wastes separately. These services must be provided at all single
23 family and multifamily dwellings through collection companies as
24 required under chapter 81.77 RCW and municipal collection services
25 provided under RCW 35.21.152 and chapter 35.67 RCW except in those
26 areas of the state that are excluded in RCW 70.95.110(3).

27 (30) "Vehicle" includes every device physically capable of being
28 moved upon a public or private highway, road, street, or watercourse
29 and in, upon, or by which any person or property is or may be
30 transported or drawn upon a public or private highway, road, street, or
31 watercourse, except devices moved by human or animal power or used
32 exclusively upon stationary rails or tracks.

33 ~~((+27+))~~ (31) "Waste-derived soil amendment" means any soil
34 amendment as defined in this chapter that is derived from solid waste
35 as defined in ~~((RCW 70.95.030))~~ this section, but does not include
36 biosolids or biosolids products regulated under chapter 70.95J RCW or
37 wastewaters regulated under chapter 90.48 RCW.

1 (~~(+28+)~~) (32) "Waste reduction" means reducing the amount or
2 toxicity of waste generated or reusing materials or products without
3 processing.

4 (~~(+29+)~~) (33) "Yard debris" means plant material commonly created
5 in the course of maintaining yards and gardens, and through
6 horticulture, gardening, landscaping, or similar activities. Yard
7 debris includes but is not limited to grass clippings, leaves,
8 branches, brush, weeds, flowers, roots, windfall fruit, vegetable
9 garden debris, holiday trees, and tree prunings (~~(four)~~) six inches or
10 less in diameter.

11 **Sec. 307.** RCW 70.95.080 and 1985 c 448 s 17 are each amended to
12 read as follows:

13 (1) Each county within the state, in cooperation with the various
14 cities located within such county, shall prepare a coordinated,
15 comprehensive solid waste management plan. Such plan may cover two or
16 more counties. The purpose is to plan for solid waste and materials
17 reduction, collection, handling and management services, and programs
18 throughout the state, as designed to meet the unique needs of each
19 county and city in the state. The objective of local comprehensive
20 plans is to ensure the following required handling methods or services
21 occur:

22 (a) Source separation of recyclable materials and products, organic
23 materials, and wastes by generators;

24 (b) Collection of source separated materials;

25 (c) Handling and proper preparation of materials for reuse or
26 recycling;

27 (d) Handling and proper preparation of organic materials for
28 composting or anaerobic digestion; and

29 (e) Handling and proper disposal of nonrecyclable wastes.

30 (2) At a minimum, each plan must identify methods used to address
31 the following:

32 (a) Construction and demolition waste for recycling or reuse;

33 (b) Organic material, including yard debris, food waste, and food
34 contaminated paper products, for composting or anaerobic digestion;

35 (c) Recoverable paper products for recycling;

36 (d) Container metals, container glass, and plastics for recycling;

37 and

1 (e) Waste reduction strategies.

2 (3) Each city shall:

3 ~~((1))~~ (a) Prepare and deliver to the county auditor of the county
4 in which it is located its plan for its own solid waste management for
5 integration into the comprehensive county plan; or

6 ~~((2))~~ (b) Enter into an agreement with the county pursuant to
7 which the city shall participate in preparing a joint city-county plan
8 for solid waste management; or

9 ~~((3))~~ (c) Authorize the county to prepare a plan for the city's
10 solid waste management for inclusion in the comprehensive county plan.

11 (4) Two or more cities may prepare a plan for inclusion in the
12 county plan. With prior notification of its home county of its intent,
13 a city in one county may enter into an agreement with a city in an
14 adjoining county, or with an adjoining county, or both, to prepare a
15 joint plan for solid waste management to become part of the
16 comprehensive plan of both counties.

17 (5) After consultation with representatives of the cities and
18 counties, the department shall establish a schedule for the development
19 of the comprehensive plans for solid waste management. In preparing
20 such a schedule, the department shall take into account the probable
21 cost of such plans to the cities and counties.

22 (6) Local governments shall not be required to include a hazardous
23 waste element in their solid waste management plans.

24 **Sec. 308.** RCW 70.95.090 and 1991 c 298 s 3 are each amended to
25 read as follows:

26 Each county and city comprehensive solid waste management plan
27 shall include the following:

28 (1) A detailed inventory and description of all existing solid
29 waste handling facilities including an inventory of any deficiencies in
30 meeting current solid waste handling needs.

31 (2) The estimated long-range needs for solid waste handling
32 facilities projected twenty years into the future.

33 (3) A program for the orderly development of solid waste handling
34 facilities in a manner consistent with the plans for the entire county
35 which shall:

36 (a) Meet the minimum functional standards for solid waste handling

1 adopted by the department and all laws and regulations relating to air
2 and water pollution, fire prevention, flood control, and protection of
3 public health;

4 (b) Take into account the comprehensive land use plan of each
5 jurisdiction;

6 (c) Contain a six year construction and capital acquisition program
7 for solid waste handling facilities; and

8 (d) Contain a plan for financing both capital costs and operational
9 expenditures of the proposed solid waste management system.

10 (4) A program for surveillance and control.

11 (5) A current inventory and description of solid waste collection
12 needs and operations within each respective jurisdiction which shall
13 include:

14 (a) Any franchise for solid waste collection granted by the
15 utilities and transportation commission in the respective jurisdictions
16 including the name of the holder of the franchise and the address of
17 his or her place of business and the area covered by the franchise;

18 (b) Any city solid waste operation within the county and the
19 boundaries of such operation;

20 (c) The population density of each area serviced by a city
21 operation or by a franchised operation within the respective
22 jurisdictions;

23 (d) The projected solid waste collection needs for the respective
24 jurisdictions for the next six years.

25 (6) A comprehensive waste reduction and recycling element that, in
26 accordance with the priorities established in (~~RCW 70.95.010~~) section
27 303 of this act, provides programs that (a) reduce the amount of waste
28 generated, (b) (~~provide incentives and mechanisms for~~) require source
29 separation, and (c) establish reuse and recycling opportunities for the
30 source separated (~~waste~~) recyclable materials and products and
31 organic materials.

32 (7) The waste reduction and recycling element shall include the
33 following:

34 (a) Waste reduction strategies;

35 (b) Source separation strategies, including:

36 (i) In counties identified under RCW 70.95.110(2), programs for the
37 collection of source separated materials from residences in urban and
38 rural areas. In urban areas, these programs shall include collection

1 of source separated recyclable materials and products, organic
2 materials, and wastes from single and multiple family residences(~~(~~
3 ~~unless the department approves an alternative program, according to the~~
4 ~~criteria in the planning guidelines. Such criteria shall include:~~
5 ~~Anticipated recovery rates and levels of public participation,~~
6 ~~availability of environmentally sound disposal capacity, access to~~
7 ~~markets for recyclable materials, unreasonable cost impacts on the~~
8 ~~ratepayer over the six year planning period, utilization of~~
9 ~~environmentally sound waste reduction and recycling technologies, and~~
10 ~~other factors as appropriate)).~~ In rural areas, these programs shall
11 include but not be limited to drop-off boxes, buy-back centers, or a
12 combination of both, at each solid waste transfer, processing, or
13 disposal site, or at locations convenient to the residents of the
14 county. The drop-off boxes and buy-back centers may be owned or
15 operated by public, nonprofit, or private persons;

16 (ii) Programs to monitor the collection of source separated (~~waste~~
17 ~~at nonresidential sites where there is sufficient density to sustain a~~
18 ~~program~~) recyclable materials and products, organic materials, and
19 wastes; and

20 (iii) (~~Programs to collect yard waste, if the county or city~~
21 ~~submitting the plan finds that there are adequate markets or capacity~~
22 ~~for composted yard waste within or near the service area to consume the~~
23 ~~majority of the material collected; and~~

24 (~~iv~~)) Programs to educate (~~and promote the concepts of~~) rate
25 payers and other generators about waste reduction and recycling and the
26 collection programs available within the jurisdiction;

27 (c) (~~Recycling strategies, including a description of markets for~~
28 ~~recyclables,~~) A review of waste generation trends(~~(~~) and a
29 description of waste composition(~~(~~));

30 (d) A discussion and description of existing programs and any
31 additional programs needed to assist public and private sector
32 (~~recycling, and~~) participation in source separation and collection
33 programs and services;

34 (e) A description of the comprehensive commercial collection
35 services available to commercial generators and new services that will
36 be needed in order to provide those services to those without services
37 available;

1 (f) A plan to direct construction and demolition recyclable
2 materials to recycling facilities for materials recovery to the extent
3 achievable;

4 (g) An implementation schedule for the ((designation of specific
5 materials to be collected for recycling, and for the provision of
6 recycling)) provision of collection services; and

7 ((d)) (h) Other information the county or city submitting the
8 plan determines is necessary.

9 ~~(8) ((An assessment of the plan's impact on the costs of solid~~
10 ~~waste collection. The assessment shall be prepared in conformance with~~
11 ~~guidelines established by the utilities and transportation commission.~~
12 ~~The commission shall cooperate with the Washington state association of~~
13 ~~counties and the association of Washington cities in establishing such~~
14 ~~guidelines.~~

15 ~~(9)) A review of potential areas that meet the criteria as~~
16 ~~outlined in RCW 70.95.165.~~

17 **Sec. 309.** RCW 70.95.092 and 1989 c 431 s 4 are each amended to
18 read as follows:

19 Levels of collection service shall be defined in the waste
20 reduction and recycling element of each local comprehensive solid waste
21 management plan and shall include the services set forth in RCW
22 70.95.090 and service areas as required in RCW 70.95.110. ~~((In~~
23 ~~determining which service level is provided to residential and~~
24 ~~nonresidential waste generators in each community, counties and cities~~
25 ~~shall develop clear criteria for designating areas as urban or rural.~~
26 ~~In designating urban areas, local governments shall consider the~~
27 ~~planning guidelines adopted by the department, total population,~~
28 ~~population density, and any applicable land use or utility service~~
29 ~~plans.))~~

30 **Sec. 310.** RCW 70.95.100 and 1989 c 431 s 6 are each amended to
31 read as follows:

32 (1) The department or the commission, as appropriate, shall provide
33 to counties and cities technical assistance including, but not limited
34 to, planning guidelines, in the preparation, review, and revision of
35 local comprehensive solid waste management plans required by this
36 chapter. Guidelines prepared under this section shall be consistent

1 with the provisions of this chapter. Guidelines for the preparation of
2 the waste reduction and recycling element of the comprehensive solid
3 waste management plan shall be completed by the department by (~~March~~
4 ~~15, 1990~~) July 1, 2010. (~~These guidelines shall provide~~
5 ~~recommendations to local government on materials to be considered for~~
6 ~~designation as recyclable materials.~~) The state solid waste
7 management plan prepared pursuant to RCW 70.95.260 shall be consistent
8 with these guidelines.

9 (2) The department shall be responsible for development and
10 implementation of a comprehensive statewide public information program
11 designed to (~~encourage waste reduction, source separation, and~~
12 ~~recycling by the public~~) inform the public about the waste reduction,
13 source separation, recycling, and universal collection requirements of
14 this chapter. The department shall operate a toll free hot line to
15 provide the public information on waste reduction and recycling.

16 (3) The department shall provide technical assistance to local
17 governments in the development and dissemination of informational
18 materials and related activities to assure recognition of unique local
19 waste reduction and recycling programs.

20 (4) Local governments shall make all materials and information
21 developed with the assistance grants provided under RCW 70.95.130
22 available to the department for potential use in other areas of the
23 state.

24 (5) The department shall provide model ordinances to local
25 governments to address construction and demolition waste and recyclable
26 materials.

27 **Sec. 311.** RCW 70.95.110 and 1991 c 298 s 4 are each amended to
28 read as follows:

29 (1)(a) The local comprehensive (~~county~~) solid waste management
30 plans (~~and any comprehensive city solid waste management plans~~)
31 prepared in accordance with RCW 70.95.080 shall be maintained in a
32 current condition and reviewed and revised periodically by counties and
33 cities as may be required by the department. Upon each review such
34 plans shall be extended to show long-range needs for solid waste
35 handling facilities for twenty years in the future, and a revised
36 construction and capital acquisition program for six years in the

1 future. Each revised solid waste management plan shall be submitted to
2 the department.

3 (b) Each plan shall be reviewed and revised within five years of
4 July 1, ((1984)) 2010, and thereafter shall be reviewed every five
5 years, and revised if necessary according to the schedule provided in
6 subsection (2) of this section.

7 (2) ~~((Cities and counties preparing solid waste management plans~~
8 ~~shall submit the waste reduction and recycling element required in RCW~~
9 ~~70.95.090 and any revisions to other elements of its comprehensive~~
10 ~~solid waste management plan to the department no later than:~~

11 (a) ~~July 1, 1991, for class one areas: PROVIDED, That portions~~
12 ~~relating to multiple family residences shall be submitted no later than~~
13 ~~July 1, 1992;~~

14 (b) ~~July 1, 1992, for class two areas; and~~

15 (c) ~~July 1, 1994, for class three areas.~~

16 ~~Thereafter, each plan shall be reviewed and revised, if necessary,~~
17 ~~at least every five years. Nothing in chapter 431, Laws of 1989 shall~~
18 ~~prohibit local governments from submitting a plan prior to the dates~~
19 ~~listed in this subsection)) The updated plans are due according to the
20 planning schedule in this subsection and must include a description of
21 collection services for all contiguous incorporated and unincorporated
22 areas with a population density of three hundred thirty-three persons
23 per square mile:~~

24 (a) July 1, 2011, for the counties of Clark, King, Kitsap, Pierce,
25 Snohomish, and Spokane and all the cities therein;

26 (b) July 1, 2012, for the counties of Benton, Franklin, Walla
27 Walla, and Yakima and all the cities therein;

28 (c) July 1, 2013, for the counties of Cowlitz, Grays Harbor,
29 Island, Lewis, Mason, Skagit, Thurston, and Whatcom and all the cities
30 therein; and

31 (d) July 1, 2014, for the counties of Chelan, Clallam, and Grant
32 and all the cities therein.

33 (3) ~~((The classes of areas are defined as follows:~~

34 (a) ~~Class one areas are the counties of Spokane, Snohomish, King,~~
35 ~~Pierce, and Kitsap and all the cities therein.~~

36 (b) ~~Class two areas are all other counties located west of the~~
37 ~~crest of the Cascade mountains and all the cities therein.~~

1 ~~(c) Class three areas are the counties east of the crest of the~~
2 ~~Cascade mountains and all the cities therein, except for Spokane~~
3 ~~county))~~ (a) Participation in source separation and collection services
4 as required by this chapter is optional for:

5 (i) The counties of Adams, Asotin, Douglas, Ferry, Garfield,
6 Jefferson, Kittitas, Klickitat, Whitman, Lincoln, Pacific, Pend
7 Oreille, Okanogan, Columbia, San Juan, Skamania, Stevens, and
8 Wahkiakum. This does not exempt these planning jurisdictions from
9 reviewing and updating as necessary their plans at least every five
10 years; and

11 (ii) Any city with a population of one thousand five hundred or
12 less that is only bordered by an unincorporated area of a county within
13 the counties required to write plan updates.

14 (b) If these jurisdictional areas do choose to participate, their
15 plans are due by July 1, 2016.

16 (4) Cities and counties shall begin implementing the programs to
17 collect source separated materials no later than one year following the
18 adoption and approval of the waste reduction and recycling element and
19 these programs shall be fully implemented within two years of approval.

20 **Sec. 312.** RCW 70.95.167 and 1991 c 319 s 402 are each amended to
21 read as follows:

22 (1) Each local solid waste advisory committee shall conduct one or
23 more meetings for the purpose of determining how local private
24 recycling and solid waste collection businesses may participate in the
25 development and implementation of programs to collect source separated
26 materials from residences, and to process and market materials
27 collected for recycling. The meetings shall include local private
28 recycling businesses, private solid waste collection companies
29 operating within the jurisdiction, and the local solid waste planning
30 agencies. The meetings shall be held during the development of the
31 waste reduction and recycling element or no later than one year prior
32 to the date that a jurisdiction is required ~~((to))~~ to submit the
33 element under RCW 70.95.110(2).

34 (2) The meeting requirement under subsection (1) of this section
35 shall apply whenever a city or county develops or amends the waste
36 reduction and recycling element required under this chapter.
37 Jurisdictions having approved waste reduction and recycling elements or

1 having initiated a process for the selection of a service provider as
2 of May 21, 1991, do not have to comply with the requirements of
3 subsection (1) of this section until the next revisions to the waste
4 reduction and recycling element are made or required.

5 (3) After the waste reduction and recycling element is approved by
6 the local legislative authority but before it is submitted to the
7 department for approval, the local solid waste advisory committee shall
8 hold at least one additional meeting to review the element.

9 (4) For the purpose of this section, "private recycling business"
10 means any private for-profit or private not-for-profit business that
11 engages in the processing and marketing of recyclable materials or
12 reclaiming materials and usable products for reuse.

13 **Sec. 313.** RCW 70.95.212 and 1993 c 300 s 3 are each amended to
14 read as follows:

15 To provide solid waste collection companies with sufficient time to
16 prepare and submit tariffs and rate filings for public comment and
17 commission approval, the owner or operator of a materials recovery
18 facility, transfer station, landfill, or facility used to burn solid
19 waste shall provide seventy-five days' notice to solid waste collection
20 companies of any change in tipping fees and disposal rate schedules.
21 The notice period shall begin on the date individual notice to a
22 collection company is delivered to the company or is postmarked.

23 A collection company may agree to a shorter notice period:
24 PROVIDED, That such agreement by a company shall not affect the notice
25 requirements for rate filings under RCW 81.28.050.

26 The owner of a materials recovery facility, transfer station,
27 landfill, or facility used to burn solid waste may agree to provide
28 companies with a longer notice period.

29 "Solid waste collection companies" as used in this section means
30 the companies regulated by the commission pursuant to chapter 81.77
31 RCW.

32 **Sec. 314.** RCW 70.95.260 and 1995 c 399 s 189 are each amended to
33 read as follows:

34 The department shall in addition to its other powers and duties:

35 (1) Cooperate with the appropriate federal, state, interstate and

1 local units of government and with appropriate private organizations in
2 carrying out the provisions of this chapter.

3 (2) Coordinate the development of a solid waste management plan for
4 all areas of the state in cooperation with local government, the
5 department of community, trade, and economic development, and other
6 appropriate state and regional agencies. The plan shall relate to
7 solid waste management for twenty years in the future and shall be
8 reviewed biennially, revised as necessary, and extended so that
9 perpetually the plan shall look to the future for twenty years as a
10 guide in carrying out a state coordinated solid waste management
11 program. The plan shall be developed into a single integrated document
12 and shall be adopted no later than (~~October 1990~~) July 1, 2010. The
13 plan shall be revised (~~regularly~~) at least every five years after its
14 initial completion so that local governments revising local
15 comprehensive solid waste management plans can take advantage of the
16 data and analysis in the state plan.

17 (3) Provide technical assistance to any person as well as to
18 cities, counties, and industries.

19 (4) Initiate, conduct, and support research, demonstration
20 projects, and investigations, and coordinate research programs
21 pertaining to solid waste management systems.

22 (5) Develop statewide programs to increase public awareness of and
23 participation in tire recycling, and to stimulate and encourage local
24 private tire recycling centers and public participation in tire
25 recycling.

26 (6) May, under the provisions of the administrative procedure act,
27 chapter 34.05 RCW, as now or hereafter amended, from time to time
28 promulgate such rules and regulations as are necessary to carry out the
29 purposes of this chapter.

30 **Sec. 315.** RCW 70.95.263 and 1998 c 245 s 131 are each amended to
31 read as follows:

32 The department shall in addition to its other duties and powers
33 under this chapter:

34 (1) Prepare the following:

35 (a) (~~A management system for recycling waste paper generated by~~
36 ~~state offices and institutions in cooperation with such offices and~~
37 ~~institutions;~~

1 ~~(b)~~) An evaluation of existing and potential systems for recovery
2 of energy and materials from solid waste with recommendations to
3 affected governmental agencies as to those systems which would be the
4 most appropriate for implementation;

5 ~~((c))~~ (b) A data management system to evaluate and assist the
6 progress of state and local jurisdictions and private industry in
7 ~~((resource recovery))~~ meeting the goals and objectives of section 304
8 of this act;

9 ~~((d))~~ (c) Identification of potential markets, in cooperation
10 with private industry, for recovered resources and the impact of the
11 distribution of such resources on existing markets;

12 ~~((e))~~ (d) Studies on methods of transportation, collection,
13 reduction, separation, and packaging which will encourage more
14 efficient utilization of existing ~~((waste recovery))~~ management and
15 materials reuse and recycling facilities;

16 ~~((f))~~ (e) Recommendations on incentives, including state grants,
17 loans, and other assistance, to local governments which will
18 ~~((encourage the recovery))~~ increase the reduction, reuse, and recycling
19 of solid wastes.

20 (2) Provide technical information and assistance to state and local
21 jurisdictions, the public, and private industry on source separation,
22 solid waste ~~((recovery and/or))~~ reduction, management, and materials
23 recycling.

24 (3) Procure and expend funds available from federal agencies and
25 other sources to assist the implementation by local governments of
26 solid waste recovery and/or recycling programs, and projects.

27 (4) Conduct necessary research and studies to carry out the
28 purposes of this chapter.

29 ~~(5) ((Encourage and assist local governments and private industry~~
30 ~~to develop pilot solid waste recovery and/or recycling projects.~~

31 ~~(6)~~) Monitor, assist with research, and collect data for use in
32 assessing feasibility for others to develop solid waste ~~((recovery~~
33 ~~and/or))~~ reduction, management, reuse, and recycling projects.

34 **Sec. 316.** RCW 70.95.285 and 1988 c 184 s 2 are each amended to
35 read as follows:

36 The comprehensive, statewide solid waste stream analysis under RCW

1 70.95.280 shall be based on representative solid waste generation areas
2 and solid waste generation sources within the state. The following
3 information and evaluations shall be included:

4 (1) Solid waste generation rates for each category;

5 (2) The rate of recycling being achieved within the state for each
6 category of solid waste;

7 (3) The current and potential rates of solid waste reduction within
8 the state;

9 (4) Greenhouse gas reductions potentially available and greenhouse
10 gas reductions realized through reduction, reuse, and recycling of
11 solid wastes;

12 (5) A technological assessment of current solid waste reduction and
13 recycling methods and systems, including cost/benefit analyses;

14 ~~((5) An assessment of the feasibility of segregating solid waste~~
15 ~~at: (a) The original source, (b) transfer stations, and (c) the point~~
16 ~~of final disposal;))~~

17 (6) A review of methods that will increase the rate of solid waste
18 reduction; and

19 (7) An assessment of new and existing technologies that are
20 available for solid waste management including an analysis of the
21 associated environmental risks and costs.

22 The data required by the analysis under this section shall be
23 ~~((kept current))~~ updated at least every four years and shall be
24 available to local governments and the waste management industry.

25 **Sec. 317.** RCW 81.77.185 and 2002 c 299 s 6 are each amended to
26 read as follows:

27 (1) The commission shall allow solid waste collection companies
28 collecting recyclable materials to retain up to thirty percent of the
29 revenue paid to the companies for the material if the companies submit
30 a plan to the commission that is certified by the appropriate local
31 government authority as being consistent with the local government
32 solid waste plan and that demonstrates how the revenues will be used to
33 increase recycling. The remaining revenue shall be passed to
34 residential customers.

35 (2) By December 2, ~~((2005))~~ 2013, the commission shall provide a
36 report to the legislature that evaluates:

1 (a) The effectiveness of revenue sharing as an incentive to
2 increase recycling in the state; and

3 (b) The effect of revenue sharing on costs to customers.

4 NEW SECTION. **Sec. 318.** The legislature finds that:

5 (1) Convenient and environmentally sound product stewardship
6 programs that include collecting, transporting, and recycling of
7 unwanted products will help protect Washington's environment and the
8 health of state residents;

9 (2) Product producers should finance and provide these programs.
10 The programs are intended to encourage producers to design products
11 that have a lower carbon footprint, are less toxic and energy and
12 material intensive, and are more reusable or recyclable than other
13 products; and

14 (3) It is appropriate to designate the products specified in
15 section 333 of this act as covered products that are subject to product
16 stewardship programs.

17 NEW SECTION. **Sec. 319.** The definitions in this section apply
18 throughout this chapter unless the context clearly requires otherwise.

19 (1) "Brand" means a name, symbol, word, or mark that identifies a
20 product, rather than its components, and attributes the covered product
21 to the owner of the brand as the producer.

22 (2) "Covered entity" means an entity, such as a resident or small
23 business, that can use a product stewardship program to discard an
24 unwanted product.

25 (3) "Covered product" means a product designated by the department
26 as covered by this chapter under section 335 of this act, either
27 individually or as an item within a covered product category. "Covered
28 product" includes all materials that make up a covered product.

29 (4) "Covered product category" means a group of similar products
30 designated by the department as covered by this chapter under section
31 335 of this act.

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

33 (6) "Final disposition" means the point beyond which no further
34 action takes place and materials from an unwanted product are either in
35 a form capable of direct use as a feedstock in producing new products
36 or disposed of or managed in permitted facilities.

1 (7) "Hazardous substances" or "hazardous materials" means those
2 substances or materials identified under rules adopted under the state
3 hazardous waste management act, chapter 70.105 RCW.

4 (8) "Organization" includes a sole proprietorship, partnership,
5 corporation, nonprofit corporation or organization, limited liability
6 company, firm, association, cooperative, or other legal entity located
7 within or outside Washington state.

8 (9) "Orphan product" means a covered product that lacks a
9 producer's brand, or for which the producer is no longer in business
10 and has no successor in interest, or that bears a brand for which the
11 department cannot identify an owner.

12 (10) "Processing" means recovering materials from unwanted products
13 for use as feedstock in new products.

14 (11) "Producer" means a person who:

15 (a) Has legal ownership of the brand, brand name, or cobrand of a
16 covered product sold in or into Washington state;

17 (b) Imports a covered product branded by a producer that meets (a)
18 of this subsection and where that producer has no physical presence in
19 the United States;

20 (c) If (a) and (b) of this subsection do not apply, makes an
21 unbranded product that is sold in or into Washington state; or

22 (d) Sells at wholesale or retail a covered product, does not have
23 legal ownership of the brand, and elects to fulfill the
24 responsibilities of the producer for that product.

25 (12) "Product stewardship" means a requirement for a producer of a
26 covered product to manage and reduce adverse safety, health, and
27 environmental impacts of the covered product throughout its life cycle.

28 (13) "Product stewardship plan" or "plan" means a detailed plan
29 describing the manner in which a product stewardship program will be
30 implemented.

31 (14) "Product stewardship program" or "program" means a program
32 financed and provided by producers of covered products that addresses
33 product stewardship and includes collecting, transporting, reuse
34 processing, and final disposition of unwanted products, including a
35 fair share of orphan products.

36 (15) "Recycling" means transforming or remanufacturing unwanted
37 products into usable or marketable materials for use other than

1 landfill disposal or incineration. Recycling does not include energy
2 recovery or energy generation by means of combusting unwanted products
3 with or without other waste.

4 (16) "Reporting period" means the period commencing January 1st and
5 ending December 31st in the same calendar year.

6 (17) "Residuals" means nonrecyclable materials left over from
7 processing an unwanted product.

8 (18) "Reuse" means a change in ownership of a covered product or
9 its components and parts for use in the same manner and purpose for
10 which it was originally purchased.

11 (19) "Stakeholder" means a person who may have an interest in or be
12 affected by a product stewardship program.

13 (20) "Stewardship organization" means an organization designated by
14 a producer to act as an agent on behalf of the producer to operate a
15 product stewardship program.

16 (21) "Unwanted product" means a covered product no longer wanted by
17 its owner or that has been abandoned, discarded, or is intended to be
18 discarded by its owner.

19 NEW SECTION. **Sec. 320.** (1) Every producer of a covered product
20 sold in or into Washington state must participate in a product
21 stewardship program for that product. Every producer must:

22 (a) Operate, either individually or collectively with other
23 producers, a product stewardship program approved by the department; or

24 (b) Enter into an agreement with a stewardship organization to
25 operate, on the producer's behalf, a product stewardship program
26 approved by the department.

27 (2) Product stewardship programs shall collect, free of charge,
28 unwanted products from covered entities for reuse or final disposition.

29 (3) A producer, group of producers, or stewardship organization
30 operating a product stewardship program shall:

31 (a) Comply with a product stewardship plan approved by the
32 department and this chapter, any rules adopted by the department to
33 implement this chapter, and all other applicable laws and rules; and

34 (b) Pay all administrative and operational costs associated with
35 their program.

1 (4) No product stewardship program required under this chapter may
2 use federal or state prison labor for processing unwanted products.

3 NEW SECTION. **Sec. 321.** (1) Except as provided in this section,
4 all unwanted products that have been collected by a product stewardship
5 program must be reused or recycled.

6 (2) The department shall determine whether covered products
7 designated by the department pursuant to the process specified in
8 section 334 of this act are reusable or recyclable pursuant to the
9 procedure specified in that section. In either case, if the department
10 determines that an unwanted product is not reusable or recyclable, the
11 product stewardship program must include a waste reduction strategy
12 pertaining to that product. If reuse or recycling options for an
13 unwanted product thereafter change, the department must adopt rules
14 requiring reuse or recycling of the unwanted product.

15 (3) Unwanted products that cannot be reused or recycled and
16 residuals must be disposed of or managed in permitted facilities,
17 including disposal or management of hazardous substances and hazardous
18 materials in permitted hazardous waste facilities.

19 NEW SECTION. **Sec. 322.** As of the implementation date established
20 for a covered product designated under section 334 of this act, no
21 producer, wholesaler, retailer, or other person may sell or offer for
22 sale that product to any person in this state unless the producer is
23 participating in a product stewardship program approved by the
24 department. A person selling or offering for sale a covered product in
25 the state shall consult the department's web site for a list of
26 producers of that product participating in approved programs prior to
27 selling the product in or into the state. A person is considered to
28 have complied with this section if, on the date the person ordered a
29 covered product from a producer or its agent, the producer was listed
30 as having an approved program on the department's web site.

31 NEW SECTION. **Sec. 323.** (1) A producer, group of producers, or
32 stewardship organization operating or intending to operate a product
33 stewardship program must, at least sixty days prior to submitting a
34 product stewardship plan to the department under subsection (2) of this
35 section, provide public notice of the plan it is considering for

1 submittal. The producer, group of producers, or stewardship
2 organization must consult with stakeholders during development of the
3 plan, solicit stakeholder comments, and attempt to address any
4 stakeholder concerns regarding the plan prior to submittal.

5 (2) A producer, group of producers, or stewardship organization
6 operating or intending to operate a product stewardship program must
7 submit a product stewardship plan to the department specifying:

8 (a) Information, including contact information, regarding:

9 (i) The organization submitting the plan;

10 (ii) A list of all participating producers; and

11 (iii) If the program is to be operated by a stewardship
12 organization, a description of management, administration, and tasks to
13 be performed by the stewardship organization;

14 (b) Recovery goals, including:

15 (i) Recovery goals for the first, second, and third years of the
16 program, expressed as pounds per capita, and an explanation of how
17 these goals reflect a significant percentage of an unwanted product
18 relative to the quantity of the unwanted product that may be available
19 for reuse or recycling; and

20 (ii) Plans to maximize recycling of packaging that may be
21 collected;

22 (c) A collection system, including:

23 (i) Location of collection sites and other collection services to
24 be used by the program;

25 (ii) A description of the consideration given as to whether the
26 existing curbside collection infrastructure is an appropriate
27 collection mechanism. If the curbside collection infrastructure is not
28 utilized by the plan, a written explanation must be provided citing the
29 reasons that curbside collection services are not included in the plan;

30 (iii) How unwanted products from all covered entities will be
31 collected for all cities in the state with populations greater than ten
32 thousand and in all counties of the state;

33 (iv) How the collection system will be convenient and adequate to
34 serve the needs of all covered entities in both urban and rural areas;
35 and

36 (v) How collected unwanted products will be transported to
37 processing facilities;

38 (d) A processing and disposal system, including:

1 (i) Locations, permit status, and records of any penalties,
2 violations, or regulatory orders received in the previous five years by
3 processing and disposal facilities proposed to be used by the program;

4 (ii) A third-party audit of each processing and disposal facility
5 proposed to be used by the program for any unwanted product or
6 residuals containing hazardous substances or hazardous materials,
7 documenting compliance with all applicable laws, regulations, and
8 rules;

9 (iii) Policies and procedures to be followed by persons collecting,
10 transporting, processing, and disposing of unwanted products, including
11 how the program will ensure compliance with all applicable laws,
12 regulations, and rules;

13 (iv) A description of how unwanted products will be processed at
14 each processing facility;

15 (v) How all residuals will be disposed of or managed in permitted
16 facilities, including disposal or management of all hazardous
17 substances and hazardous materials in permitted hazardous waste
18 facilities;

19 (vi) How hazardous substances and hazardous materials will be
20 safely and securely tracked and handled from collection to final
21 disposition in compliance with this chapter, any rules adopted by the
22 department to implement this chapter, and all other applicable laws and
23 rules; and

24 (vii) Best management practices that will be used by first
25 processors and their downstream vendors to ensure that hazardous
26 substances and hazardous materials are not released into the
27 environment and will not adversely impact human health;

28 (e) How the program will seek to use businesses within the state,
29 including retailers, processing facilities, and collection and
30 transportation services;

31 (f) Greenhouse gas reductions anticipated from implementing the
32 collection, transportation, and recycling system;

33 (g) A financing system, including:

34 (i) How the entire product stewardship program will be financed,
35 including how costs will be apportioned among and assessed upon
36 producers participating in the program;

37 (ii) Financial incentives to reward product design that result in
38 improved reuse or recycling and less toxicity where feasible;

1 (iii) A plan to withhold a percentage of funds to be managed by the
2 product stewardship program to increase markets for recyclable
3 materials or other financial incentives to encourage market development
4 for recyclable materials contained in covered products; and

5 (iv) How those providing services for the collection,
6 transportation, and processing systems will be fairly compensated for
7 their services;

8 (h) Strategies to manage and reduce life cycle impacts of products
9 and packaging, from product design to end-of-life management, including
10 ways to improve designing, packaging, and distributing products to:

11 (i) Reduce waste, energy, toxicity, carbon footprints, and other
12 environmental and health impacts;

13 (ii) Increase recycled content and product longevity; and

14 (iii) Make products more easily reusable or recyclable;

15 (i) How the producers participating in the program will communicate
16 with processors used by the program to encourage sustainable design of
17 products and packaging;

18 (j) Education and outreach activities, including:

19 (i) An educational campaign promoting the use of the program to
20 covered entities that includes a toll-free telephone number and web
21 site and that is sufficient to meet required recovery rates;

22 (ii) A plan for working with and providing information about the
23 program to retailers, wholesalers, collectors, and other interested
24 parties to disseminate to covered entities; and

25 (iii) The methodology for determining how the effectiveness of the
26 outreach activities will be measured; and

27 (k) Pursuant to subsection (1) of this section, the consultation
28 process, including:

29 (i) A description of the process used to consult with stakeholders
30 during development of the plan; and

31 (ii) A summary of stakeholder comments and how any stakeholder
32 concerns were addressed.

33 (3) The department shall approve the product stewardship plan when
34 all requirements have been met in compliance with this chapter and any
35 rules adopted by the department to implement this chapter.

36 (4) All plans submitted to the department must be made available to
37 the public on the department's web site. Proprietary information

1 submitted to the department under this chapter is exempt from public
2 disclosure under RCW 42.56.270.

3 NEW SECTION. **Sec. 324.** (1) A producer of a covered product, a
4 group of producers, or a stewardship organization must submit a
5 proposed product stewardship plan to the department at least one year
6 prior to a covered product's implementation date.

7 (2) Within ninety days after receiving a proposed product
8 stewardship plan, the department shall determine whether the plan
9 complies with this chapter and any rules adopted to implement this
10 chapter. If it approves a plan, the department shall notify the
11 applicant of its approval. If it rejects a plan, the department shall
12 notify the applicant of its decision and its reasons for rejecting the
13 plan. An applicant whose plan has been rejected by the department may
14 submit a revised plan to the department within sixty days after
15 receiving notice of the rejection.

16 (3) At least once every four years, a producer, group of producers,
17 or stewardship organization operating a product stewardship program
18 must update its product stewardship plan and submit the updated plan to
19 the department for review. The department must determine the status of
20 an updated plan within ninety days of its submittal. If the department
21 rejects an updated plan, the producer of a covered product
22 participating in the product stewardship program described in the plan
23 will be deemed to be out of compliance with this chapter.

24 NEW SECTION. **Sec. 325.** (1) Except as provided in subsections (2)
25 and (3) of this section, the department must grant prior approval, in
26 writing, to any proposed change to a product stewardship plan.

27 (2) Additions or changes to collection locations for unwanted
28 products may be made without the department's prior written approval.
29 The product stewardship program must inform the department of the
30 additions or changes within fifteen days of the occurrence.

31 (3) Additional producers may join a product stewardship program
32 approved by the department without the department's prior written
33 approval. The product stewardship program must inform the department
34 of the additions within fifteen days of the occurrence.

1 NEW SECTION. **Sec. 326.** (1) If the department determines that a
2 product stewardship program is not being operated in compliance with
3 the requirements of this chapter, any rules adopted by the department
4 to implement this chapter, or any other applicable laws, regulations,
5 or rules, or if the department determines that there is an imminent
6 danger to the public, the department may:

7 (a) Amend its approval of the program's product stewardship plan by
8 clarifying terms or conditions to ensure full implementation of the
9 plan; or

10 (b) Suspend or cancel its approval of the plan.

11 (2) At least thirty days prior to amending, suspending, or
12 canceling its approval of a product stewardship plan, the department
13 shall inform the producer, group of producers, or stewardship
14 organization operating the product stewardship program of its intended
15 action and provide them an opportunity to respond. The department may
16 extend this period for good cause.

17 (3) Notwithstanding subsection (2) of this section, if the
18 department determines that it is necessary to protect the public from
19 imminent danger, it may immediately amend, suspend, or cancel approval
20 of a product stewardship program's product stewardship plan without
21 giving the producer, group of producers, or stewardship organization
22 operating the program an opportunity to be heard. However, the
23 department shall give the operator an opportunity to be heard through
24 proceedings consistent with the administrative procedure act, chapter
25 34.05 RCW, within fifteen days after the date on which the department
26 takes any of those actions.

27 NEW SECTION. **Sec. 327.** (1) On or before June 30th of each year,
28 every producer, group of producers, or stewardship organization
29 operating a product stewardship program must prepare and submit to the
30 department an annual report describing the program's activities during
31 the previous reporting period, specifying:

32 (a) Information, including contact information, regarding:

33 (i) The organization submitting the report; and

34 (ii) A list of all participating producers;

35 (b) Recovery rates, including:

36 (i) The amount, by weight, of unwanted products collected from

1 covered entities in each county in the state, including documented
2 collection and reuse, recycling, or disposal of that material;

3 (ii) How the program attained recovery rates established in the
4 product stewardship plan or set by the department and, if the program
5 did not attain those recovery rates, what actions it will take during
6 the next reporting period to do so, including how it will increase and
7 improve effective, measurable outreach and education efforts;

8 (c) The collection system, including collection locations and
9 services provided for all cities in the state with populations greater
10 than ten thousand and in all counties in the state;

11 (d) The processing and disposal system, including:

12 (i) A list of processing and disposal facilities used and locations
13 of those facilities, the weight of unwanted products processed at each
14 processing facility and disposed at each disposal facility, and a
15 description of the methods used at each processing facility;

16 (ii) A list of subcontractors used through final disposition that
17 processed or disposed of unwanted products containing hazardous
18 substances or hazardous materials, and subcontractor facility
19 locations;

20 (iii) Documentation and summary results of annual third-party
21 audits conducted on each processing facility and disposal facility as
22 required in section 323 of this act;

23 (iv) If an unwanted product is exempted from the reuse or recycling
24 requirement in section 321 of this act, how the unwanted product was
25 disposed of or managed in appropriate, properly permitted facilities,
26 including disposal or management of hazardous substances or hazardous
27 materials in appropriate, properly permitted hazardous waste
28 facilities;

29 (v) Final disposition of residuals;

30 (vi) Any penalties, violations, or regulatory orders received
31 during the reporting period by each processing facility or disposal
32 facility that was used;

33 (vii) Whether policies and procedures in the product stewardship
34 plan for collecting, transporting, processing, and final disposition of
35 unwanted products were followed during the reporting period, and a
36 description of any noncompliance;

37 (e) The financing system, including a description of how the system
38 met the requirements in section 323 of this act;

1 (f) The education and outreach activities implemented during the
2 reporting period, including the effectiveness of the education and
3 outreach activities;

4 (g) Results of any actions taken to manage and reduce life cycle
5 impacts of products and packaging, as described in section 323(2)(h) of
6 this act;

7 (h) How the product stewardship program complied with any other
8 elements in the plan approved by the department; and

9 (i) Any other information that the department may reasonably
10 require.

11 (2) A producer, group of producers, or stewardship organization
12 operating a product stewardship program meeting the following
13 conditions is only required to report to the department information
14 specified in subsection (1)(a), (b), (c), (g), and (i) of this section:

15 (a) All unwanted products collected by the product stewardship
16 program neither contained hazardous substances nor hazardous materials
17 nor used hazardous substances or hazardous materials in the production
18 process;

19 (b) The product stewardship program attained a ninety percent
20 recovery rate of all unwanted products that were produced by producers
21 participating in the program and a reuse or recycling rate of eighty
22 percent of materials contained in such products; and

23 (c) All unwanted products collected by the product stewardship
24 program were carbon neutral in production and use.

25 (3) All reports submitted to the department must be made available
26 to the public on the department's web site. Proprietary information
27 submitted to the department under this chapter is exempt from public
28 disclosure under RCW 42.56.270.

29 NEW SECTION. **Sec. 328.** (1) The department shall provide on its
30 web site a list of all producers participating in product stewardship
31 programs it has approved and a list of all producers it has identified
32 as noncompliant with this chapter and any rules adopted to implement
33 this chapter.

34 (2) Wholesalers, retailers, and other persons shall check the
35 department's web site to determine if producers of covered products
36 they are selling in or into the state are compliant with this chapter
37 and any rules adopted to implement this chapter. If a wholesaler,

1 retailer, or other person is unsure of the status of a producer or
2 believes that a producer is not compliant, they shall contact the
3 department to determine the producer's status.

4 (3) The department shall send a written warning and copies of this
5 chapter and any rules adopted to implement this chapter to a producer
6 who is not participating in a product stewardship program approved by
7 the department and whose covered product is being sold in or into the
8 state. The department shall also send a written warning and a copy of
9 this chapter and any rules adopted to implement this chapter to a
10 wholesaler, retailer, or other person known to be selling the covered
11 product in or into the state.

12 (4) A producer not participating in a product stewardship program
13 approved by the department whose covered product continues to be sold
14 in or into the state sixty days after receiving a written warning from
15 the department, and a wholesaler, retailer, or other person who
16 continues to sell a covered product from a producer not participating
17 in an approved product stewardship program sixty days after receiving
18 a written warning from the department, must be assessed a ten thousand
19 dollar penalty. The department may waive or reduce the penalty if the
20 producer, wholesaler, retailer, or other person complies with this
21 chapter and any rules adopted to implement this chapter, or for any
22 other reason the department determines to be justified.

23 (5) The department shall send a written warning to a producer,
24 group of producers, or stewardship organization operating a product
25 stewardship program that fails to submit a product stewardship plan,
26 updated plan, proposed change to a plan, or annual report as required
27 in this chapter. The written warning must include compliance
28 requirements and notification that the requirements must be met within
29 sixty days. If compliance requirements are not met within sixty days,
30 the producer, group of producers, or stewardship organization must be
31 assessed a ten thousand dollar penalty. The department may waive or
32 reduce the penalty if the producer, group of producers, or stewardship
33 organization complies with this chapter and any rules adopted to
34 implement this chapter, or for any other reason the department
35 determines to be justified.

36 (6) Each calendar day of a violation is a separate and distinct
37 offense.

1 NEW SECTION. **Sec. 329.** (1) By June of the third program year for
2 each product or product category, the department shall establish
3 required recovery rates for the fourth and subsequent program operating
4 years, and must establish a system of penalties for producers and
5 product stewardship programs that do not attain the required recovery
6 rates.

7 (2) By December 31, 2014, the department shall report to
8 appropriate committees of the legislature concerning the status of the
9 program administered under this chapter and, if necessary, recommend
10 legislation.

11 (3) The department, or its designee, may inspect, audit, or review
12 audits of processing and disposal facilities used to fulfill the
13 requirements of a product stewardship program.

14 (4) The department shall annually invite comments from local
15 governments, communities, and citizens to report their satisfaction
16 with services provided by product stewardship programs. This
17 information must be used by the department in reviewing proposed
18 updates or changes to product stewardship plans.

19 NEW SECTION. **Sec. 330.** The department may establish fees for
20 administering this chapter. Fees may be charged to the producers and
21 must be paid annually by January 1st of each year. Fees may be
22 established in amounts to fully recover and not to exceed expenses
23 incurred by the department in administering this chapter.

24 NEW SECTION. **Sec. 331.** The product stewardship programs account
25 is created in the custody of the state treasurer. All receipts from
26 fees and penalties collected under this chapter must be deposited in
27 the account. Expenditures from the account may be used only for
28 administering this chapter. Only the director of the department or the
29 director's designee may authorize expenditures from the account. The
30 account is subject to the allotment procedures under chapter 43.88 RCW,
31 but an appropriation is not required for expenditures.

32 NEW SECTION. **Sec. 332.** (1) The department shall adopt rules under
33 the administrative procedure act, chapter 34.05 RCW, to implement this
34 chapter including, at a minimum:

35 (a) Program operating rules;

1 (b) A process for designating covered products and covered product
2 categories and for determining whether these products or product
3 categories are reusable or recyclable;

4 (c) A process for determining whether reduced reporting
5 requirements in section 327 of this act apply;

6 (d) A process for setting recovery rates for the fourth and
7 subsequent operating years of a program and for adjusting recovery
8 rates; and

9 (e) An enforcement process.

10 (2) The department shall designate covered products and covered
11 product categories under section 334 of this act by rule. The
12 department must provide notice to appropriate standing committees of
13 the legislature prior to designating a covered product or covered
14 product category.

15 NEW SECTION. **Sec. 333.** (1) Covered product and covered product
16 categories designated under this chapter as initial priority products
17 include:

18 (a) Carpet.

19 (i) For the purposes of this section, "carpet" means fabric or
20 textile floor covering and padding beneath the fabric and textile floor
21 covering.

22 (ii) Covered entities include all sources of postconsumer carpet
23 including residents, businesses, governments, charities, and
24 institutions.

25 (iii) Carpet that has been collected by product stewardship
26 programs must be reused or recycled, unless otherwise determined by the
27 department by rule.

28 (iv) Product stewardship programs for carpet must be fully
29 implemented by July 1, 2011.

30 (b) Mercury-containing lights.

31 (i) For the purposes of this section, "mercury-containing lights"
32 means lamps, bulbs, tubes, or other devices that contain mercury and
33 provide functional illumination in homes, offices, and outdoors.

34 (ii) Covered entities include residents and small businesses.

35 (iii) Mercury-containing lights that have been collected by product
36 stewardship programs must be recycled unless otherwise determined by
37 the department by rule. Mercury and mercury-bearing residuals from

1 recycling of general purpose lights must be retorted in properly
2 permitted facilities. Mercury recovered from retorting must be
3 recycled or placed in a properly permitted, monitored hazardous waste
4 landfill, storage, or disposal repository to avoid reintroduction into
5 the marketplace. When available, mercury recovered from retorting must
6 be placed in a properly permitted, monitored permanent mercury
7 repository to avoid reintroduction into the marketplace and it shall
8 not be recycled.

9 (iv) Product stewardship programs for mercury-containing lights
10 must be fully implemented by January 1, 2011.

11 (c) Out-of-service mercury-added thermostats.

12 (i) For the purposes of this section, "mercury-added thermostat"
13 means a product or device that uses a mercury switch to sense and
14 control room temperature through communication with heating,
15 ventilating, or air conditioning equipment. A mercury-added thermostat
16 includes thermostats used to sense and control room temperature in
17 residential, commercial, industrial, and other buildings but does not
18 include a thermostat used to sense and control temperature as part of
19 a manufacturing process. For the purposes of this section, "out-of-
20 service mercury-added thermostat" means a mercury-added thermostat that
21 is removed from a building or facility in this state and is intended to
22 be discarded.

23 (ii) Covered entities include all sources of out-of-service
24 mercury-added thermostats including residents, businesses, governments,
25 charities, and institutions.

26 (iii) Out-of-service mercury-added thermostats that have been
27 collected by product stewardship programs must be reused or recycled,
28 unless otherwise determined by the department by rule. Mercury and
29 mercury-bearing residuals from recycling of mercury-added thermostats
30 must be retorted in properly permitted facilities. Mercury recovered
31 from retorting must be recycled or placed in a properly permitted,
32 monitored hazardous waste landfill, storage, or disposal repository to
33 avoid reintroduction into the marketplace. When available, mercury
34 recovered from retorting must be placed in a properly permitted,
35 monitored permanent mercury repository to avoid reintroduction into the
36 marketplace and it shall not be recycled.

37 (iv) Product stewardship programs for out-of-service mercury-added
38 thermostats must be fully implemented by January 1, 2011.

1 (d) Paint, including the plastic and metal containers containing
2 the paint that is collected.

3 (i) For the purposes of this section, "paint" means interior and
4 exterior architectural coatings including: Paints, enamels, clear
5 finishes, sealers, undercoatings, primers, tinting bases, and stains
6 purchased for commercial and homeowner use, but not including coatings
7 purchased for industrial and original equipment manufacturer use.

8 (ii) Covered entities include residents, small governments, small
9 businesses, and charities.

10 (iii) Paint, including the related plastic and metal containers,
11 that has been collected by product stewardship programs must be reused
12 or recycled unless otherwise determined by the department by rule.

13 (iv) Product stewardship programs for paint, including the plastic
14 and metal containers containing the paint, must be fully implemented by
15 January 1, 2011.

16 (e) Rechargeable batteries.

17 (i) For the purposes of this section "rechargeable battery"
18 includes:

19 (A) One or more nickel cadmium, nickel metal hydride, sealed lead
20 acid, lithium ion, lithium polymer, or nickel zinc voltaic or galvanic
21 cells electrically connected to produce electric energy, that weighs
22 less than one kilogram, is easily removable, and is designed to be
23 recharged for repeated uses; and

24 (B) Any type of enclosed device or sealed container weighing less
25 than one kilogram consisting of one or more such cells, including what
26 is commonly called a battery pack.

27 (ii) For the purposes of this section, "rechargeable battery" does
28 not include:

29 (A) A battery used as the principal electric power source for a
30 vehicle such as, but not limited to, an automobile, boat, truck,
31 tractor, golf cart, or wheelchair;

32 (B) A lead-acid battery weighing more than two pounds;

33 (C) A battery used for load leveling or for storage of electricity
34 generated by an alternative energy source, such as a solar cell or
35 wind-driven generator that weighs more than one kilogram consisting of
36 one or more such cells; or

37 (D) A battery used as a backup power source for memory or program

1 instruction storage, timekeeping, or any similar purpose that requires
2 uninterrupted electrical power in order to function if the primary
3 energy supply fails or fluctuates momentarily.

4 (iii) Covered entities include all sources of rechargeable
5 batteries including residents, businesses, governments, charities, and
6 institutions.

7 (iv) Rechargeable batteries that have been collected by product
8 stewardship programs must be reused or recycled. Mercury and mercury-
9 bearing residuals from recycling of rechargeable batteries must be
10 retorted in properly permitted facilities. Mercury recovered from
11 retorting must be recycled or placed in a properly permitted, monitored
12 hazardous waste landfill, storage, or disposal repository to avoid
13 reintroduction into the marketplace. When available, mercury recovered
14 from retorting must be placed in a properly permitted, monitored
15 permanent mercury repository to avoid reintroduction into the
16 marketplace and it shall not be recycled.

17 (v) Product stewardship programs for rechargeable batteries must be
18 fully implemented by January 1, 2011.

19 (2) The department may adopt rules to implement this section and to
20 determine:

21 (a) Any unique management requirements including, without
22 limitation, special collection, processing, and final disposition
23 requirements for an unwanted product containing hazardous substances or
24 hazardous materials;

25 (b) Labeling requirements for producers, if any, such as brand,
26 toxicity, or carbon footprint; and

27 (c) Any other issues the department deems necessary for
28 implementing this section.

29 NEW SECTION. **Sec. 334.** (1) At least every two years, commencing
30 on the effective date of this section, the department shall consider
31 and evaluate products and product categories to designate as covered
32 products or covered product categories under this chapter.

33 (2) The public, including producers, may petition the department to
34 consider products and product categories to designate as covered
35 products or covered product categories under this chapter. The
36 department shall establish a procedure for review of these petitions
37 during the process specified in subsection (3) of this section.

1 (3) In designating covered products or covered product categories,
2 the department must consider:

3 (a) Environmental and health impacts, including:

4 (i) Climate change impacts and benefits;

5 (ii) Potential energy conservation;

6 (iii) Public and environmental health and safety;

7 (iv) Potential resource recovery and material conservation;

8 (v) Product toxicity;

9 (vi) Opportunities for reducing waste and toxicity;

10 (vii) Opportunities for increasing reuse or recycling, recycled
11 content, and design for reuse or recycling;

12 (viii) A product's potential to act as a contaminant in recycling
13 programs;

14 (ix) Concerns about disposing of a product in the waste stream; and

15 (x) Success in addressing similar products and product categories
16 in other product stewardship programs in the United States and
17 internationally.

18 (b) Public and business benefits and interest, including:

19 (i) Management costs to local governments, taxpayers, and solid
20 waste ratepayers in the absence of product stewardship programs;

21 (ii) Difficulty in managing traditional curbside collection and
22 other standard government solid waste management systems;

23 (iii) Opportunities for existing and new businesses and
24 infrastructure to manage products or product categories proposed for
25 designation and to use or increase markets for materials recovered from
26 these products or product categories with a preference for in-state
27 opportunities;

28 (iv) Public demand; and

29 (v) Recommendations of the product stewardship advisory committee
30 established in section 335 of this act.

31 (4) Through the designation process, the department must determine:

32 (a) Covered entities for a product or product category;

33 (b) Implementation dates;

34 (c) Whether a product or product category is reusable or
35 recyclable;

36 (d) Any unique management requirements including, without
37 limitation, special collection, processing, and final disposition

1 requirements for an unwanted product containing hazardous substances or
2 hazardous materials;

3 (e) Labeling requirements for producers, if any, such as brand,
4 toxicity, or carbon footprint; and

5 (f) Whether a covered product or covered product category's
6 packaging should also be designated as a covered product.

7 NEW SECTION. **Sec. 335.** (1) The department must appoint a product
8 stewardship advisory committee consisting of up to fifteen members that
9 includes representatives of local governments, consumer advocacy
10 groups, environmental groups, businesses, and four legislative members,
11 one from each major caucus of the house of representatives and senate.
12 House of representatives members must be designated by the speaker of
13 the house of representatives and senate members must be designated by
14 the president of the senate.

15 (2) The department must consult the advisory committee regarding
16 designation of new covered products and covered product categories,
17 covered entities, implementation dates, reusability or recyclability of
18 the product, management requirements, labeling requirements, and other
19 matters requested by the department.

20 (3) The advisory committee shall review and provide comment on the
21 department's recommendations regarding designation of new covered
22 products and covered product categories.

23 NEW SECTION. **Sec. 336.** Nothing in this chapter changes or limits
24 the authority of the Washington utilities and transportation commission
25 to regulate collection of solid waste, including curbside collection of
26 residential recyclable materials, nor does this chapter change or limit
27 the authority of a city or town to provide such service itself or by
28 contract under RCW 81.77.020.

29 NEW SECTION. **Sec. 337.** A producer, group of producers, or
30 stewardship organization and its officers, members, employees, and
31 agents that organize a product stewardship program required under this
32 chapter are authorized to engage in anticompetitive conduct to the
33 extent necessary to plan and implement a program, and are immune from
34 liability under state laws regarding antitrust, restraint of trade,
35 unfair trade practices, and other regulation of trade and commerce.

1 NEW SECTION. **Sec. 338.** This chapter must be liberally construed
2 to carry out its purposes and objectives.

3 **Sec. 339.** RCW 42.56.270 and 2008 c 306 s 1 are each amended to
4 read as follows:

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

7 (1) Valuable formulae, designs, drawings, computer source code or
8 object code, and research data obtained by any agency within five years
9 of the request for disclosure when disclosure would produce private
10 gain and public loss;

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

16 (3) Financial and commercial information and records supplied by
17 private persons pertaining to export services provided under chapters
18 43.163 and 53.31 RCW, and by persons pertaining to export projects
19 under RCW 43.23.035;

20 (4) Financial and commercial information and records supplied by
21 businesses or individuals during application for loans or program
22 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
23 43.168 RCW, or during application for economic development loans or
24 program services provided by any local agency;

25 (5) Financial information, business plans, examination reports, and
26 any information produced or obtained in evaluating or examining a
27 business and industrial development corporation organized or seeking
28 certification under chapter 31.24 RCW;

29 (6) Financial and commercial information supplied to the state
30 investment board by any person when the information relates to the
31 investment of public trust or retirement funds and when disclosure
32 would result in loss to such funds or in private loss to the providers
33 of this information;

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

35 (8) Financial, commercial, operations, and technical and research
36 information and data submitted to or obtained by the clean Washington

1 center in applications for, or delivery of, program services under
2 chapter 70.95H RCW;

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

6 (10)(a) Financial information, including but not limited to account
7 numbers and values, and other identification numbers supplied by or on
8 behalf of a person, firm, corporation, limited liability company,
9 partnership, or other entity related to an application for a horse
10 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
11 license, gambling license, or lottery retail license;

12 (b) Internal control documents, independent auditors' reports and
13 financial statements, and supporting documents: (i) Of house-banked
14 social card game licensees required by the gambling commission pursuant
15 to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes
16 with an approved tribal/state compact for class III gaming;

17 (11) Proprietary data, trade secrets, or other information that
18 relates to: (a) A vendor's unique methods of conducting business; (b)
19 data unique to the product or services of the vendor; or (c)
20 determining prices or rates to be charged for services, submitted by
21 any vendor to the department of social and health services for purposes
22 of the development, acquisition, or implementation of state purchased
23 health care as defined in RCW 41.05.011;

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

26 (i) Financial and proprietary information collected from any person
27 and provided to the department of community, trade, and economic
28 development pursuant to RCW 43.330.050(8); and

29 (ii) Financial or proprietary information collected from any person
30 and provided to the department of community, trade, and economic
31 development or the office of the governor in connection with the
32 siting, recruitment, expansion, retention, or relocation of that
33 person's business and until a siting decision is made, identifying
34 information of any person supplying information under this subsection
35 and the locations being considered for siting, relocation, or expansion
36 of a business;

37 (b) When developed by the department of community, trade, and

1 economic development based on information as described in (a)(i) of
2 this subsection, any work product is not exempt from disclosure;

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

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

10 (13) Financial and proprietary information submitted to or obtained
11 by the department of ecology or the authority created under chapter
12 70.95N RCW to implement chapter 70.95N RCW;

13 (14) Financial, commercial, operations, and technical and research
14 information and data submitted to or obtained by the life sciences
15 discovery fund authority in applications for, or delivery of, grants
16 under chapter 43.350 RCW, to the extent that such information, if
17 revealed, would reasonably be expected to result in private loss to the
18 providers of this information;

19 (15) Financial and commercial information provided as evidence to
20 the department of licensing as required by RCW 19.112.110 or
21 19.112.120, except information disclosed in aggregate form that does
22 not permit the identification of information related to individual fuel
23 licensees;

24 (16) Any production records, mineral assessments, and trade secrets
25 submitted by a permit holder, mine operator, or landowner to the
26 department of natural resources under RCW 78.44.085;

27 (17)(a) Farm plans developed by conservation districts, unless
28 permission to release the farm plan is granted by the landowner or
29 operator who requested the plan, or the farm plan is used for the
30 application or issuance of a permit;

31 (b) Farm plans developed under chapter 90.48 RCW and not under the
32 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
33 RCW 42.56.610 and 90.64.190;

34 (18) Financial, commercial, operations, and technical and research
35 information and data submitted to or obtained by a health sciences and
36 services authority in applications for, or delivery of, grants under
37 RCW 35.104.010 through 35.104.060, to the extent that such information,

1 if revealed, would reasonably be expected to result in private loss to
2 providers of this information; (~~and~~)

3 (19) Information gathered under chapter 19.85 RCW or RCW 34.05.328
4 that can be identified to a particular business; and

5 (20) Proprietary information required to be submitted to the
6 department of ecology under sections 323, 327, 347, and 351 of this
7 act.

8 NEW SECTION. Sec. 340. Sections 318 through 338 of this act
9 constitute a new chapter in Title 70 RCW.

10 **Sec. 341.** RCW 43.19A.020 and 2001 c 77 s 1 are each amended to
11 read as follows:

12 (1) The federal product standards, adopted under 42 U.S.C. Sec.
13 6962(e) as it exists on July 1, 2001, are adopted as the minimum
14 standards for the state of Washington. These standards shall be
15 implemented for at least the products listed in this subsection, unless
16 the director finds that a different standard would significantly
17 increase recycled product availability or competition.

18 (a) Paper and paper products;

19 (b) Organic recovered materials;

20 (c) Latex paint products;

21 (d) Products for lower value uses containing recycled plastics;

22 (e) Retread and remanufactured tires;

23 (f) Lubricating oils;

24 (g) Automotive batteries;

25 (h) Building products and materials;

26 (i) Panelboard; (~~and~~)

27 (j) Compost products made from recovered organic materials; and

28 (k) Fertilizers made from recovered organic materials.

29 (2) By July 1, 2001, the director shall adopt product standards for
30 strawboard manufactured using as an ingredient straw that is produced
31 as a by-product in the production of cereal grain or turf or grass seed
32 and product standards for products made from strawboard.

33 (3) The standards required by this section shall be applied to
34 recycled product purchasing by the department, other state agencies,
35 and state postsecondary educational institutions. The standards may be
36 adopted or applied by any other local government in product

1 procurement. The standards shall provide for exceptions under
2 appropriate circumstances to allow purchases of recycled products that
3 do not meet the minimum content requirements of the standards.

4 NEW SECTION. **Sec. 342.** The legislature finds that:

5 (1) Convenient and environmentally sound product stewardship
6 programs that include collecting, transporting, and reusing or
7 recycling of unwanted products will help protect Washington's
8 environment and the health of state residents;

9 (2) Product producers should finance and provide these programs.
10 The programs are intended to encourage producers to design products
11 that have a lower carbon footprint, are less toxic and energy and
12 material intensive, and are easier to recycle.

13 NEW SECTION. **Sec. 343.** The definitions in this section apply
14 throughout this chapter unless the context clearly requires otherwise.

15 (1) "Brand" means a name, symbol, word, or mark that identifies a
16 product, rather than its components, and attributes the product to the
17 owner of the brand as the producer.

18 (2) "Covered entity" means an entity, such as a resident or small
19 business, that can use a product stewardship program to discard an
20 unwanted product.

21 (3) "Covered product" means a product designated by this chapter,
22 either individually or as an item within a covered product category.
23 "Covered product" includes all materials that make up a covered
24 product.

25 (4) "Covered product category" means a group of similar products
26 covered by this chapter.

27 (5) "Department" means the department of ecology.

28 (6) "Final disposition" means the point beyond which no further
29 processing takes place and materials from an unwanted product are
30 either in a form capable of direct use as a feedstock in producing new
31 products or disposed of or managed in permitted facilities.

32 (7) "Hazardous substances" or "hazardous materials" means those
33 substances or materials identified under rules adopted under the state
34 hazardous waste management act, chapter 70.105 RCW.

35 (8) "Mercury-containing lights" means lamps, bulbs, tubes, or other

1 devices that contain mercury that provide functional illumination in
2 homes, offices, and outdoors.

3 (9) "Organization" includes a sole proprietorship, partnership,
4 corporation, nonprofit corporation or organization, limited liability
5 company, firm, association, cooperative, or other legal entity located
6 within or outside Washington state.

7 (10) "Orphan product" means a covered product that lacks a
8 producer's brand, or for which the producer is no longer in business
9 and has no successor in interest, or that bears a brand for which the
10 department cannot identify an owner.

11 (11) "Processing" means recovering materials from unwanted products
12 for use as feedstock in new products.

13 (12) "Producer" means a person who:

14 (a) Has legal ownership of the brand, brand name, or cobrand of a
15 covered product sold in or into Washington state;

16 (b) Imports a covered product branded by a producer that meets (a)
17 of this subsection and where that producer has no physical presence in
18 the United States;

19 (c) If (a) and (b) of this subsection do not apply, makes an
20 unbranded product that is sold in or into Washington state; or

21 (d) Sells at wholesale or retail a covered product, does not have
22 legal ownership of the brand, and elects to fulfill the
23 responsibilities of the producer for that product.

24 (13) "Product stewardship" means a requirement for a producer of a
25 covered product to manage and reduce adverse safety, health, and
26 environmental impacts of the covered product throughout its life cycle.

27 (14) "Product stewardship plan" or "plan" means a detailed plan
28 describing the manner in which a product stewardship program will be
29 implemented.

30 (15) "Product stewardship program" or "program" means a program
31 financed and provided by producers of covered products that addresses
32 product stewardship and includes collecting, transporting, reuse
33 processing, and final disposition of unwanted products, including a
34 fair share of orphan products.

35 (16) "Recycling" means transforming or remanufacturing unwanted
36 products into usable or marketable materials for use other than
37 landfill disposal or incineration. Recycling does not include energy

1 recovery or energy generation by means of combusting unwanted products
2 with or without other waste.

3 (17) "Reporting period" means the period commencing January 1st and
4 ending December 31st in the same calendar year.

5 (18) "Residuals" means nonrecyclable materials left over from
6 processing an unwanted product.

7 (19) "Reuse" means a change in ownership of a covered product or
8 its components and parts for use in the same manner and purpose for
9 which it was originally purchased.

10 (20) "Stakeholder" means a person who may have an interest in or be
11 affected by a product stewardship program.

12 (21) "Stewardship organization" means an organization designated by
13 a producer to act as an agent on behalf of the producer to operate a
14 product stewardship program.

15 (22) "Unwanted product" means a covered product no longer wanted by
16 its owner or that has been abandoned, discarded, or is intended to be
17 discarded by its owner.

18 NEW SECTION. Sec. 344. (1) Covered product and product categories
19 designated under this chapter include mercury-containing lights.

20 (a) "Mercury-containing lights" means lamps, bulbs, tubes, or other
21 devices that contain mercury and that provide functional illumination
22 in homes, offices, and outdoors.

23 (b) Covered entities include residents and small businesses.

24 (c) Mercury-containing lights that have been collected by product
25 stewardship programs must be recycled. Mercury and mercury-bearing
26 residuals from recycling of mercury-containing lights must be retorted
27 in properly permitted facilities. Mercury recovered from retorting
28 must be recycled or placed in a properly permitted, monitored hazardous
29 waste landfill, storage repository, or disposal repository to avoid
30 reintroduction into the marketplace. When available, mercury recovered
31 from retorting must be placed in a properly permitted, monitored
32 permanent mercury repository to avoid reintroduction into the
33 marketplace. The mercury may not be recycled.

34 (d) Product stewardship programs for mercury-containing lights must
35 be fully implemented by January 1, 2011.

36 (2) The department may adopt rules to implement this section and to
37 determine:

1 (a) Any unique management requirements including, without
2 limitation, special collection, processing, and final disposition
3 requirements for general purpose lights containing hazardous materials;

4 (b) Labeling requirements for producers, if any, such as brand,
5 toxicity, or carbon footprint; and

6 (c) Other issues the department deems necessary for implementing
7 this section.

8 NEW SECTION. **Sec. 345.** (1) Every producer of a covered product
9 sold in or into Washington state must participate in a product
10 stewardship program for that product. Every producer must:

11 (a) Operate, either individually or collectively with other
12 producers, a product stewardship program approved by the department; or

13 (b) Enter into an agreement with a stewardship organization to
14 operate, on the producer's behalf, a product stewardship program
15 approved by the department.

16 (2) Product stewardship programs shall collect, free of charge,
17 unwanted products from covered entities for reuse or final disposition
18 as appropriate.

19 (3) A producer, group of producers, or stewardship organization
20 operating a product stewardship program shall:

21 (a) Comply with a product stewardship plan approved by the
22 department and this chapter, any rules adopted by the department to
23 implement this chapter, and all other applicable laws and rules; and

24 (b) Pay all administrative and operational costs associated with
25 their program.

26 NEW SECTION. **Sec. 346.** As of the implementation date established
27 for the covered product, no producer, wholesaler, retailer, or other
28 person may sell or offer for sale that product to any person in this
29 state unless the producer is participating in a product stewardship
30 program approved by the department. A person selling or offering for
31 sale a covered product in the state shall consult the department's web
32 site for a list of producers of that product participating in approved
33 programs prior to selling the product in or into the state. A person
34 is considered to have complied with this section if, on the date the
35 person ordered a covered product from a producer or its agent, the

1 producer was listed as having an approved program on the department's
2 web site.

3 NEW SECTION. **Sec. 347.** (1) A producer, group of producers, or
4 stewardship organization operating or intending to operate a product
5 stewardship program must, at least sixty days prior to submitting a
6 product stewardship plan to the department under subsection (2) of this
7 section, provide public notice of the plan it is considering for
8 submittal. The producer, group of producers, or stewardship
9 organization must consult with stakeholders during development of the
10 plan, solicit stakeholder comments, and attempt to address any
11 stakeholder concerns regarding the plan prior to submittal.

12 (2) A producer, group of producers, or stewardship organization
13 operating or intending to operate a product stewardship program must
14 submit a product stewardship plan to the department specifying:

15 (a) Information, including contact information, regarding:

16 (i) The organization submitting the plan;

17 (ii) A list of all participating producers; and

18 (iii) If the program is to be operated by a stewardship
19 organization, a description of management, administration, and tasks to
20 be performed by the stewardship organization;

21 (b) Recovery goals, including:

22 (i) Recovery goals for the first, second, and third years of the
23 program, expressed as pounds per capita, and an explanation of how
24 these goals reflect a significant percentage of an unwanted product
25 relative to the quantity of the unwanted product that may be available
26 for reuse or recycling; and

27 (ii) Plans to maximize recycling of packaging that may be
28 collected;

29 (c) A collection system, including:

30 (i) Location of collection sites and other collection services to
31 be used by the program;

32 (ii) How unwanted products from all covered entities will be
33 collected for all cities in the state with populations greater than ten
34 thousand and in all counties of the state;

35 (iii) How the collection system will be convenient and adequate to
36 serve the needs of all covered entities in both urban and rural areas;
37 and

1 (iv) How collected unwanted products will be transported to
2 processing facilities;

3 (d) A processing and disposal system, including:

4 (i) Locations, permit status, and records of any penalties,
5 violations, or regulatory orders received in the previous five years by
6 processing and disposal facilities proposed to be used by the program;

7 (ii) A third-party audit of each processing and disposal facility
8 proposed to be used by the program for any unwanted product or
9 residuals containing hazardous substances or hazardous materials,
10 documenting compliance with all applicable laws, regulations, and
11 rules;

12 (iii) Policies and procedures to be followed by persons collecting,
13 transporting, processing, and disposing of unwanted products, including
14 how the program will ensure compliance with all applicable laws,
15 regulations, and rules;

16 (iv) A description of how unwanted products will be processed at
17 each processing facility;

18 (v) How all residuals will be disposed of or managed in permitted
19 facilities, including disposal or management of all hazardous
20 substances and hazardous materials in permitted hazardous waste
21 facilities;

22 (vi) How hazardous substances and hazardous materials will be
23 safely and securely tracked and handled from collection to final
24 disposition in compliance with this chapter, any rules adopted by the
25 department to implement this chapter, and all other applicable laws and
26 rules; and

27 (vii) Best management practices that will be used by first
28 processors and their downstream vendors to ensure that hazardous
29 substances and hazardous materials are not released into the
30 environment and will not adversely impact human health;

31 (e) How the program will seek to use businesses within the state,
32 including retailers, processing facilities, and collection and
33 transportation services;

34 (f) Greenhouse gas reductions anticipated from implementing the
35 collection, transportation, and recycling system;

36 (g) A financing system, including:

37 (i) How the entire product stewardship program will be financed,

1 including how costs will be apportioned among and assessed upon
2 producers participating in the program;

3 (ii) Financial incentives to reward product design that result in
4 improved reuse or recycling and less toxicity where feasible;

5 (iii) A plan to withhold a percentage of funds to be managed by the
6 product stewardship program to increase markets for recyclable
7 materials or other financial incentives to encourage market development
8 for recyclable materials contained in covered products;

9 (iv) How those providing services for the collection,
10 transportation, and processing systems will be fairly compensated for
11 their services;

12 (h) Strategies to manage and reduce life cycle impacts of products
13 and packaging, from product design to end-of-life management, including
14 ways to improve designing, packaging, and distributing products to:

15 (i) Reduce waste, energy, toxicity, carbon footprints, and other
16 environmental and health impacts;

17 (ii) Increase recycled content and product longevity; and
18 (iii) Make products more easily reusable or recyclable;

19 (i) How the producers participating in the program will communicate
20 with processors used by the program to encourage sustainable design of
21 products and packaging;

22 (j) Education and outreach activities, including:

23 (i) An educational campaign promoting the use of the program to
24 covered entities that includes a toll-free telephone number and web
25 site and that is sufficient to meet required recovery rates;

26 (ii) A plan for working with and providing information about the
27 program to retailers, wholesalers, collectors, and other interested
28 parties to disseminate to covered entities; and

29 (iii) The methodology for determining how the effectiveness of the
30 outreach activities will be measured; and

31 (k) Pursuant to subsection (1) of this section, the consultation
32 process, including:

33 (i) A description of the process used to consult with stakeholders
34 during development of the plan; and

35 (ii) A summary of stakeholder comments and how any stakeholder
36 concerns were addressed.

37 (3) The department shall approve the product stewardship plan when

1 all requirements have been met in compliance with this chapter and any
2 rules adopted by the department to implement this chapter.

3 (4) All plans submitted to the department must be made available to
4 the public on the department's web site. Proprietary information
5 submitted to the department under this chapter is exempt from public
6 disclosure under RCW 42.56.270.

7 NEW SECTION. **Sec. 348.** (1) A producer of a covered product, a
8 group of producers, or a stewardship organization must submit a
9 proposed product stewardship plan to the department at least one year
10 prior to a covered product's implementation date.

11 (2) Within ninety days after receiving a proposed product
12 stewardship plan, the department shall determine whether the plan
13 complies with this chapter and any rules adopted to implement this
14 chapter. If it approves a plan, the department shall notify the
15 applicant of its approval. If it rejects a plan, the department shall
16 notify the applicant of its decision and its reasons for rejecting the
17 plan. An applicant whose plan has been rejected by the department may
18 submit a revised plan to the department within sixty days after
19 receiving notice of the rejection.

20 (3) At least once every four years, a producer, group of producers,
21 or stewardship organization operating a product stewardship program
22 must update its product stewardship plan and submit the updated plan to
23 the department for review. The department must determine the status of
24 an updated plan within ninety days of its submittal. If the department
25 rejects an updated plan, the producer of a covered product
26 participating in the product stewardship program described in the plan
27 will be deemed to be out of compliance with this chapter.

28 NEW SECTION. **Sec. 349.** (1) Except as provided in subsections (2)
29 and (3) of this section, the department must grant prior approval, in
30 writing, to any proposed change to a product stewardship plan.

31 (2) Additions or changes to collection locations for unwanted
32 products may be made without the department's prior written approval.
33 The product stewardship program must inform the department of the
34 additions or changes within fifteen days of the occurrence.

35 (3) Additional producers may join a product stewardship program

1 approved by the department without the department's prior written
2 approval. The product stewardship program must inform the department
3 of the additions within fifteen days of the occurrence.

4 NEW SECTION. **Sec. 350.** (1) If the department determines that a
5 product stewardship program is not being operated in compliance with
6 the requirements of this chapter, any rules adopted by the department
7 to implement this chapter, or any other applicable laws, regulations,
8 or rules, or if the department determines that there is an imminent
9 danger to the public, the department may:

10 (a) Amend its approval of the program's product stewardship plan by
11 clarifying terms or conditions to ensure full implementation of the
12 plan; or

13 (b) Suspend or cancel its approval of the plan.

14 (2) At least thirty days prior to amending, suspending, or
15 canceling its approval of a product stewardship plan, the department
16 shall inform the producer, group of producers, or stewardship
17 organization operating the product stewardship program of its intended
18 action and provide them an opportunity to respond. The department may
19 extend this period for good cause.

20 (3) Notwithstanding subsection (2) of this section, if the
21 department determines that it is necessary to protect the public from
22 imminent danger, it may immediately amend, suspend, or cancel approval
23 of a product stewardship program's product stewardship plan without
24 giving the producer, group of producers, or stewardship organization
25 operating the program an opportunity to be heard. However, the
26 department shall give the operator an opportunity to be heard through
27 proceedings consistent with the administrative procedure act, chapter
28 34.05 RCW, within fifteen days after the date on which the department
29 takes any of those actions.

30 NEW SECTION. **Sec. 351.** (1) On or before June 30th of each year,
31 every producer, group of producers, or stewardship organization
32 operating a product stewardship program must prepare and submit to the
33 department an annual report describing:

34 (a) Information, including contact information, regarding:

35 (i) The organization submitting the report; and

36 (ii) A list of all participating producers;

1 (b) Recovery rates, including:

2 (i) The amount, by weight, of unwanted products collected from
3 covered entities in each county in the state, including documented
4 collection and recycling or disposal of that material;

5 (ii) How the program attained recovery rates established in the
6 product stewardship plan or set by the department and, if the program
7 did not attain those recovery rates, what actions it will take during
8 the next reporting period to do so, including how it will increase and
9 improve effective, measurable outreach and education efforts;

10 (c) The collection system, including collection locations and
11 services provided for all cities in the state with populations greater
12 than ten thousand and in all counties in the state;

13 (d) The processing and disposal system, including:

14 (i) A list of processing and disposal facilities used and locations
15 of those facilities, the weight of unwanted products processed at each
16 processing facility and disposed at each disposal facility, and a
17 description of the methods used at each processing facility;

18 (ii) A list of subcontractors used through final disposition that
19 processed or disposed of unwanted products containing hazardous
20 substances or hazardous materials, and subcontractor facility
21 locations;

22 (iii) Documentation and summary results of annual third-party
23 audits conducted on each processing facility and disposal facility as
24 required in section 347 of this act;

25 (iv) Final disposition of residuals;

26 (v) Any penalties, violations, or regulatory orders received during
27 the reporting period by each processing facility or disposal facility
28 that was used;

29 (vi) Whether policies and procedures in the product stewardship
30 plan for collecting, transporting, processing, and final disposition of
31 unwanted products were followed during the reporting period, and a
32 description of any noncompliance;

33 (e) The financing system, including a description of how the system
34 met the requirements in section 347 of this act;

35 (f) The education and outreach activities implemented during the
36 reporting period, including an analysis of the effectiveness of the
37 education and outreach activities;

1 (g) Results of any actions taken to manage and reduce life cycle
2 impacts of products and packaging, as described in section 347(2)(h) of
3 this act;

4 (h) How the product stewardship program complied with any other
5 elements in the plan approved by the department; and

6 (i) Any other information that the department may reasonably
7 require.

8 (2) A producer, group of producers, or stewardship organization
9 operating a product stewardship program meeting the following
10 conditions is only required to report to the department information
11 specified in subsection (1)(a), (b), (c), (g), and (i) of this section:

12 (a) The product stewardship program attained a ninety percent
13 recovery rate of all unwanted products that were produced by producers
14 participating in the program and a recycling rate of eighty percent of
15 materials contained in such products; and

16 (b) All unwanted products collected by the product stewardship
17 program were carbon neutral in production and use.

18 (3) All reports submitted to the department must be made available
19 to the public on the department's web site. Proprietary information
20 submitted to the department under this chapter is exempt from public
21 disclosure under RCW 42.56.270.

22 NEW SECTION. **Sec. 352.** (1) The department shall provide on its
23 web site a list of all producers participating in product stewardship
24 programs it has approved and a list of all producers it has identified
25 as noncompliant with this chapter and any rules adopted to implement
26 this chapter.

27 (2) Wholesalers, retailers, and other persons shall check the
28 department's web site to determine if producers of covered products
29 they are selling in or into the state are compliant with this chapter
30 and any rules adopted to implement this chapter. If a wholesaler,
31 retailer, or other person is unsure of the status of a producer or
32 believes that a producer is not compliant, they shall contact the
33 department to determine the producer's status.

34 (3) The department shall send a written warning and copies of this
35 chapter and any rules adopted to implement this chapter to a producer
36 who is not participating in a product stewardship program approved by
37 the department and whose covered product is being sold in or into the

1 state. The department shall also send a written warning and a copy of
2 this chapter and any rules adopted to implement this chapter to a
3 wholesaler, retailer, or other person known to be selling the covered
4 product in or into the state.

5 (4) A producer not participating in a product stewardship program
6 approved by the department whose covered product continues to be sold
7 in or into the state sixty days after receiving a written warning from
8 the department, and a wholesaler, retailer, or other person who
9 continues to sell a covered product from a producer not participating
10 in an approved product stewardship program sixty days after receiving
11 a written warning from the department, must be assessed a ten thousand
12 dollar penalty. The department may waive or reduce the penalty if the
13 producer, wholesaler, retailer, or other person complies with this
14 chapter and any rules adopted to implement this chapter, or for any
15 other reason the department determines to be justified.

16 (5) The department shall send a written warning to a producer,
17 group of producers, or stewardship organization operating a product
18 stewardship program that fails to submit a product stewardship plan,
19 updated plan, proposed change to a plan, or annual report as required
20 in this chapter. The written warning must include compliance
21 requirements and notification that the requirements must be met within
22 sixty days. If compliance requirements are not met within sixty days,
23 the producer, group of producers, or stewardship organization must be
24 assessed a ten thousand dollar penalty. The department may waive or
25 reduce the penalty if the producer, group of producers, or stewardship
26 organization complies with this chapter and any rules adopted to
27 implement this chapter, or for any other reason the department
28 determines to be justified.

29 (6) Each calendar day of a violation is a separate and distinct
30 offense.

31 NEW SECTION. **Sec. 353.** (1) By June of the third program year for
32 each product or product category, the department shall establish
33 required recovery rates for the fourth and subsequent program operating
34 years, and must establish a system of penalties for producers and
35 product stewardship programs that do not attain the required recovery
36 rates.

1 (2) By December 31, 2014, the department shall report to
2 appropriate committees of the legislature concerning the status of the
3 program administered under this chapter and, if necessary, recommend
4 legislation.

5 (3) The department, or its designee, may inspect, audit, or review
6 audits of processing and disposal facilities used to fulfill the
7 requirements of a product stewardship program.

8 (4) No product stewardship program required under this chapter may
9 use federal or state prison labor for processing unwanted products.

10 (5) The department shall annually invite comments from local
11 governments, communities, and citizens to report their satisfaction
12 with services provided by product stewardship programs. This
13 information must be used by the department in reviewing proposed
14 updates or changes to product stewardship plans.

15 NEW SECTION. **Sec. 354.** The department may establish fees for
16 administering this chapter. Fees may be charged to the producers and
17 must be paid annually by January 1st of each year. Fees may be
18 established in amounts to fully recover and not to exceed expenses
19 incurred by the department in administering this chapter.

20 NEW SECTION. **Sec. 355.** The product stewardship programs account
21 is created in the custody of the state treasurer. All receipts from
22 fees and penalties collected under this chapter must be deposited in
23 the account. Expenditures from the account may be used only for
24 administering this chapter. Only the director of the department or the
25 director's designee may authorize expenditures from the account. The
26 account is subject to the allotment procedures under chapter 43.88 RCW,
27 but an appropriation is not required for expenditures.

28 NEW SECTION. **Sec. 356.** The department shall adopt rules under the
29 administrative procedure act, chapter 34.05 RCW, to implement this
30 chapter including, at a minimum:

31 (1) Program operating rules;

32 (2) A process for determining whether reduced reporting
33 requirements in section 351 of this act apply;

34 (3) A process for setting recovery rates for the fourth and

1 subsequent operating years of a program and for adjusting recovery
2 rates; and

3 (4) An enforcement process.

4 NEW SECTION. **Sec. 357.** Nothing in this chapter changes or limits
5 the authority of the Washington utilities and transportation commission
6 to regulate collection of solid waste, including curbside collection of
7 residential recyclable materials, nor does this chapter change or limit
8 the authority of a city or town to provide such service itself or by
9 contract under RCW 81.77.020.

10 NEW SECTION. **Sec. 358.** A producer, group of producers, or
11 stewardship organization and its officers, members, employees, and
12 agents that organize a product stewardship program required under this
13 chapter are authorized to engage in anticompetitive conduct to the
14 extent necessary to plan and implement a program, and are immune from
15 liability under state laws regarding antitrust, restraint of trade,
16 unfair trade practices, and other regulation of trade and commerce.

17 NEW SECTION. **Sec. 359.** This chapter must be liberally construed
18 to carry out its purposes and objectives.

19 NEW SECTION. **Sec. 360.** A new section is added to chapter 70.95
20 RCW to read as follows:

21 (1) The department shall participate in national and global mercury
22 forums to advocate reduction of global emissions and permanent
23 isolation of elemental mercury.

24 (2) By July 1, 2011, the department, in consultation with the
25 United States environmental protection agency, shall study the
26 feasibility of the development of a national permanent repository for
27 mercury. The department shall develop recommendations and provide its
28 findings to the appropriate committees of the legislature by December
29 1, 2011.

30 NEW SECTION. **Sec. 361.** Sections 342 through 359 and 362 of this
31 act constitute a new chapter in Title 70 RCW.

1 (6) Property rights. Private property shall not be taken for
2 public use without just compensation having been made. The property
3 rights of landowners shall be protected from arbitrary and
4 discriminatory actions.

5 (7) Permits. Applications for both state and local government
6 permits should be processed in a timely and fair manner to ensure
7 predictability.

8 (8) Natural resource industries. Maintain and enhance natural
9 resource-based industries, including productive timber, agricultural,
10 and fisheries industries. Encourage the conservation of productive
11 forest lands and productive agricultural lands, and discourage
12 incompatible uses.

13 (9) Open space and recreation. Retain open space, enhance
14 recreational opportunities, conserve fish and wildlife habitat,
15 increase access to natural resource lands and water, and develop parks
16 and recreation facilities.

17 (10) Environment. Protect the environment and enhance the state's
18 high quality of life, including air and water quality, and the
19 availability of water. Establish land use and transportation patterns
20 that, at a minimum, achieve and support state and federal greenhouse
21 gas emissions reduction requirements.

22 (11) Citizen participation and coordination. Encourage the
23 involvement of citizens in the planning process and ensure coordination
24 between communities and jurisdictions to reconcile conflicts.

25 (12) Public facilities and services. Ensure that those public
26 facilities and services necessary to support development shall be
27 adequate to serve the development at the time the development is
28 available for occupancy and use without decreasing current service
29 levels below locally established minimum standards.

30 (13) Historic preservation. Identify and encourage the
31 preservation of lands, sites, and structures, that have historical or
32 archaeological significance.

33 **Sec. 402.** RCW 36.70A.070 and 2005 c 360 s 2 are each amended to
34 read as follows:

35 The comprehensive plan of a county or city that is required or
36 chooses to plan under RCW 36.70A.040 shall consist of a map or maps,
37 and descriptive text covering objectives, principles, and standards

1 used to develop the comprehensive plan. The plan shall be an
2 internally consistent document and all elements shall be consistent
3 with the future land use map. A comprehensive plan shall be adopted
4 and amended with public participation as provided in RCW 36.70A.140.

5 Each comprehensive plan shall include a plan, scheme, or design for
6 each of the following:

7 (1) A land use element designating the proposed general
8 distribution and general location and extent of the uses of land, where
9 appropriate, for agriculture, timber production, housing, commerce,
10 industry, recreation, open spaces, general aviation airports, public
11 utilities, public facilities, and other land uses. The land use
12 element shall include population densities, building intensities, and
13 estimates of future population growth. The land use element shall
14 provide for protection of the quality and quantity of groundwater used
15 for public water supplies. Wherever possible, the land use element
16 should consider utilizing urban planning approaches that promote
17 physical activity. Where applicable, the land use element shall review
18 drainage, flooding, and storm water run-off in the area and nearby
19 jurisdictions and provide guidance for corrective actions to mitigate
20 or cleanse those discharges that pollute waters of the state, including
21 Puget Sound or waters entering Puget Sound.

22 (2) A housing element ensuring the vitality and character of
23 established residential neighborhoods that: (a) Includes an inventory
24 and analysis of existing and projected housing needs that identifies
25 the number of housing units necessary to manage projected growth; (b)
26 includes a statement of goals, policies, objectives, and mandatory
27 provisions for the preservation, improvement, and development of
28 housing, including single-family residences; (c) includes incentives
29 and requirements to provide housing required by this subsection (2);
30 (d) identifies sufficient land for housing, including, but not limited
31 to, government-assisted housing, housing for low-income families,
32 manufactured housing, multifamily housing, and group homes and foster
33 care facilities; (~~and (d)~~) (e) makes adequate provisions for existing
34 and projected needs of all economic segments of the community; and (f)
35 designates sufficient land for and encourages housing within walking,
36 bicycling, or transit distance of employment concentrations that is
37 affordable to persons employed within such concentrations. Land

1 designated for housing under this subsection (2)(f) must be designated
2 at densities that support transit services.

3 (3) A capital facilities plan element consisting of: (a) An
4 inventory of existing capital facilities owned by public entities,
5 showing the locations and capacities of the capital facilities; (b) a
6 forecast of the future needs for such capital facilities; (c) the
7 proposed locations and capacities of expanded or new capital
8 facilities; (d) at least a six-year plan that will finance such capital
9 facilities within projected funding capacities and clearly identifies
10 sources of public money for such purposes; and (e) a requirement to
11 reassess the land use element if probable funding falls short of
12 meeting existing needs and to ensure that the land use element, capital
13 facilities plan element, and financing plan within the capital
14 facilities plan element are coordinated and consistent. Park and
15 recreation facilities shall be included in the capital facilities plan
16 element.

17 (4) A utilities element consisting of the general location,
18 proposed location, and capacity of all existing and proposed utilities,
19 including, but not limited to, electrical lines, telecommunication
20 lines, and natural gas lines.

21 (5) Rural element. Counties shall include a rural element
22 including lands that are not designated for urban growth, agriculture,
23 forest, or mineral resources. The following provisions shall apply to
24 the rural element:

25 (a) Growth management act goals and local circumstances. Because
26 circumstances vary from county to county, in establishing patterns of
27 rural densities and uses, a county may consider local circumstances,
28 but shall develop a written record explaining how the rural element
29 harmonizes the planning goals in RCW 36.70A.020 and meets the
30 requirements of this chapter.

31 (b) Rural development. The rural element shall permit rural
32 development, forestry, and agriculture in rural areas. The rural
33 element shall provide for a variety of rural densities, uses, essential
34 public facilities, and rural governmental services needed to serve the
35 permitted densities and uses. To achieve a variety of rural densities
36 and uses, counties may provide for clustering, density transfer, design
37 guidelines, conservation easements, and other innovative techniques

1 that will accommodate appropriate rural densities and uses that are not
2 characterized by urban growth and that are consistent with rural
3 character.

4 (c) Measures governing rural development. The rural element shall
5 include measures that apply to rural development and protect the rural
6 character of the area, as established by the county, by:

7 (i) Containing or otherwise controlling rural development;

8 (ii) Assuring visual compatibility of rural development with the
9 surrounding rural area;

10 (iii) Reducing the inappropriate conversion of undeveloped land
11 into sprawling, low-density development in the rural area;

12 (iv) Protecting critical areas, as provided in RCW 36.70A.060, and
13 surface water and groundwater resources; and

14 (v) Protecting against conflicts with the use of agricultural,
15 forest, and mineral resource lands designated under RCW 36.70A.170.

16 (d) Limited areas of more intensive rural development. Subject to
17 the requirements of this subsection and except as otherwise
18 specifically provided in this subsection (5)(d), the rural element may
19 allow for limited areas of more intensive rural development, including
20 necessary public facilities and public services to serve the limited
21 area as follows:

22 (i) Rural development consisting of the infill, development, or
23 redevelopment of existing commercial, industrial, residential, or
24 mixed-use areas, whether characterized as shoreline development,
25 villages, hamlets, rural activity centers, or crossroads developments.

26 (A) A commercial, industrial, residential, shoreline, or mixed-use
27 area shall be subject to the requirements of (d)(iv) of this
28 subsection, but shall not be subject to the requirements of (c)(ii) and
29 (iii) of this subsection.

30 (B) Any development or redevelopment other than an industrial area
31 or an industrial use within a mixed-use area or an industrial area
32 under this subsection (5)(d)(i) must be principally designed to serve
33 the existing and projected rural population.

34 (C) Any development or redevelopment in terms of building size,
35 scale, use, or intensity shall be consistent with the character of the
36 existing areas. Development and redevelopment may include changes in
37 use from vacant land or a previously existing use so long as the new
38 use conforms to the requirements of this subsection (5);

1 (ii) The intensification of development on lots containing, or new
2 development of, small-scale recreational or tourist uses, including
3 commercial facilities to serve those recreational or tourist uses, that
4 rely on a rural location and setting, but that do not include new
5 residential development. A small-scale recreation or tourist use is
6 not required to be principally designed to serve the existing and
7 projected rural population. Public services and public facilities
8 shall be limited to those necessary to serve the recreation or tourist
9 use and shall be provided in a manner that does not permit low-density
10 sprawl;

11 (iii) The intensification of development on lots containing
12 isolated nonresidential uses or new development of isolated cottage
13 industries and isolated small-scale businesses that are not principally
14 designed to serve the existing and projected rural population and
15 nonresidential uses, but do provide job opportunities for rural
16 residents. Rural counties may allow the expansion of small-scale
17 businesses as long as those small-scale businesses conform with the
18 rural character of the area as defined by the local government
19 according to RCW 36.70A.030(~~((+14))~~) (16). Rural counties may also
20 allow new small-scale businesses to utilize a site previously occupied
21 by an existing business as long as the new small-scale business
22 conforms to the rural character of the area as defined by the local
23 government according to RCW 36.70A.030(~~((+14))~~) (16). Public services
24 and public facilities shall be limited to those necessary to serve the
25 isolated nonresidential use and shall be provided in a manner that does
26 not permit low-density sprawl;

27 (iv) A county shall adopt measures to minimize and contain the
28 existing areas or uses of more intensive rural development, as
29 appropriate, authorized under this subsection. Lands included in such
30 existing areas or uses shall not extend beyond the logical outer
31 boundary of the existing area or use, thereby allowing a new pattern of
32 low-density sprawl. Existing areas are those that are clearly
33 identifiable and contained and where there is a logical boundary
34 delineated predominately by the built environment, but that may also
35 include undeveloped lands if limited as provided in this subsection.
36 The county shall establish the logical outer boundary of an area of
37 more intensive rural development. In establishing the logical outer
38 boundary the county shall address (A) the need to preserve the

1 character of existing natural neighborhoods and communities, (B)
2 physical boundaries such as bodies of water, streets and highways, and
3 land forms and contours, (C) the prevention of abnormally irregular
4 boundaries, and (D) the ability to provide public facilities and public
5 services in a manner that does not permit low-density sprawl;

6 (v) For purposes of (d) of this subsection, an existing area or
7 existing use is one that was in existence:

8 (A) On July 1, 1990, in a county that was initially required to
9 plan under all of the provisions of this chapter;

10 (B) On the date the county adopted a resolution under RCW
11 36.70A.040(2), in a county that is planning under all of the provisions
12 of this chapter under RCW 36.70A.040(2); or

13 (C) On the date the office of financial management certifies the
14 county's population as provided in RCW 36.70A.040(5), in a county that
15 is planning under all of the provisions of this chapter pursuant to RCW
16 36.70A.040(5).

17 (e) Exception. This subsection shall not be interpreted to permit
18 in the rural area a major industrial development or a master planned
19 resort unless otherwise specifically permitted under RCW 36.70A.360 and
20 36.70A.365.

21 (6) A transportation element that implements, and is consistent
22 with, the land use element.

23 (a) The transportation element shall include the following
24 subelements:

25 (i) Land use assumptions used in estimating travel;

26 (ii) Estimated traffic impacts to state-owned transportation
27 facilities resulting from land use assumptions to assist the department
28 of transportation in monitoring the performance of state facilities, to
29 plan improvements for the facilities, and to assess the impact of land-
30 use decisions on state-owned transportation facilities;

31 (iii) Facilities and services needs, including:

32 (A) An inventory of air, water, and ground transportation
33 facilities and services, including transit alignments and general
34 aviation airport facilities, to define existing capital facilities and
35 travel levels as a basis for future planning. This inventory must
36 include state-owned transportation facilities within the city or
37 county's jurisdictional boundaries;

1 (B) Level of service standards for all locally owned arterials and
2 transit routes to serve as a gauge to judge performance of the system.
3 These standards should be regionally coordinated and must consider all
4 transportation modes in meeting regional transportation demands. In
5 adopting level of service standards required under this subsection
6 (6)(a)(iii)(B), jurisdictions must also consider adopting level of
7 service standards for bicycle and pedestrian routes;

8 (C) For state-owned transportation facilities, level of service
9 standards for highways, as prescribed in chapters 47.06 and 47.80 RCW,
10 to gauge the performance of the system. The purposes of reflecting
11 level of service standards for state highways in the local
12 comprehensive plan are to monitor the performance of the system, to
13 evaluate improvement strategies, and to facilitate coordination between
14 the county's or city's six-year street, road, or transit program and
15 the ~~((department of transportation's six-year))~~ office of financial
16 management's ten-year investment program ~~((The concurrency~~
17 ~~requirements of (b) of this subsection do not apply to transportation~~
18 ~~facilities and services of statewide significance except for counties~~
19 ~~consisting of islands whose only connection to the mainland are state~~
20 ~~highways or ferry routes. In these island counties, state highways and~~
21 ~~ferry route capacity must be a factor in meeting the concurrency~~
22 ~~requirements in (b) of this subsection))~~);

23 (D) Specific actions and requirements for bringing into compliance
24 locally owned transportation facilities or services that are below an
25 established level of service standard;

26 (E) Forecasts of ~~((traffie))~~ travel demand for at least ten years
27 based on the adopted land use plan to provide information on the
28 location, timing, and capacity needs of future growth;

29 (F) Identification of state and local system needs to meet current
30 and future demands. Identified needs on state-owned transportation
31 facilities must be consistent with the statewide multimodal
32 transportation plan required under chapter 47.06 RCW;

33 (iv) Finance, including:

34 (A) An analysis of funding capability to judge needs against
35 probable funding resources;

36 (B) A multiyear financing plan based on the needs identified in the
37 comprehensive plan, the appropriate parts of which shall serve as the
38 basis for the six-year street, road, or transit program required by RCW

1 35.77.010 for cities, RCW 36.81.121 for counties, and RCW 35.58.2795
2 for public transportation systems. The multiyear financing plan should
3 be coordinated with the (~~six-year improvement~~) ten-year investment
4 program developed by the (~~department of transportation~~) office of
5 financial management as required by RCW 47.05.030;

6 (C) If probable funding falls short of meeting identified needs, a
7 discussion of how additional funding will be raised, or how land use
8 assumptions will be reassessed to ensure that level of service
9 standards will be met;

10 (v) Intergovernmental coordination efforts, including an assessment
11 of the impacts of the transportation plan and land use assumptions on
12 the transportation systems of adjacent jurisdictions;

13 (vi) Demand-management strategies;

14 (vii) Pedestrian and bicycle components to include collaborative
15 efforts to identify and designate planned improvements for pedestrian
16 and bicycle facilities and corridors that address and encourage
17 enhanced community access (~~and promote~~), connections between land
18 uses and transportation modes, and the promotion of healthy lifestyles.

19 (b)(i) After adoption of the comprehensive plan by jurisdictions
20 required to plan or who choose to plan under RCW 36.70A.040, local
21 jurisdictions must adopt and enforce ordinances which prohibit
22 development approval if the development causes the level of service on
23 a locally owned transportation facility to decline below the standards
24 adopted in the transportation element of the comprehensive plan, unless
25 transportation improvements or strategies to accommodate the impacts of
26 development are made concurrent with the development. These strategies
27 may include increased public transportation service, ride sharing
28 programs, demand management, and other transportation systems
29 management strategies. Ordinances adopted under this subsection
30 (6)(b)(i) must consider multimodal improvements or strategies.

31 (ii) For the purposes of this subsection (6), "concurrent with the
32 development" (~~shall mean~~) means that improvements or strategies are
33 in place at the time of development, or that a financial commitment is
34 in place to complete the improvements or strategies within six years.

35 (iii) The concurrency requirements of this subsection (6)(b) do not
36 apply to transportation facilities and services of statewide
37 significance except for counties consisting of islands whose only
38 connection to the mainland are state highways or ferry routes. In

1 these island counties, state highway and ferry route capacity must be
2 a factor in meeting the concurrency requirements of this subsection
3 (6)(b).

4 (c) The transportation element described in this subsection (6),
5 and the six-year plans required by RCW 35.77.010 for cities, RCW
6 36.81.121 for counties, and RCW 35.58.2795 for public transportation
7 systems, and the ten-year investment program required by RCW 47.05.030
8 for the state, must be consistent.

9 (7) An economic development element establishing local goals,
10 policies, objectives, and provisions for economic growth and vitality
11 and a high quality of life. The element shall include: (a) A summary
12 of the local economy such as population, employment, payroll, sectors,
13 businesses, sales, and other information as appropriate; (b) a summary
14 of the strengths and weaknesses of the local economy defined as the
15 commercial and industrial sectors and supporting factors such as land
16 use, transportation, utilities, education, workforce, housing, and
17 natural/cultural resources; and (c) an identification of policies,
18 programs, and projects to foster economic growth and development and to
19 address future needs. A city that has chosen to be a residential
20 community is exempt from the economic development element requirement
21 of this subsection.

22 (8) A park and recreation element that implements, and is
23 consistent with, the capital facilities plan element as it relates to
24 park and recreation facilities. The element shall include: (a)
25 Estimates of park and recreation demand for at least a ten-year period;
26 (b) an evaluation of facilities and service needs; and (c) an
27 evaluation of intergovernmental coordination opportunities to provide
28 regional approaches for meeting park and recreational demand.

29 (9) It is the intent that new or amended elements required after
30 January 1, 2002, be adopted concurrent with the scheduled update
31 provided in RCW 36.70A.130. Requirements to incorporate any such new
32 or amended elements shall be null and void until funds sufficient to
33 cover applicable local government costs are appropriated and
34 distributed by the state at least two years before local government
35 must update comprehensive plans as required in RCW 36.70A.130.

36 **Sec. 403.** RCW 36.70A.100 and 1990 1st ex.s. c 17 s 10 are each
37 amended to read as follows:

1 The comprehensive plan of each county or city (~~that is~~) adopted
2 pursuant to RCW 36.70A.040 shall be:

3 (1) Coordinated with, and consistent with, the comprehensive plans
4 adopted pursuant to RCW 36.70A.040 of other counties or cities with
5 which the county or city has, in part, common borders or related
6 regional issues; and

7 (2) Consistent with the regional transportation plans required
8 under RCW 47.80.030 for the region within which the county or city is
9 located.

10 **Sec. 404.** RCW 36.70A.190 and 1991 sp.s. c 32 s 3 are each amended
11 to read as follows:

12 (1) The department shall establish a program of technical and
13 financial assistance and incentives to counties and cities to encourage
14 and facilitate the adoption and implementation of comprehensive plans
15 and development regulations throughout the state.

16 (2) The department shall develop a priority list and establish
17 funding levels for planning and technical assistance grants both for
18 counties and cities that plan under RCW 36.70A.040. Priority for
19 assistance shall be based on a county's or city's population growth
20 rates, commercial and industrial development rates, the existence and
21 quality of a comprehensive plan and development regulations, and other
22 relevant factors.

23 (3) The department shall develop and administer a grant program to
24 provide direct financial assistance to counties and cities for the
25 preparation of comprehensive plans under this chapter. The department
26 may establish provisions for county and city matching funds to conduct
27 activities under this subsection. Grants may be expended for any
28 purpose directly related to the preparation of a county or city
29 comprehensive plan as the county or city and the department may agree,
30 including, without limitation, the conducting of surveys, inventories
31 and other data gathering and management activities, the retention of
32 planning consultants, contracts with regional councils for planning and
33 related services, and other related purposes.

34 (4) The department shall establish a program of technical
35 assistance:

36 (a)(i) Utilizing department staff, the staff of other state
37 agencies, and the technical resources of counties and cities to help in

1 the development of comprehensive plans required under this chapter.
2 The technical assistance may include, but not be limited to, model land
3 use ordinances, regional education and training programs, and
4 information for local and regional inventories. The technical
5 assistance shall include guidance that may be used by counties and
6 cities for developing and implementing: (A) Multimodal transportation
7 concurrency improvements and strategies; and (B) programs that
8 encourage, through developer incentives and other means, compact
9 development in urban growth areas.

10 (ii) Technical assistance required by (a)(i)(A) of this subsection
11 shall be developed by the department in cooperation with the department
12 of transportation, regional transportation planning organizations
13 authorized under chapter 47.80 RCW, regional transit authorities and
14 agencies, and local transportation entities.

15 (iii) Technical assistance required by (a)(i)(B) of this subsection
16 shall be developed by the department in cooperation with other state
17 agencies with relevant expertise, and may include an examination of
18 employed local government incentives, an assessment of applicable
19 advantages and disadvantages, and the development of model incentive
20 language; and

21 (b) Adopting by rule procedural criteria to assist counties and
22 cities in adopting comprehensive plans and development regulations that
23 meet the goals and requirements of this chapter. These criteria shall
24 reflect regional and local variations and the diversity that exists
25 among different counties and cities that plan under this chapter.

26 (5) The department shall provide mediation services to resolve
27 disputes between counties and cities regarding, among other things,
28 coordination of regional issues and designation of urban growth areas.

29 (6) The department shall provide planning grants to enhance citizen
30 participation under RCW 36.70A.140.

31 **Sec. 405.** RCW 36.70A.210 and 1998 c 171 s 4 are each amended to
32 read as follows:

33 (1) The legislature recognizes that counties are regional
34 governments within their boundaries, and cities are primary providers
35 of urban governmental services within urban growth areas. For the
36 purposes of this section, a "county-wide planning policy" is a written
37 policy statement or statements used solely for establishing a county-

1 wide framework from which county and city comprehensive plans are
2 developed and adopted pursuant to this chapter. This framework shall
3 ensure that city and county comprehensive plans are consistent as
4 required in RCW 36.70A.100. Nothing in this section shall be construed
5 to alter the land-use powers of cities.

6 (2) The legislative authority of a county that plans under RCW
7 36.70A.040 shall adopt a county-wide planning policy in cooperation
8 with the cities located in whole or in part within the county as
9 follows:

10 (a) No later than sixty calendar days from July 16, 1991, the
11 legislative authority of each county that as of June 1, 1991, was
12 required or chose to plan under RCW 36.70A.040 shall convene a meeting
13 with representatives of each city located within the county for the
14 purpose of establishing a collaborative process that will provide a
15 framework for the adoption of a county-wide planning policy. In other
16 counties that are required or choose to plan under RCW 36.70A.040, this
17 meeting shall be convened no later than sixty days after the date the
18 county adopts its resolution of intention or was certified by the
19 office of financial management.

20 (b) The process and framework for adoption of a county-wide
21 planning policy specified in (a) of this subsection shall determine the
22 manner in which the county and the cities agree to all procedures and
23 provisions including but not limited to desired planning policies,
24 deadlines, ratification of final agreements and demonstration thereof,
25 and financing, if any, of all activities associated therewith.

26 (c) If a county fails for any reason to convene a meeting with
27 representatives of cities as required in (a) of this subsection, the
28 governor may immediately impose any appropriate sanction or sanctions
29 on the county from those specified under RCW 36.70A.340.

30 (d) If there is no agreement by October 1, 1991, in a county that
31 was required or chose to plan under RCW 36.70A.040 as of June 1, 1991,
32 or if there is no agreement within one hundred twenty days of the date
33 the county adopted its resolution of intention or was certified by the
34 office of financial management in any other county that is required or
35 chooses to plan under RCW 36.70A.040, the governor shall first inquire
36 of the jurisdictions as to the reason or reasons for failure to reach
37 an agreement. If the governor deems it appropriate, the governor may
38 immediately request the assistance of the department of community,

1 trade, and economic development to mediate any disputes that preclude
2 agreement. If mediation is unsuccessful in resolving all disputes that
3 will lead to agreement, the governor may impose appropriate sanctions
4 from those specified under RCW 36.70A.340 on the county, city, or
5 cities for failure to reach an agreement as provided in this section.
6 The governor shall specify the reason or reasons for the imposition of
7 any sanction.

8 (e) No later than July 1, 1992, the legislative authority of each
9 county that was required or chose to plan under RCW 36.70A.040 as of
10 June 1, 1991, or no later than fourteen months after the date the
11 county adopted its resolution of intention or was certified by the
12 office of financial management the county legislative authority of any
13 other county that is required or chooses to plan under RCW 36.70A.040,
14 shall adopt a county-wide planning policy according to the process
15 provided under this section and that is consistent with the agreement
16 pursuant to (b) of this subsection, and after holding a public hearing
17 or hearings on the proposed county-wide planning policy.

18 (3) A county-wide planning policy shall at a minimum, address the
19 following:

20 (a) Policies to implement RCW 36.70A.110;

21 (b) Policies for promotion of contiguous and orderly development
22 and provision of urban services to such development;

23 (c) Policies for siting public capital facilities of a county-wide
24 or statewide nature, including transportation facilities of statewide
25 significance as defined in RCW 47.06.140;

26 (d) Policies for county-wide transportation facilities and
27 strategies;

28 (e) Policies that consider the need for affordable housing, such as
29 housing for all economic segments of the population and parameters for
30 its distribution;

31 (f) Policies for joint county and city planning within urban growth
32 areas;

33 (g) Policies for county-wide economic development and employment;
34 ((and))

35 (h) Policies for reducing greenhouse gas emissions that, at a
36 minimum, support and achieve: (i) State emission reduction
37 requirements adopted under RCW 70.235.020; (ii) per capita vehicle

1 miles traveled reductions in accordance with RCW 47.01.440; and (iii)
2 applicable federal emission reduction requirements;

3 (i) Policies for reducing dependence on foreign oil; and

4 (j) An analysis of the fiscal impact.

5 (4) Federal agencies and Indian tribes may participate in and
6 cooperate with the county-wide planning policy adoption process.
7 Adopted county-wide planning policies shall be adhered to by state
8 agencies.

9 (5) Failure to adopt a county-wide planning policy that meets the
10 requirements of this section may result in the imposition of a sanction
11 or sanctions on a county or city within the county, as specified in RCW
12 36.70A.340. In imposing a sanction or sanctions, the governor shall
13 specify the reasons for failure to adopt a county-wide planning policy
14 in order that any imposed sanction or sanctions are fairly and
15 equitably related to the failure to adopt a county-wide planning
16 policy.

17 (6) Cities and the governor may appeal an adopted county-wide
18 planning policy to the growth management hearings board within sixty
19 days of the adoption of the county-wide planning policy.

20 (7) Multicounty planning policies shall be adopted by two or more
21 counties, each with a population of four hundred fifty thousand or
22 more, with contiguous urban areas and may be adopted by other counties,
23 according to the process established under this section or other
24 processes agreed to among the counties and cities within the affected
25 counties throughout the multicounty region.

26 **Sec. 406.** RCW 36.70A.490 and 1995 c 347 s 115 are each amended to
27 read as follows:

28 The growth management planning and environmental review fund is
29 hereby established in the state treasury. Moneys may be placed in the
30 fund from the proceeds of bond sales, tax revenues, budget transfers,
31 federal appropriations, gifts, or any other lawful source. Moneys in
32 the fund may be spent only after appropriation. Moneys in the fund
33 shall be used to make grants and loans to local governments for the
34 purposes set forth in RCW 43.21C.240, 43.21C.031, or 36.70A.500.

35 **Sec. 407.** RCW 36.70A.500 and 1997 c 429 s 28 are each amended to
36 read as follows:

1 (1) The department (~~of community, trade, and economic~~
2 ~~development~~) shall provide management services for the fund created by
3 RCW 36.70A.490. The department shall establish procedures for fund
4 management. The department shall encourage participation in the
5 (~~grant~~) program by other public agencies. The department shall
6 develop (~~the~~) grant and loan criteria, monitor the (~~grant~~) program,
7 and select (~~grant~~) recipients in consultation with state agencies
8 participating in the (~~grant~~) program through the provision of
9 (~~grant~~) funds or technical assistance.

10 (2) A grant or loan may be awarded to a county or city that is
11 required to or has chosen to plan under RCW 36.70A.040 and that is
12 qualified pursuant to this section. The grant or loan shall be
13 provided to assist a county or city in paying for the cost of preparing
14 an environmental analysis under chapter 43.21C RCW, that is integrated
15 with a comprehensive plan, subarea plan, plan element, county-wide
16 planning policy, development regulation, monitoring program, or other
17 planning activity adopted under or implementing this chapter that:

18 (a) Improves the process for project permit review while
19 maintaining environmental quality; or

20 (b) Encourages use of plans and information developed for purposes
21 of complying with this chapter to satisfy requirements of other state
22 programs.

23 (3) In order to qualify for a grant or loan, a county or city
24 shall:

25 (a) Demonstrate that it will prepare an environmental analysis
26 pursuant to chapter 43.21C RCW and subsection (2) of this section that
27 is integrated with a comprehensive plan, subarea plan, plan element,
28 county-wide planning policy, development regulations, monitoring
29 program, or other planning activity adopted under or implementing this
30 chapter;

31 (b) Address environmental impacts and consequences, alternatives,
32 and mitigation measures in sufficient detail to allow the analysis to
33 be adopted in whole or in part by applicants for development permits
34 within the geographic area analyzed in the plan;

35 (c) Demonstrate that procedures for review of development permit
36 applications will be based on the integrated plans and environmental
37 analysis;

1 (d) Include mechanisms to monitor the consequences of growth as it
2 occurs in the plan area and to use the resulting data to update the
3 plan, policy, or implementing mechanisms and associated environmental
4 analysis;

5 (e) Demonstrate substantial progress towards compliance with the
6 requirements of this chapter. A county or city that is more than six
7 months out of compliance with a requirement of this chapter is deemed
8 not to be making substantial progress towards compliance; and

9 (f) Provide local funding, which may include financial
10 participation by the private sector.

11 (4) In awarding grants and loans, the department shall give
12 preference to proposals that include one or more of the following
13 elements:

14 (a) Furtherance of greenhouse gas emissions reduction requirements;

15 (b) Financial participation by the private sector, or a
16 public/private partnering approach;

17 ~~((b))~~ (c) Identification and monitoring of system capacities for
18 elements of the built environment, and to the extent appropriate, of
19 the natural environment;

20 ~~((e))~~ (d) Coordination with state, federal, and tribal
21 governments in project review;

22 ~~((d))~~ (e) Furtherance of important state objectives related to
23 economic development, protection of areas of statewide significance,
24 and siting of essential public facilities;

25 ~~((e))~~ (f) Programs to improve the efficiency and effectiveness of
26 the permitting process by greater reliance on integrated plans and
27 prospective environmental analysis;

28 ~~((f))~~ (g) Programs for effective citizen and neighborhood
29 involvement that contribute to greater likelihood that planning
30 decisions can be implemented with community support; and

31 ~~((g))~~ (h) Programs to identify environmental impacts and
32 establish mitigation measures that provide effective means to satisfy
33 concurrency requirements and establish project consistency with the
34 plans.

35 (5) If the local funding includes funding provided by other state
36 functional planning programs, including open space planning and
37 watershed or basin planning, the functional plan shall be integrated
38 into and be consistent with the comprehensive plan.

1 (6) State agencies shall work with grant and loan recipients to
2 facilitate state and local project review processes that will implement
3 the projects receiving (~~(grants)~~) financial assistance under this
4 section.

5 NEW SECTION. Sec. 408. A new section is added to chapter 36.70A
6 RCW to read as follows:

7 (1) Except as provided in subsections (6) and (7) of this section,
8 comprehensive plans and development regulations adopted under this
9 chapter must authorize transit-oriented development within one-half
10 mile of a major transit station. The allowed net density for these
11 transit-oriented development areas must be fifty dwelling units per
12 acre. The adopted plans and regulations also must:

13 (a) Include standards for streets, sidewalks, and buildings that
14 encourage walking and bicycling, and a process to ensure that these
15 standards are met;

16 (b) Prioritize for safe walking and bicycling connections to
17 proximate major transit stations and transit centers;

18 (c) Provide for a net gain in housing units that are affordable to
19 low and moderate-income households;

20 (d) Require one-for-one replacement of demolished or converted
21 housing units that are affordable to the income level of the displaced
22 residents. The replacement units are in addition to other affordable
23 units required by this section. This subsection (1)(d) applies if the
24 following are demolished or converted: (i) Rental housing units that
25 are affordable to households earning sixty percent or less of the
26 adjusted county median income; and (ii) ownership housing that is
27 affordable to households earning eighty percent of the adjusted county
28 median income;

29 (e) Require that all new housing or mixed-use developments provide
30 housing that is affordable to the income groups in (f) of this
31 subsection and receive density bonuses equal to the number of housing
32 units produced under this subsection (1)(e), or provide for master
33 planned zoning that identifies locations and incentives sufficient to
34 provide housing that is affordable to the income groups in (f) of this
35 subsection. The housing units required by this subsection must be
36 constructed within one-half mile of a major transit station and must be
37 comparable to the associated market rate development. Affordable units

1 required by this subsection (1)(e) must be affordable for a minimum of
2 fifty years, but counties and cities should consider employing tools to
3 permanently maintain affordability;

4 (f) Require that: (i) Twenty-five percent of rental units be
5 affordable to people earning less than eighty percent of the adjusted
6 county median income, with ten percent of the rental units being
7 affordable to people earning less than sixty percent of the adjusted
8 county median income; and (ii) Twenty-five percent of ownership units
9 be affordable to people earning less than one hundred twenty percent of
10 the adjusted county median income, with ten percent of the ownership
11 units being affordable to people earning less than one hundred percent
12 of the adjusted county median income. Affordable units required by
13 this subsection (1)(f) must be affordable for a minimum of fifty years,
14 but counties and cities should consider employing tools to permanently
15 maintain affordability;

16 (g) Authorize the waiving of minimum parking space requirements for
17 any land use; and

18 (h) Require developers to provide the following to renters earning
19 less than eighty percent of the adjusted median income who will be
20 displaced by development: (i) No fewer than ninety days notice of an
21 order to vacate the affected premises; and (ii) relocation assistance
22 in an amount determined by the applicable county or city. Relocation
23 assistance provided under this subsection (1)(h)(ii) may not exceed an
24 amount equaling three months rent for an affected tenant.

25 (2) A major transit station includes any of the following within an
26 urban growth area:

27 (a) Stations on a high capacity transportation service approved by
28 the voters and funded or expanded under chapter 81.104 RCW. For
29 purposes of this subsection (2), streetcars are not considered a high
30 capacity transportation service;

31 (b) Commuter rail stations;

32 (c) Stops on rail or fixed guideway systems, including transitways,
33 but excluding stops in a streetcar system; and

34 (d) Stations on bus rapid transit routes that operate on designated
35 rights-of-way for sixty-five percent or more of a route.

36 (3) For purposes of this section, "transit-oriented development"
37 has the same meaning as defined in RCW 36.70A.108.

1 (4) Density determinations made in accordance with this section
2 must be calculated by dividing the number of allowed dwelling units by
3 the net acreage of the applicable area.

4 (5) Counties and cities must report the number of affordable
5 housing units created in accordance with subsection (1) of this section
6 to the department and the appropriate committees of the legislature by
7 January 1, 2015. Subsequent reports to the department and the
8 legislature must be completed according to the schedule established in
9 RCW 36.70A.130(4).

10 (6) Nothing in this section modifies or otherwise affects planning
11 or regulatory requirements for airports.

12 (7) This section does not apply to lands: (a) Designated for
13 industrial or manufacturing uses in comprehensive plans or zoning
14 regulations; or (b) upon which stadiums that seat twenty-five thousand
15 or more persons are located.

16 **Sec. 409.** RCW 43.21C.240 and 2003 c 298 s 2 are each amended to
17 read as follows:

18 (1) If the requirements of subsection (2) of this section are
19 satisfied, a county, city, or town reviewing a project action shall
20 determine that the requirements for environmental analysis, protection,
21 and mitigation measures in the county, city, or town's development
22 regulations and comprehensive plans adopted under chapter 36.70A RCW,
23 and in other applicable local, state, or federal laws and rules provide
24 adequate analysis of and mitigation for the specific adverse
25 environmental impacts of the project action to which the requirements
26 apply. Rules adopted by the department according to RCW 43.21C.110
27 regarding project specific impacts that may not have been adequately
28 addressed apply to any determination made under this section. In these
29 situations, in which all adverse environmental impacts will be
30 mitigated below the level of significance as a result of mitigation
31 measures included by changing, clarifying, or conditioning of the
32 proposed action and/or regulatory requirements of development
33 regulations adopted under chapter 36.70A RCW or other local, state, or
34 federal laws, a determination of nonsignificance or a mitigated
35 determination of nonsignificance is the proper threshold determination.

36 (2) A county, city, or town shall make the determination provided
37 for in subsection (1) of this section if:

1 (a) In the course of project review, including any required
2 environmental analysis, the local government considers the specific
3 probable adverse environmental impacts of the proposed action and
4 determines that these specific impacts are adequately addressed by the
5 development regulations or other applicable requirements of the
6 comprehensive plan, subarea plan element of the comprehensive plan, or
7 other local, state, or federal rules or laws; and

8 (b) The local government bases or conditions its approval on
9 compliance with these requirements or mitigation measures.

10 (3) If a county, city, or town's comprehensive plans, subarea
11 plans, and development regulations adequately address a project's
12 probable specific adverse environmental impacts, as determined under
13 subsections (1) and (2) of this section, the county, city, or town
14 shall not impose additional mitigation under this chapter during
15 project review. Project review shall be integrated with environmental
16 analysis under this chapter.

17 (4) A comprehensive plan, subarea plan, or development regulation
18 shall be considered to adequately address an impact if the county,
19 city, or town, through the planning and environmental review process
20 under chapter 36.70A RCW and this chapter, has identified the specific
21 adverse environmental impacts and:

22 (a) The impacts have been avoided or otherwise mitigated; or

23 (b) The legislative body of the county, city, or town has
24 designated as acceptable certain levels of service, land use
25 designations, development standards, or other land use planning
26 required or allowed by chapter 36.70A RCW.

27 (5) In deciding whether a specific adverse environmental impact has
28 been addressed by an existing rule or law of another agency with
29 jurisdiction with environmental expertise with regard to a specific
30 environmental impact, the county, city, or town shall consult orally or
31 in writing with that agency and may expressly defer to that agency. In
32 making this deferral, the county, city, or town shall base or condition
33 its project approval on compliance with these other existing rules or
34 laws.

35 (6) Nothing in this section limits the authority of an agency in
36 its review or mitigation of a project to adopt or otherwise rely on
37 environmental analyses and requirements under other laws, as provided
38 by this chapter.

1 (7) A project action that is consistent with the applicable
2 comprehensive plan and development regulations may not be challenged
3 for noncompliance under this chapter with greenhouse gas emissions
4 requirements if:

5 (a) The county, city, or town in which the project action is
6 located has prepared an environmental impact statement under RCW
7 43.21C.030 for the area covered by the comprehensive plan or subarea
8 plan that includes a greenhouse gas emissions analysis;

9 (b) The county, city, or town in which the project action is
10 located has adopted a comprehensive plan or subarea plan and
11 development regulations that comply with subsections (3) and (4) of
12 this section;

13 (c) The comprehensive plan and development regulations will reduce
14 greenhouse gas emissions in accordance with RCW 70.235.020, and per
15 capita vehicle miles traveled in accordance with RCW 47.01.440;

16 (d) The project action complies with the definition of compact
17 development in RCW 36.70A.108; and

18 (e) The project action is located in an urban growth area and a
19 center designated by the county, city, or town comprehensive plan.

20 (8) This section shall apply only to a county, city, or town
21 planning under RCW 36.70A.040.

22 NEW SECTION. Sec. 410. A new section is added to chapter 43.21C
23 RCW to read as follows:

24 Cities and towns authorizing compact development in designated
25 centers or participating in a regional transfer of development rights
26 program under chapter 43.362 RCW may impose environmental fees on
27 development activity as part of the financing for environmental review
28 under this chapter. Environmental fees imposed under this section:

29 (1) May only be for: (a) A subarea plan for which the impacts of
30 compact development have been addressed by the applicable city or town;
31 or (b) a regional transfer of development rights program receiving area
32 for which the impacts of development within the receiving area have
33 been addressed by the applicable city or town;

34 (2) May only be for environmental review costs that have been
35 identified as reasonably related to the new development;

36 (3) May not exceed a proportionate share of the environmental

1 review costs financed under RCW 36.70A.500, if any, or the costs of
2 environmental review and holding costs that would have been borne by
3 the development if no environmental review had occurred; and

4 (4) Must be used to repay a loan authorized under RCW 36.70A.500,
5 if applicable.

6 **Sec. 411.** RCW 81.104.015 and 1999 c 202 s 9 are each amended to
7 read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "High capacity transportation system" means a system of public
11 transportation services within an urbanized region operating
12 principally on exclusive rights-of-way, and the supporting services and
13 facilities necessary to implement such a system, including regional
14 transit systems and interim express services and high occupancy vehicle
15 lanes, which taken as a whole, provides a substantially higher level of
16 passenger capacity, speed, and service frequency than traditional
17 public transportation systems operating principally in general purpose
18 roadways.

19 (2) "Rail fixed guideway system" means a light, heavy, or rapid
20 rail system, monorail, inclined plane, funicular, trolley, or other
21 fixed rail guideway component of a high capacity transportation system
22 that is not regulated by the Federal Railroad Administration, or its
23 successor. "Rail fixed guideway system" does not mean elevators,
24 moving sidewalks or stairs, and vehicles suspended from aerial cables,
25 unless they are an integral component of a station served by a rail
26 fixed guideway system.

27 (3) "Regional transit system" means a high capacity transportation
28 system under the jurisdiction of one or more transit agencies except
29 where a regional transit authority created under chapter 81.112 RCW
30 exists, in which case "regional transit system" means the high capacity
31 transportation system under the jurisdiction of a regional transit
32 authority.

33 (4) "Transit agency" means city-owned transit systems, county
34 transportation authorities, metropolitan municipal corporations, and
35 public transportation benefit areas.

1 NEW SECTION. **Sec. 412.** A new section is added to chapter 81.112
2 RCW to read as follows:

3 (1) An authority that owns surplus land located within one-half
4 mile of a major transit station must provide qualifying public or
5 nonprofit entities an opportunity of first offer to develop the land.
6 For purposes of this section, a "qualifying public or nonprofit entity"
7 is an entity that: (a) Is eligible for assistance from the housing
8 trust fund established in chapter 43.185 RCW; (b) will seek assistance
9 from the housing trust fund for development of the land; and (c) meets
10 other financial and development requirements of the authority.

11 (2) Nothing in this section is intended to conflict with federal
12 requirements or to require an authority to forego federal funding or
13 incentives to develop property around transit stations.

14 **Sec. 413.** RCW 82.14.0455 and 2006 c 311 s 16 are each amended to
15 read as follows:

16 (1) Subject to the provisions in RCW 36.73.065, a transportation
17 benefit district under chapter 36.73 RCW may fix and impose a sales and
18 use tax in accordance with the terms of this chapter. The tax
19 authorized in this section is in addition to any other taxes authorized
20 by law and shall be collected from those persons who are taxable by the
21 state under chapters 82.08 and 82.12 RCW upon the occurrence of any
22 taxable event within the boundaries of the district. The rate of tax
23 shall not exceed two-tenths of one percent of the selling price in the
24 case of a sales tax, or value of the article used, in the case of a use
25 tax. (~~The tax may not be imposed for a period exceeding ten years.~~
26 ~~This tax may be extended for a period not exceeding ten years with an~~
27 ~~affirmative vote of the voters voting at the election.))~~

28 (2) Money received from the tax imposed under this section must be
29 spent in accordance with the requirements of chapter 36.73 RCW.

30 NEW SECTION. **Sec. 414.** Sections 401 through 413 of this act take
31 effect December 1, 2011.

32 NEW SECTION. **Sec. 415.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other
35 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 416.** Part headings used in this act are not any
2 part of the law.

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