





1 as follows, after first depositing the tax as provided in (c) of this  
2 subsection (1):

3 (i) Sixty percent to the model toxics control operating account  
4 created under section 202 of this act;

5 (ii) Twenty-five percent to the model toxics control capital  
6 account created under section 203 of this act; and

7 (iii) Fifteen percent to the model toxics control stormwater  
8 account created under section 204 of this act.

9 (c) Until the beginning of the ensuing biennium after the  
10 enactment of an additive transportation funding act, fifty million  
11 dollars per biennium to the motor vehicle fund to be used exclusively  
12 for transportation stormwater activities and projects. For purposes  
13 of this subsection, "additive transportation funding act" means an  
14 act in which the combined total of new revenues deposited into the  
15 motor vehicle fund and the multimodal transportation account exceed  
16 two billion dollars per biennium attributable solely to an increase  
17 in revenue from the enactment of the act.

18 (d) The department must compile a list of petroleum products that  
19 are not easily measured on a per barrel basis. Petroleum products  
20 identified on the list are subject to the rate under (a) of this  
21 subsection in lieu of the volumetric rate under (b) of this  
22 subsection. The list will be made in a form and manner prescribed by  
23 the department and must be made available on the department's  
24 internet web site. In compiling the list, the department may accept  
25 technical assistance from persons that sell, market, or distribute  
26 petroleum products and consider any other resource the department  
27 finds useful in compiling the list.

28 ~~(2) ((Moneys collected under this chapter shall be deposited in~~  
29 ~~the toxics control accounts under RCW 70.105D.070.~~

30 ~~(3))~~ Chapter 82.32 RCW applies to the tax imposed in this  
31 chapter. The tax due dates, reporting periods, and return  
32 requirements applicable to chapter 82.04 RCW apply equally to the tax  
33 imposed in this chapter.

34 (3) Beginning July 1, 2020, and every July 1st thereafter, the  
35 rate specified in subsection (1)(b) of this section must be adjusted  
36 to reflect the percentage change in the implicit price deflator for  
37 nonresidential structures as published by the United States  
38 department of commerce, bureau of economic analysis for the most  
39 recent twelve-month period ending December 31st of the prior year.

1        NEW SECTION.        **Sec. 202.**        A new section is added to chapter  
2 70.105D RCW to read as follows:

3        (1) The model toxics control operating account is hereby created  
4 in the state treasury.

5        (2) Moneys in the model toxics control operating account must be  
6 used only to carry out the purposes of this chapter, including but  
7 not limited to the following:

8        (a) The state's responsibility for hazardous waste planning,  
9 management, regulation, enforcement, technical assistance, and public  
10 education required under chapter 70.105 RCW;

11        (b) The state's responsibility for solid waste planning,  
12 management, regulation, enforcement, technical assistance, and public  
13 education required under chapter 70.95 RCW;

14        (c) The hazardous waste clean-up program required under this  
15 chapter;

16        (d) State matching funds required under federal cleanup law;

17        (e) Financial assistance for local programs and plans, including  
18 local solid waste financial assistance, in accordance with chapters  
19 70.76, 70.95, 70.95C, 70.95I, and 70.105 RCW;

20        (f) State government programs for the safe reduction, recycling,  
21 or disposal of paint and hazardous wastes from households, small  
22 businesses, and agriculture;

23        (g) Oil and hazardous materials spill prevention, preparedness,  
24 training, and response activities;

25        (h) Water and environmental health protection and monitoring  
26 programs;

27        (i) Programs authorized under chapter 70.146 RCW;

28        (j) A public participation program;

29        (k) Development and demonstration of alternative management  
30 technologies designed to carry out the hazardous waste management  
31 priorities of RCW 70.105.150;

32        (l) State agriculture and health programs for the safe use,  
33 reduction, recycling, or disposal of pesticides;

34        (m) Funding requirements to maintain receipt of federal funds  
35 under the federal solid waste disposal act (42 U.S.C. Sec. 6901 et  
36 seq.);

37        (n) Air quality programs and actions for reducing public exposure  
38 to toxic air pollution; and

39        (o) Petroleum-based plastic or expanded polystyrene foam debris  
40 clean-up activities in fresh or marine waters.

1 (3) Except for unanticipated receipts under RCW 43.79.260 through  
2 43.79.282, moneys in model toxics control operating account may be  
3 spent only after appropriation by statute.

4 (4) One percent of the moneys collected under RCW 82.21.030 must  
5 be allocated only for public participation grants to persons who may  
6 be adversely affected by a release or threatened release of a  
7 hazardous substance and to not-for-profit public interest  
8 organizations. The primary purpose of these grants is to facilitate  
9 the participation by persons and organizations in the investigation  
10 and remedying of releases or threatened releases of hazardous  
11 substances and to implement the state's solid and hazardous waste  
12 management priorities. No grant may exceed sixty thousand dollars.  
13 Grants may be renewed annually. Moneys appropriated for public  
14 participation that are not expended at the close of any biennium  
15 revert to the model toxics control operating account.

16 (5) The department must adopt rules for grant or loan issuance  
17 and performance.

18 NEW SECTION. **Sec. 203.** A new section is added to chapter  
19 70.105D RCW to read as follows:

20 (1) The model toxics control capital account is hereby created in  
21 the state treasury.

22 (2) In addition to the funds deposited into the model toxics  
23 control capital account required under RCW 82.21.030, the following  
24 moneys must be deposited into the model toxics control capital  
25 account:

26 (a) The costs of remedial actions recovered under this chapter,  
27 except as provided under RCW 70.105D.---(7) (section 2(7),  
28 chapter . . . (SHB 1290), Laws of 2019);

29 (b) Penalties collected or recovered under this chapter; and

30 (c) Any other money appropriated or transferred to the account by  
31 the legislature.

32 (3) Moneys in the model toxics control capital account must be  
33 used for the improvement, rehabilitation, remediation, and cleanup of  
34 toxic sites and other capital-related expenditures for programs and  
35 activities identified in subsection (4) of this section.

36 (4) Moneys in the model toxics control capital account may be  
37 used only for capital projects and activities that carry out the  
38 purposes of this chapter and for financial assistance to local  
39 governments or other persons to carry out those projects or

1 activities, including but not limited to the following, generally in  
2 descending order of priority:

3 (a) Remedial actions, including the following generally in  
4 descending order of priority:

5 (i) Extended grant agreements entered into under subsection  
6 (5)(a) of this section;

7 (ii) Grants or loans to local governments for remedial actions,  
8 including planning for adaptive reuse of properties as provided for  
9 under subsection (5)(d) of this section. The department must  
10 prioritize funding of remedial actions at:

11 (A) Facilities on the department's hazardous sites list with a  
12 high hazard ranking for which there is an approved remedial action  
13 work plan or an equivalent document under federal cleanup law;

14 (B) Brownfield properties within a redevelopment opportunity zone  
15 if the local government is a prospective purchaser of the property  
16 and there is a department-approved remedial action work plan or  
17 equivalent document under the federal cleanup law;

18 (iii) Department-conducted remedial actions;

19 (iv) Grants to persons intending to remediate contaminated real  
20 property for development of affordable housing;

21 (v) Public funding to assist potentially liable persons to pay  
22 for the costs of remedial action in compliance with clean-up  
23 standards under RCW 70.105D.030(2)(e) if:

24 (A) The amount and terms of the funding are established under a  
25 settlement agreement under RCW 70.105D.040(4); and

26 (B) The director has found that the funding will achieve both a  
27 substantially more expeditious or enhanced cleanup than would  
28 otherwise occur, and the prevention or mitigation of unfair economic  
29 hardship;

30 (vi) Public funding to assist prospective purchasers to pay for  
31 the costs of remedial action in compliance with clean-up standards  
32 under RCW 70.105D.030(2)(e) if:

33 (A) The facility is located within a redevelopment opportunity  
34 zone designated under RCW 70.105D.150;

35 (B) The amount and terms of the funding are established under a  
36 settlement agreement under RCW 70.105D.040(5); and

37 (C) The director has found the funding will achieve a  
38 substantially more expeditious or enhanced cleanup than would  
39 otherwise occur, provide a public benefit in addition to cleanup

1 commensurate with the scope of the public funding; and meet any  
2 additional criteria established in rule by the department; and

3 (vii) To expedite multiparty clean-up efforts, purchase of  
4 remedial action cost-cap insurance;

5 (b) Grants, or loans, or contracts to local governments for solid  
6 waste plans and programs under chapters 70.95, 70.95C, 70.95I,  
7 70.95G, 70.95M, and 70.105 RCW. Funds must be allocated consistent  
8 with priorities and matching requirements in the respective chapters;

9 (c) Toxic air pollutant reduction programs, including grants or  
10 loans to local governments for woodstoves and diesel;

11 (d) Grants, loans, or contracts to local governments for  
12 hazardous waste plans and programs under chapters 70.76 and 70.105  
13 RCW, including chemical action plan implementation. Funds must be  
14 allocated consistent with priorities and matching requirements in the  
15 respective chapters; and

16 (e) Petroleum-based plastic or expanded polystyrene foam debris  
17 clean-up activities in fresh or marine waters.

18 (5) The department may establish and administer a program to  
19 provide grants and loans to local governments for remedial actions,  
20 including planning for adaptive reuse of contaminated properties. The  
21 department may not award a grant or loan for a remedial action unless  
22 the local government has obtained all of the required permits for the  
23 action within one year of the effective date of the enacted budget.  
24 To expedite cleanups throughout the state, the department may use the  
25 following strategies when providing grants to local governments under  
26 this subsection:

27 (a) Enter into an extended grant agreement with a local  
28 government conducting remedial actions at a facility where those  
29 actions extend over multiple biennia and the total eligible cost of  
30 those actions exceeds twenty million dollars. The agreement is  
31 subject to the following limitations:

32 (i) The initial duration of such an agreement may not exceed ten  
33 years. The department may extend the duration of such an agreement  
34 upon finding substantial progress has been made on remedial actions  
35 at the facility;

36 (ii) Extended grant agreements may not exceed fifty percent of  
37 the total eligible remedial action costs at the facility; and

38 (iii) The department may not allocate future funding to an  
39 extended grant agreement unless the local government has demonstrated  
40 to the department that funds awarded under the agreement during the

1 previous biennium have been substantially expended or contracts have  
2 been entered into to substantially expend the funds;

3 (b) Enter into a grant agreement with a local government  
4 conducting a remedial action that provides for periodic reimbursement  
5 of remedial action costs as they are incurred as established in the  
6 agreement;

7 (c) Enter into a grant agreement with a local government prior to  
8 it acquiring a property or obtaining necessary access to conduct  
9 remedial actions, provided the agreement is conditioned upon the  
10 local government acquiring the property or obtaining the access in  
11 accordance with a schedule specified in the agreement;

12 (d) Provide integrated planning grants to local governments to  
13 fund studies necessary to facilitate remedial actions at brownfield  
14 properties and adaptive reuse of properties following remediation.  
15 Eligible activities include, but are not limited to: Environmental  
16 site assessments; remedial investigations; health assessments;  
17 feasibility studies; site planning; community involvement; land use  
18 and regulatory analyses; building and infrastructure assessments;  
19 economic and fiscal analyses; and any environmental analyses under  
20 chapter 43.21C RCW;

21 (e) Provide grants to local governments for remedial actions  
22 related to area-wide groundwater contamination. To receive the  
23 funding, the local government does not need to be a potentially  
24 liable person or be required to seek reimbursement of grant funds  
25 from a potentially liable person;

26 (f) The director may alter grant matching requirements to create  
27 incentives for local governments to expedite cleanups when one of the  
28 following conditions exists:

29 (i) Funding would prevent or mitigate unfair economic hardship  
30 imposed by the clean-up liability;

31 (ii) Funding would create new substantial economic development,  
32 public recreational opportunities, or habitat restoration  
33 opportunities that would not otherwise occur; or

34 (iii) Funding would create an opportunity for acquisition and  
35 redevelopment of brownfield property under RCW 70.105D.040(5) that  
36 would not otherwise occur; and

37 (g) When pending grant applications under subsection (4)(d) and  
38 (e) of this section exceed the amount of funds available, designated  
39 redevelopment opportunity zones must receive priority for  
40 distribution of available funds.



1 (6) Except for unanticipated receipts under RCW 43.79.260 through  
2 43.79.282, moneys in model toxics control capital account may be  
3 spent only after appropriation by statute.

4 NEW SECTION. **Sec. 204.** A new section is added to chapter  
5 70.105D RCW to read as follows:

6 (1) The model toxics control stormwater account is hereby created  
7 in the state treasury.

8 (2) Moneys in the model toxics control stormwater account must be  
9 used for operating and capital programs, activities, and projects  
10 identified in subsection (3) of this section directly relating to  
11 stormwater pollution control.

12 (3) Moneys in the model toxics control stormwater account must be  
13 used only to carry out the operating and capital programs,  
14 activities, and projects directly relating to stormwater activities  
15 under sections 202 and 203 of this act, including but not limited to  
16 the following:

17 (a) Stormwater pollution control projects and activities that  
18 protect or preserve existing remedial actions or prevent hazardous  
19 clean-up sites;

20 (b) Stormwater financial assistance to local governments that  
21 assist in compliance to the purposes of this chapter.

22 (4) Except for unanticipated receipts under RCW 43.79.260 through  
23 43.79.282, moneys in the model toxics control stormwater account may  
24 be spent only after appropriation by statute.

25 **Part III**

26 NEW SECTION. **Sec. 301.** (1) The office of financial management  
27 and the legislative evaluation and accountability program committee  
28 must identify changes to existing budgeting and reporting systems,  
29 including enterprise, internal, and public-facing systems, that will  
30 improve access to and understanding of relevant model toxics control  
31 act account-related budget information available at the time  
32 governor-recommended and legislative budgets are released. In  
33 carrying out this work, the office of financial management and the  
34 legislative evaluation and accountability program committee must  
35 consult with legislative fiscal staff.

36 (2) The office of financial management and the legislative  
37 evaluation and accountability program committee must identify

1 proposed improvements and, as appropriate, necessary funding and  
2 legislative changes to the governor and legislature by September 1,  
3 2020. To the extent possible, the office of financial management and  
4 the legislative evaluation and accountability program committee may  
5 implement low and no-cost changes during the 2019-2021 biennium.

6 (3) This section expires June 30, 2021.

7 **Part IV**

8 **Sec. 401.** RCW 70.105D.030 and 2013 2nd sp.s. c 1 s 6 are each  
9 amended to read as follows:

10 (1) The department may exercise the following powers in addition  
11 to any other powers granted by law:

12 (a) Investigate, provide for investigating, or require  
13 potentially liable persons to investigate any releases or threatened  
14 releases of hazardous substances, including but not limited to  
15 inspecting, sampling, or testing to determine the nature or extent of  
16 any release or threatened release. If there is a reasonable basis to  
17 believe that a release or threatened release of a hazardous substance  
18 may exist, the department's authorized employees, agents, or  
19 contractors may enter upon any property and conduct investigations.  
20 The department shall give reasonable notice before entering property  
21 unless an emergency prevents such notice. The department may by  
22 subpoena require the attendance or testimony of witnesses and the  
23 production of documents or other information that the department  
24 deems necessary;

25 (b) Conduct, provide for conducting, or require potentially  
26 liable persons to conduct remedial actions (including investigations  
27 under (a) of this subsection) to remedy releases or threatened  
28 releases of hazardous substances. In carrying out such powers, the  
29 department's authorized employees, agents, or contractors may enter  
30 upon property. The department (~~shall~~) must give reasonable notice  
31 before entering property unless an emergency prevents such notice. In  
32 conducting, providing for, or requiring remedial action, the  
33 department (~~shall~~) must give preference to permanent solutions to  
34 the maximum extent practicable and (~~shall~~) must provide for or  
35 require adequate monitoring to ensure the effectiveness of the  
36 remedial action;

1 (c) Indemnify contractors retained by the department for carrying  
2 out investigations and remedial actions, but not for any contractor's  
3 reckless or willful misconduct;

4 (d) Carry out all state programs authorized under the federal  
5 cleanup law and the federal resource, conservation, and recovery act,  
6 42 U.S.C. Sec. 6901 et seq., as amended;

7 (e) Classify substances as hazardous substances for purposes of  
8 RCW 70.105D.020 and classify substances and products as hazardous  
9 substances for purposes of RCW 82.21.020(1);

10 (f) Issue orders or enter into consent decrees or agreed orders  
11 that include, or issue written opinions under (i) of this subsection  
12 that may be conditioned upon, environmental covenants where necessary  
13 to protect human health and the environment from a release or  
14 threatened release of a hazardous substance from a facility. Prior to  
15 establishing an environmental covenant under this subsection, the  
16 department (~~shall~~) must consult with and seek comment from a city  
17 or county department with land use planning authority for real  
18 property subject to the environmental covenant;

19 (g) Enforce the application of permanent and effective  
20 institutional controls that are necessary for a remedial action to be  
21 protective of human health and the environment and the notification  
22 requirements established in RCW 70.105D.110, and impose penalties for  
23 violations of that section consistent with RCW 70.105D.050;

24 (h) Require holders to conduct remedial actions necessary to  
25 abate an imminent or substantial endangerment pursuant to RCW  
26 70.105D.020(22)(b)(ii)(C);

27 (i) Provide informal advice and assistance to persons regarding  
28 the administrative and technical requirements of this chapter. This  
29 may include site-specific advice to persons who are conducting or  
30 otherwise interested in independent remedial actions. Any such advice  
31 or assistance (~~shall be~~) is advisory only, and (~~shall~~) is not  
32 (~~be~~) binding on the department. As a part of providing this advice  
33 and assistance for independent remedial actions, the department may  
34 prepare written opinions regarding whether the independent remedial  
35 actions or proposals for those actions meet the substantive  
36 requirements of this chapter or whether the department believes  
37 further remedial action is necessary at the facility. Nothing in this  
38 chapter may be construed to preclude the department from issuing a  
39 written opinion on whether further remedial action is necessary at  
40 any portion of the real property located within a facility, even if

1 further remedial action is still necessary elsewhere at the same  
2 facility. Such a written opinion on a portion of a facility must also  
3 provide an opinion on the status of the facility as a whole. The  
4 department may collect, from persons requesting advice and  
5 assistance, the costs incurred by the department in providing such  
6 advice and assistance; however, the department (~~shall~~) must, where  
7 appropriate, waive collection of costs in order to provide an  
8 appropriate level of technical assistance in support of public  
9 participation. The state, the department, and officers and employees  
10 of the state are immune from all liability, and no cause of action of  
11 any nature may arise from any act or omission in providing, or  
12 failing to provide, informal advice and assistance. The department  
13 must track the number of requests for reviews of planned or completed  
14 independent remedial actions and establish performance measures to  
15 track how quickly the department is able to respond to those  
16 requests. By November 1, 2015, the department must submit to the  
17 governor and the appropriate legislative fiscal and policy committees  
18 a report on achieving the performance measures and provide  
19 recommendations for improving performance, including staffing needs;

20 (j) In fulfilling the objectives of this chapter, the department  
21 (~~shall~~) must allocate staffing and financial assistance in a manner  
22 that considers both the reduction of human and environmental risks  
23 and the land reuse potential and planning for the facilities to be  
24 cleaned up. This does not preclude the department from allocating  
25 resources to a facility based solely on human or environmental risks;

26 (k) Establish model remedies for common categories of facilities,  
27 types of hazardous substances, types of media, or geographic areas to  
28 streamline and accelerate the selection of remedies for routine types  
29 of cleanups at facilities;

30 (i) When establishing a model remedy, the department (~~shall~~)  
31 must:

32 (A) Identify the requirements for characterizing a facility to  
33 select a model remedy, the applicability of the model remedy for use  
34 at a facility, and monitoring requirements;

35 (B) Describe how the model remedy meets clean-up standards and  
36 the requirements for selecting a remedy established by the department  
37 under this chapter; and

38 (C) Provide public notice and an opportunity to comment on the  
39 proposed model remedy and the conditions under which it may be used  
40 at a facility;

1 (ii) When developing model remedies, the department (~~shall~~)  
2 must solicit and consider proposals from qualified persons. The  
3 proposals must, in addition to describing the model remedy, provide  
4 the information required under (k) (i) (A) and (B) of this subsection;

5 (iii) If a facility meets the requirements for use of a model  
6 remedy, an analysis of the feasibility of alternative remedies is not  
7 required under this chapter. For department-conducted and department-  
8 supervised remedial actions, the department must provide public  
9 notice and consider public comments on the proposed use of a model  
10 remedy at a facility. The department may waive collection of its  
11 costs for providing a written opinion under (i) of this subsection on  
12 a cleanup that qualifies for and appropriately uses a model remedy;  
13 and

14 (1) Take any other actions necessary to carry out the provisions  
15 of this chapter, including the power to adopt rules under chapter  
16 34.05 RCW.

17 (2) The department (~~shall~~) must immediately implement all  
18 provisions of this chapter to the maximum extent practicable,  
19 including investigative and remedial actions where appropriate. The  
20 department (~~shall~~) must adopt, and thereafter enforce, rules under  
21 chapter 34.05 RCW to:

22 (a) Provide for public participation, including at least (i)  
23 public notice of the development of investigative plans or remedial  
24 plans for releases or threatened releases and (ii) concurrent public  
25 notice of all compliance orders, agreed orders, enforcement orders,  
26 or notices of violation;

27 (b) Establish a hazard ranking system for hazardous waste sites;

28 (c) Provide for requiring the reporting by an owner or operator  
29 of releases of hazardous substances to the environment that may be a  
30 threat to human health or the environment within ninety days of  
31 discovery, including such exemptions from reporting as the department  
32 deems appropriate, however this requirement (~~shall~~) may not modify  
33 any existing requirements provided for under other laws;

34 (d) Establish reasonable deadlines not to exceed ninety days for  
35 initiating an investigation of a hazardous waste site after the  
36 department receives notice or otherwise receives information that the  
37 site may pose a threat to human health or the environment and other  
38 reasonable deadlines for remedying releases or threatened releases at  
39 the site;

1 (e) Publish and periodically update minimum clean-up standards  
2 for remedial actions at least as stringent as the clean-up standards  
3 under section 121 of the federal cleanup law, 42 U.S.C. Sec. 9621,  
4 and at least as stringent as all applicable state and federal laws,  
5 including health-based standards under state and federal law; and

6 (f) Apply industrial clean-up standards at industrial properties.  
7 Rules adopted under this subsection (~~shall~~) must ensure that  
8 industrial properties cleaned up to industrial standards cannot be  
9 converted to nonindustrial uses without approval from the department.  
10 The department may require that a property cleaned up to industrial  
11 standards is cleaned up to a more stringent applicable standard as a  
12 condition of conversion to a nonindustrial use. Industrial clean-up  
13 standards may not be applied to industrial properties where hazardous  
14 substances remaining at the property after remedial action pose a  
15 threat to human health or the environment in adjacent nonindustrial  
16 areas.

17 (3) To achieve and protect the state's long-term ecological  
18 health, the department (~~shall~~) must plan to clean up hazardous  
19 waste sites and prevent the creation of future hazards due to  
20 improper disposal of toxic wastes at a pace that matches the  
21 estimated cash resources in the (~~state and local toxics control~~  
22 ~~accounts and the environmental legacy stewardship account created in~~  
23 ~~RCW 70.105D.170~~) model toxics control capital account. Estimated  
24 cash resources must consider the annual cash flow requirements of  
25 major projects that receive appropriations expected to cross multiple  
26 biennia. (~~To effectively monitor toxic accounts expenditures, the~~  
27 ~~department shall develop a comprehensive ten-year financing report~~  
28 ~~that identifies long-term remedial action project costs, tracks~~  
29 ~~expenses, and projects future needs.~~

30 ~~(4) By November 1, 2016, the department must submit to the~~  
31 ~~governor and the appropriate legislative committees a report on the~~  
32 ~~status of developing model remedies and their use under this chapter.~~  
33 ~~The report must include: The number and types of model remedies~~  
34 ~~identified by the department under subsection (1)(k) of this section;~~  
35 ~~the number and types of model remedy proposals prepared by qualified~~  
36 ~~private sector engineers, consultants, or contractors that were~~  
37 ~~accepted or rejected under subsection (1)(k) of this section and the~~  
38 ~~reasons for rejection; and the success of model remedies in~~  
39 ~~accelerating the cleanup as measured by the number of jobs created by~~  
40 ~~the cleanup, where this information is available to the department,~~

1 ~~acres of land restored, and the number and types of hazardous waste~~  
2 ~~sites successfully remediated using model remedies.~~

3 ~~(5))~~ (4) Before September 20th of each even-numbered year, the  
4 department ~~((shall))~~ must:

5 (a) Develop a comprehensive ten-year financing report in  
6 coordination with all local governments with clean-up  
7 responsibilities that identifies the projected biennial hazardous  
8 waste site remedial action needs that are eligible for funding from  
9 the ~~((state and local toxics control account and the environmental~~  
10 ~~legacy stewardship account))~~ model toxics control capital account;

11 (b) Work with local governments to develop working capital  
12 reserves to be incorporated in the ten-year financing report;

13 (c) Identify the projected remedial action needs for orphaned,  
14 abandoned, and other clean-up sites that are eligible for funding  
15 from the ~~((state toxics control account))~~ model toxics control  
16 capital account;

17 (d) Project the remedial action need, cost, revenue, and any  
18 recommended working capital reserve estimate to the next biennium's  
19 long-term remedial action needs from ~~((both the local and state~~  
20 ~~toxics control account and the environmental legacy stewardship~~  
21 ~~account))~~ model toxics control capital account, and submit this  
22 information to the appropriate standing fiscal and environmental  
23 committees of the senate and house of representatives. This submittal  
24 must also include a ranked list of such remedial action projects for  
25 ~~((both))~~ the model toxics control capital account ~~((s))~~. The submittal  
26 must also identify separate budget estimates for large, multibiennia  
27 clean-up projects that exceed ten million dollars. The department  
28 ~~((shall))~~ must prepare its ten-year capital budget plan that is  
29 submitted to the office of financial management to reflect the  
30 separate budget estimates for these large clean-up projects and  
31 include information on the anticipated private and public funding  
32 obligations for completion of the relevant projects.

33 ~~((6))~~ (5) By December 1st of each odd-numbered year, the  
34 department must provide the legislature and the public a report of  
35 the department's activities supported by appropriations from the  
36 ~~((state and local toxics control accounts and the environmental~~  
37 ~~legacy stewardship))~~ model toxics control operating, capital, and  
38 stormwater accounts. The report must be prepared and displayed in a  
39 manner that allows the legislature and the public to easily determine

1 the statewide and local progress made in cleaning up hazardous waste  
2 sites under this chapter. The report must include, at a minimum:

3 (a) The name, location, hazardous waste ranking, and a short  
4 description of each site on the hazardous sites list, and the date  
5 the site was placed on the hazardous waste sites list; and

6 (b) For sites where there are state contracts, grants, loans, or  
7 direct investments by the state:

8 (i) The amount of money from the (~~state and local toxics control~~  
9 ~~accounts and the environmental legacy stewardship account~~) model  
10 toxics control capital account used to conduct remedial actions at  
11 the site and the amount of that money recovered from potentially  
12 liable persons;

13 (ii) The actual or estimated start and end dates and the actual  
14 or estimated expenditures of funds authorized under this chapter for  
15 the following project phases:

16 (A) Emergency or interim actions, if needed;

17 (B) Remedial investigation;

18 (C) Feasibility study and selection of a remedy;

19 (D) Engineering design and construction of the selected remedy;

20 (E) Operation and maintenance or monitoring of the constructed  
21 remedy; and

22 (F) The final completion date.

23 (~~(7)~~) (6) The department (~~shall~~) must establish a program to  
24 identify potential hazardous waste sites and to encourage persons to  
25 provide information about hazardous waste sites.

26 (~~(8)~~) (7) For all facilities where an environmental covenant  
27 has been required under subsection (1)(f) of this section, including  
28 all facilities where the department has required an environmental  
29 covenant under an order, agreed order, or consent decree, or as a  
30 condition of a written opinion issued under the authority of  
31 subsection (1)(i) of this section, the department (~~shall~~) must  
32 periodically review the environmental covenant for effectiveness.  
33 (~~Except as otherwise provided in (c) of this subsection,~~) The  
34 department (~~shall~~) must conduct a review at least once every five  
35 years after an environmental covenant is recorded.

36 (a) The review (~~shall~~) must consist of, at a minimum:

37 (i) A review of the title of the real property subject to the  
38 environmental covenant to determine whether the environmental  
39 covenant was properly recorded and, if applicable, amended or  
40 terminated;



1 (ii) A physical inspection of the real property subject to the  
2 environmental covenant to determine compliance with the environmental  
3 covenant, including whether any development or redevelopment of the  
4 real property has violated the terms of the environmental covenant;  
5 and

6 (iii) A review of the effectiveness of the environmental covenant  
7 in limiting or prohibiting activities that may interfere with the  
8 integrity of the remedial action or that may result in exposure to or  
9 migration of hazardous substances. This ~~((shall))~~ must include a  
10 review of available monitoring data.

11 (b) If an environmental covenant has been amended or terminated  
12 without proper authority, or if the terms of an environmental  
13 covenant have been violated, or if the environmental covenant is no  
14 longer effective in limiting or prohibiting activities that may  
15 interfere with the integrity of the remedial action or that may  
16 result in exposure to or migration of hazardous substances, then the  
17 department ~~((shall))~~ must take any and all appropriate actions  
18 necessary to ensure compliance with the environmental covenant and  
19 the policies and requirements of this chapter.

20 ~~((c) For facilities where an environmental covenant required by  
21 the department under subsection (1)(f) of this section was required  
22 before July 1, 2007, the department shall:~~

23 ~~(i) Enter all required information about the environmental  
24 covenant into the registry established under RCW 64.70.120 by June  
25 30, 2008;~~

26 ~~(ii) For those facilities where more than five years has elapsed  
27 since the environmental covenant was required and the department has  
28 yet to conduct a review, conduct an initial review according to the  
29 following schedule:~~

30 ~~(A) By December 30, 2008, fifty facilities;~~

31 ~~(B) By June 30, 2009, fifty additional facilities; and~~

32 ~~(C) By June 30, 2010, the remainder of the facilities;~~

33 ~~(iii) Once this initial review has been completed, conduct  
34 subsequent reviews at least once every five years.)~~

35 **Sec. 402.** RCW 70.105D.050 and 2013 2nd sp.s. c 1 s 8 are each  
36 amended to read as follows:

37 (1) With respect to any release, or threatened release, for which  
38 the department does not conduct or contract for conducting remedial  
39 action and for which the department believes remedial action is in

1 the public interest, the director (~~shall~~) must issue orders or  
2 agreed orders requiring potentially liable persons to provide the  
3 remedial action. Any liable person, or prospective purchaser who has  
4 entered into an agreed order under RCW 70.105D.040(6), who refuses,  
5 without sufficient cause, to comply with an order or agreed order of  
6 the director is liable in an action brought by the attorney general  
7 for:

8 (a) Up to three times the amount of any costs incurred by the  
9 state as a result of the party's refusal to comply; and

10 (b) A civil penalty of up to twenty-five thousand dollars for  
11 each day the party refuses to comply.

12 The treble damages and civil penalty under this subsection apply to  
13 all recovery actions filed on or after March 1, 1989.

14 (2) Any person who incurs costs complying with an order issued  
15 under subsection (1) of this section may petition the department for  
16 reimbursement of those costs. If the department refuses to grant  
17 reimbursement, the person may within thirty days thereafter file suit  
18 and recover costs by proving that he or she was not a liable person  
19 under RCW 70.105D.040 and that the costs incurred were reasonable.

20 (3) The attorney general (~~shall~~) must seek, by filing an action  
21 if necessary, to recover the amounts spent by the department for  
22 investigative and remedial actions and orders, and agreed orders,  
23 including amounts spent prior to March 1, 1989.

24 (4) The attorney general may bring an action to secure such  
25 relief as is necessary to protect human health and the environment  
26 under this chapter.

27 (5)(a) Any person may commence a civil action to compel the  
28 department to perform any nondiscretionary duty under this chapter.  
29 At least thirty days before commencing the action, the person must  
30 give notice of intent to sue, unless a substantial endangerment  
31 exists. The court may award attorneys' fees and other costs to the  
32 prevailing party in the action.

33 (b) Civil actions under this section and RCW 70.105D.060 may be  
34 brought in the superior court of Thurston county or of the county in  
35 which the release or threatened release exists.

36 (6) Any person who fails to provide notification of releases  
37 consistent with RCW 70.105D.110 or who submits false information is  
38 liable in an action brought by the attorney general for a civil  
39 penalty of up to five thousand dollars per day for each day the party  
40 refuses to comply.

1 (7) Any person who owns real property or lender holding a  
2 mortgage on real property that is subject to a lien filed under RCW  
3 70.105D.055 may petition the department to have the lien removed or  
4 the amount of the lien reduced. If, after consideration of the  
5 petition and the information supporting the petition, the department  
6 decides to deny the request, the person may, within ninety days after  
7 receipt of the department's denial, file suit for removal or  
8 reduction of the lien. The person is entitled to removal of a lien  
9 filed under RCW 70.105D.055(2)(a) if they can prove by a  
10 preponderance of the evidence that the person is not a liable party  
11 under RCW 70.105D.040. The person is entitled to a reduction of the  
12 amount of the lien if they can prove by a preponderance of the  
13 evidence:

14 (a) For liens filed under RCW 70.105D.055(2)(a), the amount of  
15 the lien exceeds the remedial action costs the department incurred  
16 related to cleanup of the real property; and

17 (b) For liens filed under RCW 70.105D.055(2)(c), the amount of  
18 the lien exceeds the remedial action costs the department incurred  
19 related to cleanup of the real property or exceeds the increase of  
20 the fair market value of the real property solely attributable to the  
21 remedial action conducted by the department.

22 (8) The expenditure of moneys under the (~~state and local toxics~~  
23 ~~control~~) model toxics control operating, capital, and stormwater  
24 accounts created in (~~RCW 70.105D.170 [70.105D.070] and the~~  
25 ~~environmental legacy stewardship account created in RCW 70.105D.170~~)  
26 sections 202 through 204 of this act does not alter the liability of  
27 any person under this chapter, or the authority of the department  
28 under this chapter, including the authority to recover those moneys.

29 **Sec. 403.** RCW 70.75A.060 and 2018 c 286 s 7 are each amended to  
30 read as follows:

31 A manufacturer of class B firefighting foam in violation of RCW  
32 70.75A.020 or 70.75A.040 or a person in violation of RCW 70.75A.010  
33 or 70.75A.030 is subject to a civil penalty not to exceed five  
34 thousand dollars for each violation in the case of a first offense.  
35 Manufacturers, local governments, or persons that are repeat  
36 violators are subject to a civil penalty not to exceed ten thousand  
37 dollars for each repeat offense. Penalties collected under this  
38 section must be deposited in the (~~state~~) model toxics control

1 operating account created in ((~~RCW 70.105D.070~~)) section 202 of this  
2 act.

3 **Sec. 404.** RCW 70.76.100 and 2007 c 65 s 11 are each amended to  
4 read as follows:

5 (1) Enforcement of this chapter must rely on notification and  
6 information exchange between the department and manufacturers. The  
7 department ((~~shall~~)) must achieve compliance with this chapter using  
8 the following enforcement sequence:

9 (a) Before the effective date of the product prohibition in RCW  
10 70.76.020 or 70.76.030, the department ((~~shall~~)) must prepare and  
11 distribute information to in-state manufacturers and out-of-state  
12 manufacturers, to the maximum extent practicable, to assist them in  
13 identifying products prohibited for manufacture, sale, or  
14 distribution under this chapter.

15 (b) The department may request a certificate of compliance from a  
16 manufacturer. A certificate of compliance attests that a  
17 manufacturer's product or products meets the requirements of this  
18 chapter.

19 (c) The department may issue a warning letter to a manufacturer  
20 that produces, sells, or distributes prohibited products in violation  
21 of this chapter. The department ((~~shall~~)) must offer information or  
22 other appropriate assistance to the manufacturer in complying with  
23 this chapter. If, after one year, compliance is not achieved,  
24 penalties may be assessed under subsection (3) of this section.

25 (2) A manufacturer that knowingly produces, sells, or distributes  
26 a product prohibited from manufacture, sale, or distribution in this  
27 state under this chapter ((~~shall~~)) must recall the product and  
28 reimburse the retailer or any other purchaser for the product and any  
29 applicable shipping and handling for returning the products.

30 (3) A manufacturer of products containing PBDEs in violation of  
31 this chapter is subject to a civil penalty not to exceed one thousand  
32 dollars for each violation in the case of a first offense.  
33 Manufacturers who are repeat violators are subject to a civil penalty  
34 not to exceed five thousand dollars for each repeat offense.  
35 Penalties collected under this section must be deposited in the  
36 ((~~state~~)) model toxics control operating account created in ((~~RCW~~  
37 ~~70.105D.070~~)) section 202 of this act.

1       **Sec. 405.** RCW 70.95M.080 and 2003 c 260 s 9 are each amended to  
2 read as follows:

3       A violation of this chapter is punishable by a civil penalty not  
4 to exceed one thousand dollars for each violation in the case of a  
5 first violation. Repeat violators are liable for a civil penalty not  
6 to exceed five thousand dollars for each repeat violation. Penalties  
7 collected under this section must be deposited in the ((state)) model  
8 toxics control operating account created in ((RCW 70.105D.070))  
9 section 202 of this act.

10       **Sec. 406.** RCW 70.95M.120 and 2003 c 260 s 11 are each amended to  
11 read as follows:

12       Any fiscal impact on the department or the department of health  
13 that results from the implementation of this chapter must be paid for  
14 out of funds that are appropriated by the legislature from the  
15 ((state)) model toxics control operating account for the  
16 implementation of the department's persistent bioaccumulative toxic  
17 chemical strategy.

18       **Sec. 407.** RCW 70.240.050 and 2016 c 176 s 4 are each amended to  
19 read as follows:

20       (1) A manufacturer of products that are restricted under this  
21 chapter must notify persons that sell the manufacturer's products in  
22 this state about the provisions of this chapter no less than ninety  
23 days prior to the effective date of the restrictions.

24       (2) A manufacturer that produces, sells, or distributes a product  
25 prohibited from manufacture, sale, or distribution in this state  
26 under this chapter ((shall)) must recall the product and reimburse  
27 the retailer or any other purchaser for the product.

28       (3) A manufacturer of products in violation of this chapter is  
29 subject to a civil penalty not to exceed five thousand dollars for  
30 each violation in the case of a first offense. Manufacturers who are  
31 repeat violators are subject to a civil penalty not to exceed ten  
32 thousand dollars for each repeat offense. Penalties collected under  
33 this section must be deposited in the ((state)) model toxics control  
34 operating account created in ((RCW 70.105D.070)) section 202 of this  
35 act.

36       (4) Retailers who unknowingly sell products that are restricted  
37 from sale under this chapter are not liable under this chapter.

1 (5) The sale or purchase of any previously owned products  
2 containing a chemical restricted under this chapter made in casual or  
3 isolated sales as defined in RCW 82.04.040, or by a nonprofit  
4 organization, is exempt from this chapter.

5 **Sec. 408.** RCW 70.270.050 and 2009 c 243 s 5 are each amended to  
6 read as follows:

7 (1) An initial violation of RCW 70.270.030(1) is punishable by a  
8 civil penalty not to exceed five hundred dollars. Subsequent  
9 violations of RCW 70.270.030(1) are punishable by civil penalties not  
10 to exceed one thousand dollars for each violation.

11 (2) Penalties collected under this section must be deposited in  
12 the ((state)) model toxics control operating account created in ((RCW  
13 70.105D.070)) section 202 of this act.

14 **Sec. 409.** RCW 70.285.090 and 2010 c 147 s 9 are each amended to  
15 read as follows:

16 (1) The department ((shall)) must enforce this chapter. The  
17 department may periodically purchase and test brake friction material  
18 sold or offered for sale in Washington state to verify that the  
19 material complies with this chapter.

20 (2) Enforcement of this chapter by the department must rely on  
21 notification and information exchange between the department and  
22 manufacturers, distributors, and retailers. The department ((shall))  
23 must issue one warning letter by certified mail to a manufacturer,  
24 distributor, or retailer that sells or offers to sell brake friction  
25 material in violation of this chapter, and offer information or other  
26 appropriate assistance regarding compliance with this chapter. Once a  
27 warning letter has been issued to a distributor or retailer for  
28 violations under subsections (3) and (5) of this section, the  
29 department need not provide warning letters for subsequent violations  
30 by that distributor or retailer. For the purposes of subsection (6)  
31 of this section, a warning letter serves as notice of the violation.  
32 If compliance is not achieved, the department may assess penalties  
33 under this section.

34 (3) A brake friction material distributor or retailer that  
35 violates this chapter is subject to a civil penalty not to exceed ten  
36 thousand dollars for each violation. Brake friction material  
37 distributors or retailers that sell brake friction material that is  
38 packaged consistent with RCW 70.285.080(2)(b) are not in violation of

1 this chapter. However, if the department conclusively proves that the  
2 brake friction material distributor or retailer was aware that the  
3 brake friction material being sold violates RCW 70.285.030 or  
4 70.285.050, the brake friction material distributor or retailer is  
5 subject to civil penalties according to this section.

6 (4) A brake friction material manufacturer that knowingly  
7 violates this chapter (~~shall~~) must recall the brake friction  
8 material and reimburse the brake friction distributor, retailer, or  
9 any other purchaser for the material and any applicable shipping and  
10 handling charges for returning the material. A brake friction  
11 material manufacturer that violates this chapter is subject to a  
12 civil penalty not to exceed ten thousand dollars for each violation.

13 (5) A motor vehicle distributor or retailer that violates this  
14 chapter is subject to a civil penalty not to exceed ten thousand  
15 dollars for each violation. A motor vehicle distributor or retailer  
16 is not in violation of this chapter for selling a vehicle that was  
17 previously sold at retail and that contains brake friction material  
18 failing to meet the requirements of this chapter. However, if the  
19 department conclusively proves that the motor vehicle distributor or  
20 retailer installed brake friction material that violates RCW  
21 70.285.030, 70.285.050, or 70.285.080(2)(b) on the vehicle being sold  
22 and was aware that the brake friction material violates RCW  
23 70.285.030, 70.285.050, or 70.285.080(2)(b), the motor vehicle  
24 distributor or retailer is subject to civil penalties under this  
25 section.

26 (6) A motor vehicle manufacturer that violates this chapter must  
27 notify the registered owner of the vehicle within six months of  
28 knowledge of the violation and must replace at no cost to the owner  
29 the noncompliant brake friction material with brake friction material  
30 that complies with this chapter. A motor vehicle manufacturer that  
31 fails to provide the required notification to registered owners of  
32 the affected vehicles within six months of knowledge of the violation  
33 is subject to a civil penalty not to exceed one hundred thousand  
34 dollars. A motor vehicle manufacturer that fails to provide the  
35 required notification to registered owners of the affected vehicles  
36 after twelve months of knowledge of the violation is subject to a  
37 civil penalty not to exceed ten thousand dollars per vehicle. For  
38 purposes of this section, "motor vehicle manufacturer" does not  
39 include a vehicle dealer defined under RCW 46.70.011 and required to  
40 be licensed as a vehicle dealer under chapter 46.70 RCW.

1 (7) Before the effective date of the prohibitions in RCW  
2 70.285.030 or 70.285.050, the department (~~shall~~) must prepare and  
3 distribute information about the prohibitions to manufacturers,  
4 distributors, and retailers to the maximum extent practicable.

5 (8) All penalties collected under this chapter must be deposited  
6 in the (~~state~~) model toxics control operating account created in  
7 (~~RCW 70.105D.070~~) section 202 of this act.

8 **Sec. 410.** RCW 70.280.050 and 2010 c 140 s 5 are each amended to  
9 read as follows:

10 Expenses to cover the cost of administering this chapter  
11 (~~shall~~) must be paid from the (~~state~~) model toxics control  
12 operating account under (~~RCW 70.105D.070~~) section 202 of this act.

13 **Sec. 411.** RCW 70.300.040 and 2011 c 248 s 5 are each amended to  
14 read as follows:

15 (1) The department (~~shall~~) must enforce the requirements of  
16 this chapter.

17 (2)(a) A person or entity that violates this chapter is subject  
18 to a civil penalty. The department may assess and collect a civil  
19 penalty of up to ten thousand dollars per day per violation.

20 (b) All penalties collected by the department under this chapter  
21 must be deposited in the (~~state~~) model toxics control operating  
22 account created in (~~RCW 70.105D.070~~) section 202 of this act.

23 **Sec. 412.** RCW 90.71.370 and 2011 1st sp.s. c 50 s 977 are each  
24 amended to read as follows:

25 (1) By December 1, 2008, and by September 1st of each even-  
26 numbered year beginning in 2010, the council (~~shall~~) must provide  
27 to the governor and the appropriate fiscal committees of the senate  
28 and house of representatives its recommendations for the funding  
29 necessary to implement the action agenda in the succeeding biennium.  
30 The recommendations (~~shall~~) must:

31 (a) Identify the funding needed by action agenda element;

32 (b) Address funding responsibilities among local, state, and  
33 federal governments, as well as nongovernmental funding; and

34 (c) Address funding needed to support the work of the  
35 partnership, the panel, the ecosystem work group, and entities  
36 assisting in coordinating local efforts to implement the plan.



1 (2) In the 2008 report required under subsection (1) of this  
2 section, the council (~~shall~~) must include recommendations for  
3 projected funding needed through 2020 to implement the action agenda;  
4 funding needs for science panel staff; identify methods to secure  
5 stable and sufficient funding to meet these needs; and include  
6 proposals for new sources of funding to be dedicated to Puget Sound  
7 protection and recovery. In preparing the science panel staffing  
8 proposal, the council (~~shall~~) must consult with the panel.

9 (3) By November 1st of each odd-numbered year beginning in 2009,  
10 the council (~~shall~~) must produce a state of the Sound report that  
11 includes, at a minimum:

12 (a) An assessment of progress by state and nonstate entities in  
13 implementing the action agenda, including accomplishments in the use  
14 of state funds for action agenda implementation;

15 (b) A description of actions by implementing entities that are  
16 inconsistent with the action agenda and steps taken to remedy the  
17 inconsistency;

18 (c) The comments by the panel on progress in implementing the  
19 plan, as well as findings arising from the assessment and monitoring  
20 program;

21 (d) A review of citizen concerns provided to the partnership and  
22 the disposition of those concerns;

23 (e) A review of the expenditures of funds to state agencies for  
24 the implementation of programs affecting the protection and recovery  
25 of Puget Sound, and an assessment of whether the use of the funds is  
26 consistent with the action agenda; and

27 (f) An identification of all funds provided to the partnership,  
28 and recommendations as to how future state expenditures for all  
29 entities, including the partnership, could better match the  
30 priorities of the action agenda.

31 (4) (a) The council (~~shall~~) must review state programs that fund  
32 facilities and activities that may contribute to action agenda  
33 implementation. By November 1, 2009, the council (~~shall~~) must  
34 provide initial recommendations regarding program changes to the  
35 governor and appropriate fiscal and policy committees of the senate  
36 and house of representatives. By November 1, 2010, the council  
37 (~~shall~~) must provide final recommendations regarding program  
38 changes, including proposed legislation to implement the  
39 recommendation, to the governor and appropriate fiscal and policy  
40 committees of the senate and house of representatives.

1 (b) The review in this subsection (~~shall~~) must be conducted  
2 with the active assistance and collaboration of the agencies  
3 administering these programs, and in consultation with local  
4 governments and other entities receiving funding from these programs:

5 (i) Water pollution control facilities financing, chapter 70.146  
6 RCW;

7 (ii) The water pollution control revolving fund, chapter 90.50A  
8 RCW;

9 (iii) The public works assistance account, chapter 43.155 RCW;

10 (iv) The aquatic lands enhancement account, RCW 79.105.150;

11 (v) The (~~state toxics control account and local toxics control~~  
12 ~~account~~) model toxics control operating, capital, and stormwater  
13 accounts and clean-up program, chapter 70.105D RCW;

14 (vi) The acquisition of habitat conservation and outdoor  
15 recreation land, chapter 79A.15 RCW;

16 (vii) The salmon recovery funding board, RCW 77.85.110 through  
17 77.85.150;

18 (viii) The community economic revitalization board, chapter  
19 43.160 RCW;

20 (ix) Other state financial assistance to water quality-related  
21 projects and activities; and

22 (x) Water quality financial assistance from federal programs  
23 administered through state programs or provided directly to local  
24 governments in the Puget Sound basin.

25 (c) The council's review (~~shall~~) must include but not be  
26 limited to:

27 (i) Determining the level of funding and types of projects and  
28 activities funded through the programs that contribute to  
29 implementation of the action agenda;

30 (ii) Evaluating the procedures and criteria in each program for  
31 determining which projects and activities to fund, and their  
32 relationship to the goals and priorities of the action agenda;

33 (iii) Assessing methods for ensuring that the goals and  
34 priorities of the action agenda are given priority when program  
35 funding decisions are made regarding water quality-related projects  
36 and activities in the Puget Sound basin and habitat-related projects  
37 and activities in the Puget Sound basin;

38 (iv) Modifying funding criteria so that projects, programs, and  
39 activities that are inconsistent with the action agenda are  
40 ineligible for funding;

1 (v) Assessing ways to incorporate a strategic funding approach  
2 for the action agenda within the outcome-focused performance measures  
3 required by RCW 43.41.270 in administering natural resource-related  
4 and environmentally based grant and loan programs.

5 (5) During the 2009-2011 fiscal biennium, the council's review  
6 must result in a ranking of projects affecting the protection and  
7 recovery of the Puget Sound basin that are proposed in the governor's  
8 capital budget submitted under RCW 43.88.060. The ranking (~~((shall))~~)  
9 must include recommendations for reallocation of total requested  
10 funds for Puget Sound basin projects to achieve the greatest positive  
11 outcomes for protection and recovery of Puget Sound and (~~((shall))~~)  
12 must be submitted to the appropriate fiscal committees of the  
13 legislature no later than February 1, 2011.

14 (6) During the 2011-2013 fiscal biennium, the council (~~((shall))~~)  
15 must by November 1, 2012, produce the state of the Sound report as  
16 defined in subsection (3) of this section.

17 **Sec. 413.** RCW 70.105D.130 and 2010 1st sp.s. c 37 s 947 are each  
18 amended to read as follows:

19 (1) The cleanup settlement account is created in the state  
20 treasury. The account is not intended to replace the (~~((state))~~) model  
21 toxics control capital account established under (~~((RCW 70.105D.070))~~)  
22 section 203 of this act. All receipts from the sources identified in  
23 subsection (2) of this section must be deposited into the account.  
24 Moneys in the account may be spent only after appropriation.  
25 Expenditures from the account may be used only as identified in  
26 subsection (4) of this section.

27 (2) The following receipts must be deposited into the cleanup  
28 settlement account:

29 (a) Receipts from settlements or court orders that direct payment  
30 to the account and resolve a person's liability or potential  
31 liability under this chapter for either or both of the following:

32 (i) Conducting future remedial action at a specific facility, if  
33 it is not feasible to require the person to conduct the remedial  
34 action based on the person's financial insolvency, limited ability to  
35 pay, or insignificant contribution under RCW 70.105D.040(4) (a);

36 (ii) Assessing or addressing the injury to natural resources  
37 caused by the release of a hazardous substance from a specific  
38 facility; and

39 (b) Receipts from investment of the moneys in the account.

1 (3) If a settlement or court order does not direct payment of  
2 receipts described in subsection (2)(a) of this section into the  
3 cleanup settlement account, then the receipts from any payment to the  
4 state must be deposited into the ((state)) model toxics control  
5 capital account.

6 (4) Expenditures from the cleanup settlement account may only be  
7 used to conduct remedial actions at the specific facility or to  
8 assess or address the injury to natural resources caused by the  
9 release of hazardous substances from that facility for which the  
10 moneys were deposited in the account. Conducting remedial actions or  
11 assessing or addressing injury to natural resources includes direct  
12 expenditures and indirect expenditures such as department oversight  
13 costs. During the 2009-2011 fiscal biennium, the legislature may  
14 transfer excess fund balances in the account into the state  
15 efficiency and restructuring account. Transfers of excess fund  
16 balances made under this section ((shall)) may be made only to the  
17 extent amounts transferred with required repayments do not impair the  
18 ten-year spending plan administered by the department of ecology for  
19 environmental remedial actions dedicated for any designated clean-up  
20 site associated with the Everett smelter and Tacoma smelter,  
21 including plumes, or former Asarco mine sites. The cleanup settlement  
22 account must be repaid with interest under provisions of the state  
23 efficiency and restructuring account.

24 (5) The department ((shall)) must track moneys received, interest  
25 earned, and moneys expended separately for each facility.

26 (6) After the department determines that all remedial actions at  
27 a specific facility, and all actions assessing or addressing injury  
28 to natural resources caused by the release of hazardous substances  
29 from that facility, are completed, including payment of all related  
30 costs, any moneys remaining for the specific facility must be  
31 transferred to the ((state)) model toxics control capital account  
32 established under ((RCW 70.105D.070)) section 203 of this act.

33 (7) The department ((shall)) must provide the office of financial  
34 management and the fiscal committees of the legislature with a report  
35 by October 31st of each year regarding the activity within the  
36 cleanup settlement account during the previous fiscal year.

37 **Sec. 414.** RCW 70.105D.140 and 2013 2nd sp.s. c 1 s 3 are each  
38 amended to read as follows:

1 (1) The brownfield redevelopment trust fund account is created in  
2 the state treasury. All receipts from the sources identified in  
3 subsection (2) of this section must be deposited into the account.  
4 Moneys in the account may be spent only after appropriation.  
5 Expenditures from the account may be used only as identified in  
6 subsection (4) of this section.

7 (2) The following receipts must be deposited into the brownfield  
8 redevelopment trust fund account:

9 (a) Moneys appropriated by the legislature to the account for a  
10 specific redevelopment opportunity zone established under RCW  
11 70.105D.150 or a specific brownfield renewal authority established  
12 under RCW 70.105D.160;

13 (b) Moneys voluntarily deposited in the account for a specific  
14 redevelopment opportunity zone or a specific brownfield renewal  
15 authority; and

16 (c) Receipts from settlements or court orders that direct payment  
17 to the account for a specific redevelopment opportunity zone to  
18 resolve a person's liability or potential liability under this  
19 chapter.

20 (3) If a settlement or court order does not direct payment of  
21 receipts described in subsection (2)(c) of this section into the  
22 brownfield redevelopment trust fund account, then the receipts from  
23 any payment to the state must be deposited into the ((state)) model  
24 toxics control capital account established under ((RCW 70.105D.070))  
25 section 203 of this act.

26 (4) Expenditures from the brownfield redevelopment trust fund  
27 account may only be used for the purposes of remediation and cleanup  
28 at the specific redevelopment opportunity zone or specific brownfield  
29 renewal authority for which the moneys were deposited in the account.

30 (5) The department ((shall)) must track moneys received, interest  
31 earned, and moneys expended separately for each facility.

32 (6) The account must retain its interest earnings in accordance  
33 with RCW 43.84.092.

34 (7) The local government designating the redevelopment  
35 opportunity zone under RCW 70.105D.150 or the associated brownfield  
36 renewal authority created under RCW 70.105D.160 must be the  
37 beneficiary of the deposited moneys.

38 (8) All expenditures must be used to conduct remediation and  
39 cleanup consistent with a plan for the remediation and cleanup of the  
40 properties or facilities approved by the department under this

1 chapter. All expenditures must meet the eligibility requirements for  
2 the use by local governments under the rules for remedial action  
3 grants adopted by the department under this chapter, including  
4 requirements for the expenditure of nonstate match funding.

5 (9) Beginning October 31, 2015, the department must provide a  
6 biennial report to the office of financial management and the  
7 legislature regarding the activity for each specific redevelopment  
8 opportunity zone or specific brownfield renewal authority for which  
9 specific legislative appropriation was provided in the previous two  
10 fiscal years.

11 (10) After the department determines that all remedial actions  
12 within the redevelopment opportunity zone identified in the plan  
13 approved under subsection (8) of this section are completed,  
14 including payment of all cost reasonably attributable to the remedial  
15 actions and cleanup, any remaining moneys must be transferred to the  
16 ((state)) model toxics control capital account established under  
17 ((RCW 70.105D.070)) section 203 of this act.

18 (11) If the department determines that substantial progress has  
19 not been made on the plan approved under subsection (8) of this  
20 section for a redevelopment opportunity zone or specific brownfield  
21 renewal authority for which moneys were deposited in the account  
22 within six years, or that the brownfield renewal authority is no  
23 longer a viable entity, then all remaining moneys must be transferred  
24 to the ((state)) model toxics control operating account established  
25 under ((RCW 70.105D.070)) sections 202 of this act.

26 (12) The department is authorized to adopt rules to implement  
27 this section.

28 NEW SECTION. **Sec. 415.** The following acts or parts of acts are  
29 each repealed:

30 (1) RCW 70.105D.170 (Environmental legacy stewardship account)  
31 and 2013 2nd sp.s. c 28 s 1, 2013 2nd sp.s. c 19 s 7042, 2013 2nd  
32 sp.s. c 4 s 991, & 2013 2nd sp.s. c 1 s 10; and

33 (2) RCW 70.105D.070 (Toxics control accounts) and 2019 c . . .  
34 (SHB 1290) s 4, 2018 c 299 s 911, 2017 3rd sp.s. c 1 s 980, & 2016  
35 sp.s. c 36 s 943.

36 NEW SECTION. **Sec. 416.** Any residual balance of funds remaining  
37 in the state toxics control account repealed by section 415 of this  
38 act on the effective date of this section must be transferred to the

1 model toxics control operating account created in section 202 of this  
2 act.

3 NEW SECTION. **Sec. 417.** Any residual balance of funds remaining  
4 in the local toxics control account repealed by section 415 of this  
5 act on the effective date of this section must be transferred to the  
6 model toxics control capital account created in section 203 of this  
7 act.

8 NEW SECTION. **Sec. 418.** Any residual balance of funds remaining  
9 in the environmental legacy stewardship account repealed by section  
10 415 of this act on the effective date of this section must be  
11 transferred to the model toxics control stormwater account created in  
12 section 204 of this act.

13 NEW SECTION. **Sec. 419.** This act is necessary for the immediate  
14 preservation of the public peace, health, or safety, or support of  
15 the state government and its existing public institutions, and takes  
16 effect July 1, 2019.

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