

1 state's economy; that it is in the public interest for public and
2 private commercial forest lands to be managed consistent with sound
3 policies of natural resource protection; that coincident with
4 maintenance of a viable forest products industry, it is important to
5 afford protection to forest soils, fisheries, wildlife, water quantity
6 and quality, air quality, recreation, and scenic beauty.

7 (2) The legislature further finds and declares it to be in the
8 public interest of this state to create and maintain through the
9 adoption of this chapter a comprehensive state-wide system of laws and
10 forest practices regulations which will achieve the following purposes
11 and policies:

12 (a) Afford protection to, promote, foster and encourage timber
13 growth, and require such minimum reforestation of commercial tree
14 species on forest lands as will reasonably utilize the timber growing
15 capacity of the soil following current timber harvest;

16 (b) Afford protection to forest soils and public resources by
17 utilizing all reasonable methods of technology in conducting forest
18 practices;

19 (c) Recognize both the public and private interest in the
20 profitable growing and harvesting of timber;

21 (d) Promote efficiency by permitting maximum operating freedom
22 consistent with the other purposes and policies stated herein;

23 (e) Provide for regulation of forest practices so as to avoid
24 unnecessary duplication in such regulation;

25 (f) Provide for interagency input and intergovernmental and tribal
26 coordination and cooperation;

27 (g) Achieve compliance with all applicable requirements of federal
28 and state law with respect to nonpoint sources of water pollution from
29 forest practices;

30 (h) To consider reasonable land use planning goals and concepts
31 contained in local comprehensive plans and zoning regulations; and

32 (i) Foster cooperation among managers of public resources, forest
33 landowners, Indian tribes and the citizens of the state.

34 The authority of the board to adopt forest practices rules is
35 prescribed by this subsection (2) and RCW 76.09.040. After the
36 effective date of this section, the board may not adopt forest
37 practices rules based solely on any other section of law stating a
38 statute's intent or purpose, on the enabling provisions of the statute
39 establishing the agency, or on any combination of such provisions.

1 (3) The legislature further finds and declares that it is also in
2 the public interest of the state to encourage forest landowners to
3 undertake corrective and remedial action to reduce the impact of mass
4 earth movements and fluvial processes.

5 (4) The legislature further finds and declares that it is in the
6 public interest that the applicants for state forest practice permits
7 should assist in paying for the cost of review and permitting necessary
8 for the environmental protection of these resources.

9 **Sec. 102.** RCW 76.09.040 and 1994 c 264 s 48 are each amended to
10 read as follows:

11 (1) Where necessary to accomplish the purposes and policies
12 specifically stated in RCW 76.09.010(2), and to implement the
13 provisions of this chapter, the board shall (~~promulgate~~) adopt forest
14 practices (~~regulations~~) rules pursuant to chapter 34.05 RCW and in
15 accordance with the procedures enumerated in this section that:

16 (a) Establish minimum standards for forest practices;

17 (b) Provide procedures for the voluntary development of resource
18 management plans which may be adopted as an alternative to the minimum
19 standards in (a) of this subsection if the plan is consistent with the
20 purposes and policies specifically stated in RCW 76.09.010(2) and the
21 plan meets or exceeds the objectives of the minimum standards;

22 (c) Set forth necessary administrative provisions; and

23 (d) Establish procedures for the collection and administration of
24 forest practice fees as set forth by this chapter.

25 Forest practices (~~regulations~~) rules pertaining to water quality
26 protection shall be (~~promulgated~~) adopted individually by the board
27 and by the department of ecology after they have reached agreement with
28 respect thereto. All other forest practices (~~regulations~~) rules
29 shall be (~~promulgated~~) adopted by the board.

30 Forest practices (~~regulations~~) rules shall be administered and
31 enforced by the department except as otherwise provided in this
32 chapter. Such (~~regulations~~) rules shall be (~~promulgated~~) adopted
33 and administered so as to give consideration to all purposes and
34 policies specifically set forth in RCW 76.09.010(2).

35 (2) The board shall prepare proposed forest practices
36 (~~regulations~~) rules. In addition to any forest practices
37 (~~regulations~~) rules relating to water quality protection proposed by

1 the board, the department of ecology shall prepare proposed forest
2 practices (~~((regulations))~~) rules relating to water quality protection.
3 Prior to initiating the rule making process, the proposed
4 (~~((regulations))~~) rules shall be submitted for review and comments to the
5 department of fish and wildlife and to the counties of the state.
6 After receipt of the proposed forest practices (~~((regulations))~~) rules,
7 the department of fish and wildlife and the counties of the state shall
8 have thirty days in which to review and submit comments to the board,
9 and to the department of ecology with respect to its proposed
10 (~~((regulations))~~) rules relating to water quality protection. After the
11 expiration of such thirty day period the board and the department of
12 ecology shall jointly hold one or more hearings on the proposed
13 (~~((regulations))~~) rules pursuant to chapter 34.05 RCW. At such
14 hearing(s) any county may propose specific forest practices
15 (~~((regulations))~~) rules relating to problems existing within such county.
16 The board and the department of ecology may adopt such proposals if
17 they find the proposals are consistent with the purposes and policies
18 of this chapter.

19 NEW SECTION. **Sec. 103.** A new section is added to chapter 43.22
20 RCW to read as follows:

21 For rules adopted after the effective date of this section, the
22 director of the department of labor and industries may not rely solely
23 on a statute's statement of intent or purpose, on the enabling
24 provisions of the statute establishing the agency, or on any
25 combination of such provisions, for statutory authority to adopt any
26 rule: PROVIDED, That this section shall not apply to rules adopted
27 pursuant to chapter 39.12 RCW.

28 **Sec. 104.** RCW 48.02.060 and 1947 c 79 s .02.06 are each amended to
29 read as follows:

30 (1) The commissioner shall have the authority expressly conferred
31 upon him or her by or reasonably implied from the provisions of this
32 code.

33 (2) The commissioner shall execute his or her duties and shall
34 enforce the provisions of this code.

35 (3) The commissioner may:

36 (a) Make reasonable rules and regulations for effectuating any
37 provision of this code, except those relating to his or her election,

1 qualifications, or compensation: PROVIDED, That the commissioner may
2 not adopt rules after the effective date of this section that are based
3 solely on this statute, or on a statute's statement of intent or
4 purpose, or on the enabling provisions of the statute establishing the
5 agency, or any combination of such provisions, for statutory authority
6 to adopt any rule, except rules defining or clarifying terms in, or
7 procedures necessary to the implementation of a statute. No such rules
8 and regulations shall be effective prior to their being filed for
9 public inspection in the commissioner's office.

10 (b) Conduct investigations to determine whether any person has
11 violated any provision of this code.

12 (c) Conduct examinations, investigations, hearings, in addition to
13 those specifically provided for, useful and proper for the efficient
14 administration of any provision of this code.

15 **Sec. 105.** RCW 48.44.050 and 1947 c 268 s 5 are each amended to
16 read as follows:

17 The insurance commissioner shall make reasonable regulations in aid
18 of the administration of this chapter which may include, but shall not
19 be limited to regulations concerning the maintenance of adequate
20 insurance, bonds, or cash deposits, information required of
21 registrants, and methods of expediting speedy and fair payments to
22 claimants: PROVIDED, That the commissioner may not adopt rules after
23 the effective date of this section that are based solely on this
24 section, a statute's statement of intent or purpose, or on the enabling
25 provisions of the statute establishing the agency, or any combination
26 of such provisions, for statutory authority to adopt any rule, except
27 rules defining or clarifying terms in, or procedures necessary to the
28 implementation of a statute.

29 **Sec. 106.** RCW 48.46.200 and 1975 1st ex.s. c 290 s 21 are each
30 amended to read as follows:

31 The commissioner may adopt, in accordance with the provisions of
32 the administrative procedure act, chapter 34.05 RCW, (~~promulgate~~)
33 rules and regulations as necessary or proper to carry out the
34 provisions of this chapter: PROVIDED, That the commissioner may not
35 adopt rules after the effective date of this section that are based
36 solely on this section, a statute's statement of intent or purpose, or
37 on the enabling provisions of the statute establishing the agency, or

1 any combination of such provisions, for statutory authority to adopt
2 any rule, except rules defining or clarifying terms in, or procedures
3 necessary to the implementation of a statute. Nothing in this chapter
4 shall be construed to prohibit the commissioner from requiring changes
5 in procedures previously approved by ~~((him))~~ the commissioner.

6 **Sec. 107.** RCW 82.32.300 and 1983 c 3 s 222 are each amended to
7 read as follows:

8 The administration of this and chapters 82.04 through 82.27 RCW of
9 this title is vested in the department of revenue which shall prescribe
10 forms and rules of procedure for the determination of the taxable
11 status of any person, for the making of returns and for the
12 ascertainment, assessment and collection of taxes and penalties imposed
13 thereunder.

14 The department of revenue shall make and publish procedural rules
15 and regulations, not inconsistent therewith, necessary to enforce their
16 provisions, which shall have the same force and effect as if
17 specifically included therein, unless declared invalid by the judgment
18 of a court of record not appealed from.

19 The department may employ such clerks, specialists, and other
20 assistants as are necessary. Salaries and compensation of such
21 employees shall be fixed by the department and shall be charged to the
22 proper appropriation for the department.

23 The department shall exercise general supervision of the collection
24 of taxes and, in the discharge of such duty, may institute and
25 prosecute such suits or proceedings in the courts as may be necessary
26 and proper.

27 **Sec. 108.** RCW 48.30.010 and 1985 c 264 s 13 are each amended to
28 read as follows:

29 (1) No person engaged in the business of insurance shall engage in
30 unfair methods of competition or in unfair or deceptive acts or
31 practices in the conduct of such business as such methods, acts, or
32 practices are defined pursuant to subsection (2) of this section.

33 (2) In addition to such unfair methods and unfair or deceptive acts
34 or practices as are expressly defined and prohibited by this code, the
35 commissioner may from time to time by regulation promulgated pursuant
36 to chapter 34.05 RCW, define other methods of competition and other
37 acts and practices in the conduct of such business ~~((reasonably))~~ found

1 by the commissioner to be unfair or deceptive by a preponderance of the
2 facts submitted.

3 (3) In defining other methods of competition and other acts and
4 practices in the conduct of such business to be unfair and deceptive,
5 the commissioner shall set forth in detail all facts upon which he or
6 she relies in making the definition. After the hearing the
7 commissioner shall review all the material submitted and affirm or deny
8 the definition based upon a preponderance of facts submitted. Upon
9 appeal the superior court shall review the findings of fact upon which
10 the regulation is based de novo on the record.

11 (4) No such regulation shall be made effective prior to the
12 expiration of thirty days after the date of the order by which it is
13 promulgated.

14 ((+4)) (5) If the commissioner has cause to believe that any
15 person is violating any such regulation, the commissioner may order
16 such person to cease and desist therefrom. The commissioner shall
17 deliver such order to such person direct or mail it to the person by
18 registered mail with return receipt requested. If the person violates
19 the order after expiration of ten days after the cease and desist order
20 has been received by him or her, he or she may be fined by the
21 commissioner a sum not to exceed two hundred and fifty dollars for each
22 violation committed thereafter.

23 ((+5)) (6) If any such regulation is violated, the commissioner
24 may take such other or additional action as is permitted under the
25 insurance code for violation of a regulation.

26
27

PART II
RULE-MAKING REQUIREMENTS

28 **Sec. 201.** RCW 34.05.350 and 1994 c 249 s 3 are each amended to
29 read as follows:

30 (1) If an agency for good cause finds:
31 (a) That immediate adoption, amendment, or repeal of a rule is
32 necessary for the preservation of ((the)) public health((7)) or safety,
33 ((or general welfare7)) and that observing the time requirements of
34 notice and opportunity to comment upon adoption of a permanent rule
35 would be contrary to the public interest: PROVIDED, That the
36 department of agriculture may adopt an emergency rule if the failure to

1 adopt the rule on an emergency basis would result in substantial
2 reduction of commodity value or substantial economic detriment; or

3 (b) That state or federal law or federal rule or a federal deadline
4 for state receipt of federal funds requires immediate adoption of a
5 rule,
6 the agency may dispense with those requirements and adopt, amend, or
7 repeal the rule on an emergency basis. The agency's finding and a
8 concise statement of the reasons for its finding shall be incorporated
9 in the order for adoption of the emergency rule or amendment filed with
10 the office of the code reviser under RCW 34.05.380 and with the rules
11 review committee.

12 (2) An emergency rule adopted under this section takes effect upon
13 filing with the code reviser, unless a later date is specified in the
14 order of adoption, and may not remain in effect for longer than one
15 hundred twenty days after filing. Identical or substantially similar
16 emergency rules may not be adopted in sequence unless conditions have
17 changed or the agency has filed notice of its intent to adopt the rule
18 as a permanent rule, and is actively undertaking the appropriate
19 procedures to adopt the rule as a permanent rule. This section does
20 not relieve any agency from compliance with any law requiring that its
21 permanent rules be approved by designated persons or bodies before they
22 become effective.

23 (3) Within seven days after the rule is adopted, any person may
24 petition the governor requesting the immediate repeal of a rule adopted
25 on an emergency basis by any department listed in RCW 43.17.010.
26 Within seven days after submission of the petition, the governor shall
27 either deny the petition in writing, stating his or her reasons for the
28 denial, or order the immediate repeal of the rule. In ruling on the
29 petition, the governor shall consider only whether the conditions in
30 subsection (1) of this section were met such that adoption of the rule
31 on an emergency basis was necessary. If the governor orders the repeal
32 of the emergency rule, any sanction imposed based on that rule is void.
33 This subsection shall not be construed to prohibit adoption of any rule
34 as a permanent rule.

35 (4) In adopting an emergency rule, the agency shall comply with
36 section 4 of this act or provide a written explanation for its failure
37 to do so.

1 **Sec. 202.** RCW 34.05.328 and 1995 c 403 s 201 are each amended to
2 read as follows:

3 (1) Before adopting a rule described in subsection (5) of this
4 section, an agency shall:

5 (a) Clearly state in detail the general goals and specific
6 objectives of the statute that the rule implements;

7 (b) Determine that the rule is needed to achieve the general goals
8 and specific objectives stated under (a) of this subsection, and
9 analyze alternatives to rule making and the consequences of not
10 adopting the rule;

11 (c) Determine that the probable benefits of the rule are greater
12 than its probable costs, taking into account both the qualitative and
13 quantitative benefits and costs and the specific directives of the
14 statute being implemented;

15 (d) Determine, after considering alternative versions of the rule
16 and the analysis required under (b) and (c) of this subsection, that
17 the rule being adopted is the least burdensome alternative for those
18 required to comply with it that will achieve the general goals and
19 specific objectives stated under (a) of this subsection;

20 (e) Determine that the rule does not require those to whom it
21 applies to take an action that violates requirements of another federal
22 or state law;

23 (f) Determine that the rule does not impose more stringent
24 performance requirements on private entities than on public entities
25 unless required to do so by federal or state law;

26 (g) Determine if the rule differs from any federal regulation or
27 statute applicable to the same activity or subject matter and, if so,
28 determine that the difference is justified by the following:

29 (i) A state statute that explicitly allows the agency to differ
30 from federal standards; or

31 (ii) Substantial evidence that the difference is necessary to
32 achieve the general goals and specific objectives stated under (a) of
33 this subsection; and

34 (h) Coordinate the rule, to the maximum extent practicable, with
35 other federal, state, and local laws applicable to the same activity or
36 subject matter.

37 (2) In making its determinations pursuant to subsection (1)(b)
38 through (g) of this section, the agency shall place in the rule-making

1 file documentation of sufficient quantity and quality so as to persuade
2 a reasonable person that the determinations are justified.

3 (3) Before adopting rules described in subsection (5) of this
4 section, an agency shall place in the rule-making file a rule
5 implementation plan for rules filed under each adopting order. The
6 plan shall describe how the agency intends to:

7 (a) Implement and enforce the rule, including a description of the
8 resources the agency intends to use;

9 (b) Inform and educate affected persons about the rule;

10 (c) Promote and assist voluntary compliance; and

11 (d) Evaluate whether the rule achieves the purpose for which it was
12 adopted, including, to the maximum extent practicable, the use of
13 interim milestones to assess progress and the use of objectively
14 measurable outcomes.

15 (4) After adopting a rule described in subsection (5) of this
16 section regulating the same activity or subject matter as another
17 provision of federal or state law, an agency shall do all of the
18 following:

19 (a) Provide to the business assistance center a list citing by
20 reference the other federal and state laws that regulate the same
21 activity or subject matter;

22 (b) Coordinate implementation and enforcement of the rule with the
23 other federal and state entities regulating the same activity or
24 subject matter by making every effort to do one or more of the
25 following:

26 (i) Deferring to the other entity;

27 (ii) Designating a lead agency; or

28 (iii) Entering into an agreement with the other entities specifying
29 how the agency and entities will coordinate implementation and
30 enforcement.

31 If the agency is unable to comply with this subsection (4)(b), the
32 agency shall report to the legislature pursuant to (c) of this
33 subsection;

34 (c) Report to the joint administrative rules review committee:

35 (i) The existence of any overlap or duplication of other federal or
36 state laws, any differences from federal law, and any known overlap,
37 duplication, or conflict with local laws; and

1 (ii) Make recommendations for any legislation that may be necessary
2 to eliminate or mitigate any adverse effects of such overlap,
3 duplication, or difference.

4 (5)(a) Except as provided in (b) of this subsection, this section
5 applies to:

6 (i) Significant legislative rules of the departments of ecology,
7 labor and industries, health, social and health services, revenue, and
8 natural resources, the employment security department, the forest
9 practices board, the office of the insurance commissioner, and to the
10 legislative rules of the department of fish and wildlife implementing
11 chapter 75.20 RCW; and

12 (ii) Any rule of any agency, if this section is voluntarily made
13 applicable to the rule by the agency, or is made applicable to the rule
14 by a majority vote of the joint administrative rules review committee
15 within forty-five days of receiving the notice of proposed rule making
16 under RCW 34.05.320.

17 (b) This section does not apply to:

18 (i) Emergency rules adopted under RCW 34.05.350;

19 (ii) Rules relating only to internal governmental operations that
20 are not subject to violation by a nongovernment party;

21 (iii) Rules adopting or incorporating by reference without material
22 change federal statutes or regulations, Washington state statutes,
23 rules of other Washington state agencies, shoreline master programs
24 other than those programs governing shorelines of state-wide
25 significance, or, as referenced by Washington state law, national
26 consensus codes that generally establish industry standards, if the
27 material adopted or incorporated regulates the same subject matter and
28 conduct as the adopting or incorporating rule;

29 (iv) Rules that only correct typographical errors, make address or
30 name changes, or clarify language of a rule without changing its
31 effect;

32 (v) Rules the content of which is explicitly and specifically
33 dictated by statute; or

34 (vi) Rules that set or adjust fees or rates pursuant to legislative
35 standards.

36 (c) For purposes of this subsection:

37 (i) A "procedural rule" is a rule that adopts, amends, or repeals
38 (A) any procedure, practice, or requirement relating to any agency
39 hearings; (B) any filing or related process requirement for making

1 application to an agency for a license or permit; or (C) any policy
2 statement pertaining to the consistent internal operations of an
3 agency.

4 (ii) An "interpretive rule" is a rule, the violation of which does
5 not subject a person to a penalty or sanction, that sets forth the
6 agency's interpretation of statutory provisions it administers.

7 (iii) A "significant legislative rule" is a rule other than a
8 procedural or interpretive rule that (A) adopts substantive provisions
9 of law pursuant to delegated legislative authority, the violation of
10 which subjects a violator of such rule to a penalty or sanction; (B)
11 establishes, alters, or revokes any qualification or standard for the
12 issuance, suspension, or revocation of a license or permit; or (C)
13 adopts a new, or makes significant amendments to, a policy or
14 regulatory program.

15 (d) In the notice of proposed rule making under RCW 34.05.320, an
16 agency shall state whether this section applies to the proposed rule
17 pursuant to (a)(i) of this subsection, or if the agency will apply this
18 section voluntarily.

19 (6) By January 31, 1996, and by January 31st of each even-numbered
20 year thereafter, the office of financial management, after consulting
21 with state agencies, counties, and cities, and business, labor, and
22 environmental organizations, shall report to the governor and the
23 legislature regarding the effects of this section on the regulatory
24 system in this state. The report shall document:

25 (a) The rules proposed to which this section applied and to the
26 extent possible, how compliance with this section affected the
27 substance of the rule, if any, that the agency ultimately adopted;

28 (b) The costs incurred by state agencies in complying with this
29 section;

30 (c) Any legal action maintained based upon the alleged failure of
31 any agency to comply with this section, the costs to the state of such
32 action, and the result;

33 (d) The extent to which this section has adversely affected the
34 capacity of agencies to fulfill their legislatively prescribed mission;

35 (e) The extent to which this section has improved the acceptability
36 of state rules to those regulated; and

37 (f) Any other information considered by the office of financial
38 management to be useful in evaluating the effect of this section.

1 **Sec. 203.** RCW 34.05.310 and 1995 c 403 s 301 are each amended to
2 read as follows:

3 (1) To meet the intent of providing greater public access to
4 administrative rule making and to promote consensus among interested
5 parties, agencies shall solicit comments from the public on a subject
6 of possible rule making before filing with the code reviser a notice of
7 proposed rule making under RCW 34.05.320. The agency shall prepare a
8 statement of inquiry that:

9 (a) Identifies the specific statute or statutes authorizing the
10 agency to adopt rules on this subject;

11 (b) Discusses why rules on this subject may be needed and what they
12 might accomplish;

13 (c) Identifies other federal and state agencies that regulate this
14 subject, and describes the process whereby the agency would coordinate
15 the contemplated rule with these agencies;

16 (d) Discusses the process by which the rule might be developed,
17 including, but not limited to, negotiated rule making, pilot rule
18 making, or agency study;

19 (e) Specifies the process by which interested parties can
20 effectively participate in the decision to adopt a new rule and
21 formulation of a proposed rule before its publication.

22 The statement of inquiry shall be filed with the code reviser for
23 publication in the state register at least thirty days before the date
24 the agency files notice of proposed rule making under RCW 34.05.320 and
25 shall be sent to any party that has requested receipt of the agency's
26 statements of inquiry.

27 (2) Agencies are encouraged to develop and use new procedures for
28 reaching agreement among interested parties before publication of
29 notice and the adoption hearing on a proposed rule. Examples of new
30 procedures include, but are not limited to:

31 (a) Negotiated rule making by which representatives of an agency
32 and of the interests that are affected by a subject of rule making,
33 including, where appropriate, county and city representatives, seek to
34 reach consensus on the terms of the proposed rule and on the process by
35 which it is negotiated; and

36 (b) Pilot rule making which includes testing the feasibility of
37 complying with or administering draft new rules or draft amendments to
38 existing rules through the use of volunteer pilot groups in various

1 areas and circumstances, as provided in RCW 34.05.313 or as otherwise
2 provided by the agency.

3 (3)(a) An agency must make a determination whether negotiated rule
4 making, pilot rule making, or another process for generating
5 participation from interested parties prior to development of the rule
6 is appropriate.

7 (b) An agency must include a written justification in the rule-
8 making file if an opportunity for interested parties to participate in
9 the rule-making process prior to publication of the proposed rule has
10 not been provided.

11 (4) This section does not apply to:

12 (a) Emergency rules adopted under RCW 34.05.350;

13 (b) Rules relating only to internal governmental operations that
14 are not subject to violation by a nongovernment party;

15 (c) Rules adopting or incorporating by reference without material
16 change federal statutes or regulations, Washington state statutes,
17 rules of other Washington state agencies, shoreline master programs
18 other than those programs governing shorelines of state-wide
19 significance, or, as referenced by Washington state law, national
20 consensus codes that generally establish industry standards, if the
21 material adopted or incorporated regulates the same subject matter and
22 conduct as the adopting or incorporating rule;

23 (d) Rules that only correct typographical errors, make address or
24 name changes, or clarify language of a rule without changing its
25 effect;

26 (e) Rules the content of which is explicitly and specifically
27 dictated by statute;

28 (f) Rules that set or adjust fees or rates pursuant to legislative
29 standards; or

30 (g) Rules that adopt, amend, or repeal:

31 (i) A procedure, practice, or requirement relating to agency
32 hearings; or

33 (ii) A filing or related process requirement for applying to an
34 agency for a license or permit.

35 NEW SECTION. **Sec. 204.** A new section is added to chapter 34.05
36 RCW under the subchapter heading "Part III" to read as follows:

37 (1) No rule, adopted by an agency before the effective date of this
38 section, is effective for more than seven years after the effective

1 date of this section, unless it has been reviewed under the procedures
2 established in this chapter.

3 (2) Each agency shall review its rules existing on the effective
4 date of this section as follows:

5 (a) Fifty percent of the rules shall be reviewed within three years
6 of the effective date of this section;

7 (b) Eighty percent of the rules shall be reviewed within five years
8 of the effective date of this section;

9 (c) One hundred percent of the rules shall be reviewed within seven
10 years of the effective date of this section.

11 (3) In reviewing a rule, the agency shall determine whether the
12 rule is:

13 (a) Unclear or difficult to understand;

14 (b) Written or being implemented in a way that does not conform
15 with the intent of the legislature as expressed by the statute which
16 the rule implements;

17 (c) Duplicative of, inconsistent with, or in conflict with other
18 state, federal, or local rules or statutes;

19 (d) Excessively costly or outdated in the methods prescribed;

20 (e) Unauthorized because the authorizing statute has since been
21 repealed or amended; and

22 (f) No longer necessary to meet the purposes of the statute which
23 it implements.

24 (4) The agency shall place in a rules review file documentation
25 sufficient to show that the agency considered the criteria in
26 subsection (3) of this section in reviewing a rule. If the
27 documentation shows that the rule meets the criteria, the agency may
28 retain the rule. If the rule does not meet the criteria, the agency
29 shall amend the rule to meet the criteria or repeal the rule. The
30 agency may use the expedited procedures under this chapter to amend or
31 repeal the rule. If the criteria are not met and the agency has not
32 amended the rule to meet the criteria, the agency may not rely on the
33 rule for any agency action beginning seven years after the effective
34 date of this section.

35 (5) For purposes of this section, "agency" means the department of
36 ecology, employment security department, department of labor and
37 industries, department of revenue, department of licensing, department
38 of health, department of social and health services, department of fish
39 and wildlife, and the office of the insurance commissioner.

1 NEW SECTION. **Sec. 205.** A new section is added to chapter 34.05
2 RCW under the subchapter heading "Part III" to read as follows:

3 Each state agency shall prepare a semiannual agenda for rules under
4 development. The agency shall file the agenda with the code reviser
5 for publication in the state register not later than January 31st and
6 July 31st of each year. Not later than three days after its
7 publication in the state register, the agency shall send a copy of the
8 agenda to each person who has requested receipt of a copy of the
9 agenda. The agency shall also submit the agenda to the director of
10 financial management, the rules review committee, and any other state
11 agency that may reasonably be expected to have an interest in the
12 subject of rules that will be developed.

13 NEW SECTION. **Sec. 206.** A new section is added to chapter 34.05
14 RCW under the subchapter heading "Part III" to read as follows:

15 Any agency having rules that postpone full compliance with their
16 requirements beyond ninety days after the effective date of this
17 section shall prepare a small business economic impact statement, as
18 defined in RCW 19.85.020(2), on such rules before requiring full
19 compliance with the rules.

20 NEW SECTION. **Sec. 207.** A new section is added to chapter 34.05
21 RCW under the subchapter heading "Part III" to read as follows:

22 (1) An agency may file notice for the expedited adoption of rules
23 in accordance with the procedures set forth in this section for rules
24 meeting any one of the following criteria:

25 (a) The proposed rules previously existed in the form of
26 interpretive statements or policy statements by the agency;

27 (b) The proposed rules relate only to internal governmental
28 operations that are not subject to violation by a person;

29 (c) The proposed rules adopt or incorporate by reference without
30 material change federal statutes or regulations, Washington state
31 statutes, rules of other Washington state agencies, shoreline master
32 programs other than those programs governing shorelines of state-wide
33 significance, or, as referenced by Washington state law, national
34 consensus codes that generally establish industry standards, if the
35 material adopted or incorporated regulates the same subject matter and
36 conduct as the adopting or incorporating rule;

1 (d) The proposed rules only correct typographical errors, make
2 address or name changes, or clarify language of a rule without changing
3 its effect;

4 (e) The content of the proposed rules is explicitly and
5 specifically dictated by statute;

6 (f) The proposed rules have been the subject of negotiated rule
7 making, pilot rule making, or some other process that involved
8 substantial participation by interested parties before the development
9 of the proposed rule; or

10 (g) The proposed rule is being amended following a review under
11 section 204 of this act.

12 (2) The expedited rule-making process must follow the requirements
13 for rule making set forth in RCW 34.05.320, except that the agency is
14 not required to prepare a small business economic impact statement, a
15 statement indicating whether the rule constitutes a significant
16 legislative rule under RCW 34.05.328(5)(c)(iii), or a significant
17 legislative rule analysis under RCW 34.05.328. An agency is not
18 required to prepare statements of inquiry under RCW 34.05.310 or
19 conduct a hearing for the expedited adoption of rules. The notice for
20 the expedited adoption of rules must contain a statement which is
21 substantially in the following form:

22 **NOTICE**

23 THIS RULE IS BEING PROPOSED TO BE ADOPTED USING AN
24 EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR
25 THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS
26 ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA
27 FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS RULE
28 BEING ADOPTED USING THE EXPEDITED RULE-MAKING PROCESS, YOU MUST
29 EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE RECEIVED BY
30 (INSERT DATE) AND SENT TO (INSERT NAME AND ADDRESS).

31 (3) The agency shall send a copy of the notice of the proposed
32 expedited rule making to any person who has requested notification of
33 proposals for the expedited adoption of rules or of agency rule making,
34 as well as the joint administrative rules review committee, within
35 three days after its publication in the Washington State Register. An
36 agency may charge for the actual cost of providing a requesting party
37 mailed copies of these notices. The notice of the proposed expedited
38 rule making shall include a statement that any person who objects to

1 the adoption of the rule must file a written objection to the adoption
2 of the rule within forty-five days after the notice has been published.
3 The notice shall also include an explanation of the reasons the agency
4 believes the expedited adoption of the rule is appropriate.

5 (4) The code reviser shall publish the text of all rules proposed
6 for expedited adoption along with the notice required in this section
7 in a separate section of the Washington State Register. Once the text
8 of the proposed rules has been published in the Washington State
9 Register, the only changes that an agency may make in the text of these
10 proposed rules before their final adoption are to correct typographical
11 errors.

12 (5) Any person may file a written objection to the expedited
13 adoption of a rule. The objection shall be filed with the agency rules
14 coordinator within forty-five days after the notice of the proposed
15 expedited rule making has been published in the Washington State
16 Register. A person who has filed a written objection to the expedited
17 adoption of a rule may withdraw the objection.

18 (6) If no written objections to the expedited adoption of a rule
19 are filed with the agency within forty-five days after the notice of
20 proposed expedited rule making is published, or if all objections that
21 have been filed are withdrawn by the persons filing the objections, the
22 agency may enter an order adopting the rule without further notice or
23 a public hearing. The order shall be published in the manner required
24 by this chapter for any other agency order adopting, amending, or
25 repealing a rule.

26 (7) If a written notice of objection to the expedited adoption of
27 the rule is timely filed with the agency and is not withdrawn, the
28 notice of proposed expedited rule making published under this section
29 shall be considered a statement of inquiry for the purposes of RCW
30 34.05.310 and the agency may initiate further rule adoption proceedings
31 in accordance with this chapter except that RCW 34.05.328 does not
32 apply.

33 **Sec. 208.** RCW 34.05.010 and 1992 c 44 s 10 are each amended to
34 read as follows:

35 The definitions set forth in this section shall apply throughout
36 this chapter, unless the context clearly requires otherwise.

37 (1) "Adjudicative proceeding" means a proceeding before an agency
38 in which an opportunity for hearing before that agency is required by

1 statute or constitutional right before or after the entry of an order
2 by the agency. Adjudicative proceedings also include all cases of
3 licensing and rate making in which an application for a license or rate
4 change is denied except as limited by RCW 66.08.150, or a license is
5 revoked, suspended, or modified, or in which the granting of an
6 application is contested by a person having standing to contest under
7 the law.

8 (2) "Agency" means any state board, commission, department,
9 institution of higher education, or officer, authorized by law to make
10 rules or to conduct adjudicative proceedings, except those in the
11 legislative or judicial branches, the governor, or the attorney general
12 except to the extent otherwise required by law and any local
13 governmental entity that may request the appointment of an
14 administrative law judge under chapter 42.41 RCW.

15 (3) "Agency action" means licensing, the implementation or
16 enforcement of a statute, the adoption or application of an agency rule
17 or order, the imposition of sanctions, or the granting or withholding
18 of benefits.

19 Agency action does not include an agency decision regarding (a)
20 contracting or procurement of goods, services, public works, and the
21 purchase, lease, or acquisition by any other means, including eminent
22 domain, of real estate, as well as all activities necessarily related
23 to those functions, or (b) determinations as to the sufficiency of a
24 showing of interest filed in support of a representation petition, or
25 mediation or conciliation of labor disputes or arbitration of labor
26 disputes under a collective bargaining law or similar statute, or (c)
27 any sale, lease, contract, or other proprietary decision in the
28 management of public lands or real property interests, or (d) the
29 granting of a license, franchise, or permission for the use of
30 trademarks, symbols, and similar property owned or controlled by the
31 agency.

32 (4) "Agency head" means the individual or body of individuals in
33 whom the ultimate legal authority of the agency is vested by any
34 provision of law. If the agency head is a body of individuals, a
35 majority of those individuals constitutes the agency head.

36 (5) "Entry" of an order means the signing of the order by all
37 persons who are to sign the order, as an official act indicating that
38 the order is to be effective.

1 (6) "Filing" of a document that is required to be filed with an
2 agency means delivery of the document to a place designated by the
3 agency by rule for receipt of official documents, or in the absence of
4 such designation, at the office of the agency head.

5 (7) "Institutions of higher education" are the University of
6 Washington, Washington State University, Central Washington University,
7 Eastern Washington University, Western Washington University, The
8 Evergreen State College, the various community colleges, and the
9 governing boards of each of the above, and the various colleges,
10 divisions, departments, or offices authorized by the governing board of
11 the institution involved to act for the institution, all of which are
12 sometimes referred to in this chapter as "institutions."

13 (8) "Interpretive statement" means a written expression of the
14 opinion of an agency(~~(, entitled an interpretive statement))~~ by the
15 agency head or its designee, as to the meaning of a statute or other
16 provision of law, of a court decision, or of an agency order, for
17 general application by the agency and not directed to one specific
18 event or person for the purpose of providing guidance to persons as to
19 their obligations under the law. Consumer-related guides and brochures
20 produced by an agency that generally explain an agency program or a
21 person's rights under the law do not constitute interpretive statements
22 for purposes of this chapter. A document entitled "technical
23 assistance document" does not constitute an interpretive statement for
24 purposes of this chapter. Tax determinations issued by the department
25 of revenue that have precedential value do not constitute interpretive
26 statements for purposes of this chapter.

27 (9)(a) "License" means a franchise, permit, certification,
28 approval, registration, charter, or similar form of authorization
29 required by law, but does not include (i) a license required solely for
30 revenue purposes, or (ii) a certification of an exclusive bargaining
31 representative, or similar status, under a collective bargaining law or
32 similar statute, or (iii) a license, franchise, or permission for use
33 of trademarks, symbols, and similar property owned or controlled by the
34 agency.

35 (b) "Licensing" includes the agency process respecting the
36 issuance, denial, revocation, suspension, or modification of a license.

37 (10)(a) "Order," without further qualification, means a written
38 statement of particular applicability that finally determines the legal

1 rights, duties, privileges, immunities, or other legal interests of a
2 specific person or persons.

3 (b) "Order of adoption" means the official written statement by
4 which an agency adopts, amends, or repeals a rule.

5 (11) "Party to agency proceedings," or "party" in a context so
6 indicating, means:

7 (a) A person to whom the agency action is specifically directed; or

8 (b) A person named as a party to the agency proceeding or allowed
9 to intervene or participate as a party in the agency proceeding.

10 (12) "Party to judicial review or civil enforcement proceedings,"
11 or "party" in a context so indicating, means:

12 (a) A person who files a petition for a judicial review or civil
13 enforcement proceeding; or

14 (b) A person named as a party in a judicial review or civil
15 enforcement proceeding, or allowed to participate as a party in a
16 judicial review or civil enforcement proceeding.

17 (13) "Person" means any individual, partnership, corporation,
18 association, governmental subdivision or unit thereof, or public or
19 private organization or entity of any character, and includes another
20 agency.

21 (14) "Policy statement" means a written description of the current
22 approach of an agency(~~(, entitled a policy statement)~~) by the agency
23 head or its designee, to implementation of a statute or other provision
24 of law, of a court decision, or of an agency order, including where
25 appropriate the agency's current practice, procedure, or method of
26 action based upon that approach. A policy statement may also include
27 factors the agency will consider in implementing a law, court decision,
28 or agency order. A policy statement must be used for general
29 application by the agency and not directed to one specific event or
30 person for the purpose of providing guidance to persons as to their
31 obligations under the law. Consumer-related guides and brochures
32 produced by an agency that generally explain an agency program or a
33 person's rights under the law do not constitute policy statements for
34 purposes of this chapter. A document entitled "technical assistance
35 document" does not constitute a policy statement for purposes of this
36 chapter. Tax determinations issued by the department of revenue that
37 have precedential value do not constitute policy statements for the
38 purpose of this chapter.

1 (15) "Rule" means any agency order, directive, ~~((or))~~ regulation,
2 or statement of general applicability (a) the violation of which
3 subjects a person to a penalty or administrative sanction; (b) which
4 establishes, alters, or revokes any procedure, practice, or requirement
5 relating to agency hearings; (c) which establishes, alters, or revokes
6 any qualification or requirement relating to the enjoyment of benefits
7 or privileges conferred by law; (d) which establishes, alters, or
8 revokes any qualifications or standards for the issuance, suspension,
9 or revocation of licenses to pursue any commercial activity, trade, or
10 profession; or (e) which establishes, alters, or revokes any mandatory
11 standards for any product or material which must be met before
12 distribution or sale. The term includes the amendment or repeal of a
13 prior rule, but does not include (i) statements concerning only the
14 internal management of an agency and not affecting private rights or
15 procedures available to the public, (ii) declaratory rulings issued
16 pursuant to RCW 34.05.240, (iii) traffic restrictions for motor
17 vehicles, bicyclists, and pedestrians established by the secretary of
18 transportation or his designee where notice of such restrictions is
19 given by official traffic control devices, or (iv) rules of
20 institutions of higher education involving standards of admission,
21 academic advancement, academic credit, graduation and the granting of
22 degrees, employment relationships, or fiscal processes.

23 (16) "Rules review committee" or "committee" means the joint
24 administrative rules review committee created pursuant to RCW 34.05.610
25 for the purpose of selectively reviewing existing and proposed rules of
26 state agencies.

27 (17) "Rule making" means the process for formulation and adoption
28 of a rule.

29 (18) "Service," except as otherwise provided in this chapter, means
30 posting in the United States mail, properly addressed, postage prepaid,
31 or personal service. Service by mail is complete upon deposit in the
32 United States mail. Agencies may, by rule, authorize service by
33 electronic telefacsimile transmission, where copies are mailed
34 simultaneously, or by commercial parcel delivery company.

35 **Sec. 209.** RCW 34.05.230 and 1996 c 206 s 12 are each amended to
36 read as follows:

37 (1) ~~((If the adoption of rules is not feasible and practicable,))~~
38 An agency is encouraged to advise the public of its current opinions,

1 approaches, and likely courses of action by means of interpretive or
2 policy statements. (~~Current interpretive and policy statements are~~
3 ~~advisory only.~~) To better inform and involve the public, an agency is
4 encouraged to convert long-standing interpretive and policy statements
5 into rules through the expedited rule adoption process in section 207
6 of this act.

7 (2) Interpretive and policy statements are advisory only and do not
8 foreclose alternative courses of action by persons in agency actions.
9 Interpretive or policy statements cannot be used to substantially
10 modify existing rules.

11 (3) A person may petition an agency requesting the conversion of
12 interpretive and policy statements into rules. A person may also
13 petition an agency requesting the repeal or withdrawal of interpretive
14 or policy statements. Upon submission, the agency shall notify the
15 joint administrative rules review committee of the petition. Within
16 sixty days after submission of a petition, the agency shall either deny
17 the petition in writing, stating its reasons for the denial, or
18 initiate rule-making proceedings in accordance with this chapter, or
19 repeal or withdraw the interpretive or policy statement.

20 (~~(+3)~~) (4) Each agency shall maintain a roster of interested
21 persons, consisting of persons who have requested in writing to be
22 notified of all interpretive and policy statements issued by that
23 agency. Each agency shall update the roster once each year and
24 eliminate persons from the roster who do not indicate a desire to
25 continue on the roster. Whenever an agency issues an interpretive or
26 policy statement, it shall send a copy of the statement to each person
27 listed on the roster. The agency may charge a nominal fee to the
28 interested person for this service. Agencies are not required to
29 notify or send people copies of interpretive or policy statements that
30 concern only internal agency procedures that do not affect private
31 rights or procedures available to the public.

32 (~~(+4)~~) (5) Whenever an agency issues an interpretive or policy
33 statement, except for an interpretive or policy statement that concerns
34 only internal agency procedures that do no affect private rights or
35 procedures available to the public, it shall submit to the code reviser
36 for publication in the Washington State Register a statement describing
37 the subject matter of the interpretive or policy statement, and listing
38 the person at the agency from whom a copy of the interpretive or policy
39 statement may be obtained.

1 **Sec. 210.** RCW 82.32.410 and 1991 c 330 s 2 are each amended to
2 read as follows:

3 (1) The director may designate certain written determinations as
4 precedents.

5 (a) By rule adopted pursuant to chapter 34.05 RCW, the director
6 shall adopt criteria which he or she shall use to decide whether a
7 determination is precedential. These criteria shall include, but not
8 be limited to, whether the determination clarifies an unsettled
9 interpretation of Title 82 RCW or where the determination modifies or
10 clarifies an earlier interpretation.

11 (b) Written determinations designated as precedents by the director
12 shall be indexed by subject matter. The determinations and indexes
13 shall be made available for public inspection and shall be published by
14 the department.

15 (c) The department shall disclose any written determination upon
16 which it relies to support any assessment of tax, interest, or penalty
17 against such taxpayer, after making the deletions provided by
18 subsection (2) of this section.

19 (2) Before making a written determination available for public
20 inspection under subsection (1) of this section, the department shall
21 delete:

22 (a) The names, addresses, and other identifying details of the
23 person to whom the written determination pertains and of another person
24 identified in the written determination; and

25 (b) Information the disclosure of which is specifically prohibited
26 by any statute applicable to the department of revenue, and the
27 department may also delete other information exempted from disclosure
28 by chapter 42.17 RCW or any other statute applicable to the department
29 of revenue.

30 NEW SECTION. **Sec. 211.** A new section is added to chapter 34.05
31 RCW under the subchapter heading "Part III" to read as follows:

32 (1)(a) Except for the circumstances in (b) of this subsection, no
33 state agency may enforce or attempt to enforce in an agency action an
34 interpretive statement, policy statement, guideline, bulletin, staff
35 instruction, or other such issuance against any person in such a manner
36 that the procedures or standards contained in the agency issuance are
37 considered binding. The information contained in such an issuance may
38 illustrate acceptable and unacceptable procedures or standards, but the

1 agency must consider individual facts in cases that arise to allow for
2 individualized determinations in agency actions. If a court or
3 presiding officer finds that an agency is applying the information
4 contained in an agency issuance in a binding manner, then the
5 procedures or standards contained in the agency issuance shall be
6 considered invalid because the agency failed to adopt these procedures
7 or standards as rules.

8 (b) Nothing in (a) of this subsection prohibits an agency from
9 enforcing any guidelines, policies, or other such issuances applicable
10 to the personnel of the agency.

11 (2) Any person may rely upon a technical assistance document,
12 issued to that person by the agency, in the course of meeting the
13 requirements of a rule or statute.

14 NEW SECTION. **Sec. 212.** A new section is added to chapter 34.05
15 RCW under the subchapter heading "Part III" to read as follows:

16 In lieu of regular mail, an agency may send the contents of any
17 notice pertaining to rule making required under this chapter by
18 electronic mail or facsimile mail if requested in writing by the person
19 entitled to receive the notice.

20 **Sec. 213.** RCW 34.05.325 and 1995 c 403 s 304 are each amended to
21 read as follows:

22 (1) The agency shall make a good faith effort to insure that the
23 information on the proposed rule published pursuant to RCW 34.05.320
24 accurately reflects the rule to be presented and considered at the oral
25 hearing on the rule. Written comment about a proposed rule, including
26 supporting data, shall be accepted by an agency if received no later
27 than the time and date specified in the notice, or such later time and
28 date established at the rule-making hearing.

29 (2) The agency shall provide an opportunity for oral comment to be
30 received by the agency in a rule-making hearing.

31 (3) If the agency possesses equipment capable of receiving
32 electronic mail, telefacsimile transmissions, or recorded telephonic
33 communications, the agency (~~may~~) shall provide in its notice of
34 hearing filed under RCW 34.05.320 that interested parties may comment
35 on proposed rules by these means. If the agency (~~chooses~~) is able to
36 receive comments by these means, the notice of hearing shall provide
37 instructions for making such comments, including, but not limited to,

1 appropriate telephone numbers to be used; the date and time by which
2 comments must be received; required methods to verify the receipt and
3 authenticity of the comments; and any limitations on the number of
4 pages for telefacsimile transmission or electronic mail comments and on
5 the minutes of tape recorded comments. The agency shall accept
6 comments received by these means for inclusion in the (~~official~~
7 ~~record~~) rule-making file established under RCW 34.05.370 if the
8 comments are made in accordance with the agency's instructions.

9 (4) The agency head, a member of the agency head, or a presiding
10 officer designated by the agency head shall preside at the rule-making
11 hearing. Rule-making hearings shall be open to the public. The agency
12 shall cause a record to be made of the hearing by stenographic,
13 mechanical, or electronic means. Unless the agency head presides or is
14 present at substantially all the hearings, the presiding official shall
15 prepare a memorandum for consideration by the agency head, summarizing
16 the contents of the presentations made at the rule-making hearing. The
17 summarizing memorandum is a public document and shall be made available
18 to any person in accordance with chapter 42.17 RCW.

19 (5) Rule-making hearings are legislative in character and shall be
20 reasonably conducted by the presiding official to afford interested
21 persons the opportunity to present comment. Rule-making hearings may
22 be continued to a later time and place established on the record
23 without publication of further notice under RCW 34.05.320.

24 (6)(a) Before it files an adopted rule with the code reviser, an
25 agency shall prepare a concise explanatory statement of the rule:

26 (i) Identifying the agency's reasons for adopting the rule;

27 (ii) Describing differences between the text of the proposed rule
28 as published in the register and the text of the rule as adopted, other
29 than editing changes, stating the reasons for differences; and

30 (iii) Summarizing all comments received regarding the proposed
31 rule, and responding to the comments by category or subject matter,
32 indicating how the final rule reflects agency consideration of the
33 comments, or why it fails to do so.

34 (b) The agency shall provide the concise explanatory statement to
35 any person upon request or from whom the agency received comment.

36 **Sec. 214.** RCW 34.05.354 and 1995 c 403 s 701 are each amended to
37 read as follows:

1 (1) Not later than (~~June 30th~~) April 1st or October 1st of each
2 year, each agency shall submit to the code reviser, according to
3 procedures and time lines established by the code reviser, rules that
4 it determines should be repealed by the expedited repeal procedures
5 provided for in this section. An agency shall file a copy of a
6 preproposal notice of inquiry, as provided in RCW 34.05.310(1), that
7 identifies the rule as one that is proposed for expedited repeal.

8 (2) An agency may propose the expedited repeal of rules meeting one
9 or more of the following criteria:

10 (a) The statute on which the rule is based has been repealed and
11 has not been replaced by another statute providing statutory authority
12 for the rule;

13 (b) The statute on which the rule is based has been declared
14 unconstitutional by a court with jurisdiction, there is a final
15 judgment, and no statute has been enacted to replace the
16 unconstitutional statute;

17 (c) The rule is no longer necessary because of changed
18 circumstances; or

19 (d) Other rules of the agency or of another agency govern the same
20 activity as the rule, making the rule redundant.

21 (3) The agency shall also send a copy of the preproposal notice of
22 inquiry to any person who has requested notification of copies of
23 proposals for the expedited repeal of rules or of agency rule making.
24 The preproposal notice of inquiry shall include a statement that any
25 person who objects to the repeal of the rule must file a written
26 objection to the repeal within thirty days after the preproposal notice
27 of inquiry is published. The notice of inquiry shall also include an
28 explanation of the reasons the agency believes the expedited repeal of
29 the rule is appropriate.

30 (4) The code reviser shall publish all rules proposed for expedited
31 repeal in a separate section of a regular edition of the Washington
32 state register or in a special edition of the Washington state
33 register. The publication shall be not later than (~~July~~) May 31st or
34 November 30th of each year, or in the first register published after
35 that date.

36 (5) Any person may file a written objection to the expedited repeal
37 of a rule. The notice shall be filed with the agency rules coordinator
38 within thirty days after the notice of inquiry has been published in

1 the Washington state register. The written objection need not state
2 any reason for objecting to the expedited repeal of the rule.

3 (6) If no written objections to the expedited repeal of a rule are
4 filed with the agency within thirty days after the preproposal notice
5 of inquiry is published, the agency may enter an order repealing the
6 rule without further notice or an opportunity for a public hearing.
7 The order shall be published in the manner required by this chapter for
8 any other order of the agency adopting, amending, or repealing a rule.
9 If a written objection to the expedited repeal of the rule is filed
10 with the agency within thirty days after the notice of inquiry has been
11 published, the preproposal notice of inquiry published pursuant to this
12 section shall be considered a preproposal notice of inquiry for the
13 purposes of RCW 34.05.310(1) and the agency may initiate rule adoption
14 proceedings in accordance with the provisions of this chapter.

15 **Sec. 215.** RCW 19.85.025 and 1995 c 403 s 401 are each amended to
16 read as follows:

17 (1) Unless an agency receives a written objection to the expedited
18 repeal of a rule, this chapter does not apply to a rule proposed for
19 expedited repeal pursuant to RCW 34.05.354. If an agency receives a
20 written objection to expedited repeal of the rule, this chapter applies
21 to the rule-making proceeding.

22 (2) This chapter does not apply to a rule proposed for expedited
23 adoption pursuant to section 207 of this act, unless a written
24 objection is timely filed with the agency and the objection is not
25 withdrawn.

26 (3) This chapter does not apply to the adoption of a rule described
27 in RCW 34.05.310(4).

28 ~~((+3+))~~ (4) An agency is not required to prepare a separate small
29 business economic impact statement under RCW 19.85.040 if it prepared
30 an analysis under RCW 34.05.328 that meets the requirements of a small
31 business economic impact statement, and if the agency reduced the costs
32 imposed by the rule on small business to the extent required by RCW
33 19.85.030(3). The portion of the analysis that meets the requirements
34 of RCW 19.85.040 shall be filed with the code reviser and provided to
35 any person requesting it in lieu of a separate small business economic
36 impact statement.

1 This subsection does not apply to an interpretive or policy statement
2 that the court finds is invalid because it constitutes a rule that was
3 not adopted in accordance with all applicable provisions of law.

4 (2) Review of rules. (a) A rule may be reviewed by petition for
5 declaratory judgment filed pursuant to this subsection or in the
6 context of any other review proceeding under this section. In an
7 action challenging the validity of a rule, the agency shall be made a
8 party to the proceeding.

9 (b) The validity of any rule may be determined upon petition for a
10 declaratory judgment addressed to the superior court of Thurston
11 county, when it appears that the rule, or its threatened application,
12 interferes with or impairs or immediately threatens to interfere with
13 or impair the legal rights or privileges of the petitioner. When the
14 validity of a rule is challenged, after the petitioner has identified
15 the defects in the rule, the burden of going forward with the evidence
16 is on the agency. The declaratory judgment order may be entered
17 whether or not the petitioner has first requested the agency to pass
18 upon the validity of the rule in question.

19 (c) In a proceeding involving review of a rule, the court shall
20 declare the rule invalid only if it finds that: The rule violates
21 constitutional provisions; the rule exceeds the statutory authority of
22 the agency; the rule was adopted without compliance with statutory
23 rule-making procedures; or the rule is arbitrary and capricious.

24 (3) Review of agency orders in adjudicative proceedings. The court
25 shall grant relief from an agency order in an adjudicative proceeding
26 only if it determines that:

27 (a) The order, or the statute or rule on which the order is based,
28 is in violation of constitutional provisions on its face or as applied;

29 (b) The order is outside the statutory authority or jurisdiction of
30 the agency conferred by any provision of law;

31 (c) The agency has engaged in unlawful procedure or decision-making
32 process, or has failed to follow a prescribed procedure;

33 (d) The agency has erroneously interpreted or applied the law;

34 (e) The order is not supported by evidence that is substantial when
35 viewed in light of the whole record before the court, which includes
36 the agency record for judicial review, supplemented by any additional
37 evidence received by the court under this chapter;

38 (f) The agency has not decided all issues requiring resolution by
39 the agency;

1 (g) A motion for disqualification under RCW 34.05.425 or 34.12.050
2 was made and was improperly denied or, if no motion was made, facts are
3 shown to support the grant of such a motion that were not known and
4 were not reasonably discoverable by the challenging party at the
5 appropriate time for making such a motion;

6 (h) The order is inconsistent with a rule of the agency unless the
7 agency explains the inconsistency by stating facts and reasons to
8 demonstrate a rational basis for inconsistency; or

9 (i) The order is arbitrary or capricious.

10 (4) Review of other agency action.

11 (a) All agency action not reviewable under subsection (2) or (3) of
12 this section shall be reviewed under this subsection.

13 (b) A person whose rights are violated by an agency's failure to
14 perform a duty that is required by law to be performed may file a
15 petition for review pursuant to RCW 34.05.514, seeking an order
16 pursuant to this subsection requiring performance. Within twenty days
17 after service of the petition for review, the agency shall file and
18 serve an answer to the petition, made in the same manner as an answer
19 to a complaint in a civil action. The court may hear evidence,
20 pursuant to RCW 34.05.562, on material issues of fact raised by the
21 petition and answer.

22 (c) Relief for persons aggrieved by the performance of an agency
23 action, including the exercise of discretion, or an action under (b) of
24 this subsection can be granted only if the court determines that the
25 action is:

26 (i) Unconstitutional;

27 (ii) Outside the statutory authority of the agency or the authority
28 conferred by a provision of law;

29 (iii) Arbitrary or capricious; or

30 (iv) Taken by persons who were not properly constituted as agency
31 officials lawfully entitled to take such action.

32 **Sec. 302.** RCW 34.05.534 and 1995 c 403 s 803 are each amended to
33 read as follows:

34 A person may file a petition for judicial review under this chapter
35 only after exhausting all administrative remedies available within the
36 agency whose action is being challenged, or available within any other
37 agency authorized to exercise administrative review, except:

1 (1) A petitioner for judicial review of a rule need not have
2 participated in the rule-making proceeding upon which that rule is
3 based, have petitioned for its amendment or repeal, have petitioned the
4 joint administrative rules review committee for its review, or have
5 appealed a petition for amendment or repeal to the governor;

6 (2) A petitioner for judicial review need not exhaust
7 administrative remedies to the extent that this chapter or any other
8 statute states that exhaustion is not required; or

9 (3) The court may relieve a petitioner of the requirement to
10 exhaust any or all administrative remedies upon a showing that:

11 (a) The remedies would be patently inadequate;

12 (b) The exhaustion of remedies would be futile; or

13 (c) The grave irreparable harm that would result from having to
14 exhaust administrative remedies would clearly outweigh the public
15 policy requiring exhaustion of administrative remedies.

16 NEW SECTION. **Sec. 303.** A new section is added to chapter 34.05
17 RCW under the subchapter heading "Part IV" to read as follows:

18 The presiding officer shall apply the applicable statute as the
19 first source of law governing an issue in any adjudicative proceeding.
20 Any agency rule is invalid if it requires a presiding officer to apply
21 agency rules as the first source of law in an adjudicatory proceeding.

22 **Sec. 304.** RCW 48.04.010 and 1990 1st ex.s. c 3 s 1 are each
23 amended to read as follows:

24 (1) The commissioner may hold a hearing for any purpose within the
25 scope of this code as he or she may deem necessary. The commissioner
26 shall hold a hearing:

27 (a) If required by any provision of this code; or

28 (b) Upon written demand for a hearing made by any person aggrieved
29 by any act, threatened act, or failure of the commissioner to act, if
30 such failure is deemed an act under any provision of this code, or by
31 any report, promulgation, or order of the commissioner other than an
32 order on a hearing of which such person was given actual notice or at
33 which such person appeared as a party, or order pursuant to the order
34 on such hearing.

35 (2) Any such demand for a hearing shall specify in what respects
36 such person is so aggrieved and the grounds to be relied upon as basis
37 for the relief to be demanded at the hearing.

1 (3) Unless a person aggrieved by a written order of the
2 commissioner demands a hearing thereon within ninety days after
3 receiving notice of such order, or in the case of a licensee under
4 Title 48 RCW within ninety days after the commissioner has mailed the
5 order to the licensee at the most recent address shown in the
6 commissioner's licensing records for the licensee, the right to such
7 hearing shall conclusively be deemed to have been waived.

8 (4) If a hearing is demanded by a licensee whose license has been
9 temporarily suspended pursuant to RCW 48.17.540, the commissioner shall
10 hold such hearing demanded within thirty days after receipt of the
11 demand or within thirty days of the effective date of a temporary
12 license suspension issued after such demand, unless postponed by mutual
13 consent.

14 (5) Any hearing held under this section must be conducted by an
15 administrative law judge unless the person demanding the hearing agrees
16 in writing to have an employee of the commissioner conduct the hearing.

17 **Sec. 305.** RCW 34.12.040 and 1981 c 67 s 4 are each amended to read
18 as follows:

19 (1) Except as provided in subsection (2) of this section, whenever
20 a state agency conducts a hearing which is not presided over by
21 officials of the agency who are to render the final decision, the
22 hearing shall be conducted by an administrative law judge assigned
23 under this chapter. In assigning administrative law judges, the chief
24 administrative law judge shall wherever practical ((+1+)) (a) use
25 personnel having expertise in the field or subject matter of the
26 hearing, and ((+2+)) (b) assign administrative law judges primarily to
27 the hearings of particular agencies on a long-term basis.

28 (2) An employee of the office of the insurance commissioner may
29 conduct a hearing as provided in RCW 48.04.010(5).

30 **PART IV**
31 **LEGISLATIVE REVIEW**

32 **Sec. 401.** RCW 34.05.630 and 1996 c 318 s 4 are each amended to
33 read as follows:

34 (1) All rules required to be filed pursuant to RCW 34.05.380, and
35 emergency rules adopted pursuant to RCW 34.05.350, are subject to
36 selective review by the ((legislature)) rules review committee.

1 (2) All agency policy and interpretive statements, guidelines, or
2 other such issuances of general applicability are subject to selective
3 review by the ~~((legislature))~~ rules review committee for the purpose of
4 determining whether an issuance constitutes a rule that has not been
5 adopted in accordance with all applicable provisions of law. If the
6 committee finds that an issuance constitutes a rule, the rules review
7 committee may also examine whether the rule is within the intent of the
8 legislature as expressed by the statute that the rule implements.

9 (3) If the rules review committee finds by a majority vote of its
10 members: (a) That an existing rule is not within the intent of the
11 legislature as expressed by the statute which the rule implements~~((7))~~
12 or (b) that the rule has not been adopted in accordance with all
13 applicable provisions of law, ~~((or (c) that an agency is using a policy~~
14 ~~or interpretive statement in place of a rule,))~~ the agency affected
15 shall be notified of such finding and the reasons therefor. Within
16 thirty days of the receipt of the rules review committee's notice, the
17 agency shall file notice of a hearing on the rules review committee's
18 finding with the code reviser and mail notice to all persons who have
19 made timely request of the agency for advance notice of its rule-making
20 proceedings as provided in RCW 34.05.320. The agency's notice shall
21 include the rules review committee's findings and reasons therefor, and
22 shall be published in the Washington state register in accordance with
23 the provisions of chapter 34.08 RCW.

24 (4) The agency shall consider fully all written and oral
25 submissions regarding (a) whether the rule in question is within the
26 intent of the legislature as expressed by the statute which the rule
27 implements~~((7))~~ or (b) whether the rule was adopted in accordance with
28 all applicable provisions of law~~((, or (c) whether the agency is using~~
29 ~~a policy or interpretive statement in place of a rule))~~.

30 **Sec. 402.** RCW 34.05.640 and 1996 c 318 s 5 are each amended to
31 read as follows:

32 (1) Within seven days of an agency hearing held after notification
33 of the agency by the rules review committee pursuant to RCW 34.05.620
34 or 34.05.630, the affected agency shall notify the committee of its
35 intended action on a proposed or existing rule to which the committee
36 objected or on a committee finding of the agency's failure to adopt
37 rules.

1 (2) If the rules review committee finds by a majority vote of its
2 members: (a) That the proposed or existing rule in question will not
3 be modified, amended, withdrawn, or repealed by the agency so as to
4 conform with the intent of the legislature(~~(7)~~) or (b) that (~~an~~
5 ~~existing~~) a rule was not adopted in accordance with all applicable
6 provisions of law(~~(7, or (c) that the agency will not replace the policy~~
7 ~~or interpretive statement with a rule)~~), the rules review committee
8 may, within thirty days from notification by the agency of its intended
9 action, file with the code reviser notice of its objections together
10 with a concise statement of the reasons therefor. Such notice and
11 statement shall also be provided to the agency by the rules review
12 committee.

13 (3) If the rules review committee makes an adverse finding
14 regarding an existing rule under subsection (2) (a) or (b) of this
15 section, the committee may, by a majority vote of its members,
16 recommend suspension of the rule. Within seven days of such vote the
17 committee shall transmit to the appropriate standing committees of the
18 legislature, the governor, the code reviser, and the agency written
19 notice of its objection and recommended suspension and the concise
20 reasons therefor. Within thirty days of receipt of the notice, the
21 governor shall transmit to the committee, the code reviser, and the
22 agency written approval or disapproval of the recommended suspension.
23 If the suspension is approved by the governor, it is effective from the
24 date of that approval and continues until ninety days after the
25 expiration of the next regular legislative session.

26 (4) The code reviser shall publish transmittals from the rules
27 review committee or the governor issued pursuant to subsection (2) or
28 (3) of this section in the Washington state register and shall publish
29 in the next supplement and compilation of the Washington Administrative
30 Code a reference to the committee's objection or recommended suspension
31 and the governor's action on it and to the issue of the Washington
32 state register in which the full text thereof appears. If the
33 transmittal relates to a policy or interpretive statement, guideline,
34 or other such issuance of general applicability, the code reviser shall
35 publish the reference in the chapter of the Washington State Register
36 and Washington Administrative Code that addresses the most relevant
37 subject matter to the issuance.

38 (5) The reference shall be removed from a rule published in the
39 Washington Administrative Code if a subsequent adjudicatory proceeding

1 determines that the rule is within the intent of the legislature or was
2 adopted in accordance with all applicable laws, whichever was the
3 objection of the rules review committee.

4 **Sec. 403.** RCW 34.05.655 and 1996 c 318 s 7 are each amended to
5 read as follows:

6 (1) Any person may petition the rules review committee for a review
7 of a proposed or existing rule, or a policy or interpretive statement,
8 guideline, or other such issuance of general applicability. A petition
9 to review a policy or interpretive statement, guideline, or other such
10 issuance of general applicability may only be filed for the purpose of
11 requesting the rules review committee to determine whether the issuance
12 constitutes a rule that has not been adopted in accordance with all
13 provisions of law. If the rules review committee determines that the
14 issuance constitutes a rule, the committee may also examine whether the
15 rule is within the intent of the legislature as expressed by the
16 statute that the rule implements. Within thirty days of the receipt of
17 the petition, the rules review committee shall acknowledge receipt of
18 the petition and describe any initial action taken. If the rules
19 review committee rejects the petition, a written statement of the
20 reasons for rejection shall be included.

21 (2) A person may petition the rules review committee under
22 subsection (1) of this section requesting review of an existing rule
23 only if the person has petitioned the agency to amend or repeal the
24 rule under RCW 34.05.330(1) and such petition was denied. In the case
25 of a policy or interpretive statement, guideline, or other such
26 issuance of general applicability, a person may only petition the rules
27 review committee under subsection (1) of this section if the person has
28 petitioned the agency in accordance with RCW 34.05.230(3) to repeal or
29 withdraw the issuance, or convert the issuance into rules.

30 (3) A petition for review of a rule under subsection (1) of this
31 section shall:

32 (a) Identify with specificity the proposed or existing rule to be
33 reviewed;

34 (b) Identify the specific statute identified by the agency as
35 authorizing the rule, the specific statute which the rule interprets or
36 implements, and, if applicable, the specific statute the department is
37 alleged not to have followed in adopting the rule;

1 (c) State the reasons why the petitioner believes that the rule is
2 not within the intent of the legislature, or that its adoption was not
3 or is not in accordance with law, and provide documentation to support
4 these statements;

5 (d) Identify any known judicial action regarding the rule or
6 statutes identified in the petition.

7 A petition to review an existing rule shall also include a copy of
8 the agency's denial of a petition to amend or repeal the rule issued
9 under RCW 34.05.330(1) and, if available, a copy of the governor's
10 denial issued under RCW 34.05.330(3).

11 (4) A petition for review of a policy or interpretive statement,
12 guideline, or other such issuance of general applicability under
13 subsection (1) of this section shall:

14 (a) Identify the specific ((statement)) issuance to be reviewed;

15 (b) Identify the specific statute which the ((rule)) issuance
16 interprets or implements;

17 (c) State the reasons why the petitioner believes that the
18 ((statement)) issuance meets the definition of a rule under RCW
19 34.05.010 and should have been adopted according to the procedures of
20 this chapter;

21 (d) Identify any known judicial action regarding the ((statement))
22 issuance or statutes identified in the petition.

23 (5) Within ninety days of receipt of the petition, the rules review
24 committee shall make a final decision on the rule for which the
25 petition for review was not previously rejected.

26 **Sec. 404.** RCW 34.05.660 and 1988 c 288 s 606 are each amended to
27 read as follows:

28 (1) Except as provided in subsection (2) of this section, it is the
29 express policy of the legislature that establishment of procedures for
30 review of administrative rules by the legislature and the notice of
31 objection required by RCW 34.05.630((+2)) (3) and 34.05.640(2) in no
32 way serves to establish a presumption as to the legality or
33 constitutionality of a rule in any subsequent judicial proceedings
34 interpreting such rules.

35 (2) If the joint administrative rules review committee recommends
36 to the governor that an existing rule be suspended because it does not
37 conform with the intent of the legislature or was not adopted in
38 accordance with all applicable provisions of law, the recommendation

1 shall establish a rebuttable presumption in any proceeding challenging
2 the validity of the rule that the rule is invalid. The burden of
3 demonstrating the validity of the rule is then on the adopting agency.

4 **PART V**

5 **FEES AND EXPENSES**

6 NEW SECTION. Sec. 501. A new section is added to chapter 4.84 RCW
7 to read as follows:

8 If an agency chooses to appeal a decision of the superior court
9 rendered under chapter 34.05 RCW, the agency shall pay the subsequent
10 fees and other expenses incurred by the qualified party or parties that
11 prevailed in superior court. The amount awarded to a qualified party
12 in an appeal under this section may not exceed the amount that may be
13 awarded by a superior court to a qualified party under RCW 4.84.350.

14 **Sec. 502.** RCW 4.84.360 and 1995 c 403 s 904 are each amended to
15 read as follows:

16 Fees and other expenses awarded under RCW 4.84.340 ~~((and)),~~
17 4.84.350, or section 501 of this act shall be paid by the agency over
18 which the party prevails from operating funds appropriated to the
19 agency within sixty days from moneys appropriated to the agency for
20 administration and support services and not out of moneys for program
21 activities or service delivery if the operating budget or budget notes
22 separately designate administration and support services. Agencies
23 paying fees and other expenses pursuant to RCW 4.84.340 ~~((and)),~~
24 4.84.350, or section 501 of this act shall report all payments to the
25 office of financial management within five days of paying the fees and
26 other expenses. Fees and other expenses awarded by the court shall be
27 subject to the provisions of chapter 39.76 RCW and shall be deemed
28 payable on the date the court announces the award.

29 **Sec. 503.** RCW 4.84.340 and 1995 c 403 s 902 are each amended to
30 read as follows:

31 Unless the context clearly requires otherwise, the definitions in
32 this section apply throughout RCW 4.84.340 through 4.84.360 and section
33 501 of this act.

34 (1) "Agency" means any state board, commission, department,
35 institution of higher education, or officer, authorized by law to make

1 rules or to conduct adjudicative proceedings, except those in the
2 legislative or judicial branches, the governor, or the attorney general
3 except to the extent otherwise required by law.

4 (2) "Agency action" means agency action as defined by chapter 34.05
5 RCW.

6 (3) "Fees and other expenses" includes the reasonable expenses of
7 expert witnesses, the reasonable cost of a study, analysis, engineering
8 report, test, or project that is found by the court to be necessary for
9 the preparation of the party's case, and reasonable attorneys' fees.
10 Reasonable attorneys' fees shall be based on the prevailing market
11 rates for the kind and quality of services furnished, except that (a)
12 no expert witness shall be compensated at a rate in excess of the
13 highest rates of compensation for expert witnesses paid by the state of
14 Washington, and (b) attorneys' fees shall not be awarded in excess of
15 one hundred fifty dollars per hour unless the court determines that an
16 increase in the cost of living or a special factor, such as the limited
17 availability of qualified attorneys for the proceedings involved,
18 justifies a higher fee.

19 (4) "Judicial review" means a judicial review as defined by chapter
20 34.05 RCW.

21 (5) "Qualified party" means (a) an individual whose net worth did
22 not exceed one million dollars at the time the initial petition for
23 judicial review was filed or (b) a sole owner of an unincorporated
24 business, or a partnership, corporation, association, or organization
25 whose net worth did not exceed five million dollars at the time the
26 initial petition for judicial review was filed, except that an
27 organization described in section 501(c)(3) of the federal internal
28 revenue code of 1954 as exempt from taxation under section 501(a) of
29 the code and a cooperative association as defined in section 15(a) of
30 the agricultural marketing act (12 U.S.C. 1141J(a)), may be a party
31 regardless of the net worth of such organization or cooperative
32 association.

33 PART VI

34 REGULATORY IMPACT NOTES

35 **Sec. 601.** RCW 43.41.110 and 1981 2nd ex.s. c 4 s 13 are each
36 amended to read as follows:

37 The office of financial management shall:

- 1 (1) Provide technical assistance to the governor and the
2 legislature in identifying needs and in planning to meet those needs
3 through state programs and a plan for expenditures.
- 4 (2) Perform the comprehensive planning functions and processes
5 necessary or advisable for state program planning and development,
6 preparation of the budget, inter-departmental and inter-governmental
7 coordination and cooperation, and determination of state capital
8 improvement requirements.
- 9 (3) Provide assistance and coordination to state agencies and
10 departments in their preparation of plans and programs.
- 11 (4) Provide general coordination and review of plans in functional
12 areas of state government as may be necessary for receipt of federal or
13 state funds.
- 14 (5) Participate with other states or subdivisions thereof in
15 interstate planning.
- 16 (6) Encourage educational and research programs that further
17 planning and provide administrative and technical services therefor.
- 18 (7) Carry out the provisions of RCW 43.62.010 through 43.62.050
19 relating to the state census.
- 20 (8) Be the official state participant in the federal-state
21 cooperative program for local population estimates and as such certify
22 all city and county special censuses to be considered in the allocation
23 of state and federal revenues.
- 24 (9) Be the official state center for processing and dissemination
25 of federal decennial or quinquennial census data in cooperation with
26 other state agencies.
- 27 (10) Be the official state agency certifying annexations,
28 incorporations, or disincorporations to the United States bureau of the
29 census.
- 30 (11) Review all United States bureau of the census population
31 estimates used for federal revenue sharing purposes and provide a
32 liaison for local governments with the United States bureau of the
33 census in adjusting or correcting revenue sharing population estimates.
- 34 (12) Provide fiscal notes depicting the expected fiscal impact of
35 proposed legislation in accordance with chapter 43.88A RCW.
- 36 (13) Provide regulatory impact notes depicting the expected
37 regulatory impact of proposed legislation on businesses in accordance
38 with sections 602 through 606 of this act.

1 (14) Be the official state agency to estimate and manage the cash
2 flow of all public funds as provided in chapter 43.88 RCW. To this
3 end, the office shall adopt such rules as are necessary to manage the
4 cash flow of public funds.

5 NEW SECTION. **Sec. 602.** The legislature hereby recognizes the
6 necessity of developing a uniform and coordinated procedure for
7 determining the expected regulatory impact of bills and resolutions on
8 businesses. The legislature also recognizes that developing the
9 statements of regulatory impact, which shall be known as regulatory
10 impact notes, requires the designation of a state agency to be
11 principally responsible for the notes.

12 NEW SECTION. **Sec. 603.** (1) The office of financial management
13 shall, in cooperation with appropriate legislative committees and
14 legislative staff, establish a procedure to provide regulatory impact
15 notes on the expected impact of bills and resolutions that increase or
16 decrease regulations on the operation of businesses subject to the
17 state's business and occupation taxes levied in chapter 82.04 RCW.

18 (2) A regulatory impact note shall be prepared on the basis of a
19 sample of businesses that are regulated by the bill or resolution. The
20 regulatory impact note shall contain an estimate of the fiscal impact
21 to the affected businesses for the biennium in which the bill or
22 resolution will take effect as well as a cumulative forecast of the
23 fiscal impact for the succeeding two fiscal years. If it is determined
24 that no dollar estimate is possible, the regulatory impact note shall
25 contain a statement to that effect.

26 (3) In establishing the regulatory impact procedure called for
27 under this chapter, the office of financial management shall coordinate
28 the development of regulatory impact notes with all state agencies
29 affected.

30 NEW SECTION. **Sec. 604.** (1) After a regulatory impact note that
31 depicts the expected regulatory impact of a bill or resolution is
32 prepared and approved as to form, accuracy, and completeness by the
33 office of financial management, copies shall be filed immediately with:

34 (a) The chair of the committee to which the bill or resolution was
35 referred upon introduction in the house of origin;

36 (b) The senate committee on ways and means, or its successor; and

1 (c) The house of representatives committees on revenue and
2 appropriations, or their successors.

3 (2) Whenever possible, the regulatory impact note shall be provided
4 before or at the time the bill or resolution is first heard by the
5 committee of reference in the house of origin.

6 (3) If a regulatory impact note has been prepared for a bill or
7 resolution, a copy of the regulatory impact note shall be placed in the
8 bill books or otherwise attached to the bill or resolution and shall
9 remain with the bill or resolution throughout the legislative process
10 insofar as possible.

11 NEW SECTION. **Sec. 605.** If requested by a legislator, the office
12 of financial management shall also provide a regulatory impact note on
13 a legislative proposal. The regulatory impact note shall be returned
14 to the requesting legislator, and copies shall be filed with the
15 appropriate legislative committees under section 604 of this act at the
16 time the proposed legislation is introduced in either house.

17 NEW SECTION. **Sec. 606.** Nothing in this chapter prevents either
18 house of the legislature from acting on a bill or resolution before it
19 as otherwise provided by the state Constitution, by law, and by the
20 rules and joint rules of the senate and house of representatives, nor
21 shall the lack of a regulatory impact note as provided in this chapter
22 or an error in the accuracy of the note affect the validity of a
23 measure otherwise duly passed by the legislature.

24 **PART VII**

25 **MISCELLANEOUS**

26 NEW SECTION. **Sec. 701.** A new section is added to chapter 43.17
27 RCW to read as follows:

28 (1) An agency, prior to releasing a final report or study regarding
29 management by a county, city, town, special purpose district, or other
30 unit of local government of a program delegated to the local government
31 by the agency or for which the agency has regulatory responsibility,
32 shall provide copies of a draft of the report or study at least two
33 weeks in advance of the release of the final report or study to the
34 legislative body of the local government. The agency shall, at the
35 request of a local government legislative body, meet with the

1 legislative body prior to the release of a final report or study
2 regarding the management of such a program.

3 (2) For purposes of this section, "agency" means an office,
4 department, board, commission, or other unit of state government, other
5 than a unit of state government headed by a separately elected
6 official.

7 NEW SECTION. **Sec. 702.** A new section is added to chapter 43.05
8 RCW to read as follows:

9 When issuing a citation or other written finding that a person has
10 violated a statute, rule, or order, the agency shall include with the
11 citation or other written finding the text of the specific statute or
12 statutes granting the agency the authority to regulate the subject
13 matter of the citation or other written finding.

14 NEW SECTION. **Sec. 703.** A new section is added to chapter 34.05
15 RCW under the subchapter heading "Part III" to read as follows:

16 (1) The statute law committee shall convene a working group that
17 includes representatives of the office of financial management, state
18 agencies, and the general public for the purpose of (a) developing
19 proposed rules relating to the acceptance of electronic filings of
20 proposed rules and interpretive or policy statements from state
21 agencies; (b) developing proposed rules pertaining to the filing and
22 publication of executive orders, information submitted by agencies in
23 the preparation of statements of inquiry, and other information deemed
24 important for publication in the Washington State Register; and (c)
25 developing a method for noting in the published volumes of the Revised
26 Code of Washington or the Washington Administrative Code, or both, if
27 interpretive or policy statements have been issued that pertain to the
28 statutes or rules. The working group shall be convened no later than
29 July 1, 1997, and develop the proposed rules no later than July 1,
30 1998. The code reviser shall adopt the proposed rules developed by the
31 statute law committee working group created in this section.

32 (2) This section expires January 1, 1999.

33 NEW SECTION. **Sec. 704.** Part headings used in this act do not
34 constitute any part of the law.

1 NEW SECTION. **Sec. 705.** Sections 602 through 606 of this act
2 constitute a new chapter in Title 43 RCW.

3 NEW SECTION. **Sec. 706.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

--- END ---