
HOUSE BILL 1850

State of Washington

62nd Legislature

2011 Regular Session

By Representative Dunshee; by request of Governor Gregoire

1 AN ACT Relating to consolidating natural resources agencies and
2 programs; amending RCW 43.17.010, 43.17.020, 42.17A.705, 43.03.028,
3 79.64.020, 79.64.100, 79.70.020, 79.70.030, 79.70.070, 79.70.080,
4 79.70.090, 79.70.100, 79.70.120, 77.12.650, 77.04.012, 77.04.030,
5 77.04.055, 77.04.060, 77.04.120, 77.04.130, 77.04.150, 77.08.010,
6 77.08.020, 77.08.022, 77.08.030, 77.12.010, 77.12.020, 77.12.035,
7 77.12.037, 77.12.037, 77.12.045, 77.12.047, 77.12.068, 77.12.140,
8 77.12.150, 77.12.152, 77.12.170, 77.12.177, 77.12.210, 77.12.220,
9 77.12.275, 77.12.285, 77.12.320, 77.12.323, 77.12.325, 77.12.330,
10 77.12.420, 77.12.455, 77.12.560, 77.12.570, 77.12.722, 77.12.760,
11 77.12.800, 77.12.850, 77.12.875, 77.12.878, 77.12.882, 77.15.065,
12 77.15.096, 77.15.120, 77.15.130, 77.15.160, 77.15.245, 77.15.250,
13 77.15.253, 77.15.290, 77.15.382, 77.15.400, 77.15.425, 77.15.520,
14 77.15.522, 77.15.530, 77.15.554, 77.15.590, 77.15.700, 77.15.710,
15 77.15.720, 77.18.060, 77.32.007, 77.32.025, 77.32.050, 77.32.070,
16 77.32.090, 77.32.155, 77.32.237, 77.32.238, 77.32.370, 77.32.400,
17 77.32.430, 77.32.440, 77.32.450, 77.32.470, 77.32.500, 77.32.525,
18 77.32.530, 77.32.535, 77.32.550, 77.32.560, 77.32.565, 77.32.570,
19 77.36.030, 77.36.100, 77.36.110, 77.36.150, 77.50.010, 77.50.020,
20 77.50.040, 77.50.050, 77.50.070, 77.50.090, 77.50.100, 77.50.110,
21 77.55.191, 77.60.020, 77.60.030, 77.60.100, 77.65.420, 77.65.480,

1 77.65.510, 77.70.450, 77.70.460, 77.70.470, 77.75.020, 77.75.040,
2 77.75.100, 77.75.140, 77.85.220, 77.95.010, 77.95.020, 77.95.030,
3 77.95.040, 77.95.060, 77.95.090, 77.95.100, 77.95.140, 77.95.200,
4 77.100.060, 77.100.080, 77.115.010, 43.300.020, 9.46.010, 9.46.400,
5 79.105.430, 79.135.320, 79A.05.793, 79A.05.010, 79A.05.015, 79A.05.020,
6 79A.05.025, 79A.05.035, 79A.05.040, 79A.05.045, 79A.05.050, 79A.05.055,
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8 79A.05.090, 79A.05.095, 79A.05.100, 79A.05.105, 79A.05.110, 79A.05.115,
9 79A.05.120, 79A.05.125, 79A.05.130, 79A.05.140, 79A.05.145, 79A.05.150,
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11 79A.05.180, 79A.05.185, 79A.05.195, 79A.05.200, 79A.05.205, 79A.05.210,
12 79A.05.220, 79A.05.225, 79A.05.230, 79A.05.235, 79A.05.240, 79A.05.250,
13 79A.05.280, 79A.05.285, 79A.05.290, 79A.05.310, 79A.05.320, 79A.05.325,
14 79A.05.330, 79A.05.335, 79A.05.340, 79A.05.345, 79A.05.351, 79A.05.355,
15 79A.05.360, 79A.05.370, 79A.05.375, 79A.05.380, 79A.05.390, 79A.05.395,
16 79A.05.410, 79A.05.415, 79A.05.425, 79A.05.505, 79A.05.510, 79A.05.515,
17 79A.05.525, 79A.05.530, 79A.05.535, 79A.05.540, 79A.05.545, 79A.05.610,
18 79A.05.615, 79A.05.620, 79A.05.625, 79A.05.630, 79A.05.650, 79A.05.665,
19 79A.05.670, 79A.05.685, 79A.05.688, 79A.05.690, 79A.05.695, 79A.05.705,
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21 70.114.010, 79.10.030, 79A.30.010, 79A.30.020, 79A.30.030, 79A.30.050,
22 79A.40.030, 79A.60.010, 79A.65.010, 79A.25.005, 79A.25.010, 79A.25.020,
23 79A.25.110, 79A.25.150, 79A.25.220, 79A.25.240, 79A.25.830, 43.41.270,
24 43.99N.060, 46.09.530, 77.85.020, 77.85.030, 77.85.110, 77.85.120,
25 84.34.055, 17.15.020, 17.26.020, 19.02.050, 39.04.155, 39.04.290,
26 42.52.570, 43.17.400, 43.19.450, 43.21F.062, 43.81.010, 43.82.010,
27 43.220.020, 79.19.080, 79.100.010, 79.145.030, 79A.15.010, 79A.20.030,
28 79A.25.260, 84.34.055, 90.48.366, 90.48.368, 89.08.020, 89.08.030,
29 89.08.040, 89.08.050, 89.08.070, 89.08.080, 89.08.090, 89.08.100,
30 89.08.110, 89.08.120, 89.08.130, 89.08.140, 89.08.150, 89.08.160,
31 89.08.170, 89.08.180, 89.08.185, 89.08.190, 89.08.200, 89.08.210,
32 89.08.220, 89.08.341, 89.08.350, 89.08.370, 89.08.410, 89.08.470,
33 89.08.480, 89.08.520, 89.08.530, 89.08.540, 89.08.550, 89.08.580,
34 89.08.590, 43.03.028, 43.41.270, 43.325.020, 77.85.020, 77.85.220,
35 89.10.010, 70.148.005, 70.148.010, 70.148.020, 70.148.025, 70.148.030,
36 70.148.035, 70.148.040, 70.148.050, 70.148.060, 70.148.070, 70.148.080,
37 70.148.090, 70.148.130, 70.148.140, 70.148.150, 70.148.160, 70.148.170,
38 70.149.010, 70.149.030, 70.149.040, 70.149.050, 70.149.060, 70.149.090,

1 70.149.120, 90.46.005, 90.46.010, 90.46.015, 90.46.030, 90.46.050,
2 90.46.090, 90.46.120, 90.46.150, 90.46.160, 90.46.200, 90.46.210,
3 90.46.220, 90.46.230, 90.46.240, 90.46.250, 90.46.260, 90.46.270,
4 43.200.015, 43.200.080, 43.200.170, 43.200.180, 43.200.190, 43.200.200,
5 43.200.230, 70.98.030, 70.98.085, 70.98.095, 70.98.098, 70.98.130,
6 43.334.010, 43.334.020, 43.334.060, 43.334.070, 43.334.075, 43.334.077,
7 43.334.080, 27.34.020, 27.34.220, 27.34.230, 27.34.240, 27.34.270,
8 27.34.280, 27.34.330, 27.34.415, 27.44.055, 27.53.020, 27.53.030,
9 27.53.060, 27.53.080, 27.53.090, 27.53.095, 27.53.100, 27.53.110,
10 27.53.120, 27.53.130, 27.53.140, 41.06.095, 43.17.010, 43.17.020,
11 43.360.010, 43.360.020, 43.360.030, 68.24.090, 68.50.645, 68.60.030,
12 68.60.050, 68.60.055, 68.60.060, 82.73.010, 82.73.050, 88.02.660, and
13 90.48.366; reenacting and amending RCW 77.55.011, 79A.05.030,
14 79A.05.255, 79A.05.385, 46.10.300, 46.10.320, 79A.55.010, 43.21J.030,
15 43.60A.150, 77.85.050, 77.85.140, 43.21B.110, 43.21B.110, 43.21J.030,
16 43.60A.150, 27.53.070, and 35.100.020; adding a new section to chapter
17 41.06 RCW; adding a new section to chapter 79.70 RCW; adding a new
18 section to chapter 41.80 RCW; adding a new section to chapter 77.04
19 RCW; adding a new section to chapter 79A.05 RCW; adding a new section
20 to chapter 79A.25 RCW; adding a new section to chapter 77.85 RCW;
21 adding new sections to chapter 89.08 RCW; adding a new section to
22 chapter 70.148 RCW; adding a new section to chapter 90.46 RCW; adding
23 a new section to chapter 43.97 RCW; adding a new section to chapter
24 70.98 RCW; adding a new section to chapter 43.200 RCW; adding a new
25 chapter to Title 43 RCW; repealing RCW 77.04.013, 77.04.020, 77.04.080,
26 77.04.090, 77.04.140, 77.15.005, 43.300.010, 43.300.040, 43.300.050,
27 79A.05.075, 79A.05.300, 79A.05.315, 89.08.060, 90.46.020, 90.46.072,
28 90.46.110, 43.200.210, 43.334.030, 43.334.040, 43.334.050, and
29 43.334.900; creating new sections; providing effective dates; providing
30 expiration dates; providing contingent expiration dates; and declaring
31 an emergency.

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

33 **PART 1**
34 **CREATING THE DEPARTMENT OF CONSERVATION AND RECREATION**

1 NEW SECTION. **Sec. 1001.** The definitions in this section apply
2 throughout this chapter unless the context clearly requires otherwise.

3 (1) "Department" means the department of conservation and
4 recreation.

5 (2) "Director" means the director of the department of conservation
6 and recreation.

7 NEW SECTION. **Sec. 1002.** (1) The department of conservation and
8 recreation is created as an executive branch agency. The department is
9 vested with all powers and duties transferred to it under this act and
10 such other powers and duties as may be authorized by law.

11 (2) Any powers, duties, and functions assigned to the department of
12 fish and wildlife, the parks commission, and the recreation and
13 conservation office are transferred to the department of conservation
14 and recreation.

15 (3) The primary duties of the department are to:

16 (a) Preserve, protect, and perpetuate the fish and wildlife
17 resources for the benefit of the state's citizens;

18 (b) Wisely manage our state parks and trail systems, promote
19 outdoor recreation education and safety, and protect our cultural,
20 historical, and natural sites; and

21 (c) Be good stewards of public funds that perpetuate healthy
22 ecosystems and open spaces, restore habitat important to our fish and
23 wildlife, and support outdoor recreation and recreational places and
24 facilities.

25 (4) The department must be structured organizationally to maintain
26 at least two distinct areas of focus: One for fish and wildlife
27 management and one for parks and recreation management.

28 NEW SECTION. **Sec. 1003.** (1) The executive head and appointing
29 authority of the department is the director. The director shall be
30 appointed by the governor, subject to confirmation by the senate. The
31 director shall serve at the pleasure of the governor. The director
32 shall be paid a salary fixed by the governor in accordance with RCW
33 43.03.040. If a vacancy occurs in the position of director while the
34 senate is not in session, the governor shall make a temporary
35 appointment until the next meeting of the senate at which time the

1 governor shall present to that body the governor's nomination for the
2 position.

3 (2) The director may employ staff members, who shall be exempt from
4 chapter 41.06 RCW, and any additional staff members as are necessary to
5 administer this act, and such other duties as may be authorized by law.
6 The director may delegate any power or duty vested in the director by
7 this act or other law, including authority to make final decisions and
8 enter final orders in hearings conducted under chapter 34.05 RCW.

9 (3) The director may create such administrative structures as the
10 director considers appropriate, except as otherwise specified by law.
11 The director may employ such personnel as necessary for the general
12 administration of the office. This employment shall be in accordance
13 with the state civil service law, chapter 41.06 RCW, and the state
14 collective bargaining law, chapter 41.80 RCW, except as otherwise
15 provided.

16 NEW SECTION. **Sec. 1004.** The director shall:

17 (1) Supervise and administer the activities of the department of
18 conservation and recreation;

19 (2) Exercise all the powers and perform all the duties prescribed
20 by law with respect to the administration of Title 77 RCW;

21 (3) In addition to other powers and duties granted to the director,
22 have the following powers and duties:

23 (a) Enter into contracts on behalf of the state to carry out the
24 purposes of this chapter;

25 (b) Accept and expend gifts and grants that are related to the
26 purposes of this act, whether such gifts or grants be of federal or
27 other funds;

28 (c) Appoint no more than three deputy directors and such assistant
29 directors and special assistants as may be needed to administer the
30 department. These employees are exempt from the provisions of chapter
31 41.06 RCW;

32 (d) Adopt rules in accordance with chapter 34.05 RCW and perform
33 all other functions necessary and proper to carry out the purposes of
34 this act;

35 (e) Delegate powers, duties, and functions as the director deems
36 necessary for efficient administration, but the director is responsible

1 for the official acts of the officers and employees of the department;
2 and

3 (f) Perform other duties as are necessary and consistent with law.

4 NEW SECTION. **Sec. 1005.** On the effective date of this section,
5 the directors of the departments of fish and wildlife, natural
6 resources, the parks and recreation commission, and recreation and
7 conservation funding office must each designate one deputy, or similar
8 representative, to serve on the natural resources consolidation
9 transition team. The natural resources consolidation transition team
10 must, with the assistance of the natural resources agencies, develop
11 the following work products:

12 (1) A natural resources consolidation transition team report, to be
13 submitted to the office of financial management and the legislature by
14 August 1, 2011. This report must, at a minimum, detail all legislative
15 and fiscal changes necessary for the successful implementation of
16 natural resources agency consolidation and identify expected costs and
17 savings associated with the consolidation.

18 (2) A supplemental budget request, if necessary, for consideration
19 during the 2012 legislative session. This request must encompass any
20 necessary budgetary and legislative changes for all natural resources
21 agencies affected by this act, and be submitted to the office of
22 financial management by September 1, 2011.

23 (3) A second natural resources consolidation transition team
24 report, to be submitted to the director of conservation and recreation
25 by July 1, 2012. This report must, at a minimum, detail all additional
26 legislative and fiscal changes necessary for the successful
27 implementation of natural resources agency consolidation and identify
28 expected costs and savings associated with the consolidation.

29 NEW SECTION. **Sec. 1006.** A new section is added to chapter 41.06
30 RCW to read as follows:

31 In addition to the exemptions under RCW 41.06.070, the provisions
32 of this chapter do not apply in the department of conservation and
33 recreation to the director, the director's confidential secretary,
34 assistant directors, and any other exempt staff members provided for in
35 section 1004 of this act.

1 **Sec. 1007.** RCW 43.17.010 and 2009 c 565 s 25 are each amended to
2 read as follows:

3 There shall be departments of the state government which shall be
4 known as (1) the department of social and health services, (2) the
5 department of ecology, (3) the department of labor and industries, (4)
6 the department of agriculture, (5) the department of ~~((fish and
7 wildlife))~~ conservation and recreation, (6) the department of
8 transportation, (7) the department of licensing, (8) the department of
9 general administration, (9) the department of commerce, (10) the
10 department of veterans affairs, (11) the department of revenue, (12)
11 the department of retirement systems, (13) the department of
12 corrections, (14) the department of health, (15) the department of
13 financial institutions, (16) ~~((the department of archaeology and
14 historic preservation, (17))~~) the department of early learning, and
15 ~~((18))~~ (17) the Puget Sound partnership, which shall be charged with
16 the execution, enforcement, and administration of such laws, and
17 invested with such powers and required to perform such duties, as the
18 legislature may provide.

19 **Sec. 1008.** RCW 43.17.020 and 2009 c 565 s 26 are each amended to
20 read as follows:

21 There shall be a chief executive officer of each department to be
22 known as: (1) The secretary of social and health services, (2) the
23 director of ecology, (3) the director of labor and industries, (4) the
24 director of agriculture, (5) the director of ~~((fish and wildlife))~~
25 conservation and recreation, (6) the secretary of transportation, (7)
26 the director of licensing, (8) the director of general administration,
27 (9) the director of commerce, (10) the director of veterans affairs,
28 (11) the director of revenue, (12) the director of retirement systems,
29 (13) the secretary of corrections, (14) the secretary of health, (15)
30 the director of financial institutions, (16) ~~((the director of the
31 department of archaeology and historic preservation, (17))~~) the
32 director of early learning, and ~~((18))~~ (17) the executive director of
33 the Puget Sound partnership.

34 Such officers~~((, except the director of fish and wildlife,))~~ shall
35 be appointed by the governor, with the consent of the senate, and hold
36 office at the pleasure of the governor. ~~((The director of fish and~~

1 ~~wildlife shall be appointed by the fish and wildlife commission as~~
2 ~~prescribed by RCW 77.04.055.))~~

3 **Sec. 1009.** RCW 42.17A.705 and 2010 c 204 s 902 are each amended to
4 read as follows:

5 For the purposes of RCW 42.17A.700, "executive state officer"
6 includes:

7 (1) The chief administrative law judge, the director of
8 agriculture, the director of the department of services for the blind,
9 the director of the state system of community and technical colleges,
10 the director of commerce, the director of conservation and recreation,
11 the secretary of corrections, the director of early learning, the
12 director of ecology, the commissioner of employment security, the chair
13 of the energy facility site evaluation council, the secretary of the
14 state finance committee, the director of financial management, (~~the~~
15 ~~director of fish and wildlife, the executive secretary of the forest~~
16 ~~practices appeals board,~~) the director of the gambling commission, the
17 director of general administration, the secretary of health, the
18 administrator of the Washington state health care authority, the
19 executive secretary of the health care facilities authority, the
20 executive secretary of the higher education facilities authority, the
21 executive secretary of the horse racing commission, the executive
22 secretary of the human rights commission, the executive secretary of
23 the indeterminate sentence review board, the director of the department
24 of information services, the executive director of the state investment
25 board, the director of labor and industries, the director of licensing,
26 the director of the lottery commission, the director of the office of
27 minority and women's business enterprises, (~~the director of parks and~~
28 ~~recreation,~~) the director of personnel, the executive director of the
29 public disclosure commission, the executive director of the Puget Sound
30 partnership, (~~the director of the recreation and conservation~~
31 ~~office,~~) the director of retirement systems, the director of revenue,
32 the secretary of social and health services, the chief of the
33 Washington state patrol, the executive secretary of the board of tax
34 appeals, the secretary of transportation, the secretary of the
35 utilities and transportation commission, the director of veterans
36 affairs, the president of each of the regional and state universities

1 and the president of The Evergreen State College, and each district and
2 each campus president of each state community college;

3 (2) Each professional staff member of the office of the governor;

4 (3) Each professional staff member of the legislature; and

5 (4) Central Washington University board of trustees, the boards of
6 trustees of each community college and each technical college, each
7 member of the state board for community and technical colleges, state
8 convention and trade center board of directors, Eastern Washington
9 University board of trustees, Washington economic development finance
10 authority, Washington energy northwest executive board, The Evergreen
11 State College board of trustees, executive ethics board, fish and
12 wildlife commission, (~~forest practices appeals board,~~) forest
13 practices board, gambling commission, Washington health care facilities
14 authority, higher education coordinating board, higher education
15 facilities authority, horse racing commission, state housing finance
16 commission, human rights commission, indeterminate sentence review
17 board, board of industrial insurance appeals, information services
18 board, state investment board, commission on judicial conduct,
19 legislative ethics board, life sciences discovery fund authority board
20 of trustees, liquor control board, lottery commission, Pacific
21 Northwest electric power and conservation planning council, parks and
22 recreation commission, Washington personnel resources board, board of
23 pilotage commissioners, pollution control hearings board, public
24 disclosure commission, public employees' benefits board, recreation and
25 conservation funding board, salmon recovery funding board, shorelines
26 hearings board, board of tax appeals, transportation commission,
27 University of Washington board of regents, utilities and transportation
28 commission, Washington State University board of regents, and Western
29 Washington University board of trustees.

30 **Sec. 1010.** RCW 43.03.028 and 2010 1st sp.s. c 7 s 2 are each
31 amended to read as follows:

32 (1) The department of personnel shall study the duties and salaries
33 of the directors of the several departments and the members of the
34 several boards and commissions of state government, who are subject to
35 appointment by the governor or whose salaries are fixed by the
36 governor, and of the chief executive officers of the following agencies
37 of state government:

1 The arts commission; the human rights commission; the board of
2 accountancy; the board of pharmacy; the eastern Washington historical
3 society; the Washington state historical society; (~~the recreation and~~
4 ~~conservation office;~~) the criminal justice training commission; the
5 department of personnel; the state library; the traffic safety
6 commission; the horse racing commission; the advisory council on
7 vocational education; the public disclosure commission; (~~the state~~
8 ~~conservation commission;~~) the commission on Hispanic affairs; the
9 commission on Asian Pacific American affairs; the state board for
10 volunteer firefighters and reserve officers; the transportation
11 improvement board; the public employment relations commission; (~~the~~
12 ~~forest practices appeals board;~~) and the energy facilities site
13 evaluation council.

14 (2) The department of personnel shall report to the governor or the
15 chairperson of the appropriate salary fixing authority at least once in
16 each fiscal biennium on such date as the governor may designate, but
17 not later than seventy-five days prior to the convening of each regular
18 session of the legislature during an odd-numbered year, its
19 recommendations for the salaries to be fixed for each position.

20 NEW SECTION. **Sec. 1011.** The law enforcement program and employees
21 within the department of natural resources are transferred to the
22 department of conservation and recreation. The department of
23 conservation and recreation and the department of natural resources
24 shall enter into an interagency agreement before July 1, 2012, to
25 enforce laws and rules on state trust lands. This agreement must
26 include, but is not limited to, the level of law enforcement services
27 provided on state trust lands and the level of funding to cover the
28 cost of increased enforcement. The services may not be less than that
29 provided by department of natural resources' law enforcement staff as
30 of the effective date of this section.

31 **Sec. 1012.** RCW 79.64.020 and 2008 c 328 s 6004 are each amended to
32 read as follows:

33 A resource management cost account in the state treasury is created
34 to be used solely for the purpose of defraying the costs and expenses
35 necessarily incurred by the department in managing and administering
36 state lands and aquatic lands and the making and administering of

1 leases, sales, contracts, licenses, permits, easements, and rights-of-
2 way as authorized under the provisions of this title. The account may
3 also be used to defray the costs and expenses necessarily incurred by
4 the department of conservation and recreation in the enforcement of
5 laws and rules on state trust lands. Appropriations from the resource
6 management cost account to the department shall be expended for no
7 other purposes. Funds in the resource management cost account may be
8 appropriated or transferred by the legislature for the benefit of all
9 of the trusts from which the funds were derived. For the 2007-2009
10 biennium, moneys in the account may be used for the purposes identified
11 in section 3044, chapter 328, Laws of 2008.

12 **Sec. 1013.** RCW 79.64.100 and 2003 c 334 s 219 are each amended to
13 read as follows:

14 There is created a forest development account in the state
15 treasury. The state treasurer shall keep an account of all sums
16 deposited therein and expended or withdrawn therefrom. Any sums placed
17 in the forest development account shall be pledged for the purpose of
18 paying interest and principal on the bonds issued by the department
19 under RCW 79.22.080 and 79.22.090 and the provisions of this chapter,
20 and for the purchase of land for growing timber. Any bonds issued
21 shall constitute a first and prior claim and lien against the account
22 for the payment of principal and interest. No sums for the above
23 purposes shall be withdrawn or paid out of the account except upon
24 approval of the department.

25 Appropriations may be made by the legislature from the forest
26 development account to the department for the purpose of carrying on
27 the activities of the department on state forest lands, lands managed
28 on a sustained yield basis as provided for in RCW 79.10.320, and for
29 reimbursement of expenditures that have been made or may be made from
30 the resource management cost account in the management of state forest
31 lands. The account may also be used to defray the costs and expenses
32 necessarily incurred by the department of conservation and recreation
33 in the enforcement of laws and rules on state trust lands.

34 **Sec. 1014.** RCW 79.70.020 and 2004 c 180 s 4 are each amended to
35 read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

3 (1) "Department" means the department of natural resources.

4 (2) "Natural areas" and "natural area preserves" include such
5 public or private areas of land or water which have retained their
6 natural character, although not necessarily completely natural and
7 undisturbed, or which are important in preserving rare or vanishing
8 flora, fauna, geological, natural historical or similar features of
9 scientific or educational value and which are acquired or voluntarily
10 registered or dedicated by the owner under this chapter.

11 (3) "Public lands" and "state lands" have the meaning set out in
12 RCW 79.02.010.

13 (4) "Council" means the natural heritage advisory council as
14 established in RCW 79.70.070.

15 (5) "Commissioner" means the commissioner of public lands.

16 (6) "Important bird area" means those areas jointly identified by
17 the natural heritage program and a qualifying nonprofit organization
18 using internationally recognized scientific criteria. These areas have
19 been found to be necessary to conserve populations of wild waterfowl,
20 upland game birds, songbirds, and other birds native to and migrating
21 through Washington, and contain the habitats that birds are dependent
22 upon for breeding, migration, shelter, and sustenance.

23 (7) "Instrument of dedication" means any written document intended
24 to convey an interest in real property pursuant to chapter 64.04 RCW.

25 (8) "Natural heritage resources" means the plant community types,
26 aquatic types, unique geologic types, and special plant and animal
27 species and their critical habitat as defined in the natural heritage
28 plan established under RCW 79.70.030.

29 (9) "Plan" means the natural heritage plan as established under RCW
30 79.70.030.

31 (10) "Program" means the natural heritage program as established
32 under RCW 79.70.030.

33 (11) "Qualifying nonprofit organization" means a national nonprofit
34 organization, or a branch of a national nonprofit organization, that
35 conserves and restores natural ecosystems, focusing on birds, other
36 wildlife, and their habitat.

37 (12) "Register" means the Washington register of natural area
38 preserves as established under RCW 79.70.030.

1 (13) "Director" means the director of the department of
2 conservation and recreation.

3 **Sec. 1015.** RCW 79.70.030 and 2003 c 334 s 549 are each amended to
4 read as follows:

5 In order to set aside, preserve, and protect natural areas within
6 the state, the department is authorized, in addition to any other
7 powers, to:

8 (1) Establish the criteria for selection, acquisition, management,
9 protection, and use of such natural areas, including:

10 (a) Limiting public access to natural area preserves consistent
11 with the purposes of this chapter. Where appropriate, and on a case-
12 by-case basis, a buffer zone with an increased low level of public
13 access may be created around the environmentally sensitive areas;

14 (b) Developing a management plan for each designated natural area
15 preserve. The plan must identify the significant resources to be
16 conserved consistent with the purposes of this chapter and identify the
17 areas with potential for low-impact public and environmental
18 educational uses. The plan must specify the types of management
19 activities and public uses that are permitted, consistent with the
20 purposes of this chapter. The department must make the plans available
21 for review and comment by the public, and state, tribal, and local
22 agencies, prior to final approval;

23 (2) Cooperate or contract with any federal, state, or local
24 governmental agency, private organizations, or individuals in carrying
25 out the purpose of this chapter;

26 (3) Consistent with the plan, acquire by gift, devise, purchase,
27 grant, dedication, or means other than eminent domain, the fee or any
28 lesser right or interest in real property which shall be held and
29 managed as a natural area;

30 (4) Acquire by gift, devise, grant, or donation any personal
31 property to be used in the acquisition and/or management of natural
32 areas; and

33 (5) Inventory existing public, state, and private lands in
34 cooperation with the council to assess possible natural areas to be
35 preserved within the state((+

36 ~~(6) Maintain a natural heritage program to provide assistance in~~
37 ~~the selection and nomination of areas containing natural heritage~~

1 resources for registration or dedication. The program shall maintain
2 a classification of natural heritage resources, an inventory of their
3 locations, and a data bank for such information. The department shall
4 cooperate with the department of fish and wildlife in the selection and
5 nomination of areas from the data bank that relate to critical wildlife
6 habitats. Information from the data bank shall be made available to
7 public and private agencies and individuals for environmental
8 assessment and proprietary land management purposes. Usage of the
9 classification, inventory, or data bank of natural heritage resources
10 for any purpose inconsistent with the natural heritage program is not
11 authorized;

12 (7) Prepare a natural heritage plan which shall govern the natural
13 heritage program in the conduct of activities to create and manage a
14 system of natural areas that includes natural resources conservation
15 areas, and may include areas designated under the research natural area
16 program on federal lands in the state;

17 (a) The plan shall list the natural heritage resources to be
18 considered for registration and shall provide criteria for the
19 selection and approval of natural areas under this chapter;

20 (b) The department shall provide opportunities for input, comment,
21 and review to the public, other public agencies, and private groups
22 with special interests in natural heritage resources during preparation
23 of the plan;

24 (c) Upon approval by the council and adoption by the department,
25 the plan shall be updated and submitted biennially to the appropriate
26 committees of the legislature for their information and review. The
27 plan shall take effect ninety days after the adjournment of the
28 legislative session in which it is submitted unless the reviewing
29 committees suggest changes or reject the plan; and

30 (8) Maintain a state register of natural areas containing
31 significant natural heritage resources to be called the Washington
32 register of natural area preserves. Selection of natural areas for
33 registration shall be in accordance with criteria listed in the natural
34 heritage plan and accomplished through voluntary agreement between the
35 owner of the natural area and the department. No privately owned lands
36 may be proposed to the council for registration without prior notice to
37 the owner or registered without voluntary consent of the owner. No
38 state or local governmental agency may require such consent as a

1 ~~condition of any permit or approval of or settlement of any civil or~~
2 ~~criminal proceeding or to penalize any landowner in any way for failure~~
3 ~~to give, or for withdrawal of, such consent.~~

4 ~~(a) The department shall adopt rules as authorized by RCW 43.12.065~~
5 ~~and 79.70.030(1) and chapter 34.05 RCW relating to voluntary natural~~
6 ~~area registration.~~

7 ~~(b) After approval by the council, the department may place sites~~
8 ~~onto the register or remove sites from the register.~~

9 ~~(c) The responsibility for management of registered natural area~~
10 ~~preserves shall be with the preserve owner. A voluntary management~~
11 ~~agreement may be developed between the department and the owners of the~~
12 ~~sites on the register.~~

13 ~~(d) Any public agency may register lands under provisions of this~~
14 ~~chapter).~~

15 NEW SECTION. **Sec. 1016.** A new section is added to chapter 79.70
16 RCW to read as follows:

17 The department of conservation and recreation is authorized, in
18 addition to any other powers, to:

19 (1) Maintain a natural heritage program to provide assistance in
20 the selection and nomination of areas containing natural heritage
21 resources for registration or dedication. The program shall maintain
22 a classification of natural heritage resources, an inventory of their
23 locations, and a data bank for this information. The department of
24 conservation and recreation shall include in the selection and
25 nomination of areas from the data bank that relate to critical wildlife
26 habitats. Information from the data bank must be made available to
27 public and private agencies and individuals for environmental
28 assessment and proprietary land management purposes. Usage of the
29 classification, inventory, or data bank of natural heritage resources
30 for any purpose inconsistent with the natural heritage program is not
31 authorized;

32 (2) Prepare a natural heritage plan, in consultation with the
33 department of natural resources, that governs the natural heritage
34 program in the conduct of activities to create and manage a system of
35 natural areas that includes natural resources conservation areas, and
36 may include areas designated under the research natural area program on
37 federal lands in the state;

1 (a) The plan must list the natural heritage resources to be
2 considered for registration and provide criteria for the selection and
3 approval of natural areas under this chapter;

4 (b) The department of conservation and recreation shall provide
5 opportunities for input, comment, and review to the public, other
6 public agencies, and private groups with special interests in natural
7 heritage resources during preparation of the plan;

8 (c) Upon approval by the council and adoption by the department of
9 conservation and recreation, the plan must be updated and submitted
10 biennially to the appropriate committees of the legislature for their
11 information and review. The plan takes effect ninety days after the
12 adjournment of the legislative session in which it is submitted unless
13 the reviewing committees suggest changes or reject the plan; and

14 (3) Maintain a state register of natural areas containing
15 significant natural heritage resources to be called the Washington
16 register of natural area preserves. Selection of natural areas for
17 registration must be in accordance with criteria listed in the natural
18 heritage plan and accomplished through voluntary agreement between the
19 owner of the natural area and the department. No privately owned lands
20 may be proposed to the council for registration without prior notice to
21 the owner or registered without voluntary consent of the owner. No
22 state or local governmental agency may require such consent as a
23 condition of any permit or approval of or settlement of any civil or
24 criminal proceeding or to penalize any landowner in any way for failure
25 to give, or for withdrawal of, such consent.

26 (a) The department of conservation and recreation shall adopt rules
27 as authorized by RCW 43.12.065 and 79.70.030(1) and chapter 34.05 RCW
28 relating to voluntary natural area registration.

29 (b) After approval by the council, the department of conservation
30 and recreation may place sites onto the register or remove sites from
31 the register.

32 (c) The responsibility for management of registered natural area
33 preserves is with the preserve owner. A voluntary management agreement
34 may be developed between the department and the owners of the sites on
35 the register.

36 (d) Any public agency may register lands under provisions of this
37 chapter.

1 **Sec. 1017.** RCW 79.70.070 and 2007 c 241 s 24 are each amended to
2 read as follows:

3 (1) The natural heritage advisory council is hereby established.
4 The council shall consist of (~~fifteen~~) thirteen members, ten of whom
5 shall be chosen as follows and who shall elect from the council's
6 membership a chairperson:

7 (a) Five individuals, appointed by the (~~commissioner~~) director,
8 who shall be recognized experts in the ecology of natural areas and
9 represent the public, academic, and private sectors. Desirable fields
10 of expertise are biological and geological sciences; and

11 (b) Five individuals, appointed by the (~~commissioner~~) director,
12 who shall be selected from the various regions of the state. At least
13 one member shall be or represent a private forest landowner and at
14 least one member shall be or represent a private agricultural
15 landowner.

16 (2) Members appointed under subsection (1) of this section shall
17 serve for terms of four years.

18 (3) In addition to the members appointed by the (~~commissioner~~)
19 director, the director (~~of the department of fish and wildlife~~), the
20 director of the department of ecology, and the supervisor of the
21 department of natural resources, (~~the director of the state parks and~~
22 ~~recreation commission, and the director of the recreation and~~
23 ~~conservation office,~~) or an authorized representative of each agency
24 officer, shall serve as ex officio, nonvoting members of the council.

25 (4) Any vacancy on the council shall be filled by appointment for
26 the unexpired term by the (~~commissioner~~) director.

27 (~~In order to provide for staggered terms, of the initial~~
28 ~~members of the council:~~

29 ~~(a) Three shall serve for a term of two years;~~

30 ~~(b) Three shall serve for a term of three years; and~~

31 ~~(c) Three shall serve for a term of four years.~~

32 ~~(6) Members of the natural preserves advisory committee serving on~~
33 ~~July 26, 1981, shall serve as members of the council until the~~
34 ~~commissioner appoints a successor to each. The successor appointment~~
35 ~~shall be specifically designated to replace a member of the natural~~
36 ~~preserves advisory committee until all members of that committee have~~
37 ~~been replaced. A member of the natural preserves advisory committee is~~
38 ~~eligible for appointment to the council if otherwise qualified.~~

1 (7)) Members of the council shall serve without compensation.
2 Members shall be reimbursed for travel expenses as provided in RCW
3 43.03.050 and 43.03.060 as now or hereafter amended.

4 **Sec. 1018.** RCW 79.70.080 and 2002 c 284 s 3 are each amended to
5 read as follows:

6 (1) The council shall:

7 (a) Meet at least annually and more frequently at the request of
8 the chairperson;

9 (b) Recommend policy for the natural heritage program through the
10 review and approval of the natural heritage plan;

11 (c) Advise the department, the department of (~~fish and wildlife,~~
12 ~~the state parks and recreation commission~~) conservation and
13 recreation, and other state agencies managing state-owned land or
14 natural resources regarding areas under their respective jurisdictions
15 which are appropriate for natural area registration or dedication;

16 (d) Advise the department of conservation and recreation of rules
17 and regulations that the council considers necessary in carrying out
18 this chapter;

19 (e) Review and approve area nominations by the department of
20 conservation and recreation or other agencies for registration and
21 review and comment on legal documents for the voluntary dedication of
22 such areas;

23 (f) Recommend whether new areas proposed for protection be
24 established as natural area preserves, natural resources conservation
25 areas, a combination of both, or by some other protected status; and

26 (g) Review and comment on management plans proposed for individual
27 natural area preserves.

28 (2) From time to time, the council shall identify areas from the
29 natural heritage data bank which qualify for registration. Priority
30 shall be based on the natural heritage plan and shall generally be
31 given to those resources which are rarest, most threatened, or under-
32 represented in the heritage conservation system on a statewide basis.
33 After qualifying areas have been identified, the department of
34 conservation and recreation shall advise the owners of such areas of
35 the opportunities for acquisition or voluntary registration or
36 dedication.

1 **Sec. 1019.** RCW 79.70.090 and 2003 c 334 s 550 are each amended to
2 read as follows:

3 (1) The owner of a registered natural area, whether a private
4 individual or an organization, may voluntarily agree to dedicate the
5 area as a natural area by executing with the state an instrument of
6 dedication in a form approved by the council. The instrument of
7 dedication shall be effective upon its recording in the real property
8 records of the appropriate county or counties in which the natural area
9 is located. The county assessor in computing assessed valuation shall
10 take into consideration any reductions in property values and/or
11 highest and best use which result from natural area dedication.

12 (2) A public agency owning or managing a registered natural area
13 preserve may dedicate lands under the provisions of this chapter.

14 (3) The department of conservation and recreation shall adopt rules
15 as authorized by RCW 43.12.065 and 79.70.030(1) relating to voluntary
16 natural area dedication and defining:

17 (a) The types of real property interests that may be transferred;

18 (b) Real property transfer methods and the types of consideration
19 of payment possible;

20 (c) Additional dedication provisions, such as natural area
21 management, custody, use, and rights and privileges retained by the
22 owner; and

23 (d) Procedures for terminating dedication arrangements.

24 **Sec. 1020.** RCW 79.70.100 and 1998 c 50 s 2 are each amended to
25 read as follows:

26 The department of conservation and recreation shall hold a public
27 hearing in the county where the majority of the land in a proposed
28 natural area preserve is located prior to establishing the boundary.

29 **Sec. 1021.** RCW 79.70.120 and 2004 c 180 s 3 are each amended to
30 read as follows:

31 Prior to recognizing an important bird area under this chapter, the
32 department of conservation and recreation must:

33 (1) Publish notice of the proposed important bird area in the
34 Washington state register;

35 (2) Publish notice of the proposed important bird area in a

1 newspaper of general circulation in the county where the proposed
2 important bird area is located; and

3 (3) Conduct at least one public hearing in the county where the
4 proposed important bird area is located.

5 **Sec. 1022.** RCW 77.12.650 and 1987 c 506 s 52 are each amended to
6 read as follows:

7 The department shall cooperate with other local, state, and federal
8 agencies and governments to protect bald eagles and their essential
9 habitats through existing governmental programs, including but not
10 limited to:

11 (1) The natural heritage program managed by the department of
12 (~~natural resources~~) conservation and recreation under chapter 79.70
13 RCW;

14 (2) The natural area preserve program managed by the department of
15 natural resources under chapter 79.70 RCW;

16 (3) The shoreline management master programs adopted by local
17 governments and approved by the department of ecology under chapter
18 90.58 RCW.

19 NEW SECTION. **Sec. 1023.** A new section is added to chapter 41.80
20 RCW to read as follows:

21 (1) By April 1, 2012, the commission shall review the existing
22 collective bargaining units within the department of fish and wildlife,
23 the parks and recreation commission, the recreation and conservation
24 office, and the portions of the existing collective bargaining units
25 within the department of natural resources that represent the law
26 enforcement and heritage programs to determine if these units would be
27 appropriate units within the department of conservation and recreation.
28 In determining appropriateness of bargaining units, the commission
29 shall utilize and apply the organizational restructure detail created
30 by the department of conservation and the natural resources
31 consolidation transition team created in section 1005 of this act.

32 (2) If the commission determines that an existing collective
33 bargaining unit is appropriate pursuant to RCW 41.80.070, the exclusive
34 bargaining representative certified to represent the bargaining unit
35 prior to July 1, 2012, shall continue as the exclusive bargaining

1 representative without the necessity of an election and will be so
2 certified by the commission.

3 (3) If the commission determines that existing collective
4 bargaining units are not appropriate, the commission may modify those
5 units and order an election pursuant to RCW 41.80.080. Certified
6 exclusive bargaining representatives will not be required to
7 demonstrate a showing of interest to be included on the ballot.

8 (4) The commission may require an election pursuant to RCW
9 41.80.080 if similarly situated employees are represented by more than
10 one employee organization. Certified exclusive bargaining
11 representatives will not be required to demonstrate a showing of
12 interest to be included on the ballot.

13 (5) Certification under this section will not preclude any
14 subsequent actions allowable under this chapter.

15 NEW SECTION. **Sec. 1024.** Sections 1001 through 1004 of this act
16 constitute a new chapter in Title 43 RCW.

17 NEW SECTION. **Sec. 1025.** Section 1009 of this act takes effect
18 January 1, 2012.

19 NEW SECTION. **Sec. 1026.** (1) The code reviser shall note wherever
20 the director or department of fish and wildlife is used or referred to
21 in statute that the name of the department has changed.

22 (2) The code reviser shall prepare legislation for the 2012 regular
23 legislative session that changes all statutory references to the
24 director or department of fish and wildlife to department of
25 conservation and recreation.

26 NEW SECTION. **Sec. 1027.** (1) The code reviser shall note wherever
27 the director or office of recreation and conservation is used or
28 referred to in statute that the name of the department has changed.

29 (2) The code reviser shall prepare legislation for the 2012 regular
30 legislative session that changes all statutory references to the
31 director or office of recreation and conservation to department of
32 conservation and recreation.

1 NEW SECTION. **Sec. 1028.** The consolidation directed pursuant to
2 sections 1001 through 1027 of this act takes effect July 1, 2012.

1 PART 2

2 CONSOLIDATING THE DEPARTMENT OF FISH AND WILDLIFE INTO
3 THE DEPARTMENT OF CONSERVATION AND RECREATION

4 Sec. 2001. RCW 77.04.012 and 2000 c 107 s 2 are each amended to
5 read as follows:

6 Wildlife, fish, and shellfish are the property of the state. The
7 (~~commission, director, and the~~) department shall preserve, protect,
8 perpetuate, and manage the wildlife and food fish, game fish, and
9 shellfish in state waters and offshore waters.

10 The department shall conserve the wildlife and food fish, game
11 fish, and shellfish resources in a manner that does not impair the
12 resource. In a manner consistent with this goal, the department shall
13 seek to maintain the economic well-being and stability of the fishing
14 industry in the state. The department shall promote orderly fisheries
15 and shall enhance and improve recreational and commercial fishing in
16 this state.

17 The (~~commission~~) department may authorize the taking of wildlife,
18 food fish, game fish, and shellfish only at times or places, or in
19 manners or quantities, as in the judgment of the (~~commission~~)
20 department does not impair the supply of these resources.

21 The (~~commission~~) department shall attempt to maximize the public
22 recreational game fishing and hunting opportunities of all citizens,
23 including juveniles, (~~disabled~~) individuals with disabilities, and
24 senior citizens.

25 Recognizing that the management of our state wildlife, food fish,
26 game fish, and shellfish resources depends heavily on the assistance of
27 volunteers, the department shall work cooperatively with volunteer
28 groups and individuals to achieve the goals of this title to the
29 greatest extent possible.

30 Nothing in this title shall be construed to infringe on the right
31 of a private property owner to control the owner's private property.

32 Sec. 2002. RCW 77.04.030 and 2001 c 155 s 1 are each amended to
33 read as follows:

34 The fish and wildlife advisory commission within the department of
35 conservation and recreation consists of nine registered voters of the

1 state. In January of each odd-numbered year, the governor shall
2 appoint (~~(with the advice and consent of the senate)~~) three registered
3 voters to the commission to serve for terms of six years from that
4 January or until their successors are appointed and qualified. If a
5 vacancy occurs on the commission prior to the expiration of a term, the
6 governor shall appoint a registered voter within sixty days to complete
7 the term. Three members shall be residents of that portion of the
8 state lying east of the summit of the Cascade mountains, and three
9 shall be residents of that portion of the state lying west of the
10 summit of the Cascade mountains. Three additional members shall be
11 appointed at-large. No two members may be residents of the same
12 county. (~~(The legal office of the commission is at the administrative
13 office of the department in Olympia.)~~)

14 NEW SECTION. **Sec. 2003.** A new section is added to chapter 77.04
15 RCW to read as follows:

16 In addition to duties listed in this chapter, the commission has
17 the following responsibilities and duties:

18 (1) In consultation with stakeholders, advise the director
19 regarding fish and wildlife policies and rule proposals that govern
20 hunting, fishing, wildlife viewing, habitat protection and restoration,
21 and the use of department-owned and managed lands.

22 (2) Advise the director on department agreements relating to fish
23 and wildlife harvest with tribal, interstate, international, and other
24 parties.

25 (3) Advise the director prior to the director determining the
26 status of threatened or endangered species.

27 (4) Advise the director in developing long-term funding strategies
28 to carry out the department's mission and delivery of programs to the
29 public.

30 (5) In providing advice to the director on agency proposed policies
31 and rules, the commission shall consider the following factors:

32 (a) The effect of the management measures on local economies and
33 social structures;

34 (b) The welfare of the constituent group affected;

35 (c) Potential conflicts among user groups using a specific fishery
36 or wildlife resource; and

1 (d) Enforcement issues unique to a particular fishery or wildlife
2 issue.

3 **Sec. 2004.** RCW 77.04.055 and 2000 c 107 s 204 are each amended to
4 read as follows:

5 (1) In establishing policies to preserve, protect, and perpetuate
6 wildlife, fish, and wildlife and fish habitat, the department, with the
7 advice of the commission shall ~~((meet annually with the governor to))~~:

8 (a) Review and prescribe basic goals and objectives related to
9 those policies; and

10 (b) Review the performance of the department in implementing fish
11 and wildlife policies.

12 The ~~((commission))~~ department shall maximize fishing, hunting, and
13 outdoor recreational opportunities compatible with healthy and diverse
14 fish and wildlife populations.

15 (2) The ~~((commission))~~ department shall establish hunting,
16 trapping, and fishing seasons and prescribe the time, place, manner,
17 and methods that may be used to harvest or enjoy game fish and
18 wildlife.

19 (3) The ~~((commission))~~ department shall establish provisions
20 regulating food fish and shellfish as provided in RCW 77.12.047.

21 (4) The ~~((commission))~~ department shall have final approval
22 authority for tribal, interstate, international, and any other
23 department agreements relating to fish and wildlife.

24 (5) The ~~((commission))~~ department shall adopt rules to implement
25 the state's fish and wildlife laws.

26 ~~((6) The commission shall have final approval authority for the
27 department's budget proposals.~~

28 ~~(7) The commission shall select its own staff and shall appoint the
29 director of the department. The director and commission staff shall
30 serve at the pleasure of the commission.)~~

31 **Sec. 2005.** RCW 77.04.060 and 1993 sp.s. c 2 s 63 are each amended
32 to read as follows:

33 The commission shall hold at least one regular meeting during the
34 first two months of each calendar quarter, and special meetings when
35 called by the chair and by five members. Five members constitute a
36 quorum for the transaction of business.

1 The commission at a meeting in each odd-numbered year shall elect
2 one of its members as (~~chairman~~) chair and another member as vice
3 (~~chairman~~) chair, each of whom shall serve for a term of two years or
4 until a successor is elected and qualified.

5 Members of the commission (~~shall be compensated in accordance with~~
6 ~~RCW 43.03.250. In addition, members~~) are allowed their travel
7 expenses incurred while absent from their usual places of residence in
8 accordance with RCW 43.03.050 and 43.03.060.

9 **Sec. 2006.** RCW 77.04.120 and 2000 c 107 s 3 are each amended to
10 read as follows:

11 (1) The (~~director~~) department shall investigate the habits,
12 supply, and economic use of food fish and shellfish in state and
13 offshore waters.

14 (2) The (~~director~~) department shall make an annual report to the
15 governor on the operation of the department and the statistics of the
16 fishing industry.

17 (3) Subject to RCW 40.07.040, the (~~director~~) department shall
18 provide a comprehensive biennial report of all departmental operations
19 to the chairs of the committees on natural resources of the senate and
20 house of representatives, the senate ways and means committee, and the
21 house of representatives appropriations committee(~~, including one copy~~
22 ~~to the staff of each of the committees,~~) to reflect the previous
23 fiscal period. The (~~format of the~~) report shall (~~be similar to~~
24 ~~reports issued by the department from 1964-1970 and the report shall~~)
25 include, but not be limited to, descriptions of all department
26 activities including: Revenues generated, program costs, capital
27 expenditures, personnel, special projects, new and ongoing research,
28 environmental controls, cooperative projects, intergovernmental
29 agreements, and outlines of ongoing litigation, recent court decisions
30 and orders on major issues with the potential for state liability. The
31 report shall describe the status of the resource and its recreational,
32 commercial, and tribal utilization. The report shall be made available
33 to the public.

34 **Sec. 2007.** RCW 77.04.130 and 1995 1st sp.s. c 2 s 12 are each
35 amended to read as follows:

1 (1) Rules of the ((~~commission~~)) department shall be adopted by the
2 ((~~commission~~)) director or a designee in accordance with chapter 34.05
3 RCW.

4 (2) Rules of the ((~~commission~~)) department shall be admitted as
5 evidence in the courts of the state when accompanied by an affidavit
6 from the ((~~commission~~)) director or a designee certifying that the rule
7 has been lawfully adopted and the affidavit is prima facie evidence of
8 the adoption of the rule.

9 (3) The ((~~commission~~)) director may designate department employees
10 to act on the ((~~commission's~~)) department's behalf in the adoption and
11 certification of rules.

12 **Sec. 2008.** RCW 77.04.150 and 2008 c 294 s 1 are each amended to
13 read as follows:

14 (1) The ((~~commission~~)) director must appoint an advisory committee
15 to generally represent the interests of hunters and fishers with
16 disabilities on matters including, but not limited to, special hunts,
17 modified sporting equipment, access to public land, and hunting and
18 fishing opportunities. The advisory committee is composed of seven
19 members, each being an individual with a disability. The advisory
20 committee members must represent the entire state. The members must be
21 appointed so that each of the six department administrative regions, as
22 they existed on January 1, 2007, are represented with one resident on
23 the advisory committee. One additional member must be appointed at
24 large. The chair of the advisory committee must be a member of the
25 advisory committee and shall be selected by the members of the advisory
26 committee.

27 (2) For the purposes of this section, an individual with a
28 disability includes but is not limited to:

29 (a) An individual with a permanent disability who is not ambulatory
30 over natural terrain without a prosthesis or assistive device;

31 (b) An individual with a permanent disability who is unable to walk
32 without the use of assistance from a brace, cane, crutch, wheelchair,
33 scooter, walker, or other assistive device;

34 (c) An individual who has a cardiac condition to the extent that
35 the individual's functional limitations are severe;

36 (d) An individual who is restricted by lung disease to the extent
37 that the individual's functional limitations are severe;

1 (e) An individual who is totally blind or visually impaired; or
2 (f) An individual with a permanent disability with upper or lower
3 extremity impairments who does not have the use of one or both upper or
4 lower extremities.

5 (3) The members of the advisory committee are appointed for a four-
6 year term. If a vacancy occurs on the advisory committee prior to the
7 expiration of a term, the (~~commission~~) director must appoint a
8 replacement within sixty days to complete the term.

9 (4) The advisory committee must meet at least semiannually, and may
10 meet at other times as requested by a majority of the advisory
11 committee members for any express purpose that directly relates to the
12 duties set forth in subsection (1) of this section. A majority of
13 members currently serving on the advisory committee constitutes a
14 quorum. The department must provide staff support for all official
15 advisory committee meetings.

16 (5) Each member of the advisory committee shall serve without
17 compensation but may be reimbursed for travel expenses as authorized in
18 RCW 43.03.050 and 43.03.060.

19 (6) The members of the advisory committee, or individuals acting on
20 their behalf, are immune from civil liability for official acts
21 performed in the course of their duties.

22 (7) Beginning December 1, 2011, and again at least once every four
23 years, the (~~commission~~) department shall present a report to the
24 appropriate legislative committees detailing the effectiveness of the
25 advisory committee including, but not limited to, the participation
26 levels, general interest, quality of advice, and recommendations as to
27 the advisory committee's continuance or modification.

28 **Sec. 2009.** RCW 77.08.010 and 2009 c 333 s 12 are each amended to
29 read as follows:

30 The definitions in this section apply throughout this title or
31 rules adopted under this title unless the context clearly requires
32 otherwise.

33 (1) "Angling gear" means a line attached to a rod and reel capable
34 of being held in hand while landing the fish or a hand-held line
35 operated without rod or reel.

36 (2) "Aquatic invasive species" means any invasive, prohibited,
37 regulated, unregulated, or unlisted aquatic animal or plant species as

1 defined under subsections (3), (28), (40), (44), (58), and (59) of this
2 section, aquatic noxious weeds as defined under RCW 17.26.020(~~(+5)~~)
3 (4)(c), and aquatic nuisance species as defined under RCW 77.60.130(1).

4 (3) "Aquatic plant species" means an emergent, submersed, partially
5 submersed, free-floating, or floating-leaving plant species that grows
6 in or near a body of water or wetland.

7 (4) "Bag limit" means the maximum number of game animals, game
8 birds, or game fish which may be taken, caught, killed, or possessed by
9 a person, as specified by rule of the (~~commission~~) department for a
10 particular period of time, or as to size, sex, or species.

11 (5) "Closed area" means a place where the hunting of some or all
12 species of wild animals or wild birds is prohibited.

13 (6) "Closed season" means all times, manners of taking, and places
14 or waters other than those established by rule of the (~~commission~~)
15 department as an open season. "Closed season" also means all hunting,
16 fishing, taking, or possession of game animals, game birds, game fish,
17 food fish, or shellfish that do not conform to the special restrictions
18 or physical descriptions established by rule of the (~~commission~~)
19 department as an open season or that have not otherwise been deemed
20 legal to hunt, fish, take, harvest, or possess by rule of the
21 (~~commission~~) department as an open season.

22 (7) "Closed waters" means all or part of a lake, river, stream, or
23 other body of water, where fishing or harvesting is prohibited.

24 (8) "Commercial" means related to or connected with buying,
25 selling, or bartering.

26 (9) "Commission" means the state fish and wildlife advisory
27 commission within the department of conservation and recreation.

28 (10) "Concurrent waters of the Columbia river" means those waters
29 of the Columbia river that coincide with the Washington-Oregon state
30 boundary.

31 (11) "Contraband" means any property that is unlawful to produce or
32 possess.

33 (12) "Deleterious exotic wildlife" means species of the animal
34 kingdom not native to Washington and designated as dangerous to the
35 environment or wildlife of the state.

36 (13) "Department" means the department of (~~fish and wildlife~~)
37 conservation and recreation.

1 (14) "Director" means the director of (~~fish and wildlife~~)
2 conservation and recreation.

3 (15) "Endangered species" means wildlife designated by the
4 (~~commission~~) department as seriously threatened with extinction.

5 (16) "Ex officio fish and wildlife officer" means a commissioned
6 officer of a municipal, county, state, or federal agency having as its
7 primary function the enforcement of criminal laws in general, while the
8 officer is in the appropriate jurisdiction. The term "ex officio fish
9 and wildlife officer" includes special agents of the national marine
10 fisheries service, state parks commissioned officers, United States
11 fish and wildlife special agents, (~~department of natural resources~~
12 ~~enforcement officers,~~) and United States forest service officers,
13 while the agents and officers are within their respective
14 jurisdictions.

15 (17) "Fish" includes all species classified as game fish or food
16 fish by statute or rule, as well as all fin fish not currently
17 classified as food fish or game fish if such species exist in state
18 waters. The term "fish" includes all stages of development and the
19 bodily parts of fish species.

20 (18) "Fish and wildlife officer" means a person appointed and
21 commissioned by the director, with authority to enforce this title and
22 rules adopted pursuant to this title, and other statutes as prescribed
23 by the legislature. Fish and wildlife officer includes a person
24 commissioned before June 11, 1998, as a wildlife agent or a fisheries
25 patrol officer. Fish and wildlife officer includes a person
26 commissioned before July 1, 2012, as a department of natural resources
27 enforcement officer.

28 (19) "Fish broker" means a person whose business it is to bring a
29 seller of fish and shellfish and a purchaser of those fish and
30 shellfish together.

31 (20) "Fishery" means the taking of one or more particular species
32 of fish or shellfish with particular gear in a particular geographical
33 area.

34 (21) "Freshwater" means all waters not defined as saltwater
35 including, but not limited to, rivers upstream of the river mouth,
36 lakes, ponds, and reservoirs.

37 (22) "Fur-bearing animals" means game animals that shall not be
38 trapped except as authorized by the (~~commission~~) department.

1 (23) "Game animals" means wild animals that shall not be hunted
2 except as authorized by the (~~commission~~) department.

3 (24) "Game birds" means wild birds that shall not be hunted except
4 as authorized by the (~~commission~~) department.

5 (25) "Game farm" means property on which wildlife is held or raised
6 for commercial purposes, trade, or gift. The term "game farm" does not
7 include publicly owned facilities.

8 (26) "Game reserve" means a closed area where hunting for all wild
9 animals and wild birds is prohibited.

10 (27) "Illegal items" means those items unlawful to be possessed.

11 (28) "Invasive species" means a plant species or a nonnative animal
12 species that either:

13 (a) Causes or may cause displacement of, or otherwise threatens,
14 native species in their natural communities;

15 (b) Threatens or may threaten natural resources or their use in the
16 state;

17 (c) Causes or may cause economic damage to commercial or
18 recreational activities that are dependent upon state waters; or

19 (d) Threatens or harms human health.

20 (29) "License year" means the period of time for which a
21 recreational license is valid. The license year begins April 1st, and
22 ends March 31st.

23 (30) "Limited-entry license" means a license subject to a license
24 limitation program established in chapter 77.70 RCW.

25 (31) "Money" means all currency, script, personal checks, money
26 orders, or other negotiable instruments.

27 (32) "Nonresident" means a person who has not fulfilled the
28 qualifications of a resident.

29 (33) "Offshore waters" means marine waters of the Pacific Ocean
30 outside the territorial boundaries of the state, including the marine
31 waters of other states and countries.

32 (34) "Open season" means those times, manners of taking, and places
33 or waters established by rule of the (~~commission~~) department for the
34 lawful hunting, fishing, taking, or possession of game animals, game
35 birds, game fish, food fish, or shellfish that conform to the special
36 restrictions or physical descriptions established by rule of the
37 (~~commission~~) department or that have otherwise been deemed legal to

1 hunt, fish, take, harvest, or possess by rule of the ((~~commission~~))
2 department. "Open season" includes the first and last days of the
3 established time.

4 (35) "Owner" means the person in whom is vested the ownership
5 dominion, or title of the property.

6 (36) "Person" means and includes an individual; a corporation; a
7 public or private entity or organization; a local, state, or federal
8 agency; all business organizations, including corporations and
9 partnerships; or a group of two or more individuals acting with a
10 common purpose whether acting in an individual, representative, or
11 official capacity.

12 (37) "Personal property" or "property" includes both corporeal and
13 incorporeal personal property and includes, among other property,
14 contraband and money.

15 (38) "Personal use" means for the private use of the individual
16 taking the fish or shellfish and not for sale or barter.

17 (39) "Predatory birds" means wild birds that may be hunted
18 throughout the year as authorized by the ((~~commission~~)) department.

19 (40) "Prohibited aquatic animal species" means an invasive species
20 of the animal kingdom that has been classified as a prohibited aquatic
21 animal species by the ((~~commission~~)) department.

22 (41) "Protected wildlife" means wildlife designated by the
23 ((~~commission~~)) department that shall not be hunted or fished.

24 (42) "Raffle" means an activity in which tickets bearing an
25 individual number are sold for not more than twenty-five dollars each
26 and in which a permit or permits are awarded to hunt or for access to
27 hunt big game animals or wild turkeys on the basis of a drawing from
28 the tickets by the person or persons conducting the raffle.

29 (43) "Recreational and commercial watercraft" includes the boat, as
30 well as equipment used to transport the boat, and any auxiliary
31 equipment such as attached or detached outboard motors.

32 (44) "Regulated aquatic animal species" means a potentially
33 invasive species of the animal kingdom that has been classified as a
34 regulated aquatic animal species by the ((~~commission~~)) department.

35 (45) "Resident" means:

36 (a) A person who has maintained a permanent place of abode within
37 the state for at least ninety days immediately preceding an application

1 for a license, has established by formal evidence an intent to continue
2 residing within the state, and who is not licensed to hunt or fish as
3 a resident in another state; and

4 (b) A person age eighteen or younger who does not qualify as a
5 resident under (a) of this subsection, but who has a parent that
6 qualifies as a resident under (a) of this subsection.

7 (46) "Retail-eligible species" means commercially harvested salmon,
8 crab, and sturgeon.

9 (47) "Saltwater" means those marine waters seaward of river mouths.

10 (48) "Seaweed" means marine aquatic plant species that are
11 dependent upon the marine aquatic or tidal environment, and exist in
12 either an attached or free floating form, and includes but is not
13 limited to marine aquatic plants in the classes Chlorophyta,
14 Phaeophyta, and Rhodophyta.

15 (49) "Senior" means a person seventy years old or older.

16 (50) "Shellfish" means those species of marine and freshwater
17 invertebrates that have been classified and that shall not be taken
18 except as authorized by rule of the (~~commission~~) department. The
19 term "shellfish" includes all stages of development and the bodily
20 parts of shellfish species.

21 (51) "State waters" means all marine waters and fresh waters within
22 ordinary high water lines and within the territorial boundaries of the
23 state.

24 (52) "To fish," "to harvest," and "to take," and their derivatives
25 means an effort to kill, injure, harass, or catch a fish or shellfish.

26 (53) "To hunt" and its derivatives means an effort to kill, injure,
27 capture, or harass a wild animal or wild bird.

28 (54) "To process" and its derivatives mean preparing or preserving
29 fish, wildlife, or shellfish.

30 (55) "To trap" and its derivatives means a method of hunting using
31 devices to capture wild animals or wild birds.

32 (56) "Trafficking" means offering, attempting to engage, or
33 engaging in sale, barter, or purchase of fish, shellfish, wildlife, or
34 deleterious exotic wildlife.

35 (57) "Unclaimed" means that no owner of the property has been
36 identified or has requested, in writing, the release of the property to
37 themselves nor has the owner of the property designated an individual

1 to receive the property or paid the required postage to effect delivery
2 of the property.

3 (58) "Unlisted aquatic animal species" means a nonnative animal
4 species that has not been classified as a prohibited aquatic animal
5 species, a regulated aquatic animal species, or an unregulated aquatic
6 animal species by the ((~~commission~~)) department.

7 (59) "Unregulated aquatic animal species" means a nonnative animal
8 species that has been classified as an unregulated aquatic animal
9 species by the ((~~commission~~)) department.

10 (60) "Wholesale fish dealer" means a person who, acting for
11 commercial purposes, takes possession or ownership of fish or shellfish
12 and sells, barter, or exchanges or attempts to sell, barter, or
13 exchange fish or shellfish that have been landed into the state of
14 Washington or entered the state of Washington in interstate or foreign
15 commerce.

16 (61) "Wild animals" means those species of the class Mammalia whose
17 members exist in Washington in a wild state and the species Rana
18 catesbeiana (bullfrog). The term "wild animal" does not include feral
19 domestic mammals or old world rats and mice of the family Muridae of
20 the order Rodentia.

21 (62) "Wild birds" means those species of the class Aves whose
22 members exist in Washington in a wild state.

23 (63) "Wildlife" means all species of the animal kingdom whose
24 members exist in Washington in a wild state. This includes but is not
25 limited to mammals, birds, reptiles, amphibians, fish, and
26 invertebrates. The term "wildlife" does not include feral domestic
27 mammals, old world rats and mice of the family Muridae of the order
28 Rodentia, or those fish, shellfish, and marine invertebrates classified
29 as food fish or shellfish by the director. The term "wildlife"
30 includes all stages of development and the bodily parts of wildlife
31 members.

32 (64) "Youth" means a person fifteen years old for fishing and under
33 sixteen years old for hunting.

34 **Sec. 2010.** RCW 77.08.020 and 1989 c 218 s 2 are each amended to
35 read as follows:

36 (1) As used in this title or rules of the ((~~commission~~))

1 department, "game fish" means those species of the class Osteichthyes
2 that shall not be fished for except as authorized by rule of the
3 (~~commission~~) department and includes:

4	Scientific Name	Common Name
5	Ambloplites rupestris	rock bass
6	Coregonus clupeaformis	lake white fish
7	Ictalurus furcatus	blue catfish
8	Ictalurus melas	black bullhead
9	Ictalurus natalis	yellow bullhead
10	Ictalurus nebulosus	brown bullhead
11	Ictalurus punctatus	channel catfish
12	Lepomis cyanellus	green sunfish
13	Lepomis gibbosus	pumpkinseed
14	Lepomis gulosus	warmouth
15	Lepomis macrochirus	bluegill
16	Lota lota	burbot or fresh water ling
17	Micropterus dolomieu	smallmouth bass
18	Micropterus salmoides	largemouth bass
19	Oncorhynchus nerka (in its	kokanee or silver trout
20	landlocked form)	
21	Perca flavescens	yellow perch
22	Pomixis annularis	white crappie
23	Pomixis nigromaculatus	black crappie
24	Prosopium williamsoni	mountain white fish
25	Oncorhynchus aquabonita	golden trout
26	Oncorhynchus clarkii	cutthroat trout
27	Oncorhynchus mykiss	rainbow or steelhead trout
28	Salmo salar (in its	Atlantic salmon
29	landlocked form)	
30	Salmo trutta	brown trout
31	Salvelinus fontinalis	eastern brook trout
32	Salvelinus malma	Dolly Varden trout
33	Salvelinus namaycush	lake trout
34	Stizostedion vitreum	Walleye
35	Thymallus articus	arctic grayling

1 (2) Private sector cultured aquatic products as defined in RCW
2 15.85.020 are not game fish.

3 **Sec. 2011.** RCW 77.08.022 and 2000 c 107 s 208 are each amended to
4 read as follows:

5 "Food fish" means those species of the classes Osteichthyes,
6 Agnatha, and Chondrichthyes that have been classified and that shall
7 not be fished for except as authorized by rule of the ((~~commission~~))
8 department. The term "food fish" includes all stages of development
9 and the bodily parts of food fish species.

10 **Sec. 2012.** RCW 77.08.030 and 1980 c 78 s 11 are each amended to
11 read as follows:

12 As used in this title or rules of the ((~~commission~~)) department,
13 "big game" means the following species:

14	Scientific Name	Common Name
15	Cervus canadensis	elk or wapiti
16	Odocoileus hemionus	blacktail deer or mule deer
17	Odocoileus virginianus	whitetail deer
18	Alces americana	moose
19	Oreamnos americanus	mountain goat
20	Rangifer caribou	caribou
21	Ovis canadensis	mountain sheep
22	Antilocapra americana	pronghorn antelope
23	Felis concolor	cougar or mountain lion
24	Euarctos americana	black bear
25	Ursus horribilis	grizzly bear

26 **Sec. 2013.** RCW 77.12.010 and 2000 c 107 s 210 are each amended to
27 read as follows:

28 The ((~~commission~~)) department shall not adopt rules that
29 categorically prohibit fishing with bait or artificial lures in
30 streams, rivers, beaver ponds, and lakes except that the ((~~commission~~))
31 department may adopt rules and regulations restricting fishing methods
32 upon a determination by the director that an individual body of water

1 or part thereof clearly requires a fishing method prohibition to
2 conserve or enhance the fisheries resource or to provide selected
3 fishing alternatives.

4 **Sec. 2014.** RCW 77.12.020 and 2002 c 281 s 3 are each amended to
5 read as follows:

6 (1) The director shall investigate the habits and distribution of
7 the various species of wildlife native to or adaptable to the habitats
8 of the state. The ~~((commission))~~ director shall determine whether a
9 species should be managed by the department and, if so, classify it
10 under this section.

11 (2) The ~~((commission))~~ department may classify by rule wild animals
12 as game animals and game animals as fur-bearing animals.

13 (3) The ~~((commission))~~ department may classify by rule wild birds
14 as game birds or predatory birds. All wild birds not otherwise
15 classified are protected wildlife.

16 (4) In addition to those species listed in RCW 77.08.020, the
17 ~~((commission))~~ department may classify by rule as game fish other
18 species of the class Osteichthyes that are commonly found in fresh
19 water except those classified as food fish by the director.

20 (5) The director may recommend ~~((to the commission))~~ that a species
21 of wildlife should not be hunted or fished. The ~~((commission))~~
22 department may designate species of wildlife as protected.

23 (6) If the director determines that a species of wildlife is
24 seriously threatened with extinction in the state of Washington, the
25 ~~((director))~~ department may ~~((request its designation as an endangered
26 species. The commission may))~~ designate it as an endangered species.

27 (7) If the director determines that a species of the animal
28 kingdom, not native to Washington, is dangerous to the environment or
29 wildlife of the state, the ~~((director))~~ department may ~~((request its
30 designation))~~ designate it as deleterious exotic wildlife. ~~((The
31 commission may designate deleterious exotic wildlife.))~~

32 (8) ~~((Upon recommendation by the director,))~~ The ~~((commission))~~
33 department may classify nonnative aquatic animal species according to
34 the following categories:

35 (a) Prohibited aquatic animal species: These species are
36 considered by the ~~((commission))~~ department to have a high risk of

1 becoming an invasive species and may not be possessed, imported,
2 purchased, sold, propagated, transported, or released into state waters
3 except as provided in RCW 77.15.253;

4 (b) Regulated aquatic animal species: These species are considered
5 by the ~~((commission))~~ department to have some beneficial use along with
6 a moderate, but manageable risk of becoming an invasive species, and
7 may not be released into state waters, except as provided in RCW
8 77.15.253. The ~~((commission))~~ department shall classify the following
9 commercial aquaculture species as regulated aquatic animal species, and
10 allow their release into state waters pursuant to rule of the
11 ~~((commission))~~ department: Pacific oyster (*Crassostrea gigas*),
12 kumamoto oyster (*Crassostrea sikamea*), European flat oyster (*Ostrea*
13 *edulis*), eastern oyster (*Crassostrea virginica*), manila clam (*Tapes*
14 *philippinarum*), blue mussel (*Mytilus galloprovincialis*), and suminoe
15 oyster (*Crassostrea ariankensis*);

16 (c) Unregulated aquatic animal species: These species are
17 considered by the ~~((commission))~~ department as having some beneficial
18 use along with a low risk of becoming an invasive species, and are not
19 subject to regulation under this title;

20 (d) Unlisted aquatic animal species: These species are not
21 designated as a prohibited aquatic animal species, regulated aquatic
22 animal species, or unregulated aquatic animal species by the
23 ~~((commission))~~ department, and may not be released into state waters.
24 ~~((Upon request,))~~ The ~~((commission))~~ department may determine the
25 appropriate category for an unlisted aquatic animal species and
26 classify the species accordingly;

27 (e) This subsection (8) does not apply to the transportation or
28 release of nonnative aquatic animal species by ballast water or ballast
29 water discharge.

30 ~~((Upon recommendation by the director,))~~ The ~~((commission))~~
31 department may develop a work plan to eradicate native aquatic species
32 that threaten human health. Priority shall be given to water bodies
33 that the department of health has classified as representing a threat
34 to human health based on the presence of a native aquatic species.

35 **Sec. 2015.** RCW 77.12.035 and 2000 c 107 s 211 are each amended to
36 read as follows:

37 The ~~((commission))~~ department shall protect grizzly bears and

1 develop management programs on publicly owned lands that will encourage
2 the natural regeneration of grizzly bears in areas with suitable
3 habitat. Grizzly bears shall not be transplanted or introduced into
4 the state. Only grizzly bears that are native to Washington state may
5 be utilized by the department for management programs. The department
6 is directed to fully participate in all discussions and negotiations
7 with federal and state agencies relating to grizzly bear management and
8 shall fully communicate, support, and implement the policies of this
9 section.

10 **Sec. 2016.** RCW 77.12.037 and 2000 c 107 s 4 are each amended to
11 read as follows:

12 (1) The ~~((commission))~~ department may acquire by gift, easement,
13 purchase, lease, or condemnation lands, buildings, water rights,
14 rights-of-way, or other necessary property, and construct and maintain
15 necessary facilities for purposes consistent with this title. The
16 ~~((commission))~~ department may ~~((authorize the director to))~~ acquire
17 property under this section, but the power of condemnation may only be
18 exercised by the director when an appropriation has been made by the
19 legislature for the acquisition of a specific property, except to clear
20 title and acquire access rights-of-way.

21 (2) The ~~((commission))~~ director may sell, lease, convey, or grant
22 concessions upon real or personal property under the control of the
23 department.

24 **Sec. 2017.** RCW 77.12.037 and 2000 c 107 s 4 are each amended to
25 read as follows:

26 (1) The ~~((commission))~~ department may acquire by gift, easement,
27 purchase, lease, or condemnation lands, buildings, water rights,
28 rights-of-way, or other necessary property, and construct and maintain
29 necessary facilities for purposes consistent with this title. The
30 ~~((commission))~~ department may ~~((authorize the director to))~~ acquire
31 property under this section, but the power of condemnation may only be
32 exercised by the director when an appropriation has been made by the
33 legislature for the acquisition of a specific property, except to clear
34 title and acquire access rights-of-way.

35 (2) The ~~((commission))~~ department may sell, lease, convey, or grant

1 concessions upon real or personal property under the control of the
2 department.

3 **Sec. 2018.** RCW 77.12.045 and 2001 c 253 s 13 are each amended to
4 read as follows:

5 Consistent with federal law, the (~~commission's~~) department's
6 authority extends to all areas and waters within the territorial
7 boundaries of the state, to the offshore waters, and to the concurrent
8 waters of the Columbia river.

9 Consistent with federal law, the (~~commission's~~) department's
10 authority extends to fishing in offshore waters by residents of this
11 state.

12 The (~~commission~~) department may adopt rules consistent with the
13 regulations adopted by the United States department of commerce for the
14 offshore waters. The (~~commission~~) department may adopt rules
15 consistent with the recommendations or regulations of the Pacific
16 marine fisheries commission, Columbia river compact, the Pacific salmon
17 commission as provided in chapter 77.75 RCW, or the international
18 Pacific halibut commission.

19 **Sec. 2019.** RCW 77.12.047 and 2001 c 253 s 14 are each amended to
20 read as follows:

21 (1) The (~~commission~~) department may adopt, amend, or repeal rules
22 as follows:

23 (a) Specifying the times when the taking of wildlife, fish, or
24 shellfish is lawful or unlawful.

25 (b) Specifying the areas and waters in which the taking and
26 possession of wildlife, fish, or shellfish is lawful or unlawful.

27 (c) Specifying and defining the gear, appliances, or other
28 equipment and methods that may be used to take wildlife, fish, or
29 shellfish, and specifying the times, places, and manner in which the
30 equipment may be used or possessed.

31 (d) Regulating the importation, transportation, possession,
32 disposal, landing, and sale of wildlife, fish, shellfish, or seaweed
33 within the state, whether acquired within or without the state.

34 (e) Regulating the prevention and suppression of diseases and pests
35 affecting wildlife, fish, or shellfish.

1 (f) Regulating the size, sex, species, and quantities of wildlife,
2 fish, or shellfish that may be taken, possessed, sold, or disposed of.

3 (g) Specifying the statistical and biological reports required from
4 fishers, dealers, boathouses, or processors of wildlife, fish, or
5 shellfish.

6 (h) Classifying species of marine and freshwater life as food fish
7 or shellfish.

8 (i) Classifying the species of wildlife, fish, and shellfish that
9 may be used for purposes other than human consumption.

10 (j) Regulating the taking, sale, possession, and distribution of
11 wildlife, fish, shellfish, or deleterious exotic wildlife.

12 (k) Establishing game reserves and closed areas where hunting for
13 wild animals or wild birds may be prohibited.

14 (l) Regulating the harvesting of fish, shellfish, and wildlife in
15 the federal exclusive economic zone by vessels or individuals
16 registered or licensed under the laws of this state.

17 (m) Authorizing issuance of permits to release, plant, or place
18 fish or shellfish in state waters.

19 (n) Governing the possession of fish, shellfish, or wildlife so
20 that the size, species, or sex can be determined visually in the field
21 or while being transported.

22 (o) Other rules necessary to carry out this title and the purposes
23 and duties of the department.

24 (2) Subsections (1)(a), (b), (c), (d), and (f) of this section do
25 not apply to private tideland owners and lessees and the immediate
26 family members of the owners or lessees of state tidelands, when they
27 take or possess oysters, clams, cockles, borers, or mussels, excluding
28 razor clams, produced on their own private tidelands or their leased
29 state tidelands for personal use.

30 "Immediate family member" for the purposes of this section means a
31 spouse, brother, sister, grandparent, parent, child, or grandchild.

32 (3) Except for subsection (1)(g) of this section, this section does
33 not apply to private sector cultured aquatic products as defined in RCW
34 15.85.020. Subsection (1)(g) of this section does apply to such
35 products.

36 **Sec. 2020.** RCW 77.12.068 and 2008 c 225 s 4 are each amended to
37 read as follows:

1 The department (~~(and the state parks and recreation commission)~~)
2 shall disseminate information about RCW 77.15.740, whale and wildlife
3 viewing guidelines, and other responsible wildlife viewing messages to
4 educate Washington's citizens on how to reduce the risk of disturbing
5 southern resident orca whales. The department (~~(and the state parks
6 and recreation commission)~~) must, at minimum, disseminate this
7 information on their internet sites and through appropriate (~~(agency)~~)
8 department publications, brochures, and other information sources. The
9 department (~~(and the state parks and recreation commission)~~) shall also
10 attempt to reach the state's boating community by coordinating with
11 appropriate state and nongovernmental entities to provide this
12 information at marinas, boat shows, boat dealers, during boating safety
13 training courses, and in conjunction with vessel registration or
14 licensing.

15 **Sec. 2021.** RCW 77.12.140 and 1987 c 506 s 23 are each amended to
16 read as follows:

17 The director(~~(, acting in a manner not inconsistent with criteria
18 established by the commission,)~~) may obtain by purchase, gift, or
19 exchange and may sell or transfer wildlife and their eggs for stocking,
20 research, or propagation.

21 **Sec. 2022.** RCW 77.12.150 and 2003 c 385 s 2 are each amended to
22 read as follows:

23 (1) By emergency rule only, (~~(and in accordance with criteria
24 established by the commission,)~~) the director may close or shorten a
25 season for game animals, game birds, or game fish, and after a season
26 has been closed or shortened, may reopen it and reestablish bag limits
27 on game animals, game birds, or game fish during that season. (~~(The
28 director shall advise the commission of the adoption of emergency
29 rules.))~~) A copy of an emergency rule, certified as a true copy by the
30 director or by a person authorized in writing by the director to make
31 the certification, is admissible in court as prima facie evidence of
32 the adoption and validity of the rule.

33 (2)(a) If the director finds that game animals have increased in
34 numbers in an area of the state so that they are damaging public or
35 private property or over-utilizing their habitat, the (~~(commission)~~)
36 department may establish a special hunting season and designate the

1 time, area, and manner of taking and the number and sex of the animals
2 that may be killed or possessed by a licensed hunter. The director
3 shall include notice of the special season in the rules establishing
4 open seasons.

5 (b) When the department receives six complaints concerning damage
6 to commercial agricultural and horticultural crop production by
7 wildlife from the owner or tenant of real property, or from several
8 owners or tenants in a locale, the ((~~commission~~)) department shall
9 conduct a special hunt or special hunts or take remedial action to
10 reduce the potential for the damage, and shall authorize either one or
11 two permits per hunter. Each complaint must be confirmed by qualified
12 department staff, or their designee.

13 (c) The director shall determine by random selection the identity
14 of hunters who may hunt within the area of the special hunt and shall
15 determine the conditions and requirements of the selection process.
16 Within this process, the department must maintain a list of all persons
17 holding valid wildlife hunting licenses, arranged by county of
18 residence, who may hunt deer or elk that are causing damage to crops.
19 The department must update the list annually and utilize the list when
20 contacting persons to assist in controlling game damage to crops. The
21 department must make all reasonable efforts to contact individuals
22 residing within the county where the hunting of deer or elk will occur
23 before contacting a person who is not a resident of that county. The
24 department must randomize the names of people on the list in order to
25 provide a fair distribution of the hunting opportunities. Hunters who
26 participate in hunts under this section must report any kills to the
27 department. The department must include a summary of the wildlife
28 harvested in these hunts in the annual game management reports it makes
29 available to the public.

30 **Sec. 2023.** RCW 77.12.152 and 1995 1st sp.s. c 2 s 14 are each
31 amended to read as follows:

32 The ((~~commission~~)) department may designate the boundaries of
33 fishing areas by driving piling or by establishing monuments or by
34 description of landmarks or section lines and directional headings.

35 **Sec. 2024.** RCW 77.12.170 and 2009 c 333 s 13 are each amended to
36 read as follows:

1 (1) There is established in the state treasury the state wildlife
2 account which consists of moneys received from:

3 (a) Rentals or concessions of the department;

4 (b) The sale of real or personal property held for department
5 purposes, unless the property is seized or recovered through a fish,
6 shellfish, or wildlife enforcement action;

7 (c) The assessment of administrative penalties, and the sale of
8 licenses, permits, tags, and stamps required by chapter 77.32 RCW and
9 RCW 77.65.490, except annual resident adult saltwater and all annual
10 razor clam and shellfish licenses, which shall be deposited into the
11 state general fund;

12 (d) Fees for informational materials published by the department;

13 (e) Fees for personalized vehicle, Wild on Washington, and
14 Endangered Wildlife license plates and Washington's Wildlife license
15 plate collection as provided in chapter ((46.16)) 46.17 RCW;

16 (f) Articles or wildlife sold by the director under this title;

17 (g) Compensation for damage to department property or wildlife
18 losses or contributions, gifts, or grants received under RCW 77.12.320.
19 However, this excludes fish and shellfish overages, and court-ordered
20 restitution or donations associated with any fish, shellfish, or
21 wildlife enforcement action, as such moneys must be deposited pursuant
22 to RCW 77.15.425;

23 (h) Excise tax on anadromous game fish collected under chapter
24 82.27 RCW;

25 (i) The department's share of revenues from auctions and raffles
26 authorized by the ((~~commission~~)) department; and

27 (j) The sale of watchable wildlife decals under RCW 77.32.560.

28 (2) State and county officers receiving any moneys listed in
29 subsection (1) of this section shall deposit them in the state treasury
30 to be credited to the state wildlife account.

31 **Sec. 2025.** RCW 77.12.177 and 2001 c 253 s 16 are each amended to
32 read as follows:

33 (1) Except as provided in this title, state and county officers
34 receiving the following moneys shall deposit them in the state general
35 fund:

36 (a) The sale of commercial licenses required under this title,
37 except for licenses issued under RCW 77.65.490; and

1 (b) Moneys received for damages to food fish or shellfish.

2 (2) The director shall make weekly remittances to the state
3 treasurer of moneys collected by the department.

4 (3) All fines and forfeitures collected or assessed by a district
5 court for a violation of this title or rule of the department shall be
6 remitted as provided in chapter 3.62 RCW.

7 (4) Proceeds from the sale of food fish or shellfish taken in test
8 fishing conducted by the department, to the extent that these proceeds
9 exceed the estimates in the budget approved by the legislature, may be
10 allocated as unanticipated receipts under RCW 43.79.270 to reimburse
11 the department for unanticipated costs for test fishing operations in
12 excess of the allowance in the budget approved by the legislature.

13 (5) Proceeds from the sale of salmon carcasses and salmon eggs from
14 state general funded hatcheries by the department of general
15 administration shall be deposited in the regional fisheries enhancement
16 group account established in RCW 77.95.090.

17 (6) Moneys received by the (~~commission~~) department under RCW
18 77.12.039, to the extent these moneys exceed estimates in the budget
19 approved by the legislature, may be allocated as unanticipated receipts
20 under RCW 43.79.270. Allocations under this subsection shall be made
21 only for the specific purpose for which the moneys were received,
22 unless the moneys were received in settlement of a claim for damages to
23 food fish or shellfish, in which case the moneys may be expended for
24 the conservation of these resources.

25 (7) Proceeds from the sale of herring spawn on kelp fishery
26 licenses by the department, to the extent those proceeds exceed
27 estimates in the budget approved by the legislature, may be allocated
28 as unanticipated receipts under RCW 43.79.270. Allocations under this
29 subsection shall be made only for herring management, enhancement, and
30 enforcement.

31 **Sec. 2026.** RCW 77.12.210 and 2009 c 333 s 33 are each amended to
32 read as follows:

33 (1) The director shall maintain and manage real or personal
34 property owned, leased, or held by the department and shall control the
35 construction of buildings, structures, and improvements in or on the
36 property. The director may adopt rules for the operation and
37 maintenance of the property.

1 (2) The ((~~commission~~)) director may ((~~authorize the director to~~))
2 sell, lease, convey, or grant concessions upon real or personal
3 property under the control of the department. This includes the
4 authority to sell timber, gravel, sand, and other materials or products
5 from real property held by the department, and to sell or lease the
6 department's real or personal property or grant concessions or
7 rights-of-way for roads or utilities in the property. Oil and gas
8 resources owned by the state which lie below lands owned, leased, or
9 held by the department shall be offered for lease by the commissioner
10 of public lands pursuant to chapter 79.14 RCW with the proceeds being
11 deposited in the state wildlife account created in RCW 77.12.170((~~+
12 PROVIDED, That~~)). However, the commissioner of public lands shall
13 condition such leases at the request of the department to protect
14 wildlife and its habitat.

15 (3)(a) If the ((~~commission~~)) director determines that real or
16 personal property held by the department cannot be used advantageously
17 by the department, the director may dispose of that property if it is
18 in the public interest.

19 (b) If the state acquired real property with use limited to
20 specific purposes, the director may negotiate terms for the return of
21 the property to the donor or grantor. Other real property shall be
22 sold to the highest bidder at public auction. After appraisal, notice
23 of the auction shall be published at least once a week for two
24 successive weeks in a newspaper of general circulation within the
25 county where the property is located at least twenty days prior to
26 sale.

27 (c) Proceeds from the sales shall be deposited in the state
28 wildlife account created in RCW 77.12.170.

29 **Sec. 2027.** RCW 77.12.220 and 2000 c 107 s 219 are each amended to
30 read as follows:

31 For purposes of this title, the ((~~commission~~)) department may make
32 agreements to obtain real or personal property or to transfer or convey
33 property held by the state to the United States or its agencies or
34 instrumentalities, units of local government of this state, public
35 service companies, or other persons, if in the judgment of the
36 ((~~commission~~)) director and the attorney general the transfer and

1 conveyance is consistent with public interest. For purposes of this
2 section, "local government" means any city, town, county, special
3 district, municipal corporation, or quasi-municipal corporation.

4 If the (~~commission~~) department agrees to a transfer or conveyance
5 under this section or to a sale or return of real property under RCW
6 77.12.210, the director shall certify, with the attorney general, to
7 the governor that the agreement has been made. The certification shall
8 describe the real property. The governor then may execute and the
9 secretary of state attest and deliver to the appropriate entity or
10 person the instrument necessary to fulfill the agreement.

11 **Sec. 2028.** RCW 77.12.275 and 1995 1st sp.s. c 2 s 7 are each
12 amended to read as follows:

13 The (~~commission~~) department may negotiate agreements with the
14 United States department of defense to coordinate fishing in state
15 waters over which the department of defense has assumed control.

16 **Sec. 2029.** RCW 77.12.285 and 2000 c 107 s 6 are each amended to
17 read as follows:

18 (1) The (~~commission~~) department may enter into agreements with
19 and receive funds from the United States for the construction,
20 maintenance, and operation of fish cultural stations, laboratories, and
21 devices in the Columbia River basin for improvement of feeding and
22 spawning conditions for fish, for the protection of migratory fish from
23 irrigation projects and for facilitating free migration of fish over
24 obstructions.

25 (2) The director and the department may acquire by gift, purchase,
26 lease, easement, or condemnation the use of lands where the
27 construction or improvement is to be carried on by the United States.

28 **Sec. 2030.** RCW 77.12.320 and 2001 c 253 s 19 are each amended to
29 read as follows:

30 (1) The (~~commission~~) department may make agreements with persons,
31 political subdivisions of this state, or the United States or its
32 agencies or instrumentalities, regarding fish, shellfish, and wildlife-
33 oriented recreation and the propagation, protection, conservation, and
34 control of fish, shellfish, and wildlife.

1 (2) The director may make written agreements with the owners or
2 lessees of real or personal property to provide for the use of the
3 property for fish, shellfish, and wildlife-oriented recreation. The
4 director may adopt rules governing the conduct of persons in or on the
5 real property.

6 (3) The director may accept compensation for fish, shellfish, and
7 wildlife losses or gifts or grants of personal property for use by the
8 department.

9 **Sec. 2031.** RCW 77.12.323 and 2009 c 333 s 35 are each amended to
10 read as follows:

11 (1) There is established in the state wildlife account created in
12 RCW 77.12.170 a special wildlife account. Moneys received under RCW
13 77.12.320 as now or hereafter amended as compensation for wildlife
14 losses shall be deposited in the state treasury to be credited to the
15 special wildlife account.

16 (2) The director may advise the state treasurer and the state
17 investment board of a surplus in the special wildlife account above the
18 current needs. The state investment board may invest and reinvest the
19 surplus, as the ((~~commission~~)) department deems appropriate, in an
20 investment authorized by RCW 43.84.150 or in securities issued by the
21 United States government as defined by RCW 43.84.080 (1) and (4).
22 Income received from the investments shall be deposited to the credit
23 of the special wildlife account.

24 **Sec. 2032.** RCW 77.12.325 and 2001 c 253 s 20 are each amended to
25 read as follows:

26 The ((~~commission~~)) department may cooperate with the Oregon fish
27 and wildlife commission in the adoption of rules to ensure an annual
28 yield of fish, shellfish, and wildlife on the Columbia river and to
29 prevent the taking of fish, shellfish, and wildlife at places or times
30 that might endanger fish, shellfish, and wildlife.

31 **Sec. 2033.** RCW 77.12.330 and 1980 c 78 s 53 are each amended to
32 read as follows:

33 The ((~~commission~~)) department may establish by rule exclusive
34 fishing waters for minors within specified ages.

1 **Sec. 2034.** RCW 77.12.420 and 1987 c 506 s 46 are each amended to
2 read as follows:

3 The director may spend moneys to improve natural growing conditions
4 for fish by constructing fishways, installing screens, and removing
5 obstructions to migratory fish. The eradication of undesirable fish
6 shall be authorized by the ((~~commission~~)) department. The director may
7 enter into cooperative agreements with state, county, municipal, and
8 federal agencies, and with private individuals for these purposes.

9 **Sec. 2035.** RCW 77.12.455 and 2001 c 253 s 22 are each amended to
10 read as follows:

11 The ((~~commission~~)) department may prohibit the introduction,
12 transportation or transplanting of fish, shellfish, organisms,
13 material, or other equipment which in the ((~~commission's~~)) department's
14 judgment may transmit any disease or pests affecting fish or shellfish.

15 **Sec. 2036.** RCW 77.12.560 and 1980 c 78 s 127 are each amended to
16 read as follows:

17 The ((~~commission~~)) department may adopt rules regarding the use of
18 the tidelands as shooting grounds.

19 **Sec. 2037.** RCW 77.12.570 and 1987 c 506 s 49 are each amended to
20 read as follows:

21 The ((~~commission~~)) department shall establish the qualifications
22 and conditions for issuing a game farm license. The ((~~director~~))
23 department shall adopt rules governing the operation of game farms.
24 Private sector cultured aquatic products as defined in RCW 15.85.020
25 are exempt from regulation under this section.

26 **Sec. 2038.** RCW 77.12.722 and 2000 c 107 s 259 are each amended to
27 read as follows:

28 For the purposes of establishing a season or bag limit restriction
29 on Canada goose hunting, the ((~~commission~~)) department shall not
30 consider leg length or bill length of dusky Canada geese (*Branta*
31 *canadensis occidentalis*).

32 **Sec. 2039.** RCW 77.12.760 and 1993 sp.s. c 2 s 78 are each amended
33 to read as follows:

1 Steelhead trout shall be managed solely as a recreational fishery
2 for non-Indian (~~(fishermen)~~) fishers under the rule-setting authority
3 of the (~~(fish and wildlife commission)~~) department.

4 Commercial non-Indian steelhead fisheries are not authorized.

5 **Sec. 2040.** RCW 77.12.800 and 1997 c 422 s 3 are each amended to
6 read as follows:

7 The (~~(commission)~~) department must establish special pheasant
8 hunting opportunities for juvenile hunters in eastern Washington for
9 the 1998 season and future seasons.

10 **Sec. 2041.** RCW 77.12.850 and 1999 c 342 s 2 are each amended to
11 read as follows:

12 The definitions in this section apply throughout RCW 77.12.850
13 through 77.12.860 unless the context clearly requires otherwise.

14 (1) "Salmon" means all species of the genus *Oncorhynchus*, except
15 those classified as game fish in this title, and includes:

Scientific Name	Common Name
<i>Oncorhynchus tshawytscha</i>	Chinook salmon
<i>Oncorhynchus kisutch</i>	Coho salmon
<i>Oncorhynchus keta</i>	Chum salmon
<i>Oncorhynchus gorbuscha</i>	Pink salmon
<i>Oncorhynchus nerka</i>	Sockeye salmon

22 (2) "Department" means the department of (~~(fish and wildlife)~~)
23 conservation and recreation.

24 (3) "Committee" means the salmon stamp selection committee created
25 in RCW 77.12.856.

26 (4) "Stamp" means the stamp created under the Washington salmon
27 stamp program and the Washington junior salmon stamp program, created
28 in RCW 77.12.850 through 77.12.860.

29 **Sec. 2042.** RCW 77.12.875 and 2002 c 281 s 5 are each amended to
30 read as follows:

31 (1) The (~~(commission)~~) department may designate by rule state

1 waters as infested if the director determines that these waters contain
2 a prohibited aquatic animal species.

3 (2) The ((~~commission~~)) department, in consultation with the
4 department of ecology, may designate state waters as infested if it is
5 determined that these waters contain an invasive aquatic plant species.

6 (3) The department shall work with the aquatic nuisance species
7 committee and its member agencies to create educational materials
8 informing the public of state waters that are infested with invasive
9 species, and advise them of applicable rules and practices designed to
10 reduce the spread of the invasive species infesting the waters.

11 **Sec. 2043.** RCW 77.12.878 and 2002 c 281 s 6 are each amended to
12 read as follows:

13 (1) The director shall create a rapid response plan in cooperation
14 with the aquatic nuisance species committee and its member agencies
15 that describes actions to be taken when a prohibited aquatic animal
16 species is found to be infesting a water body. These actions include
17 eradication or control programs where feasible and containment of
18 infestation where practical through notification, public education, and
19 the enforcement of regulatory programs.

20 (2) The ((~~commission~~)) department may adopt rules to implement the
21 rapid response plan.

22 (3) The director((~~7~~)) and the department of ecology((~~7~~ and the
23 ~~Washington state parks and recreation commission~~)) may post signs at
24 water bodies that are infested with aquatic animal species that are
25 classified as prohibited aquatic animal species under RCW 77.12.020 or
26 with invasive species of the plant kingdom. The signs should identify
27 the prohibited plant and animal species present and warn users of the
28 water body of the hazards and penalties for possessing and transporting
29 these species. Educational signs may be placed at uninfested sites.

30 **Sec. 2044.** RCW 77.12.882 and 2007 c 350 s 4 are each amended to
31 read as follows:

32 (1) The department shall adopt rules governing how and when the
33 owners of recreational and commercial watercraft may request an
34 inspection of the watercraft for the presence of aquatic invasive
35 species. The department may coordinate with other states on inspection

1 requirements and may determine when other state inspections meet
2 Washington standards.

3 (2) The department shall develop and post signs warning vessel
4 owners of the threat of aquatic invasive species, the penalties
5 associated with introduction of an aquatic invasive species, and the
6 contact information for obtaining a free inspection. The signs should
7 provide enough information for the public to discern whether the vessel
8 has been operated in an area that would warrant the need for an
9 inspection. The department shall consult with the state patrol and the
10 department of transportation regarding proper placement and
11 authorization for sign posting.

12 (3) All port districts, privately or publicly owned marinas, state
13 parks, and all state agencies or political subdivisions that own or
14 lease a boat launch must display a sign provided by the department as
15 described under subsection (2) of this section. Signs must be posted
16 in a location near the boat launch to provide maximum visibility to the
17 public.

18 (4) The department must (~~coordinate with the Washington state~~
19 ~~parks and recreation commission to~~) include such information in all
20 boating publications provided to the public. The department shall also
21 include the information on the department's internet site.

22 **Sec. 2045.** RCW 77.15.065 and 1996 c 267 s 9 are each amended to
23 read as follows:

24 If the prosecuting attorney of the county in which a violation of
25 this title or rule of the department occurs fails to file an
26 information against the alleged violator, the attorney general upon
27 request of the (~~commission~~) department may file an information in the
28 superior court of the county and prosecute the case in place of the
29 prosecuting attorney. The (~~commission~~) department may request
30 prosecution by the attorney general if thirty days have passed since
31 the (~~commission~~) department informed the county prosecuting attorney
32 of the alleged violation.

33 **Sec. 2046.** RCW 77.15.096 and 2002 c 128 s 5 are each amended to
34 read as follows:

35 Fish and wildlife officers may inspect without warrant at
36 reasonable times and in a reasonable manner the premises, containers,

1 fishing equipment, fish, seaweed, shellfish, and wildlife, and records
2 required by the department of any commercial fisher or wholesale dealer
3 or fish buyer. Fish and wildlife officers may similarly inspect
4 without warrant the premises, containers, fishing equipment, fish,
5 shellfish, and wildlife, and records required by the department of any
6 shipping agent or other person placing or attempting to place fish,
7 shellfish, or wildlife into interstate commerce, any cold storage plant
8 that the department has probable cause to believe contains fish,
9 shellfish, or wildlife, or of any taxidermist or fur buyer. Fish and
10 wildlife officers may inspect without warrant the records required by
11 the department of any retail outlet selling fish, shellfish, or
12 wildlife, and, if the officers have probable cause to believe a
13 violation of this title or rules of the (~~commission~~) department has
14 occurred, they may inspect without warrant the premises, containers,
15 and fish, shellfish, and wildlife of any retail outlet selling fish,
16 shellfish, or wildlife. Authority granted under this section does not
17 extend to quarters in a boat, building, or other property used
18 exclusively as a private domicile, does not extend to transitory
19 residences in which a person has a reasonable expectation of privacy,
20 and does not allow search and seizure without a warrant if the thing or
21 place is protected from search without warrant within the meaning of
22 Article I, section 7 of the state Constitution.

23 **Sec. 2047.** RCW 77.15.120 and 2000 c 107 s 236 are each amended to
24 read as follows:

25 (1) A person is guilty of unlawful taking of endangered fish or
26 wildlife in the second degree if the person hunts, fishes, possesses,
27 maliciously harasses or kills fish or wildlife, or maliciously destroys
28 the nests or eggs of fish or wildlife and the fish or wildlife is
29 designated by the (~~commission~~) department as endangered, and the
30 taking has not been authorized by rule of the (~~commission~~)
31 department.

32 (2) A person is guilty of unlawful taking of endangered fish or
33 wildlife in the first degree if the person has been:

34 (a) Convicted under subsection (1) of this section or convicted of
35 any crime under this title involving the killing, possessing,
36 harassing, or harming of endangered fish or wildlife; and

1 (b) Within five years of the date of the prior conviction the
2 person commits the act described by subsection (1) of this section.

3 (3)(a) Unlawful taking of endangered fish or wildlife in the second
4 degree is a gross misdemeanor.

5 (b) Unlawful taking of endangered fish or wildlife in the first
6 degree is a class C felony. The department shall revoke any licenses
7 or tags used in connection with the crime and order the person's
8 privileges to hunt, fish, trap, or obtain licenses under this title to
9 be suspended for two years.

10 **Sec. 2048.** RCW 77.15.130 and 1998 c 190 s 14 are each amended to
11 read as follows:

12 (1) A person is guilty of unlawful taking of protected fish or
13 wildlife if:

14 (a) The person hunts, fishes, possesses, or maliciously kills
15 protected fish or wildlife, or the person possesses or maliciously
16 destroys the eggs or nests of protected fish or wildlife, and the
17 taking has not been authorized by rule of the (~~commission~~)
18 department; or

19 (b) The person violates any rule of the (~~commission~~) department
20 regarding the taking, harming, harassment, possession, or transport of
21 protected fish or wildlife.

22 (2) Unlawful taking of protected fish or wildlife is a misdemeanor.

23 **Sec. 2049.** RCW 77.15.160 and 2000 c 107 s 237 are each amended to
24 read as follows:

25 A person is guilty of an infraction, which shall be cited and
26 punished as provided under chapter 7.84 RCW, if the person:

27 (1) Fails to immediately record a catch of fish or shellfish on a
28 catch record card required by RCW 77.32.430, or required by rule of the
29 (~~commission~~) department under this title; or

30 (2) Fishes for personal use using barbed hooks in violation of any
31 rule; or

32 (3) Violates any other rule of the (~~commission~~) director that
33 is designated by rule as an infraction.

34 **Sec. 2050.** RCW 77.15.245 and 2005 c 107 s 1 are each amended to
35 read as follows:

1 (1) Notwithstanding the provisions of RCW 77.12.240, (~~77.36.020,~~)
2 77.36.030, or any other provisions of law, it is unlawful to take,
3 hunt, or attract black bear with the aid of bait.

4 (a) Nothing in this subsection shall be construed to prohibit the
5 killing of black bear with the aid of bait by employees or agents of
6 county, state, or federal agencies while acting in their official
7 capacities for the purpose of protecting livestock, domestic animals,
8 private property, or the public safety.

9 (b) Nothing in this subsection shall be construed to prevent the
10 establishment and operation of feeding stations for black bear in order
11 to prevent damage to commercial timberland.

12 (c) Nothing in this subsection shall be construed to prohibit the
13 director from issuing a permit or memorandum of understanding to a
14 public agency, university, or scientific or educational institution for
15 the use of bait to attract black bear for scientific purposes.

16 (d) As used in this subsection, "bait" means a substance placed,
17 exposed, deposited, distributed, scattered, or otherwise used for the
18 purpose of attracting black bears to an area where one or more persons
19 hunt or intend to hunt them.

20 (2) Notwithstanding RCW 77.12.240, (~~77.36.020,~~) 77.36.030, or any
21 other provisions of law, it is unlawful to hunt or pursue black bear,
22 cougar, bobcat, or lynx with the aid of a dog or dogs.

23 (a) Nothing in this subsection shall be construed to prohibit the
24 killing of black bear, cougar, bobcat, or lynx with the aid of a dog or
25 dogs by employees or agents of county, state, or federal agencies while
26 acting in their official capacities for the purpose of protecting
27 livestock, domestic animals, private property, or the public safety.
28 A dog or dogs may be used by the owner or tenant of real property
29 consistent with a permit issued and conditioned by the director.

30 (b) Nothing in this subsection shall be construed to prohibit the
31 director from issuing a permit or memorandum of understanding to a
32 public agency, university, or scientific or educational institution for
33 the use of a dog or dogs for the pursuit, capture and relocation, of
34 black bear, cougar, bobcat, or lynx for scientific purposes.

35 (c) Nothing in this subsection shall be construed to prohibit the
36 director from issuing a permit or memorandum of understanding to a
37 public agency, university, or scientific or educational institution for

1 the use of a dog or dogs for the killing of black bear, cougar, or
2 bobcat, for the protection of a state and/or federally listed
3 threatened or endangered species.

4 (3)(a) Notwithstanding subsection (2) of this section, the
5 (~~commission~~) department shall authorize the use of dogs only in
6 selected areas within a game management unit to address a public safety
7 need presented by one or more cougar. This authority may only be
8 exercised after the (~~commission~~) department has determined that no
9 other practical alternative to the use of dogs exists, and after the
10 (~~commission~~) department has adopted rules describing the conditions
11 in which dogs may be used. Conditions that may warrant the use of dogs
12 within a game management unit include, but are not limited to,
13 confirmed cougar/human safety incidents, confirmed cougar/livestock and
14 cougar/pet depredations, and the number of cougar capture attempts and
15 relocations.

16 (b) The department shall post on their internet web site the known
17 details of all reported cougar/human, cougar/pet, or cougar/livestock
18 interactions within ten days of receiving the report. The posted
19 material must include, but is not limited to, the location and time of
20 all reported sightings, and the known details of any cougar/livestock
21 incidents.

22 (4) A person who violates subsection (1) or (2) of this section is
23 guilty of a gross misdemeanor. In addition to appropriate criminal
24 penalties, the department shall revoke the hunting license of a person
25 who violates subsection (1) or (2) of this section and order the
26 suspension of wildlife hunting privileges for a period of five years
27 following the revocation. Following a subsequent violation of
28 subsection (1) or (2) of this section by the same person, a hunting
29 license shall not be issued to the person at any time.

30 **Sec. 2051.** RCW 77.15.250 and 2001 c 253 s 32 are each amended to
31 read as follows:

32 (1)(a) A person is guilty of unlawfully releasing, planting, or
33 placing fish, shellfish, or wildlife if the person knowingly releases,
34 plants, or places live fish, shellfish, wildlife, or aquatic plants
35 within the state, and the fish, shellfish, or wildlife have not been
36 classified as deleterious wildlife. This subsection does not apply to

1 a release of game fish into private waters for which a game fish
2 stocking permit has been obtained, or the planting of fish or shellfish
3 by permit of the (~~commission~~) department.

4 (b) A violation of this subsection is a gross misdemeanor. In
5 addition, the department shall order the person to pay all costs the
6 department incurred in capturing, killing, or controlling the fish,
7 shellfish, aquatic plants, or wildlife released or its progeny. This
8 does not affect the existing authority of the department to bring a
9 separate civil action to recover costs of capturing, killing,
10 controlling the fish, shellfish, aquatic plants, or wildlife released
11 or their progeny, or restoration of habitat necessitated by the
12 unlawful release.

13 (2)(a) A person is guilty of unlawful release of deleterious exotic
14 wildlife if the person knowingly releases, plants, or places live fish,
15 shellfish, or wildlife within the state and such fish, shellfish, or
16 wildlife has been classified as deleterious exotic wildlife by rule of
17 the (~~commission~~) department.

18 (b) A violation of this subsection is a class C felony. In
19 addition, the department shall also order the person to pay all costs
20 the department incurred in capturing, killing, or controlling the fish,
21 shellfish, or wildlife released or its progeny. This does not affect
22 the existing authority of the department to bring a separate civil
23 action to recover costs of capturing, killing, controlling the fish,
24 shellfish, or wildlife released or their progeny, or restoration of
25 habitat necessitated by the unlawful release.

26 **Sec. 2052.** RCW 77.15.253 and 2007 c 350 s 5 are each amended to
27 read as follows:

28 (1) A person is guilty of unlawful use of a prohibited aquatic
29 animal species if he or she possesses, imports, purchases, sells,
30 propagates, transports, or releases a prohibited aquatic animal species
31 within the state, except as provided in this section.

32 (2) Unless otherwise prohibited by law, a person may:

33 (a) Transport prohibited aquatic animal species to the department,
34 or to another destination designated by the (~~director~~) department, in
35 a manner designated by the (~~director~~) department, for purposes of
36 identifying a species or reporting the presence of a species;

1 (b) Possess a prohibited aquatic animal species if he or she is in
2 the process of removing it from watercraft or equipment in a manner
3 specified by the department;

4 (c) Release a prohibited aquatic animal species if the species was
5 caught while fishing and it is being immediately returned to the water
6 from which it came; or

7 (d) Possess, transport, or release a prohibited aquatic animal
8 species as the ((~~commission~~)) department may otherwise prescribe.

9 (3) Unlawful use of a prohibited aquatic animal species is a gross
10 misdemeanor. A subsequent violation of subsection (1) of this section
11 within five years is a class C felony.

12 (4) A person is guilty of unlawful release of a regulated aquatic
13 animal species if he or she releases a regulated aquatic animal species
14 into state waters, unless allowed by the ((~~commission~~)) department.

15 (5) Unlawful release of a regulated aquatic animal species is a
16 gross misdemeanor.

17 (6) A person is guilty of unlawful release of an unlisted aquatic
18 animal species if he or she releases an unlisted aquatic animal species
19 into state waters without requesting a ((~~commission~~)) department
20 designation under RCW 77.12.020.

21 (7) Unlawful release of an unlisted aquatic animal species is a
22 gross misdemeanor.

23 (8) This section does not apply to:

24 (a) The transportation or release of organisms in ballast water;

25 (b) A person stopped at an aquatic invasive species check station
26 who possesses a recreational or commercial watercraft that is
27 contaminated with an aquatic invasive species, if that person complies
28 with all department directives for the proper decontamination of the
29 watercraft and equipment; or

30 (c) A person who has voluntarily submitted a recreational or
31 commercial watercraft for inspection by the department and has received
32 a receipt verifying that the watercraft has not been contaminated since
33 its last use.

34 **Sec. 2053.** RCW 77.15.290 and 2007 c 350 s 6 are each amended to
35 read as follows:

36 (1) A person is guilty of unlawful transportation of fish or
37 wildlife in the second degree if the person:

1 (a) Knowingly imports, moves within the state, or exports fish,
2 shellfish, or wildlife in violation of any rule of the (~~commission or~~
3 ~~the director~~) department governing the transportation or movement of
4 fish, shellfish, or wildlife and the transportation does not involve
5 big game, endangered fish or wildlife, deleterious exotic wildlife, or
6 fish, shellfish, or wildlife having a value greater than two hundred
7 fifty dollars; or

8 (b) Possesses but fails to affix or notch a big game transport tag
9 as required by rule of the (~~commission or director~~) department.

10 (2) A person is guilty of unlawful transportation of fish or
11 wildlife in the first degree if the person:

12 (a) Knowingly imports, moves within the state, or exports fish,
13 shellfish, or wildlife in violation of any rule of the (~~commission or~~
14 ~~the director~~) department governing the transportation or movement of
15 fish, shellfish, or wildlife and the transportation involves big game,
16 endangered fish or wildlife, deleterious exotic wildlife, or fish,
17 shellfish, or wildlife with a value of two hundred fifty dollars or
18 more; or

19 (b) Knowingly transports shellfish, shellstock, or equipment used
20 in commercial culturing, taking, handling, or processing shellfish
21 without a permit required by authority of this title.

22 (3)(a) Unlawful transportation of fish or wildlife in the second
23 degree is a misdemeanor.

24 (b) Unlawful transportation of fish or wildlife in the first degree
25 is a gross misdemeanor.

26 (4) A person is guilty of unlawful transport of aquatic plants if
27 the person transports aquatic plants on any state or public road,
28 including forest roads, except as provided in this section.

29 (5) Unless otherwise prohibited by law, a person may transport
30 aquatic plants:

31 (a) To the department, or to another destination designated by the
32 (~~director~~) department, in a manner designated by the department, for
33 purposes of identifying a species or reporting the presence of a
34 species;

35 (b) When legally obtained for aquarium use, wetland or lakeshore
36 restoration, or ornamental purposes;

37 (c) When transporting a commercial aquatic plant harvester to a
38 suitable location for purposes of removing aquatic plants;

1 (d) In a manner that prevents their unintentional dispersal, to a
2 suitable location for disposal, research, or educational purposes; or

3 (e) As the ((~~commission~~)) department may otherwise prescribe.

4 (6) Unlawful transport of aquatic plants is a misdemeanor.

5 (7) This section does not apply to: (a) Any person stopped at an
6 aquatic invasive species check station who possesses a recreational or
7 commercial watercraft that is contaminated with an aquatic invasive
8 species if that person complies with all department directives for the
9 proper decontamination of the watercraft and equipment; or (b) any
10 person who has voluntarily submitted a recreational or commercial
11 watercraft for inspection by the department or its designee and has
12 received a receipt verifying that the watercraft has not been
13 contaminated since its last use.

14 **Sec. 2054.** RCW 77.15.382 and 2010 c 193 s 2 are each amended to
15 read as follows:

16 (1) A person is guilty of the unlawful use of shellfish gear for
17 personal use purposes if the person:

18 (a) Takes, fishes for, or possesses crab, shrimp, or crawfish for
19 personal use purposes with shellfish gear that is constructed or
20 altered in a manner that violates any rule of the ((~~commission~~))
21 department relating to required gear design specifications; or

22 (b) Is found in possession of, upon any vessel located on the
23 waters of the state, shellfish gear that is constructed or altered in
24 a manner that violates any rule of the ((~~commission~~)) department
25 relating to required gear design specifications, unless a person holds
26 a valid crab pot removal permit under RCW 77.70.500 and is in the
27 process of transporting removed crab pots as part of the Dungeness crab
28 pot removal program.

29 (2) The unlawful use of shellfish gear for personal use purposes is
30 a misdemeanor.

31 **Sec. 2055.** RCW 77.15.400 and 2006 c 148 s 1 are each amended to
32 read as follows:

33 (1) A person is guilty of unlawful hunting of wild birds in the
34 second degree if the person:

35 (a) Hunts for, takes, or possesses a wild bird and the person does

1 not have and possess all licenses, tags, stamps, and permits required
2 under this title;

3 (b) Maliciously destroys, takes, or harms the eggs or nests of a
4 wild bird except when authorized by permit;

5 (c) Violates any rule of the (~~commission or director~~) department
6 regarding seasons, bag or possession limits but less than two times the
7 bag or possession limit, closed areas, closed times, or other rule
8 addressing the manner or method of hunting or possession of wild birds;
9 or

10 (d) Possesses a wild bird taken during a closed season for that
11 wild bird or taken from a closed area for that wild bird.

12 (2) A person is guilty of unlawful hunting of wild birds in the
13 first degree if the person takes or possesses two times or more than
14 the possession or bag limit for wild birds allowed by rule of the
15 (~~commission or director~~) department.

16 (3)(a) Unlawful hunting of wild birds in the second degree is a
17 misdemeanor.

18 (b) Unlawful hunting of wild birds in the first degree is a gross
19 misdemeanor.

20 (4) In addition to the penalties set forth in this section, if a
21 person, other than a youth as defined in RCW 77.08.010 for hunting
22 purposes, violates a rule adopted by the (~~commission~~) department
23 under the authority of this title that requires the use of nontoxic
24 shot, upon conviction:

25 (a) The court shall require a payment of one thousand dollars as a
26 criminal wildlife penalty assessment that must be paid to the clerk of
27 the court and distributed to the state treasurer for deposit in the
28 fish and wildlife enforcement reward account created in RCW 77.15.425.
29 The criminal wildlife penalty assessment must be imposed regardless of
30 and in addition to any sentence, fine, or costs imposed for violating
31 this section. The criminal wildlife penalty assessment must be
32 included by the court in any pronouncement of sentence and may not be
33 suspended, waived, modified, or deferred in any respect; and

34 (b) The department shall revoke the hunting license of the person
35 and order a suspension of small game hunting privileges for two years.

36 **Sec. 2056.** RCW 77.15.425 and 2009 c 333 s 18 are each amended to
37 read as follows:

1 The fish and wildlife enforcement reward account is created in the
2 custody of the state treasurer. Deposits to the account include:
3 Receipts from fish and shellfish overages as a result of a department
4 enforcement action; fees for hunter education deferral applications;
5 fees for master hunter applications and master hunter certification
6 renewals; all receipts from criminal wildlife penalty assessments under
7 RCW 77.15.400 and 77.15.420; all receipts of court-ordered restitution
8 or donations associated with any fish, shellfish, or wildlife
9 enforcement action; and proceeds from forfeitures and evidence pursuant
10 to RCW 77.15.070 and 77.15.100. The department may accept money or
11 personal property from persons under conditions requiring the property
12 or money to be used consistent with the intent of expenditures from the
13 fish and wildlife enforcement reward account. Expenditures from the
14 account may be used only for investigation and prosecution of fish and
15 wildlife offenses, to provide rewards to persons informing the
16 department about violations of this title and rules adopted under this
17 title, to offset department-approved costs incurred to administer the
18 hunter education deferral program and the master hunter (~~(permit)~~)
19 permit program, and for other valid enforcement uses as determined by
20 the (~~(commission)~~) department. Only the director or the director's
21 designee may authorize expenditures from the account. The account is
22 subject to allotment procedures under chapter 43.88 RCW, but an
23 appropriation is not required for expenditures.

24 **Sec. 2057.** RCW 77.15.520 and 2010 c 193 s 4 are each amended to
25 read as follows:

26 (1) Except for actions involving shellfish gear punishable under
27 RCW 77.15.522, a person is guilty of commercial fishing using unlawful
28 gear or methods if the person acts for commercial purposes and takes or
29 fishes for any fish or shellfish using any gear or method in violation
30 of a rule of the (~~(commission)~~) department specifying, regulating, or
31 limiting the gear or method for taking, fishing, or harvesting of such
32 fish or shellfish.

33 (2) Commercial fishing using unlawful gear or methods is a gross
34 misdemeanor.

35 **Sec. 2058.** RCW 77.15.522 and 2010 c 193 s 1 are each amended to
36 read as follows:

1 (1) A person is guilty of the unlawful use of shellfish gear for
2 commercial purposes if the person:

3 (a) Takes, fishes for, or possesses crab, shrimp, or crawfish for
4 commercial purposes with shellfish gear that is constructed or altered
5 in a manner that violates any rule of the ((~~commission~~)) department
6 relating to required gear design specifications; or

7 (b) Is found in possession of, upon any vessel located on the
8 waters of the state, shellfish gear that is constructed or altered in
9 a manner that violates any rule of the ((~~commission~~)) department
10 relating to required gear design specifications, unless a person holds
11 a valid crab pot removal permit under RCW 77.70.500 and is in the
12 process of transporting removed crab pots as part of the Dungeness crab
13 pot removal program.

14 (2) The unlawful use of shellfish gear for commercial purposes is
15 a gross misdemeanor.

16 **Sec. 2059.** RCW 77.15.530 and 2000 c 107 s 249 are each amended to
17 read as follows:

18 (1) A person who holds a fishery license required by chapter 77.65
19 RCW, or who holds an operator's license and is designated as an
20 alternate operator on a fishery license required by chapter 77.65 RCW,
21 is guilty of unlawful use of a nondesignated vessel if the person
22 takes, fishes for, or delivers from that fishery using a vessel not
23 designated on the person's license, when vessel designation is required
24 by chapter 77.65 RCW.

25 (2) Unlawful use of a nondesignated vessel is a gross misdemeanor.

26 (3) A nondesignated vessel may be used, subject to appropriate
27 notification to the department and in accordance with rules established
28 by the ((~~commission~~)) department, when a designated vessel is
29 inoperative because of accidental damage or mechanical breakdown.

30 (4) If the person commits the act described by subsection (1) of
31 this section and the vessel designated on the person's fishery license
32 was used by any person in the fishery on the same day, then the
33 violation for using a nondesignated vessel is a class C felony. Upon
34 conviction the department shall order revocation and suspension of all
35 commercial fishing privileges under chapter 77.65 RCW for a period of
36 one year.

1 **Sec. 2060.** RCW 77.15.554 and 2003 c 386 s 4 are each amended to
2 read as follows:

3 (1) The license suspension review committee is created. The
4 license suspension review committee may only hear appeals from
5 commercial fishers who have had a license revoked or suspended pursuant
6 to RCW 77.15.552.

7 (2)(a) The license suspension review committee is composed of five
8 voting members and up to four alternates.

9 (b) Two of the members must be appointed by the director and may be
10 department employees.

11 (c) Three members, and up to four alternates, must be peer-group
12 members, who are individuals owning a commercial fishing license issued
13 by the department. If a peer-group member appears before the license
14 suspension review committee because of a qualifying commercial fishing
15 violation, the member must recuse himself or herself from the
16 proceedings relating to that violation. No two voting peer-group
17 members may reside in the same county. All peer-group members must be
18 appointed by the ((~~commission~~)) director, who may accept
19 recommendations from professional organizations that represent
20 commercial fishing interests or from the legislative authority of any
21 Washington county.

22 (d) All license suspension review committee members serve a two-
23 year renewable term.

24 (e) The ((~~commission~~)) department may develop minimum member
25 standards for service on the license suspension review committee, and
26 standards for terminating a member before the expiration of his or her
27 term.

28 (3) The license suspension review committee must convene and
29 deliver an opinion on a license renewal suspension within three months
30 of appeal or of referral from the department. The director shall
31 consider the committee's opinion and make a decision and may issue, not
32 issue, or modify the license suspension.

33 (4) The license suspension review committee shall collect the
34 information and hear the testimony that it feels necessary to deliver
35 an opinion on the proper length, if any, of a suspension of a
36 commercial license. The opinion may be based on extenuating
37 circumstances presented by the individual convicted of the qualifying

1 commercial fishing violation or considerations of the type and
2 magnitude of violations that have been committed by the individual.
3 The maximum length of any suspension may not exceed one year.

4 (5) All opinions of the license suspension review committee must be
5 by a majority vote of all voting members. Alternate committee members
6 may only vote when one of the voting members is unavailable, has been
7 recused, or has decided not to vote on the case before the committee.
8 Nonvoting alternates may be present and may participate at all license
9 suspension review committee meetings.

10 (6) Members of the license suspension review committee serve as
11 volunteers, and are not eligible for compensation other than travel
12 expenses pursuant to RCW 43.03.050 and 43.03.060.

13 (7) Staff of the license suspension review committee must be
14 provided by the department.

15 **Sec. 2061.** RCW 77.15.590 and 1998 c 190 s 51 are each amended to
16 read as follows:

17 (1) A person is guilty of unlawful use of a commercial fishing
18 vessel, except as may be authorized by rule of the (~~commission~~)
19 department, for recreational or charter fishing if the person uses,
20 operates, or controls a vessel on the same day for both:

- 21 (a) Charter or recreational fishing; and
- 22 (b) Commercial fishing or shellfish harvesting.

23 (2) Unlawful use of a commercial fishing vessel for recreational or
24 charter fishing is a gross misdemeanor.

25 **Sec. 2062.** RCW 77.15.700 and 2009 c 333 s 2 are each amended to
26 read as follows:

27 (1) The department shall impose revocation and suspension of
28 privileges in the following circumstances:

- 29 (a) Upon conviction, if directed by statute for an offense.
- 30 (b) Upon conviction of a violation not involving commercial
31 fishing, if the department finds that actions of the defendant
32 demonstrated a willful or wanton disregard for conservation of fish or
33 wildlife. Suspension of privileges under this subsection may be
34 permanent.

35 (c) If a person is convicted twice within ten years for a violation

1 involving unlawful hunting, killing, or possessing big game.
2 Revocation and suspension under this subsection must be ordered for all
3 hunting privileges for two years.

4 (d) If a person violates, three times or more in a ten-year period,
5 recreational hunting or fishing laws or rules for which the person:
6 (i) Is convicted of an offense; (ii) has an uncontested notice of
7 infraction; (iii) fails to appear at a hearing to contest a fish and
8 wildlife infraction; or (iv) is found to have committed an infraction.
9 Revocation and suspension under this subsection must be ordered of all
10 recreational hunting and fishing privileges for two years.

11 (2)(a) A violation punishable as an infraction counts towards the
12 revocation and suspension of recreational hunting and fishing
13 privileges under this section if that violation is:

14 (i) Punishable as a crime on July 24, 2005, and is subsequently
15 decriminalized; or

16 (ii) One of the following violations, as they exist on July 24,
17 2005: RCW 77.15.160; WAC 220-56-116; WAC 220-56-315(11); or WAC 220-
18 56-355 (1) through (4).

19 (b) The (~~commission~~) department may, by rule, designate
20 infractions that do not count towards the revocation and suspension of
21 recreational hunting and fishing privileges.

22 (3) If either the deferred education licensee or the required
23 nondeferred accompanying person, hunting under the authority of RCW
24 77.32.155(2), is convicted of a violation of this title, except for a
25 violation of RCW 77.15.400 (1) through (3), the department may revoke
26 all hunting licenses and tags and may order a suspension of either or
27 both the deferred education licensee's and the nondeferred accompanying
28 person's hunting privileges for one year.

29 **Sec. 2063.** RCW 77.15.710 and 2000 c 107 s 257 are each amended to
30 read as follows:

31 (1) The (~~commission~~) department shall revoke all hunting,
32 fishing, or other licenses issued under this title and order a ten-year
33 suspension of all privileges extended under the authority of the
34 department of a person convicted of assault on a fish and wildlife
35 officer, ex officio officer, employee, agent, or personnel acting for
36 the department, if the employee assaulted was on duty at the time of

1 the assault and carrying out the provisions of this title. The
2 suspension shall be continued beyond this period if any damages to the
3 victim have not been paid by the suspended person.

4 (2) For the purposes of this section, the definition of assault
5 includes:

- 6 (a) RCW 9A.32.030; murder in the first degree;
- 7 (b) RCW 9A.32.050; murder in the second degree;
- 8 (c) RCW 9A.32.060; manslaughter in the first degree;
- 9 (d) RCW 9A.32.070; manslaughter in the second degree;
- 10 (e) RCW 9A.36.011; assault in the first degree;
- 11 (f) RCW 9A.36.021; assault in the second degree; and
- 12 (g) RCW 9A.36.031; assault in the third degree.

13 **Sec. 2064.** RCW 77.15.720 and 2000 c 107 s 258 are each amended to
14 read as follows:

15 (1) If a person shoots another person or domestic livestock while
16 hunting, the director shall revoke all hunting licenses and suspend all
17 hunting privileges for three years. If the shooting of another person
18 or livestock is the result of criminal negligence or reckless or
19 intentional conduct, then the person's privileges shall be suspended
20 for ten years. The suspension shall be continued beyond these periods
21 if damages owed to the victim or livestock owner have not been paid by
22 the suspended person. A hunting license shall not be reissued to the
23 suspended person unless authorized by the director.

24 (2) Within twenty days of service of an order suspending privileges
25 or imposing conditions under this section or RCW 77.15.710, a person
26 may petition for administrative review under chapter 34.05 RCW by
27 serving the director with a petition for review. The order is final
28 and unappealable if there is no timely petition for administrative
29 review.

30 (3) The (~~commission~~) department may by rule authorize petitions
31 for reinstatement of administrative suspensions and define
32 circumstances under which reinstatement will be allowed.

33 **Sec. 2065.** RCW 77.18.060 and 2005 c 87 s 1 are each amended to
34 read as follows:

35 The (~~fish and wildlife commission in consultation with the~~)
36 department is authorized to determine which waters of the state are

1 appropriate for this use. In making this determination, the
2 ((~~commission~~)) department shall seek geographic distribution to assure
3 opportunity to fishers statewide.

4 The ((~~commission in consultation with the~~)) department will
5 determine the maximum number of fish that may be planted into state
6 waters so as not to compete with the wild populations of fish species
7 in the water body.

8 **Sec. 2066.** RCW 77.32.007 and 1984 c 240 s 8 are each amended to
9 read as follows:

10 For the purposes of this chapter "special hunting season" means a
11 hunting season established by rule of the ((~~commission~~)) department for
12 the purpose of taking specified wildlife under a special hunting
13 permit.

14 **Sec. 2067.** RCW 77.32.025 and 1998 c 191 s 9 are each amended to
15 read as follows:

16 Notwithstanding RCW 77.32.010, the ((~~commission~~)) department may
17 adopt rules designating times and places for the purposes of family
18 fishing days when licenses and catch record cards are not required to
19 fish or to harvest shellfish.

20 **Sec. 2068.** RCW 77.32.050 and 2009 c 333 s 71 are each amended to
21 read as follows:

22 (1) All recreational licenses, permits, tags, and stamps required
23 by this title and raffle tickets authorized under chapter 77.12 RCW
24 shall be issued under the authority of the ((~~commission~~)) department.
25 The ((~~commission~~)) department shall adopt rules for the issuance of
26 recreational licenses, permits, tags, stamps, and raffle tickets, and
27 for the collection, payment, and handling of license fees, terms and
28 conditions to govern dealers, and dealers' fees. A transaction fee on
29 recreational documents issued through an automated licensing system may
30 be set by the ((~~commission~~)) department and collected from licensees.
31 The department may authorize all or part of such fee to be paid
32 directly to a contractor providing automated licensing system services.
33 Fees retained by dealers shall be uniform throughout the state. The
34 department shall authorize dealers to collect and retain dealer fees of
35 at least two dollars for purchase of a standard hunting or fishing

1 recreational license document, except that the ((~~commission~~))
2 department may set a lower dealer fee for issuance of tags or when a
3 licensee buys a license that involves a stamp or display card format
4 rather than a standard department licensing document form.

5 (2) For the 2009-2011 biennium, the department shall charge an
6 additional transaction fee of ten percent on all recreational licenses,
7 permits, tags, stamps, or raffle tickets. These transaction fees must
8 be deposited into the state wildlife account, created in RCW 77.12.170,
9 for funding fishing and hunting opportunities for recreational license
10 holders.

11 **Sec. 2069.** RCW 77.32.070 and 2008 c 244 s 1 are each amended to
12 read as follows:

13 (1) Applicants for a license, permit, tag, or stamp shall furnish
14 the information required by the director. However, the director may
15 not require the purchaser of a razor clam license under RCW 77.32.520
16 to provide any personal information except for proof of residency. The
17 ((~~commission~~)) department may adopt rules requiring licensees or
18 permittees to keep records and make reports concerning the taking of or
19 effort to harvest fish, shellfish, and wildlife. The reporting
20 requirement may be waived where, for any reason, the department is not
21 able to receive the report. The department must provide reasonable
22 options for a licensee to submit information to a live operator prior
23 to the reporting deadline.

24 (2) The ((~~commission~~)) department may, by rule, set an
25 administrative penalty for failure to comply with rules requiring the
26 reporting of taking or effort to harvest wildlife. The ((~~commission~~))
27 department may also adopt rules requiring hunters who have not reported
28 for the previous license year to complete a report and pay the assessed
29 administrative penalty before a new hunting license is issued.

30 (a) The total administrative penalty per hunter set by the
31 ((~~commission~~)) department must not exceed ten dollars.

32 (b) By December 31st of each year, the department shall report the
33 rate of hunter compliance with the harvest reporting requirement, the
34 administrative penalty imposed for failing to report, and the amount of
35 administrative penalties collected during that year to the appropriate
36 fiscal and policy committees of the senate and house of
37 representatives.

1 (3) The (~~commission~~) department may, by rule, set an
2 administrative penalty for failure to comply with rules requiring the
3 reporting of data from catch record cards officially endorsed for Puget
4 Sound Dungeness crab. The (~~commission~~) department may also adopt
5 rules requiring fishers who possessed a catch record card officially
6 endorsed for Puget Sound Dungeness crab and who have not reported for
7 the previous license year to complete a report and pay the assessed
8 administrative penalty before a new catch record card officially
9 endorsed for Puget Sound Dungeness crab is issued.

10 (a) The total administrative penalty per fisher set by the
11 (~~commission~~) department must not exceed ten dollars.

12 (b) By December 31st of each year, the department shall report the
13 rate of fisher compliance with the Puget Sound Dungeness crab catch
14 record card reporting requirement, the administrative penalty imposed
15 for failing to report, and the amount of administrative penalties
16 collected during that year to the appropriate fiscal and policy
17 committees of the senate and house of representatives.

18 **Sec. 2070.** RCW 77.32.090 and 2000 c 107 s 267 are each amended to
19 read as follows:

20 The (~~commission~~) department may adopt rules pertaining to the
21 form, period of validity, use, possession, and display of licenses,
22 permits, tags, stamps, and raffle tickets required by this chapter.

23 **Sec. 2071.** RCW 77.32.155 and 2009 c 269 s 1 are each amended to
24 read as follows:

25 (1)(a) When purchasing any hunting license, persons under the age
26 of eighteen shall present certification of completion of a course of
27 instruction of at least ten hours in the safe handling of firearms,
28 safety, conservation, and sportsmanship. All persons purchasing any
29 hunting license for the first time, if born after January 1, 1972,
30 shall present such certification.

31 (b)(i) The (~~director~~) department may establish a program for
32 training persons in the safe handling of firearms, conservation, and
33 sportsmanship and shall prescribe the type of instruction and the
34 qualifications of the instructors. The (~~director~~) department shall,
35 as part of establishing the training program, exempt members of the

1 United States military from the firearms skills portion of any
2 instruction course completed over the internet.

3 (ii) The (~~director~~) department may cooperate with the National
4 Rifle Association, organized sportsmen's groups, or other public or
5 private organizations when establishing the training program.

6 (c) Upon the successful completion of a course established under
7 this section, the trainee shall receive a hunter education certificate
8 signed by an authorized instructor. The certificate is evidence of
9 compliance with this section.

10 (d) The (~~director~~) department may accept certificates from other
11 states that persons have successfully completed firearm safety, hunter
12 education, or similar courses as evidence of compliance with this
13 section.

14 (2)(a) The (~~director~~) department may authorize a once in a
15 lifetime, one license year deferral of hunter education training for
16 individuals who are accompanied by a nondeferred Washington-licensed
17 hunter who has held a Washington hunting license for the prior three
18 years and is over eighteen years of age. The (~~commission~~) department
19 shall adopt rules for the administration of this subsection to avoid
20 potential fraud and abuse.

21 (b) The (~~director~~) department is authorized to collect an
22 application fee, not to exceed twenty dollars, for obtaining the once
23 in a lifetime, one license year deferral of hunter education training
24 from the department. This fee must be deposited into the fish and
25 wildlife enforcement reward account and must be used exclusively to
26 administer the deferral program created in this subsection.

27 (c) For the purposes of this subsection, "accompanied" means to go
28 along with another person while staying within a range of the other
29 person that permits continual unaided visual and auditory
30 communication.

31 (3) To encourage the participation of an adequate number of
32 instructors for the training program, the (~~commission~~) department
33 shall develop nonmonetary incentives available to individuals who
34 commit to serving as an instructor. The incentives may include
35 additional hunting opportunities for instructors.

36 **Sec. 2072.** RCW 77.32.237 and 2007 c 254 s 6 are each amended to
37 read as follows:

1 The ((~~commission~~)) department shall attempt to enhance the hunting
2 opportunities for persons with a disability. The ((~~commission shall~~
3 ~~authorize the director~~)) department is authorized to issue disabled
4 hunter permits to persons with a disability. The ((~~commission~~))
5 department shall adopt rules governing the conduct of persons with a
6 disability who hunt and their designated licensed hunter.

7 **Sec. 2073.** RCW 77.32.238 and 2007 c 254 s 5 are each amended to
8 read as follows:

9 (1) The ((~~commission~~)) department shall adopt rules defining who is
10 a person with a disability and governing the conduct of persons with a
11 disability who hunt and their designated licensed hunters. It is
12 unlawful for any person to possess a loaded firearm in or on a motor
13 vehicle except a person with a disability who possesses a disabled
14 hunter permit and all appropriate hunting licenses may discharge a
15 firearm or other legal hunting device from a nonmoving motor vehicle
16 that has the engine turned off. A person with a disability who
17 possesses a disabled hunter permit shall not be exempt from permit
18 requirements for carrying concealed weapons, or from rules, laws, or
19 ordinances concerning the discharge of these weapons. No hunting shall
20 be permitted from a motor vehicle that is parked on or beside the
21 maintained portion of a public road, except as authorized by the
22 ((~~commission~~)) department by rule.

23 (2) A person with a disability holding a disabled hunter permit may
24 be accompanied by one licensed hunter who may assist the person with a
25 disability by killing game wounded by the person with a disability, and
26 by tagging and retrieving game killed by the person with a disability
27 or the designated licensed hunter. A nondisabled hunter shall not
28 possess a loaded gun in, or shoot from, a motor vehicle.

29 **Sec. 2074.** RCW 77.32.370 and 1998 c 191 s 26 are each amended to
30 read as follows:

31 (1) A special hunting season permit is required to hunt in each
32 special season established under chapter 77.12 RCW.

33 (2) Persons may apply for special hunting season permits as
34 provided by rule of the ((~~commission~~)) department.

35 (3) The application fee to enter the drawing for a special hunting

1 permit is five dollars for residents, fifty dollars for nonresidents,
2 and three dollars for youth.

3 **Sec. 2075.** RCW 77.32.400 and 2007 c 254 s 2 are each amended to
4 read as follows:

5 (1) The (~~commission~~) department shall authorize the director to
6 issue designated harvester cards to persons with a disability. The
7 (~~commission~~) department shall adopt rules defining who is a person
8 with a disability and rules governing the conduct of persons with a
9 disability who fish and harvest shellfish and their designated
10 harvesters.

11 (2) It is lawful for a designated harvester to fish for, take, or
12 possess the personal-use daily bag limit of fish or shellfish for a
13 person with a disability if the harvester is licensed and has a
14 designated harvester card, and if the person with a disability is
15 present on site and in possession of the appropriate fishing license
16 issued under this chapter. Except as provided in subsection (4) of
17 this section, the person with a disability must be present and
18 participating in the fishing activity.

19 (3) A designated harvester card will be issued to such a person
20 with a disability upon written application to the (~~director~~)
21 department. The application must be submitted on a department official
22 form and must be accompanied by a licensed medical doctor's
23 certification of disability.

24 (4) A person with a disability utilizing the services of a
25 designated harvester is not required to be present at the location
26 where the designated harvester is harvesting shellfish for the person
27 with a disability. The person with a disability is required to be in
28 the direct line of sight of the designated harvester who is harvesting
29 shellfish for him or her, unless it is not possible to be in a direct
30 line of sight because of a physical obstruction or other barrier. If
31 such a barrier or obstruction exists, the person with a disability is
32 required to be within one-quarter mile of the designated harvester who
33 is harvesting shellfish for him or her.

34 **Sec. 2076.** RCW 77.32.430 and 2010 c 193 s 11 are each amended to
35 read as follows:

36 (1) Catch record card information is necessary for proper

1 management of the state's food fish and game fish species and shellfish
2 resources. Catch record card administration shall be under rules
3 adopted by the ((commission)) department. There is no charge for an
4 initial catch record card. Each subsequent or duplicate catch record
5 card costs ten dollars.

6 (2) A license to take and possess Dungeness crab is only valid in
7 Puget Sound waters east of the Bonilla-Tatoosh line if the fisher has
8 in possession a valid catch record card officially endorsed for
9 Dungeness crab. The endorsement shall cost no more than three dollars,
10 including any or all fees authorized under RCW 77.32.050, when
11 purchased for a personal use saltwater, combination, or shellfish and
12 seaweed license. The endorsement shall cost no more than one dollar,
13 including any or all fees authorized under RCW 77.32.050, when
14 purchased for a temporary combination fishing license authorized under
15 RCW 77.32.470(3)(a).

16 (3) Catch record cards issued with affixed temporary short-term
17 charter stamp licenses are not subject to the ten-dollar charge nor to
18 the Dungeness crab endorsement fee provided for in this section.
19 Charter boat or guide operators issuing temporary short-term charter
20 stamp licenses shall affix the stamp to each catch record card issued
21 before fishing commences. Catch record cards issued with a temporary
22 short-term charter stamp are valid for one day.

23 (4) The department shall include provisions for recording marked
24 and unmarked salmon in catch record cards issued after March 31, 2004.

25 (5)(a) The funds received from the sale of catch record cards and
26 the Dungeness crab endorsement must be deposited into the state
27 wildlife account created in RCW 77.12.170. The funds received from the
28 Dungeness crab endorsement may be used only for the sampling,
29 monitoring, and management of catch associated with the Dungeness crab
30 recreational fisheries. Until June 30, 2011, funds received from the
31 Dungeness crab endorsement may be used for the removal and disposal of
32 derelict shellfish gear either directly by the department or under
33 contract with a third party.

34 (b) Moneys allocated under this section shall supplement and not
35 supplant other federal, state, and local funds used for Dungeness crab
36 recreational fisheries management.

1 **Sec. 2077.** RCW 77.32.440 and 1999 c 235 s 2 are each amended to
2 read as follows:

3 (1) The ((~~commission~~)) department shall adopt rules to continue
4 funding current enhancement programs at levels equal to the
5 participation of licensees in each of the individual enhancement
6 programs. All enhancement funding will continue to be deposited
7 directly into the individual accounts created for each enhancement.

8 (2) In implementing subsection (1) of this section with regard to
9 warm water game fish, the department shall deposit in the warm water
10 game fish account the sum of one million two hundred fifty thousand
11 dollars each fiscal year during the fiscal years 1999 and 2000, based
12 on two hundred fifty thousand warm water anglers. Beginning in fiscal
13 year 2001, and each year thereafter, the deposit to the warm water game
14 fish account established in this subsection shall be adjusted annually
15 to reflect the actual numbers of license holders fishing for warm water
16 game fish based on an annual survey of licensed anglers from the
17 previous year conducted by the department beginning with the April 1,
18 1999, to March 31, 2000, license year survey.

19 **Sec. 2078.** RCW 77.32.450 and 2005 c 140 s 1 are each amended to
20 read as follows:

21 (1) A big game hunting license is required to hunt for big game.
22 A big game license allows the holder to hunt for forest grouse,
23 unclassified wildlife, and the individual species identified within a
24 specific big game combination license package. Each big game license
25 includes one transport tag for each species purchased in that package.
26 A hunter may not purchase more than one license for each big game
27 species except as authorized by rule of the ((~~commission~~)) department.
28 The fees for annual big game combination packages are as follows:

29 (a) Big game number 1: Deer, elk, bear, and cougar. The fee for
30 this license is sixty-six dollars for residents, six hundred sixty
31 dollars for nonresidents, and thirty-three dollars for youth.

32 (b) Big game number 2: Deer and elk. The fee for this license is
33 fifty-six dollars for residents, five hundred sixty dollars for
34 nonresidents, and twenty-eight dollars for youth.

35 (c) Big game number 3: Deer or elk, bear, and cougar. At the time
36 of purchase, the holder must identify either deer or elk. The fee for

1 this license is forty-six dollars for residents, four hundred sixty
2 dollars for nonresidents, and twenty-three dollars for youth.

3 (d) Big game number 4: Deer or elk. At the time of purchase, the
4 holder must identify either deer or elk. The fee for this license is
5 thirty-six dollars for residents, three hundred sixty dollars for
6 nonresidents, and eighteen dollars for youth.

7 (e) Big game number 5: Bear and cougar. The fee for this license
8 is twenty dollars for residents, two hundred dollars for nonresidents,
9 and ten dollars for youth.

10 (2) In the event that the ((~~commission~~)) department authorizes a
11 two animal big game limit, the fees for the second animal are as
12 follows:

13 (a) Elk: The fee is twenty dollars for residents, two hundred
14 dollars for nonresidents, and ten dollars for youth.

15 (b) Deer: The fee is twenty dollars for residents, two hundred
16 dollars for nonresidents, and ten dollars for youth.

17 (c) Bear: The fee is ten dollars for residents, one hundred
18 dollars for nonresidents, and five dollars for youth.

19 (d) Cougar: The fee is ten dollars for residents, one hundred
20 dollars for nonresidents, and five dollars for youth.

21 (3) In the event that the ((~~commission~~)) department authorizes a
22 special permit hunt for goat, sheep, or moose, the permit fees are as
23 follows:

24 (a) Mountain goat: The fee is one hundred dollars for residents,
25 one thousand dollars for nonresidents, and fifty dollars for youth.

26 (b) Sheep: The fee is one hundred dollars for residents, one
27 thousand dollars for nonresidents, and fifty dollars for youth.

28 (c) Moose: The fee is one hundred dollars for residents, one
29 thousand dollars for nonresidents, and fifty dollars for youth.

30 (4) Multiple season big game permit: The ((~~commission~~)) department
31 may, by rule, offer permits for hunters to hunt deer or elk during more
32 than one general season. Only one deer or elk may be harvested
33 annually under a multiple season big game permit. The fee is one
34 hundred fifty dollars for residents and one thousand five hundred
35 dollars for nonresidents.

36 (5) Authorization to hunt the species set out under subsection
37 (3)(a) through (c) of this section or in multiple seasons as set out in

1 subsection (4) of this section is by special permit issued under RCW
2 77.32.370.

3 (6) The (~~commission~~) department may adopt rules to reduce the
4 price of a license or eliminate the transportation tag requirements
5 concerning bear or cougar when necessary to meet harvest objectives.

6 **Sec. 2079.** RCW 77.32.470 and 2009 c 333 s 6 are each amended to
7 read as follows:

8 (1) A personal use saltwater, freshwater, combination, temporary,
9 or family fishing weekend license is required for all persons fifteen
10 years of age or older to fish for or possess fish taken for personal
11 use from state waters or offshore waters.

12 (2) The fees for annual personal use saltwater, freshwater, or
13 combination licenses are as follows:

14 (a) A combination license allows the holder to fish for or possess
15 fish, shellfish, and seaweed from state waters or offshore waters. The
16 fee for this license is thirty-six dollars for residents, seventy-two
17 dollars for nonresidents, and five dollars for youth. There is an
18 additional fifty-cent surcharge for this license, to be deposited in
19 the rockfish research account created in RCW 77.12.702.

20 (b) A saltwater license allows the holder to fish for or possess
21 fish taken from saltwater areas. The fee for this license is eighteen
22 dollars for residents, thirty-six dollars for nonresidents, and five
23 dollars for resident seniors. There is an additional fifty-cent
24 surcharge for this license, to be deposited in the rockfish research
25 account created in RCW 77.12.702.

26 (c) A freshwater license allows the holder to fish for, take, or
27 possess food fish or game fish species in all freshwater areas. The
28 fee for this license is twenty dollars for residents, forty dollars for
29 nonresidents, and five dollars for resident seniors.

30 (3)(a) A temporary combination fishing license is valid for one to
31 five consecutive days and allows the holder to fish for or possess
32 fish, shellfish, and seaweed taken from state waters or offshore
33 waters. The fee for this temporary fishing license is:

34 (i) One day - Seven dollars for residents and fourteen dollars for
35 nonresidents;

36 (ii) Two days - Ten dollars for residents and twenty dollars for
37 nonresidents;

1 (iii) Three days - Thirteen dollars for residents and twenty-six
2 dollars for nonresidents;

3 (iv) Four days - Fifteen dollars for residents and thirty dollars
4 for nonresidents; and

5 (v) Five days - Seventeen dollars for residents and thirty-four
6 dollars for nonresidents.

7 (b) The fee for a charter stamp is seven dollars for a one-day
8 temporary combination fishing license for residents and nonresidents
9 for use on a charter boat as defined in RCW 77.65.150.

10 (c) A transaction fee to support the automated licensing system
11 will be taken from the amounts set forth in this subsection for
12 temporary licenses.

13 (d) Except for active duty military personnel serving in any branch
14 of the United States armed forces, the temporary combination fishing
15 license is not valid on game fish species for an eight-consecutive-day
16 period beginning on the opening day of the lowland lake fishing season
17 as defined by rule of the (~~commission~~) department.

18 (e) The temporary combination fishing license fee for active duty
19 military personnel serving in any branch of the United States armed
20 forces is the resident rate as set forth in (a) of this subsection.
21 Active duty military personnel must provide a valid military
22 identification card at the time of purchase of the temporary license to
23 qualify for the resident rate.

24 (f) There is an additional fifty-cent surcharge on the temporary
25 combination fishing license and the associated charter stamp, to be
26 deposited in the rockfish research account created in RCW 77.12.702.

27 (4) A family fishing weekend license allows for a maximum of six
28 anglers: One resident and five youth; two residents and four youth; or
29 one resident, one nonresident, and four youth. This license allows the
30 holders to fish for or possess fish taken from state waters or offshore
31 waters. The fee for this license is twenty dollars. This license is
32 only valid during periods as specified by rule of the department.

33 (5) The (~~commission~~) department may adopt rules to create and
34 sell combination licenses for all hunting and fishing activities at or
35 below a fee equal to the total cost of the individual license contained
36 within any combination.

37 (6) The (~~commission~~) department may adopt rules to allow the use
38 of two fishing poles per fishing license holder for use on selected

1 state waters. If authorized by the ((~~commission~~)) department, license
2 holders must purchase a two-pole stamp to use a second pole. The
3 proceeds from the sale of the two-pole stamp must be deposited into the
4 state wildlife account created in RCW 77.12.170 and used for the
5 operation and maintenance of state-owned fish hatcheries. The fee for
6 a two-pole stamp is twenty dollars for residents and nonresidents, and
7 five dollars for resident seniors.

8 **Sec. 2080.** RCW 77.32.500 and 1998 c 191 s 41 are each amended to
9 read as follows:

10 In order to simplify fishing license requirements in transition
11 areas between saltwater and freshwater, the ((~~commission~~)) department
12 may adopt rules designating specific waters where either a freshwater
13 or a saltwater license is valid.

14 **Sec. 2081.** RCW 77.32.525 and 1987 c 506 s 48 are each amended to
15 read as follows:

16 The director ((~~shall administer rules adopted by the commission~~))
17 has the authority to adopt rules governing the time, place, and manner
18 of holding hunting and fishing contests and competitive field trials
19 involving live wildlife for hunting dogs. The department shall
20 prohibit contests and field trials that are not in the best interests
21 of wildlife.

22 **Sec. 2082.** RCW 77.32.530 and 2009 c 333 s 41 are each amended to
23 read as follows:

24 (1) The ((~~commission in consultation with the~~)) director may
25 authorize hunting of big game animals and wild turkeys through auction.
26 The department may conduct the auction for the hunt or contract with a
27 nonprofit wildlife conservation organization to conduct the auction for
28 the hunt.

29 (2) The ((~~commission in consultation with the~~)) director may
30 authorize hunting of up to a total of thirty big game animals and wild
31 turkeys per year through raffle. The department may conduct raffles or
32 contract with a nonprofit wildlife conservation organization to conduct
33 raffles for hunting these animals. In consultation with the gambling
34 commission, the director may adopt rules for the implementation of
35 raffles involving hunting.

1 (3) The director shall establish the procedures for the hunts,
2 which shall require any participants to obtain any required license,
3 permit, or tag. Representatives of the department may participate in
4 the hunt (~~upon the request of the commission~~) to ensure that the
5 animals to be killed are properly identified.

6 (4) After deducting the expenses of conducting an auction or
7 raffle, any revenues retained by a nonprofit organization, as specified
8 under contract with the department, shall be devoted solely for
9 wildlife conservation, consistent with its qualification as a bona fide
10 nonprofit organization for wildlife conservation.

11 (5) The department's share of revenues from auctions and raffles
12 shall be deposited in the state wildlife account created in RCW
13 77.12.170. The revenues shall be used to improve game management and
14 shall supplement, rather than replace, other funds budgeted for
15 management of game species. The (~~commission~~) department may solicit
16 input from groups or individuals with special interest in and expertise
17 on a species in determining how to use these revenues.

18 (6) A nonprofit wildlife conservation organization may petition the
19 (~~commission~~) department to authorize an auction or raffle for a
20 special hunt for big game animals and wild turkeys.

21 **Sec. 2083.** RCW 77.32.535 and 2001 c 253 s 52 are each amended to
22 read as follows:

23 If a private entity has a private lands wildlife management area
24 agreement in effect with the department, the (~~commission~~) department
25 may authorize the private entity to conduct raffles for access to hunt
26 for big game animals and wild turkeys to meet the conditions of the
27 agreement. The private entity shall comply with all applicable rules
28 adopted under RCW 77.32.530 for the implementation of raffles; however,
29 raffle hunts conducted pursuant to this section shall not be counted
30 toward the number of raffle hunts the (~~commission~~) department may
31 authorize under RCW 77.32.530. The (~~director~~) department shall
32 establish the procedures for the hunts, which shall require any
33 participants to obtain any required license, permit, or tag.
34 Representatives of the department may participate in the hunt (~~upon~~
35 ~~the request of the commission~~) to ensure that the animals to be killed
36 are properly identified.

1 **Sec. 2084.** RCW 77.32.550 and 2007 c 254 s 4 are each amended to
2 read as follows:

3 (1) A group fishing permit allows a group of individuals to fish,
4 and harvest shellfish, without individual licenses or the payment of
5 individual license fees.

6 (2) The director must issue a group fishing permit on a seasonal
7 basis to a state-operated facility or state-licensed nonprofit facility
8 or program for persons with physical or mental disabilities, hospital
9 patients, seriously or terminally ill persons, persons who are
10 dependent on the state because of emotional or physical developmental
11 disabilities, or senior citizens who are in the care of the facility.
12 The permit is valid only for use during open season.

13 (3) The director may set conditions and issue a group fishing
14 permit to groups working in partnership with and participating in
15 department outdoor education programs. At the discretion of the
16 director, a processing fee may be applied.

17 (4) The (~~commission~~) department may adopt rules that provide the
18 conditions under which a group fishing permit is issued.

19 **Sec. 2085.** RCW 77.32.560 and 2009 c 333 s 42 are each amended to
20 read as follows:

21 (1) The department may sell watchable wildlife decals. Proceeds
22 from the sale of the decal must be deposited into the state wildlife
23 account created in RCW 77.12.170 and must be dedicated to the support
24 of the department's watchable wildlife activities. The department may
25 also use proceeds from the sale of the decal for marketing the decal
26 and for marketing watchable wildlife activities in the state.

27 (2) The term "watchable wildlife activities" includes but is not
28 limited to: Initiating partnerships with communities to jointly
29 develop watchable wildlife projects, building infrastructure to serve
30 wildlife viewers, assisting and training communities in conducting
31 wildlife watching events, developing destination wildlife viewing
32 corridors and trails, tours, maps, brochures, and travel aides, and
33 offering grants to assist rural communities in identifying key wildlife
34 attractions and ways to protect and promote them.

35 (3) The (~~commission~~) department must adopt by rule the cost of
36 the watchable wildlife decal. A person may, at their discretion,
37 contribute more than the cost as set by the (~~commission~~) department

1 by rule for the watchable wildlife decal in order to support watchable
2 wildlife activities. A person who purchases a watchable wildlife decal
3 must be issued one vehicle use permit free of charge.

4 **Sec. 2086.** RCW 77.32.565 and 2008 c 10 s 1 are each amended to
5 read as follows:

6 (1) In order to facilitate hunting and fishing opportunities for a
7 terminally ill person, the director may provide any licenses, tags,
8 permits, stamps, and other fees without charge including transaction
9 and dealer fees.

10 (2) The director may accept special permits or other special
11 hunting opportunities, including raffle tags, auction tags, and
12 multiple season opportunities from donors seeking to facilitate hunting
13 opportunities for a terminally ill person. The director shall
14 distribute these donations pursuant to rules adopted under subsection
15 (4) of this section.

16 (3) The director may take other actions consistent with
17 facilitating hunting and fishing opportunities for a terminally ill
18 person. These actions may include, but are not limited to, entering
19 into agreements with willing landowners pursuant to RCW 77.12.320.

20 (4) In addition to rules required under subsection (2) of this
21 section, the ((~~commission~~)) department may adopt rules as necessary to
22 effectuate the purpose and policies of this section.

23 **Sec. 2087.** RCW 77.32.570 and 2009 c 333 s 15 are each amended to
24 read as follows:

25 (1) In order to effectively manage wildlife in areas or at times
26 when a higher proficiency and demonstrated skill level are needed for
27 resource protection or public safety, the department establishes the
28 master hunter permit program. The master hunter permit program
29 emphasizes safe, ethical, responsible, and lawful hunting practices.
30 Program goals include improving the public's perception of hunting and
31 perpetuating the highest hunting standards.

32 (2) A master hunter permit is required to participate in controlled
33 hunts to eliminate problem animals that damage property or threaten
34 public safety. The ((~~commission~~)) department may establish by rule the
35 requirements an applicant must comply with when applying for or
36 renewing a master hunter permit, including but not limited to a

1 criminal background check. The director may establish an advisory
2 group to assist the department with administering the master hunter
3 (~~(permit)~~) permit program.

4 (3) The fee for an initial master hunter permit may not exceed
5 fifty dollars, and the cost of renewing a master hunter permit may not
6 exceed twenty-five dollars. Funds generated under this section must be
7 deposited into the fish and wildlife enforcement reward account
8 established in RCW 77.15.425, and the funds must be used exclusively to
9 administer the master hunter (~~(permit)~~) permit program.

10 **Sec. 2088.** RCW 77.36.030 and 2009 c 333 s 61 are each amended to
11 read as follows:

12 (1) Subject to limitations and conditions established by the
13 (~~(commission)~~) department, the owner, the owner's immediate family
14 member, the owner's documented employee, or a tenant of real property
15 may trap, consistent with RCW 77.15.194, or kill wildlife that is
16 threatening human safety or causing property damage on that property,
17 without the licenses required under RCW 77.32.010 or authorization from
18 the director under RCW 77.12.240.

19 (2) The (~~(commission)~~) department shall establish the limitations
20 and conditions of this section by rule. The rules must include:

- 21 (a) Appropriate protection for threatened or endangered species;
22 (b) Instances when verbal or written permission is required to kill
23 wildlife;
24 (c) Species that may be killed under this section; and
25 (d) Requirements for the disposal of wildlife trapped or killed
26 under this section.

27 (3) In establishing the limitations and conditions of this section,
28 the (~~(commission)~~) department shall take into consideration the
29 recommendations of the Washington state wolf conservation and
30 management plan.

31 **Sec. 2089.** RCW 77.36.100 and 2009 c 333 s 55 are each amended to
32 read as follows:

33 (1)(a) Except as limited by RCW 77.36.070 and 77.36.080, the
34 department shall offer to distribute money appropriated to pay claims
35 to the owner of commercial crops for damage caused by wild deer or elk
36 or to the owners of commercial livestock that has been killed by bears,

1 wolves, or cougars, or injured by bears, wolves, or cougars to such a
2 degree that the market value of the commercial livestock has been
3 diminished. Payments for claims for damage to commercial livestock are
4 not subject to the limitations of RCW 77.36.070 and 77.36.080, but may
5 not exceed the total amount specifically appropriated therefor.

6 (b) Owners of commercial crops or commercial livestock are only
7 eligible for a claim under this subsection if:

8 (i) The owner satisfies the definition of "eligible farmer" in RCW
9 82.08.855;

10 (ii) The conditions of RCW 77.36.110 have been satisfied; and

11 (iii) The damage caused to the commercial crop or commercial
12 livestock satisfies the criteria for damage established by the
13 ((~~commission~~)) department under this subsection.

14 (c) The ((~~commission~~)) department shall adopt and maintain by rule
15 criteria that clarifies the damage to commercial crops and commercial
16 livestock qualifying for compensation under this subsection. An owner
17 of a commercial crop or commercial livestock must satisfy the criteria
18 prior to receiving compensation under this subsection. The criteria
19 for damage adopted under this subsection must include, but not be
20 limited to, a required minimum economic loss to the owner of the
21 commercial crop or commercial livestock, which may not be set at a
22 value of less than five hundred dollars.

23 (2)(a) The department may offer to provide noncash compensation
24 only to offset wildlife interactions to a person who applies to the
25 department for compensation for damage to property other than
26 commercial crops or commercial livestock that is the result of a
27 mammalian or avian species of wildlife on a case-specific basis if the
28 conditions of RCW 77.36.110 have been satisfied and if the damage
29 satisfies the criteria for damage established by the ((~~commission~~))
30 department under this subsection.

31 (b) The ((~~commission~~)) department shall adopt and maintain by rule
32 criteria for damage to property other than a commercial crop or
33 commercial livestock that is damaged by wildlife and may be eligible
34 for compensation under this subsection, including criteria for filing
35 a claim for compensation under this subsection.

36 (3)(a) To prevent or offset wildlife interactions, the department
37 may offer materials or services to a person who applies to the
38 department for assistance in providing mitigating actions designed to

1 reduce wildlife interactions if the actions are designed to address
2 damage that satisfies the criteria for damage established by the
3 (~~commission~~) department under this subsection.

4 (b) The (~~commission~~) department shall adopt and maintain by rule
5 criteria for mitigating actions designed to address wildlife
6 interactions that may be eligible for materials and services under this
7 section, including criteria for submitting an application under this
8 section.

9 (4) An owner who files a claim under this section may appeal the
10 decision of the department pursuant to rules adopted by the
11 (~~commission~~) department if the claim:

12 (a) Is denied; or

13 (b) Is disputed by the owner and the owner disagrees with the
14 amount of compensation determined by the department.

15 **Sec. 2090.** RCW 77.36.110 and 2009 c 333 s 56 are each amended to
16 read as follows:

17 (1) No owner may receive compensation for wildlife interactions
18 under this chapter unless the owner has, as determined by the
19 department, first:

20 (a) Utilized applicable legal and practicable self-help preventive
21 measures available to prevent the damage, including the use of
22 nonlethal methods and department-provided materials and services when
23 available under RCW 77.36.100; and

24 (b) Exhausted all available compensation options available from
25 nonprofit organizations that provide compensation to private property
26 owners due to financial losses caused by wildlife interactions.

27 (2) In determining if the requirements of this section have been
28 satisfied, the department may recognize and consider the following:

29 (a) Property losses may occur without future or anticipated
30 knowledge of potential problems resulting in an owner being unable to
31 take preemptive measures.

32 (b) Normal agricultural practices, animal husbandry practices,
33 recognized standard management techniques, and other industry-
34 recognized management practices may represent adequate preventative
35 efforts.

36 (c) Under certain circumstances, as determined by the department,

1 wildlife may not logistically or practicably be managed by nonlethal
2 efforts.

3 (d) Not all available legal preventative efforts are cost-effective
4 for the owner to practicably employ.

5 (e) There are certain effective preventative control options not
6 available due to federal or state restrictions.

7 (f) Under certain circumstances, as determined by the department,
8 permitting public hunting may not be a practicable self-help method due
9 to the size and nature of the property, the property's setting, or the
10 ability of the landowner to accommodate public access.

11 (3) An owner is not eligible to receive compensation if the damages
12 are covered by insurance.

13 (4) The (~~commission~~) department shall adopt rules implementing
14 this section, including requirements that owners document nonlethal
15 preventive efforts undertaken and all permits issued by the department
16 under RCW 77.12.240 and 77.12.150.

17 **Sec. 2091.** RCW 77.36.150 and 2009 c 333 s 64 are each amended to
18 read as follows:

19 The (~~fish and wildlife commission~~) department shall formally
20 review the rules and policies adopted under sections 53 through 66,
21 chapter 333, Laws of 2009. If, in the process of reviewing the rules,
22 the (~~fish and wildlife commission~~) department identifies recommended
23 statutory changes related to the subject of sections 53 through 66,
24 chapter 333, Laws of 2009 and to the ability of the (~~fish and wildlife
25 commission~~) department to fulfill the intent of sections 53 through
26 66, chapter 333, Laws of 2009, those recommendations must be forwarded
27 to the appropriate policy committees of the legislature during the
28 regularly scheduled 2014 legislative session.

29 **Sec. 2092.** RCW 77.50.010 and 2002 c 311 s 2 are each amended to
30 read as follows:

31 (1) The (~~commission~~) department may authorize commercial fishing
32 for sockeye salmon within the waters described in subsection (2) of
33 this section only during the period June 10th to July 25th and for
34 other salmon only from the second Monday of September through November
35 30th, except during the hours between 4:00 p.m. of Friday and 4:00 p.m.
36 of the following Sunday.

1 (2) All waters east and south of a line commencing at a concrete
2 monument on Angeles Point in Clallam county near the mouth of the Elwha
3 River on which is inscribed "Angeles Point Monument" (latitude 48° 9'
4 3" north, longitude 123° 33' 01" west of Greenwich Meridian); thence
5 running east on a line 81° 30' true across the flashlight and bell buoy
6 off Partridge Point and thence continued to longitude 122° 40' west;
7 thence north to the southerly shore of Sinclair Island; thence along
8 the southerly shore of the island to the most easterly point of the
9 island; thence 46° true to Carter Point, the most southerly point of
10 Lummi Island; thence northwesterly along the westerly shore line of
11 Lummi Island to where the shore line intersects line of longitude 122°
12 40' west; thence north to the mainland, including: The southerly
13 portion of Hale Passage, Bellingham Bay, Padilla Bay, Fidalgo Bay,
14 Guemes Channel, Skagit Bay, Similk Bay, Saratoga Passage, Holmes
15 Harbor, Possession Sound, Admiralty Inlet, Hood Canal, Puget Sound, and
16 their inlets, passages, waters, waterways, and tributaries.

17 (3) The (~~commission~~) department may authorize commercial fishing
18 for salmon with gill net, purse seine, and other lawful gear prior to
19 the second Monday in September within the waters of Hale Passage,
20 Bellingham Bay, Samish Bay, Padilla Bay, Fidalgo Bay, Guemes Channel,
21 Skagit Bay, and Similk Bay, to wit: Those waters northerly and
22 easterly of a line commencing at Stanwood, thence along the south shore
23 of Skagit Bay to Rocky Point on Camano Island; thence northerly to
24 Polnell Point on Whidbey Island.

25 (4) Whenever the (~~commission~~) department determines that a stock
26 or run of salmon cannot be harvested in the usual manner, and that the
27 stock or run of salmon may be in danger of being wasted and surplus to
28 natural or artificial spawning requirements, the (~~commission~~)
29 department may authorize units of gill net and purse seine gear in any
30 number or equivalents, by time and area, to fully utilize the
31 harvestable portions of these salmon runs for the economic well being
32 of the citizens of this state. Gill net and purse seine gear other
33 than emergency and test gear authorized by the director shall not be
34 used in Lake Washington.

35 (5) The (~~commission~~) department may authorize commercial fishing
36 for pink salmon in each odd-numbered year from August 1st through
37 September 1st in the waters lying inside of a line commencing at the

1 most easterly point of Dungeness Spit and thence projected to Point
2 Partridge on Whidbey Island and a line commencing at Olele Point and
3 thence projected easterly to Bush Point on Whidbey Island.

4 **Sec. 2093.** RCW 77.50.020 and 1998 c 190 s 76 are each amended to
5 read as follows:

6 (1) The (~~commission~~) department may authorize commercial fishing
7 for coho salmon in the Pacific Ocean and the Straits of Juan de Fuca
8 only from June 16th through October 31st.

9 (2) The (~~commission~~) department may authorize commercial fishing
10 for chinook salmon in the Pacific Ocean and the Straits of Juan de Fuca
11 only from March 15th through October 31st.

12 **Sec. 2094.** RCW 77.50.040 and 1998 c 190 s 78 are each amended to
13 read as follows:

14 (1) The (~~commission~~) department shall adopt rules defining
15 geographical boundaries of the following Columbia river tributaries and
16 sloughs:

- 17 (a) Washougal river;
- 18 (b) Camas slough;
- 19 (c) Lewis river;
- 20 (d) Kalama river;
- 21 (e) Cowlitz river;
- 22 (f) Elokomin river;
- 23 (g) Elokomin sloughs;
- 24 (h) Skamokawa sloughs;
- 25 (i) Grays river;
- 26 (j) Deep river;
- 27 (k) Grays bay.

28 (2) The (~~commission~~) department may authorize commercial net
29 fishing for salmon in the tributaries and sloughs from September 1st to
30 November 30th only, if the time, areas, and level of effort are
31 regulated in order to maximize the recreational fishing opportunity
32 while minimizing excess returns of fish to hatcheries. The
33 (~~commission~~) department shall not authorize commercial net fishing if
34 a significant catch of steelhead would occur.

1 **Sec. 2095.** RCW 77.50.050 and 1998 c 190 s 79 are each amended to
2 read as follows:

3 The ((~~commission~~)) department shall not authorize use of reef net
4 fishing gear except in the reef net areas described in this section.

5 (1) Point Roberts reef net fishing area includes those waters
6 within 250 feet on each side of a line projected 129° true from a point
7 at longitude 123° 01' 15" W. latitude 48° 58' 38" N. to a point one
8 mile distant, as such description is shown upon the United States Coast
9 and Geodetic Survey map numbered 6300, published September, 1941, in
10 Washington, D.C., eleventh edition.

11 (2) Cherry Point reef net fishing area includes those waters inland
12 and inside the 10-fathom line between lines projected 205° true from
13 points on the mainland at longitude 122° 44' 54" latitude 48° 51' 48"
14 and longitude 122° 44' 18" latitude 48° 51' 33", ((~~a-as~~)) as such
15 descriptions are shown upon the United States Coast and Geodetic Survey
16 map numbered 6380, published March, 1947, in Washington, D.C., eighth
17 edition.

18 (3) Lummi Island reef net fishing area includes those waters inland
19 and inside a line projected from Village Point 208° true to a point 900
20 yards distant, thence 129° true to the point of intersection with a
21 line projected 259° true from the shore of Lummi Island 122° 40' 42"
22 latitude 48° 41' 32", as such descriptions are shown upon the United
23 States Coast and Geodetic Survey map numbered 6380, published March,
24 1947, in Washington, D.C., eighth edition, revised 11-25-57, save and
25 except that there shall be excluded therefrom all waters lying inside
26 of a line projected 259° true from a point at 122° 40' 42" latitude 48°
27 41' 32" to a point 300 yards distant from high tide, thence in a
28 northerly direction to the United States Coast and Geodetic Survey
29 reference mark number 2, 1941-1950, located on that point on Lummi
30 Island known as Lovers Point, as such descriptions are shown upon the
31 United States Coast and Geodetic Survey map number 6380 as aforesaid.
32 The term "Village Point" as used herein shall be construed to mean a
33 point of location on Village Point, Lummi Island, at the mean high tide
34 line on a true bearing of 43° 53' a distance of 457 feet to the center
35 of the chimney of a wood frame house on the east side of the county
36 road. Said chimney and house being described as Village Point Chimney
37 on page 612 of the United States Coast and Geodetic Survey list of
38 geographic positions No. G-5455, Rosario Strait.

1 (4) Sinclair Island reef net fishing area includes those waters
2 inland and inside a line projected from the northern point of Sinclair
3 Island to Boulder reef, thence 200° true to the northwesterly point of
4 Sinclair Island, as such descriptions are shown upon the United States
5 Coast and Geodetic Survey map numbered 6380, published March, 1947, in
6 Washington, D.C., eighth edition.

7 (5) Flat Point reef net fishing area includes those waters within
8 a radius of 175 feet of a point off Lopez Island located at longitude
9 122° 55' 24" latitude 48° 32' 33", as such description is shown upon
10 the United States Coast and Geodetic Survey map numbered 6380,
11 published March, 1947, in Washington, D.C., eighth edition.

12 (6) Lopez Island reef net fishing area includes those waters within
13 400 yards of shore between lines projected true west from points on the
14 shore of Lopez Island at longitude 122° 55' 04" latitude 48° 31' 59"
15 and longitude 122° 55' 54" latitude 48° 30' 55", as such descriptions
16 are shown upon the United States Coast and Geodetic Survey map numbered
17 6380, published March, 1947, in Washington, D.C., eighth edition.

18 (7) Iceberg Point reef net fishing area includes those waters
19 inland and inside a line projected from Davis Point on Lopez Island to
20 the west point of Long Island, thence to the southern point of Hall
21 Island, thence to the eastern point at the entrance to Jones Bay, and
22 thence to the southern point at the entrance to Mackaye Harbor on Lopez
23 Island; and those waters inland and inside a line projected 320° from
24 Iceberg Point light on Lopez Island, a distance of 400 feet, thence
25 easterly to the point on Lopez Island at longitude 122° 53' 00"
26 latitude 48° 25' 39", as such descriptions are shown upon the United
27 States Coast and Geodetic Survey map numbered 6380, published March,
28 1947, in Washington, D.C., eighth edition.

29 (8) Aleck Bay reef net fishing area includes those waters inland
30 and inside a line projected from the southwestern point at the entrance
31 to Aleck Bay on Lopez Island at longitude 122° 51' 11" latitude 48° 25'
32 14" southeasterly 800 yards to the submerged rock shown on U.S.G.S. map
33 number 6380, thence northerly to the cove on Lopez Island at longitude
34 122° 50' 49" latitude 48° 25' 42", as such descriptions are shown upon
35 the United States Coast and Geodetic Survey map numbered 6380,
36 published March, 1947, in Washington, D.C., eighth edition.

37 (9) Shaw Island reef net fishing area number 1 includes those
38 waters within 300 yards of shore between lines projected true south

1 from points on Shaw Island at longitude 122° 56' 14" latitude 48° 33'
2 28" and longitude 122° 57' 29" latitude 48° 32' 58", as such
3 descriptions are shown upon the United States Coast and Geodetic Survey
4 map numbered 6380, published March, 1947, in Washington, D.C., eighth
5 edition.

6 (10) Shaw Island reef net fishing area number 2 includes those
7 waters inland and inside a line projected from Point George on Shaw
8 Island to the westerly point of Neck Point on Shaw Island, as such
9 description is shown upon the United States Coast and Geodetic Survey
10 map numbered 6380, published March, 1947, in Washington, D.C., eighth
11 edition.

12 (11) Stuart Island reef net fishing area number 1 includes those
13 waters within 600 feet of the shore of Stuart Island between lines
14 projected true east from points at longitude 123° 10' 47" latitude 48°
15 39' 47" and longitude 123° 10' 47" latitude 48° 39' 33", as such
16 descriptions are shown upon the United States Coast and Geodetic Survey
17 map numbered 6380, published March, 1947, in Washington, D.C., eighth
18 edition.

19 (12) Stuart Island reef net fishing area number 2 includes those
20 waters within 250 feet of Gossip Island, also known as Happy Island, as
21 such description is shown upon the United States Coast and Geodetic
22 Survey map numbered 6380, published March, 1947, in Washington, D.C.,
23 eighth edition.

24 (13) Johns Island reef net fishing area includes those waters
25 inland and inside a line projected from the eastern point of Johns
26 Island to the northwestern point of Little Cactus Island, thence
27 northwesterly to a point on Johns Island at longitude 123° 09' 24"
28 latitude 48° 39' 59", as such descriptions are shown upon the United
29 States Coast and Geodetic Survey map numbered 6380, published March,
30 1947, in Washington, D.C., eighth edition.

31 (14) Battleship Island reef net fishing area includes those waters
32 lying within 350 feet of Battleship Island, as such description is
33 shown upon the United States Coast and Geodetic Survey map numbered
34 6380, published March, 1947, in Washington, D.C., eighth edition.

35 (15) Open Bay reef net fishing area includes those waters lying
36 within 150 feet of shore between lines projected true east from a point
37 on Henry Island at longitude 123° 11' 34 1/2" latitude 48° 35' 27 1/2"

1 at a point 250 feet south, as such descriptions are shown upon the
2 United States Coast and Geodetic Survey map numbered 6380, published
3 March, 1947, in Washington, D.C., eighth edition.

4 (16) Mitchell Reef net fishing area includes those waters within a
5 line beginning at the rock shown on U.S.G.S. map number 6380 at
6 longitude 123° 10' 56" latitude 48° 34' 49 1/2", and projected 50 feet
7 northwesterly, thence southwesterly 250 feet, thence southeasterly 300
8 feet, thence northeasterly 250 feet, thence to the point of beginning,
9 as such descriptions are shown upon the United States Coast and
10 Geodetic Survey map numbered 6380, published March, 1947, in
11 Washington, D.C., eighth edition.

12 (17) Smugglers Cove reef fishing area includes those waters within
13 200 feet of shore between lines projected true west from points on the
14 shore of San Juan Island at longitude 123° 10' 29" latitude 48° 33' 50"
15 and longitude 123° 10' 31" latitude 48° 33' 45", as such descriptions
16 are shown upon the United States Coast and Geodetic Survey map numbered
17 6380, published March, 1947, in Washington, D.C., eighth edition.

18 (18) Andrews Bay reef net fishing area includes those waters lying
19 within 300 feet of the shore of San Juan Island between a line
20 projected true south from a point at the northern entrance of Andrews
21 Bay at longitude 123° 09' 53 1/2" latitude 48° 33' 00" and the cable
22 crossing sign in Andrews Bay, at longitude 123° 09' 45" latitude 48°
23 33' 04", as such descriptions are shown upon the United States Coast
24 and Geodetic Survey map numbered 6380, published March, 1947, in
25 Washington, D.C., eighth edition.

26 (19) Orcas Island reef net fishing area includes those waters
27 inland and inside a line projected true west a distance of 1,000 yards
28 from the shore of Orcas Island at longitude 122° 57' 40" latitude 48°
29 41' 06" thence northeasterly to a point 500 feet true west of Point
30 Doughty, then true east to Point Doughty, as such descriptions are
31 shown upon the United States Coast and Geodetic Survey map numbered
32 6380, published March, 1947, in Washington, D.C., eighth edition.

33 **Sec. 2096.** RCW 77.50.070 and 1998 c 190 s 80 are each amended to
34 read as follows:

35 (1) Except as provided in subsection (2) of this section, the
36 (~~commission~~) department shall not authorize gear other than troll
37 gear or angling gear for taking salmon within the offshore waters or

1 the waters of the Pacific Ocean over which the state has jurisdiction
2 lying west of the following line: Commencing at the point of
3 intersection of the international boundary line in the Strait of Juan
4 de Fuca and a line drawn between the lighthouse on Tatoosh Island in
5 Clallam County and Bonilla Point on Vancouver Island; thence southerly
6 to the lighthouse on Tatoosh Island; thence southerly to the most
7 westerly point of Cape Flattery; thence southerly along the state
8 shoreline of the Pacific Ocean, crossing any river mouths at their most
9 westerly points of land, to Point Brown at the entrance to Grays
10 Harbor; thence southerly to Point Chehalis Light on Point Chehalis;
11 thence southerly from Point Chehalis along the state shoreline of the
12 Pacific Ocean to the Cape Shoalwater tower at the entrance to Willapa
13 Bay; thence southerly to Leadbetter Point; thence southerly along the
14 state shoreline of the Pacific Ocean to the inshore end of the North
15 jetty at the entrance to the Columbia River; thence southerly to the
16 knuckle of the South jetty at the entrance to said river.

17 (2) The (~~commission~~) department may authorize the use of nets for
18 taking salmon in the waters described in subsection (1) of this section
19 for scientific investigations.

20 **Sec. 2097.** RCW 77.50.090 and 1998 c 190 s 82 are each amended to
21 read as follows:

22 The (~~commission~~) department shall not authorize commercial bottom
23 trawling for food fish and shellfish in all areas of Hood Canal south
24 of a line projected from Tala Point to Foulweather Bluff and in Puget
25 Sound south of a line projected from Foulweather Bluff to Double Bluff
26 and including all marine waters east of Whidbey Island and Camano
27 Island.

28 **Sec. 2098.** RCW 77.50.100 and 1998 c 190 s 83 are each amended to
29 read as follows:

30 The (~~commission~~) department shall not authorize any commercial
31 fisher to use more than fifty shrimp pots while commercially fishing
32 for shrimp in that portion of Hood Canal lying south of the Hood Canal
33 floating bridge.

34 **Sec. 2099.** RCW 77.50.110 and 1998 c 190 s 84 are each amended to
35 read as follows:

1 The (~~commission~~) department shall not authorize angling gear or
2 other personal use gear for commercial salmon fishing.

3 **Sec. 2100.** RCW 77.55.011 and 2010 c 210 s 26 are each reenacted
4 and amended to read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Bed" means the land below the ordinary high water lines of
8 state waters. This definition does not include irrigation ditches,
9 canals, storm water runoff devices, or other artificial watercourses
10 except where they exist in a natural watercourse that has been altered
11 artificially.

12 (2) "Board" means the pollution control hearings board created in
13 chapter 43.21B RCW.

14 (3) "Commission" means the (~~state~~) fish and wildlife advisory
15 commission within the department of conservation and recreation.

16 (4) "Date of receipt" has the same meaning as defined in RCW
17 43.21B.001.

18 (5) "Department" means the department of (~~fish and wildlife~~)
19 conservation and recreation.

20 (6) "Director" means the director of the department of (~~fish and~~
21 ~~wildlife~~) conservation and recreation.

22 (7) "Emergency" means an immediate threat to life, the public,
23 property, or of environmental degradation.

24 (8) "Hydraulic project" means the construction or performance of
25 work that will use, divert, obstruct, or change the natural flow or bed
26 of any of the salt or freshwaters of the state.

27 (9) "Imminent danger" means a threat by weather, water flow, or
28 other natural conditions that is likely to occur within sixty days of
29 a request for a permit application.

30 (10) "Marina" means a public or private facility providing boat
31 moorage space, fuel, or commercial services. Commercial services
32 include but are not limited to overnight or live-aboard boating
33 accommodations.

34 (11) "Marine terminal" means a public or private commercial wharf
35 located in the navigable water of the state and used, or intended to be
36 used, as a port or facility for the storing, handling, transferring, or
37 transporting of goods to and from vessels.

1 (12) "Ordinary high water line" means the mark on the shores of all
2 water that will be found by examining the bed and banks and
3 ascertaining where the presence and action of waters are so common and
4 usual, and so long continued in ordinary years as to mark upon the soil
5 or vegetation a character distinct from the abutting upland. Provided,
6 that in any area where the ordinary high water line cannot be found,
7 the ordinary high water line adjoining saltwater is the line of mean
8 higher high water and the ordinary high water line adjoining fresh
9 water is the elevation of the mean annual flood.

10 (13) "Permit" means a hydraulic project approval permit issued
11 under this chapter.

12 (14) "Sandbars" includes, but is not limited to, sand, gravel,
13 rock, silt, and sediments.

14 (15) "Small scale prospecting and mining" means the use of only the
15 following methods: Pans; nonmotorized sluice boxes; concentrators; and
16 minirocker boxes for the discovery and recovery of minerals.

17 (16) "Spartina," "purple loosestrife," and "aquatic noxious weeds"
18 have the same meanings as defined in RCW 17.26.020.

19 (17) "Streambank stabilization" means those projects that prevent
20 or limit erosion, slippage, and mass wasting. These projects include,
21 but are not limited to, bank resloping, log and debris relocation or
22 removal, planting of woody vegetation, bank protection using rock or
23 woody material or placement of jetties or groins, gravel removal, or
24 erosion control.

25 (18) "Tide gate" means a one-way check valve that prevents the
26 backflow of tidal water.

27 (19) "Waters of the state" and "state waters" means all salt and
28 fresh waters waterward of the ordinary high water line and within the
29 territorial boundary of the state.

30 **Sec. 2101.** RCW 77.55.191 and 2005 c 146 s 506 are each amended to
31 read as follows:

32 (1) Except for the north fork of the Lewis river and the White
33 Salmon river, all streams and rivers tributary to the Columbia river
34 downstream from McNary dam are established as an anadromous fish
35 sanctuary. This sanctuary is created to preserve and develop the food
36 fish and game fish resources in these streams and rivers and to protect
37 them against undue industrial encroachment.

1 (2) Within the sanctuary area:

2 (a) The department shall not issue a permit to construct a dam
3 greater than twenty-five feet high within the migration range of
4 anadromous fish as determined by the department.

5 (b) A person shall not divert water from rivers and streams in
6 quantities that will reduce the respective stream flow below the annual
7 average low flow, based upon data published in United States geological
8 survey reports.

9 (3) The (~~commission~~) department may acquire and abate a dam or
10 other obstruction, or acquire any water right vested on a sanctuary
11 stream or river, which is in conflict with the provisions of subsection
12 (2) of this section.

13 (4) Subsection (2)(a) of this section does not apply to the
14 sediment retention structure to be built on the North Fork Toutle river
15 by the United States army corps of engineers.

16 **Sec. 2102.** RCW 77.60.020 and 1995 1st sp.s. c 2 s 28 are each
17 amended to read as follows:

18 Only upon recommendation of the (~~commission~~) department may the
19 state oyster reserves be sold, leased, or otherwise disposed of by the
20 department of natural resources.

21 **Sec. 2103.** RCW 77.60.030 and 2000 c 107 s 22 are each amended to
22 read as follows:

23 It is the policy of the state to improve state oyster reserves so
24 that they are productive and yield a revenue sufficient for their
25 maintenance. In fixing the price of oysters and other shellfish sold
26 from the reserves, the director shall take into consideration this
27 policy. It is also the policy of the state to maintain the oyster
28 reserves to furnish shellfish to growers and processors and to stock
29 public beaches.

30 Shellfish may be harvested from state oyster reserves for personal
31 use as prescribed by rule of the director.

32 The director shall periodically inventory the state oyster reserves
33 and assign the reserve lands into management categories:

34 (1) Native Olympia oyster broodstock reserves;

35 (2) Commercial shellfish harvesting zones;

- 1 (3) Commercial shellfish propagation zones designated for long-term
2 leasing to private aquaculturists;
3 (4) Public recreational shellfish harvesting zones;
4 (5) Unproductive land.

5 The director shall manage each category of oyster reserve land to
6 maximize the sustained yield production of shellfish consistent with
7 the purpose for establishment of each management category.

8 The (~~commission~~) department shall develop an oyster reserve
9 management plan, to include recommendations for leasing reserve lands,
10 in coordination with the shellfish industry, by January 1, 1986.

11 The director shall protect, reseed, improve the habitat of, and
12 replant state oyster reserves. The director shall also issue cultch
13 permits and oyster reserve fishery licenses.

14 **Sec. 2104.** RCW 77.60.100 and 2000 c 107 s 26 are each amended to
15 read as follows:

16 The (~~commission~~) department may examine the clam, mussel, and
17 oyster beds located on aquatic lands belonging to the state and request
18 the commissioner of public lands to withdraw these lands from sale and
19 lease for the purpose of establishing reserves or public beaches. The
20 (~~director~~) department shall conserve, protect, and develop these
21 reserves and the oyster, shrimp, clam, and mussel beds on state lands.

22 **Sec. 2105.** RCW 77.65.420 and 2000 c 107 s 53 are each amended to
23 read as follows:

24 By July 1, 1994, the (~~commission~~) department jointly with the
25 appropriate Indian tribes, shall each establish a wild salmonid policy.
26 The policy shall ensure that department actions and programs are
27 consistent with the goals of rebuilding wild stock populations to
28 levels that permit commercial and recreational fishing opportunities.

29 **Sec. 2106.** RCW 77.65.480 and 2009 c 333 s 11 are each amended to
30 read as follows:

31 (1) A taxidermy license allows the holder to practice taxidermy for
32 commercial purposes, as that term is defined in RCW 77.15.110. The fee
33 for this license is one hundred eighty dollars.

34 (2) A fur dealer's license allows the holder to purchase, receive,

1 or resell raw furs for commercial purposes, as that term is defined in
2 RCW 77.15.110. The fee for this license is one hundred eighty dollars.

3 (3) A game fish guide license allows the holder to offer or perform
4 the services of a game fish guide in the taking of game fish. The fee
5 for this license is one hundred eighty dollars for a resident and six
6 hundred dollars for a nonresident.

7 (4) A game farm license allows the holder to operate a game farm to
8 acquire, breed, grow, keep, and sell wildlife under conditions
9 prescribed by the rules adopted pursuant to this title. The fee for
10 this license is seventy-two dollars for the first year and forty-eight
11 dollars for each following year.

12 (5) A game fish stocking permit allows the holder to release game
13 fish into the waters of the state as prescribed by rule of the
14 (~~commission~~) department. The fee for this permit is twenty-four
15 dollars.

16 (6) A fishing or field trial permit allows the holder to promote,
17 conduct, hold, or sponsor a fishing or field trial contest in
18 accordance with rules of the (~~commission~~) department. The fee for a
19 fishing contest permit is twenty-four dollars. The fee for a field
20 trial contest permit is twenty-four dollars.

21 (7)(a) An anadromous game fish buyer's license allows the holder to
22 purchase or sell steelhead trout and other anadromous game fish
23 harvested by Indian fishers lawfully exercising fishing rights reserved
24 by federal statute, treaty, or executive order, under conditions
25 prescribed by rule of the director. The fee for this license is one
26 hundred eighty dollars.

27 (b) An anadromous game fish buyer's license is not required for
28 those businesses that buy steelhead trout and other anadromous game
29 fish from Washington licensed game fish dealers and sell solely at
30 retail.

31 **Sec. 2107.** RCW 77.65.510 and 2009 c 195 s 1 are each amended to
32 read as follows:

33 (1) The department must establish and administer a direct retail
34 endorsement to serve as a single license that permits a Washington
35 license holder or alternate operator to commercially harvest retail-
36 eligible species and to clean, dress, and sell his or her catch
37 directly to consumers at retail, including over the internet. The

1 direct retail endorsement must be issued as an optional addition to all
2 holders of: (a) A commercial fishing license for retail-eligible
3 species that the department offers under this chapter; and (b) an
4 alternate operator license who are designated as an alternate operator
5 on a commercial fishing license for retail eligible species.

6 (2) The direct retail endorsement must be offered at the time of
7 application for the qualifying commercial fishing license. Individuals
8 in possession of a qualifying commercial fishing license issued under
9 this chapter, and alternate operators designated on such a license, may
10 add a direct retail endorsement to their current license at any time.
11 Individuals who do not have a commercial fishing license for retail-
12 eligible species issued under this chapter, and who are not designated
13 as alternate operators on such a license, may not receive a direct
14 retail endorsement. The costs, conditions, responsibilities, and
15 privileges associated with the endorsed commercial fishing license is
16 not affected or altered in any way by the addition of a direct retail
17 endorsement. These costs include the base cost of the license and any
18 revenue and excise taxes.

19 (3) An individual need only add one direct retail endorsement to
20 his or her license portfolio. If a direct retail endorsement is
21 selected by an individual holding more than one commercial fishing
22 license issued under this chapter, a single direct retail endorsement
23 is considered to be added to all qualifying commercial fishing licenses
24 held by that individual, and is the only license required for the
25 individual to sell at retail any retail-eligible species permitted by
26 all of the underlying endorsed licenses. If a direct retail
27 endorsement is selected by an individual designated as an alternate
28 operator on more than one commercial license issued under this chapter,
29 a single direct retail endorsement is the only license required for the
30 individual to sell at retail any retail-eligible species permitted by
31 all of the underlying endorsed licenses on which the individual is
32 designated as an alternate operator. The direct retail endorsement
33 applies only to the Washington license holder or alternate operator
34 obtaining the endorsement.

35 (4) In addition to any fees charged for the endorsed licenses and
36 harvest documentation as required by this chapter or the rules of the
37 department, the department may set a reasonable annual fee not to

1 exceed the administrative costs to the department for a direct retail
2 endorsement.

3 (5) The holder of a direct retail endorsement is responsible for
4 documenting the commercial harvest of salmon and crab according to the
5 provisions of this chapter, the rules of the department for a wholesale
6 fish dealer, and the reporting requirements of the endorsed license.
7 Any retail-eligible species caught by the holder of a direct retail
8 endorsement must be documented on fish tickets.

9 (6) The direct retail endorsement must be displayed in a readily
10 visible manner by the seller wherever and whenever a sale to someone
11 other than a licensed wholesale dealer occurs. The ((~~commission~~))
12 department may require that the holder of a direct retail endorsement
13 notify the department up to eighteen hours before conducting an in-
14 person sale of retail-eligible species, except for in-person sales that
15 have a cumulative retail sales value of less than one hundred fifty
16 dollars in a twenty-four hour period that are sold directly from the
17 vessel. For sales occurring in a venue other than in person, such as
18 over the internet, through a catalog, or on the phone, the direct
19 retail endorsement number of the seller must be provided to the buyer
20 both at the time of sale and the time of delivery. All internet sales
21 must be conducted in accordance with federal laws and regulations.

22 (7) The direct retail endorsement is to be held by a natural person
23 and is not transferrable or assignable. If the endorsed license is
24 transferred, the direct retail endorsement immediately becomes void,
25 and the transferor is not eligible for a full or prorated reimbursement
26 of the annual fee paid for the direct retail endorsement. Upon
27 becoming void, the holder of a direct retail endorsement must surrender
28 the physical endorsement to the department.

29 (8) The holder of a direct retail endorsement must abide by the
30 provisions of Title 69 RCW as they apply to the processing and retail
31 sale of seafood. The department must distribute a pamphlet, provided
32 by the department of agriculture, with the direct retail endorsement
33 generally describing the labeling requirements set forth in chapter
34 69.04 RCW as they apply to seafood.

35 (9) The holder of a qualifying commercial fishing license issued
36 under this chapter, or an alternate operator designated on such a
37 license, must either possess a direct retail endorsement or a wholesale

1 dealer license provided for in RCW 77.65.280 in order to lawfully sell
2 their catch or harvest in the state to anyone other than a licensed
3 wholesale dealer.

4 (10) The direct retail endorsement entitles the holder to sell a
5 retail-eligible species only at a temporary food service establishment
6 as that term is defined in RCW 69.06.045, or directly to a restaurant
7 or other similar food service business.

8 **Sec. 2108.** RCW 77.70.450 and 2003 c 174 s 1 are each amended to
9 read as follows:

10 The commercial fisheries buyback account is created in the custody
11 of the state treasurer. All receipts from money collected by the
12 ((~~commission~~)) department under RCW 77.70.460, moneys appropriated for
13 the purposes of this section, and other gifts, grants, or donations
14 specifically made to the fund must be deposited into the account.
15 Expenditures from the account may be used only for the purpose of
16 repaying moneys advanced by the federal government under a groundfish
17 fleet reduction program established by the federal government, or for
18 other fleet reduction efforts, commercial fishing license buyback
19 programs, or similar programs designed to reduce the harvest capacity
20 in a commercial fishery. Only the director ((~~of the department~~)) or
21 the director's designee may authorize expenditures from the account.
22 The account is subject to allotment procedures under chapter 43.88 RCW,
23 but an appropriation is not required for expenditures.

24 **Sec. 2109.** RCW 77.70.460 and 2003 c 174 s 2 are each amended to
25 read as follows:

26 (1) The ((~~commission~~)) department shall collect a fee upon all
27 deliveries of fish or shellfish from persons holding: (a) A federal
28 pacific groundfish limited entry permit with a trawl endorsement; (b)
29 an ocean pink shrimp delivery license issued under RCW 77.65.390; (c)
30 a Dungeness crab--coastal fishery license issued under RCW 77.70.280;
31 (d) a food fish delivery license issued under RCW 77.65.200; or (e) a
32 shrimp trawl license under RCW 77.65.220, to repay the federal
33 government for moneys advanced by the federal government under a
34 groundfish fleet reduction program established by the federal
35 government.

1 (2) The ((~~commission~~)) department shall adopt a fee schedule by
2 rule for the collection of the fee required by subsection (1) of this
3 section. The fee schedule adopted shall limit the total amount of
4 moneys collected through the fee to the minimum amount necessary to
5 repay the moneys advanced by the federal government, but be sufficient
6 to repay the debt obligation of each fishery. The fee charged to the
7 holders of a Dungeness crab--coastal fishery license may not exceed two
8 percent of the total ex-vessel value of annual landings, and the fee
9 charged to all other eligible license holders may not exceed five
10 percent of the total ex-vessel value of annual landings. The
11 ((~~commission~~)) department may adjust the fee schedule as necessary to
12 ensure that the funds collected are adequate to repay the debt
13 obligation of each fishery.

14 (3) The ((~~commission~~)) department shall deposit moneys collected
15 under this section in the commercial fisheries buyback account created
16 in RCW 77.70.450.

17 (4) This section expires January 1, 2033, or when the groundfish
18 fleet reduction program referenced in this section is completed,
19 whichever is sooner.

20 **Sec. 2110.** RCW 77.70.470 and 2003 c 174 s 3 are each amended to
21 read as follows:

22 (1) The ((~~commission~~)) department may not assess the fee specified
23 under RCW 77.70.460 until after the federal government creates a
24 groundfish fleet reduction program.

25 (2) This section expires January 1, 2033, or when the groundfish
26 fleet reduction program referenced in RCW 77.70.460 is completed,
27 whichever is sooner.

28 **Sec. 2111.** RCW 77.75.020 and 2000 c 107 s 86 are each amended to
29 read as follows:

30 The ((~~commission~~)) department may give to the state of Oregon such
31 consent and approbation of the state of Washington as is necessary
32 under the compact set out in RCW 77.75.010. For the purposes of RCW
33 77.75.010, the states of Washington and Oregon have concurrent
34 jurisdiction in the concurrent waters of the Columbia river.

1 **Sec. 2112.** RCW 77.75.040 and 1995 1st sp.s. c 2 s 20 are each
2 amended to read as follows:

3 A member selected by (~~or a designee of the fish and wildlife~~
4 ~~commission~~) the department, ex officio, and two appointees of the
5 governor representing the fishing industry shall act as the
6 representatives of this state on the Pacific Marine Fisheries
7 Commission. The appointees of the governor are subject to confirmation
8 by the state senate.

9 **Sec. 2113.** RCW 77.75.100 and 1980 c 78 s 62 are each amended to
10 read as follows:

11 The (~~commission~~) department may cooperate with the Idaho fish and
12 game commission in the adoption and enforcement of rules regarding
13 wildlife on that portion of the Snake river forming the boundary
14 between Washington and Idaho.

15 **Sec. 2114.** RCW 77.75.140 and 1995 1st sp.s. c 2 s 21 are each
16 amended to read as follows:

17 The (~~commission~~) department may adopt and enforce the provisions
18 of the treaty between the government of the United States and the
19 government of Canada concerning Pacific salmon, treaty document number
20 99-2, entered into force March 18, 1985, at Quebec City, Canada, and
21 the regulations of the (~~commission~~) department adopted under
22 authority of the treaty.

23 **Sec. 2115.** RCW 77.85.220 and 2003 c 391 s 4 are each amended to
24 read as follows:

25 (1) If a limiting factors analysis has been conducted under this
26 chapter for a specific geographic area and that analysis shows
27 insufficient intertidal salmon habitat, the department (~~of fish and~~
28 ~~wildlife~~) and the county legislative authorities of the affected
29 counties may jointly initiate a salmon intertidal habitat restoration
30 planning process to develop a plan that addresses the intertidal
31 habitat goals contained in the limiting factors analysis. The (~~fish~~
32 ~~and wildlife commission~~) department and the county legislative
33 authorities of the geographic area shall jointly appoint a task force
34 composed of the following members:

1 (a) One representative of the (~~fish and wildlife commission~~)
2 department, appointed by the (~~chair of the commission~~) director;

3 (b) Two representatives of the agricultural industry familiar with
4 agricultural issues in the geographic area, one appointed by an
5 organization active in the geographic area and one appointed by a
6 statewide organization representing the industry;

7 (c) Two representatives of environmental interest organizations
8 with familiarity and expertise of salmon habitat, one appointed by an
9 organization in the geographic area and one appointed by a statewide
10 organization representing environmental interests;

11 (d) One representative of a diking and drainage district, appointed
12 by the individual districts in the geographic area or by an association
13 of diking and drainage districts;

14 (e) One representative of the lead entity for salmon recovery in
15 the geographic area, appointed by the lead entity;

16 (f) One representative of each county in the geographic area,
17 appointed by the respective county legislative authorities; and

18 (g) One representative from the office of the governor.

19 (2) Representatives of the United States environmental protection
20 agency, the United States natural resources conservation service,
21 federal fishery agencies, as appointed by their regional director, and
22 tribes with interests in the geographic area shall be invited and
23 encouraged to participate as members of the task force.

24 (3) The task force shall elect a chair and adopt rules for
25 conducting the business of the task force. Staff support for the task
26 force shall be provided by the Washington state conservation
27 commission.

28 (4) The task force shall:

29 (a) Review and analyze the limiting factors analysis for the
30 geographic area;

31 (b) Initiate and oversee intertidal salmon habitat studies for
32 enhancement of the intertidal area as provided in RCW 77.85.230;

33 (c) Review and analyze the completed assessments listed in RCW
34 77.85.230;

35 (d) Develop and draft an overall plan that addresses identified
36 intertidal salmon habitat goals that has public support; and

37 (e) Identify appropriate demonstration projects and early

1 implementation projects that are of high priority and should commence
2 immediately within the geographic area.

3 (5) The task force may request briefings as needed on legal issues
4 that may need to be considered when developing or implementing various
5 plan options.

6 (6) Members of the task force shall be reimbursed by the
7 conservation commission for travel expenses as provided in RCW
8 43.03.050 and 43.03.060.

9 (7) The task force shall provide annual reports that provide an
10 update on its activities to the (~~fish and wildlife commission~~)
11 department, to the involved county legislative authorities, and to the
12 lead entity formed under this chapter.

13 **Sec. 2116.** RCW 77.95.010 and 1995 1st sp.s. c 2 s 33 are each
14 amended to read as follows:

15 Currently, many of the salmon stocks of Washington state are
16 critically reduced from their sustainable level. The best interests of
17 all fishing groups and the citizens as a whole are served by a stable
18 and productive salmon resource. Immediate action is needed to reverse
19 the severe decline of the resource and to insure its very survival.
20 The legislature finds a state of emergency exists and that immediate
21 action is required to restore its fishery.

22 Disagreement and strife have dominated the salmon fisheries for
23 many years. Conflicts among the various fishing interests have only
24 served to erode the resource. It is time for the state of Washington
25 to make a major commitment to increasing productivity of the resource
26 and to move forward with an effective rehabilitation and enhancement
27 program. The (~~commission~~) department is directed to dedicate its
28 efforts (~~and the efforts of the department~~) to seek resolution to the
29 many conflicts that involve the resource.

30 Success of the enhancement program can only occur if projects
31 efficiently produce salmon or restore habitat. The expectation of the
32 program is to optimize the efficient use of funding on projects that
33 will increase artificially and naturally produced salmon, restore and
34 improve habitat, or identify ways to increase the survival of salmon.
35 The full utilization of state resources and cooperative efforts with
36 interested groups are essential to the success of the program.

1 **Sec. 2117.** RCW 77.95.020 and 1995 1st sp.s. c 2 s 34 are each
2 amended to read as follows:

3 (1) The ((~~commission~~)) department shall develop long-term regional
4 policy statements regarding the salmon fishery resources before
5 December 1, 1985. The ((~~commission~~)) department shall consider the
6 following in formulating and updating regional policy statements:

7 (a) Existing resource needs;

8 (b) Potential for creation of new resources;

9 (c) Successful existing programs, both within and outside the
10 state;

11 (d) Balanced utilization of natural and hatchery production;

12 (e) Desires of the fishing interest;

13 (f) Need for additional data or research;

14 (g) Federal court orders; and

15 (h) Salmon advisory council recommendations.

16 (2) The ((~~commission~~)) department shall review and update each
17 policy statement at least once each year.

18 **Sec. 2118.** RCW 77.95.030 and 1995 1st sp.s. c 2 s 35 are each
19 amended to read as follows:

20 (1) The ((~~commission~~)) department shall develop a detailed salmon
21 enhancement plan with proposed enhancement projects. The plan and the
22 regional policy statements shall be submitted to the secretary of the
23 senate and chief clerk of the house of representatives for legislative
24 distribution by June 30, 1986. The enhancement plan and regional
25 policy statements shall be provided by June 30, 1986, to the natural
26 resources committees of the house of representatives and the senate.
27 The ((~~commission~~)) department shall provide a maximum opportunity for
28 the public to participate in the development of the salmon enhancement
29 plan. To ((~~insure~~)) ensure full participation by all interested
30 parties, the ((~~commission~~)) department shall solicit and consider
31 enhancement project proposals from Indian tribes, sports ((~~fishermen~~))
32 fishers, commercial ((~~fishermen~~)) fishers, private aquaculturists, and
33 other interested groups or individuals for potential inclusion in the
34 salmon enhancement plan. Joint or cooperative enhancement projects
35 shall be considered for funding.

36 (2) The following criteria shall be used by the ((~~commission~~))
37 department in formulating the project proposals:

- 1 (a) Compatibility with the long-term policy statement;
2 (b) Benefit/cost analysis;
3 (c) Needs of all fishing interests;
4 (d) Compatibility with regional plans, including harvest management
5 plans;
6 (e) Likely increase in resource productivity;
7 (f) Direct applicability of any research;
8 (g) Salmon advisory council recommendations;
9 (h) Compatibility with federal court orders;
10 (i) Coordination with the salmon and steelhead advisory commission
11 program;
12 (j) Economic impact to the state;
13 (k) Technical feasibility; and
14 (l) Preservation of native salmon runs.
15 (3) The ((~~commission~~)) department shall not approve projects that
16 serve as replacement funding for projects that exist prior to May 21,
17 1985, unless no other sources of funds are available.
18 (4) The ((~~commission~~)) department shall prioritize various projects
19 and establish a recommended implementation time schedule.

20 **Sec. 2119.** RCW 77.95.040 and 1995 1st sp.s. c 2 s 36 are each
21 amended to read as follows:

22 Upon approval by the legislature of funds for its implementation,
23 the ((~~commission~~)) department shall monitor the progress of projects
24 detailed in the salmon enhancement plan.

25 The ((~~commission~~)) department shall be responsible for establishing
26 criteria which shall be used to measure the success of each project in
27 the salmon enhancement plan.

28 **Sec. 2120.** RCW 77.95.060 and 1995 1st sp.s. c 2 s 38 are each
29 amended to read as follows:

30 The legislature finds that it is in the best interest of the salmon
31 resource of the state to encourage the development of regional
32 fisheries enhancement groups. The accomplishments of one existing
33 group, the Grays Harbor fisheries enhancement task force, have been
34 widely recognized as being exemplary. The legislature recognizes the
35 potential benefits to the state that would occur if each region of the

1 state had a similar group of dedicated citizens working to enhance the
2 salmon resource.

3 The legislature authorizes the formation of regional fisheries
4 enhancement groups. These groups shall be eligible for state financial
5 support and shall be actively supported by the (~~commission and the~~)
6 department. The regional groups shall be operated on a strictly
7 nonprofit basis, and shall seek to maximize the efforts of volunteer
8 and private donations to improve the salmon resource for all citizens
9 of the state.

10 **Sec. 2121.** RCW 77.95.090 and 2009 c 340 s 4 are each amended to
11 read as follows:

12 The dedicated regional fisheries enhancement group account is
13 created in the custody of the state treasurer. Only the (~~commission~~
14 ~~or the commission's~~) director or director's designee may authorize
15 expenditures from the account. The account is subject to allotment
16 procedures under chapter 43.88 RCW, but no appropriation is required
17 for expenditures.

18 A portion of each recreational fishing license fee shall be used as
19 provided in RCW 77.32.440. A surcharge of one hundred dollars shall be
20 collected on each commercial salmon fishery license, each salmon
21 delivery license, and each salmon charter license sold in the state.
22 All receipts shall be placed in the regional fisheries enhancement
23 group account and shall be used exclusively for regional fisheries
24 enhancement group projects for the purposes of RCW 77.95.110. Except
25 as provided in RCW 77.95.320, funds from the regional fisheries
26 enhancement group account shall not serve as replacement funding for
27 department operated salmon projects that exist on January 1, 1991.

28 All revenue from the department's sale of salmon carcasses and eggs
29 that return to group facilities shall be deposited in the regional
30 fisheries enhancement group account for use by the regional fisheries
31 enhancement group that produced the surplus. The (~~commission~~)
32 department shall adopt rules to implement this section pursuant to
33 chapter 34.05 RCW.

34 **Sec. 2122.** RCW 77.95.100 and 2010 1st sp.s. c 7 s 82 are each
35 amended to read as follows:

36 The department may provide start-up funds to regional fisheries

1 enhancement groups for costs associated with any enhancement project.
2 The (~~commission~~) department shall develop guidelines for providing
3 funds to the regional fisheries enhancement groups.

4 **Sec. 2123.** RCW 77.95.140 and 1995 1st sp.s. c 2 s 41 are each
5 amended to read as follows:

6 The (~~commission~~) department shall prepare a salmon recovery plan
7 for the Skagit river. The plan shall include strategies for employing
8 displaced timber workers to conduct salmon restoration and other tasks
9 identified in the plan. The plan shall incorporate the best available
10 technology in order to achieve maximum restoration of depressed salmon
11 stocks. The plan must encourage the restoration of natural spawning
12 areas and natural rearing of salmon but must not preclude the
13 development of an active hatchery program.

14 **Sec. 2124.** RCW 77.95.200 and 2009 c 333 s 29 are each amended to
15 read as follows:

16 (1) The department shall develop and implement a program utilizing
17 remote site incubators in Washington state. The program shall identify
18 sites in tributaries that are suitable for reestablishing self-
19 sustaining, locally adapted populations of coho, chum, or chinook
20 salmon. The initial selection of sites shall be updated annually.

21 (2) The department may only approve a remote site incubator project
22 if the department deems it is consistent with the conservation of wild
23 salmon and trout. The department shall only utilize appropriate
24 salmonid eggs in remote site incubators, and may acquire eggs by gift
25 or purchase.

26 (3) The department shall depend chiefly upon volunteer efforts to
27 implement the remote site incubator program through volunteer
28 cooperative projects and the regional fisheries enhancement groups.
29 The department may prioritize remote site incubator projects within
30 regional enhancement areas.

31 (4) The department may purchase remote site incubators and may use
32 agency employees to construct remote site incubators.

33 (5) The department shall investigate the use of the remote site
34 incubator technology for the production of warm water fish.

35 (6) Annual reports on the progress of the program shall be
36 provided to the (~~fish and wildlife commission~~) department.

1 **Sec. 2125.** RCW 77.100.060 and 2001 c 337 s 4 are each amended to
2 read as follows:

3 The ((~~commission~~)) department shall establish by rule:

4 (1) The procedure for entering a cooperative agreement and the
5 application forms for a permit to release fish or wildlife ((~~required~~
6 ~~by RCW 77.12.457~~)). The procedure shall indicate the information
7 required from the volunteer group as well as the process of review by
8 the department. The process of review shall include the means to
9 coordinate with other agencies and Indian tribes when appropriate and
10 to coordinate the review of any necessary hydraulic permit approval
11 applications.

12 (2) The procedure for providing within forty-five days of receipt
13 of a proposal a written response to the volunteer group indicating the
14 date by which an acceptance or rejection of the proposal can be
15 expected, the reason why the date was selected, and a written summary
16 of the process of review. The response should also include any
17 suggested modifications to the proposal which would increase its
18 likelihood of approval and the date by which such modified proposal
19 could be expected to be accepted. If the proposal is rejected, the
20 department must provide in writing the reasons for rejection. The
21 volunteer group may request the director or the director's designee to
22 review information provided in the response.

23 (3) The priority of the uses to which eggs, seed, juveniles, or
24 brood stock are put. Use by cooperative projects shall be second in
25 priority only to the needs of programs of the department or of other
26 public agencies within the territorial boundaries of the state. Sales
27 of eggs, seed, juveniles, or brood stock have a lower priority than use
28 for cooperative projects. The rules must identify and implement
29 appropriate protocols for brood stock handling, including the
30 outplanting of adult fish, spawning, incubation, rearing, and release
31 and establish a prioritized schedule for implementation of chapter 337,
32 Laws of 2001, and shall include directives for allowing more hatchery
33 salmon to spawn naturally in areas where progeny of hatchery fish have
34 spawned, including the outplanting of adult fish, in order to increase
35 the number of viable salmon eggs and restore healthy numbers of fish
36 within the state.

37 (4) The procedure for the director to notify a volunteer group that
38 the agreement for the project is being revoked for cause and the

1 procedure for revocation. Revocation shall be documented in writing to
2 the volunteer group. Cause for revocation may include: (a) The
3 unavailability of adequate biological or financial resources; (b) the
4 development of unacceptable biological or resource management
5 conflicts; or (c) a violation of agreement provisions. Notice of cause
6 to revoke for a violation of agreement provisions may specify a
7 reasonable period of time within which the volunteer group must comply
8 with any violated provisions of the agreement.

9 (5) An appropriate method of distributing among volunteer groups
10 fish, bird, or animal food or other supplies available for the program.

11 **Sec. 2126.** RCW 77.100.080 and 2000 c 107 s 113 are each amended to
12 read as follows:

- 13 (1) The volunteer group shall:
- 14 (a) Provide care and diligence in conducting the cooperative
15 project; and
 - 16 (b) Maintain accurately the required records of the project on
17 forms provided by the department.

18 (2) The volunteer group shall acknowledge that fish and game reared
19 in cooperative projects are public property and must be handled and
20 released for the benefit of all citizens of the state. The fish and
21 game are to remain public property until reduced to private ownership
22 under rules of the (~~commission~~) department.

23 **Sec. 2127.** RCW 77.115.010 and 2000 c 107 s 122 are each amended to
24 read as follows:

25 (1) The director of agriculture and the director shall jointly
26 develop a program of disease inspection and control for aquatic farmers
27 as defined in RCW 15.85.020. The program shall be administered by the
28 department under rules established under this section. The purpose of
29 the program is to protect the aquaculture industry and wildstock
30 fisheries from a loss of productivity due to aquatic diseases or
31 maladies. As used in this section "diseases" means, in addition to its
32 ordinary meaning, infestations of parasites or pests. The disease
33 program may include, but is not limited to, the following elements:

- 34 (a) Disease diagnosis;
- 35 (b) Import and transfer requirements;
- 36 (c) Provision for certification of stocks;

- 1 (d) Classification of diseases by severity;
2 (e) Provision for treatment of selected high-risk diseases;
3 (f) Provision for containment and eradication of high-risk
4 diseases;
5 (g) Provision for destruction of diseased cultured aquatic
6 products;
7 (h) Provision for quarantine of diseased cultured aquatic products;
8 (i) Provision for coordination with state and federal agencies;
9 (j) Provision for development of preventative or control measures;
10 (k) Provision for cooperative consultation service to aquatic
11 farmers; and

12 (l) Provision for disease history records.

13 (2) The (~~commission~~) department shall adopt rules implementing
14 this section. However, such rules shall have the prior approval of the
15 director of agriculture and shall provide therein that the director of
16 agriculture has provided such approval. The director of agriculture or
17 the director's designee shall attend the rule-making hearings conducted
18 under chapter 34.05 RCW and shall assist in conducting those hearings.
19 The authorities granted the department by these rules and by RCW
20 77.12.047(1)(g), 77.60.060, 77.60.080, 77.65.210, (~~77.115.020,~~)
21 77.115.030, and 77.115.040 constitute the only authorities of the
22 department to regulate private sector cultured aquatic products and
23 aquatic farmers as defined in RCW 15.85.020. Except as provided in
24 subsection (3) of this section, no action may be taken against any
25 person to enforce these rules unless the department has first provided
26 the person an opportunity for a hearing. In such a case, if the
27 hearing is requested, no enforcement action may be taken before the
28 conclusion of that hearing.

29 (3) The rules adopted under this section shall specify the
30 emergency enforcement actions that may be taken by the department, and
31 the circumstances under which they may be taken, without first
32 providing the affected party with an opportunity for a hearing.
33 Neither the provisions of this subsection nor the provisions of
34 subsection (2) of this section shall preclude the department from
35 requesting the initiation of criminal proceedings for violations of the
36 disease inspection and control rules.

37 (4) A person shall not violate the rules adopted under subsection
38 (2) or (3) of this section or violate RCW 77.115.040.

1 (5) In administering the program established under this section,
2 the department shall use the services of a pathologist licensed to
3 practice veterinary medicine.

4 (6) The director in administering the program shall not place
5 constraints on or take enforcement actions in respect to the
6 aquaculture industry that are more rigorous than those placed on the
7 department or other fish-rearing entities.

8 **Sec. 2128.** RCW 43.300.020 and 1993 sp.s. c 2 s 3 are each amended
9 to read as follows:

10 ~~((As used in this chapter, unless the context indicates other-~~
11 ~~wise+)) The definitions in this section apply throughout this chapter
12 unless the context clearly requires otherwise.~~

13 (1) "Department" means the department of ~~((fish and wildlife))~~
14 conservation and recreation.

15 (2) "Director" means the director of ~~((fish and wildlife))~~ the
16 department of conservation and recreation.

17 (3) "Commission" means the fish and wildlife advisory commission
18 within the department.

19 **Sec. 2129.** RCW 9.46.010 and 1996 c 101 s 2 are each amended to
20 read as follows:

21 The public policy of the state of Washington on gambling is to keep
22 the criminal element out of gambling and to promote the social welfare
23 of the people by limiting the nature and scope of gambling activities
24 and by strict regulation and control.

25 It is hereby declared to be the policy of the legislature,
26 recognizing the close relationship between professional gambling and
27 organized crime, to restrain all persons from seeking profit from
28 professional gambling activities in this state; to restrain all persons
29 from patronizing such professional gambling activities; to safeguard
30 the public against the evils induced by common gamblers and common
31 gambling houses engaged in professional gambling; and at the same time,
32 both to preserve the freedom of the press and to avoid restricting
33 participation by individuals in activities and social pastimes, which
34 activities and social pastimes are more for amusement rather than for
35 profit, do not maliciously affect the public, and do not breach the
36 peace.

1 The legislature further declares that the raising of funds for the
2 promotion of bona fide charitable or nonprofit organizations is in the
3 public interest as is participation in such activities and social
4 pastimes as are hereinafter in this chapter authorized.

5 The legislature further declares that the conducting of bingo,
6 raffles, and amusement games and the operation of punchboards, pull-
7 tabs, card games and other social pastimes, when conducted pursuant to
8 the provisions of this chapter and any rules and regulations adopted
9 pursuant thereto, are hereby authorized, as are only such lotteries for
10 which no valuable consideration has been paid or agreed to be paid as
11 hereinafter in this chapter provided.

12 The legislature further declares that fishing derbies shall not
13 constitute any form of gambling and shall not be considered as a
14 lottery, a raffle, or an amusement game and shall not be subject to the
15 provisions of this chapter or any rules and regulations adopted
16 hereunder.

17 The legislature further declares that raffles authorized by the
18 (~~fish and wildlife commission~~) department of conservation and
19 recreation involving hunting big game animals or wild turkeys shall not
20 be subject to the provisions of this chapter or any rules and
21 regulations adopted hereunder, with the exception of this section and
22 RCW 9.46.400.

23 All factors incident to the activities authorized in this chapter
24 shall be closely controlled, and the provisions of this chapter shall
25 be liberally construed to achieve such end.

26 **Sec. 2130.** RCW 9.46.400 and 1996 c 101 s 3 are each amended to
27 read as follows:

28 Any raffle authorized by the (~~fish and wildlife commission~~)
29 department of conservation and recreation involving hunting big game
30 animals or wild turkeys shall not be subject to any provisions of this
31 chapter other than RCW 9.46.010 and this section or to any rules or
32 regulations of the gambling commission.

33 **Sec. 2131.** RCW 79.105.430 and 2005 c 155 s 106 are each amended to
34 read as follows:

35 (1) The abutting residential owner to state-owned shorelands,
36 tidelands, or related beds of navigable waters, other than harbor

1 areas, may install and maintain without charge a dock on the areas if
2 used exclusively for private recreational purposes and the area is not
3 subject to prior rights, including any rights of upland, tideland, or
4 shoreland owners as provided in RCW 79.125.400, 79.125.460, 79.125.410,
5 and 79.130.010. The dock cannot be sold or leased separately from the
6 upland residence. The dock cannot be used to moor boats for commercial
7 or residential use. This permission is subject to applicable local,
8 state, and federal rules and regulations governing location, design,
9 construction, size, and length of the dock. Nothing in this subsection
10 (1) prevents the abutting owner from obtaining a lease if otherwise
11 provided by law.

12 (2) The abutting residential owner to state-owned shorelands,
13 tidelands, or related beds of navigable waters, other than harbor
14 areas, may install and maintain a mooring buoy without charge if the
15 boat that is moored to the buoy is used for private recreational
16 purposes, the area is not subject to prior rights, including any rights
17 of upland, tideland, or shoreland owners as provided in RCW 79.125.400,
18 79.125.460, 79.125.410, and 79.130.010, and the buoy will not obstruct
19 the use of mooring buoys previously authorized by the department.

20 (a) The buoy must be located as near to the upland residence as
21 practical, consistent with applicable rules and regulations and the
22 provisions of this section. The buoy must be located, or relocated if
23 necessary, to accommodate the use of lawfully installed and maintained
24 buoys.

25 (b) If two or more residential owners, who otherwise qualify for
26 free use under the provisions of this section, are in dispute over
27 assertion of rights to install and maintain a mooring buoy in the same
28 location, they may seek formal settlement through adjudication in
29 superior court for the county in which the buoy site is located. In
30 the adjudication, preference must be given to the residential owner
31 that first installed and continually maintained and used a buoy on that
32 site, if it meets all applicable rules, regulations, and provisions of
33 this section, and then to the owner of the residential property nearest
34 the site. Nothing in this section requires the department to mediate
35 or otherwise resolve disputes between residential owners over the use
36 of the same site for a mooring buoy.

37 (c) The buoy cannot be sold or leased separately from the abutting

1 residential property. The buoy cannot be used to moor boats for
2 commercial or residential use, nor to moor boats over sixty feet in
3 length.

4 (d) If the department determines that it is necessary for secure
5 moorage, the abutting residential owner may install and maintain a
6 second mooring buoy, under the same provisions as the first, the use of
7 which is limited to a second mooring line to the boat moored at the
8 first buoy.

9 (e) The permission granted in this subsection (2) is subject to
10 applicable local, state, and federal rules and regulations governing
11 location, design, installation, maintenance, and operation of the
12 mooring buoy, anchoring system, and moored boat. Nothing in this
13 subsection (2) prevents a boat owner from obtaining a lease if
14 otherwise provided by law. This subsection (2) also applies to areas
15 that have been designated by the commissioner or the (~~fish and~~
16 ~~wildlife commission~~) department of conservation and recreation as
17 aquatic reserves.

18 (3) This permission to install and maintain a recreational dock or
19 mooring buoy may be revoked by the department, or the department may
20 direct the owner of a recreational dock or mooring buoy to relocate
21 their dock or buoy, if the department makes a finding of public
22 necessity to protect waterward access, ingress rights of other
23 landowners, public health or safety, or public resources.
24 Circumstances prompting a finding of public necessity may include, but
25 are not limited to, the dock, buoy, anchoring system, or boat posing a
26 hazard or obstruction to navigation or fishing, contributing to
27 degradation of aquatic habitat, or contributing to decertification of
28 shellfish beds otherwise suitable for commercial or recreational
29 harvest. The revocation may be appealed as provided for under RCW
30 79.105.160.

31 (4) Nothing in this section authorizes a boat owner to abandon a
32 vessel at a recreational dock, mooring buoy, or elsewhere.

33 **Sec. 2132.** RCW 79.135.320 and 2005 c 155 s 712 are each amended to
34 read as follows:

35 (1) In the event that the (~~fish and wildlife commission~~)
36 department of conservation and recreation approves the vacation of the
37 whole or any part of a reserve, the department may vacate and offer for

1 lease the parts or all of the reserve as it deems to be for the best
2 interest of the state, and all moneys received for the lease of the
3 lands shall be paid to the department.

4 (2) Notwithstanding RCW 77.60.020, subsection (1) of this section,
5 or any other provision of state law, the state oyster reserves in Eld
6 Inlet, Hammersley Inlet, or Totten Inlet, situated in Mason or Thurston
7 counties shall permanently be designated as state oyster reserve lands.

8 **Sec. 2133.** RCW 79A.05.793 and 2000 c 11 s 64 are each amended to
9 read as follows:

10 Nothing in RCW 79A.05.750 through 79A.05.795 shall be construed to
11 interfere with the powers, duties, and authority of the ((state
12 department of fish and wildlife or the state fish and wildlife
13 commission)) department of conservation and recreation to regulate,
14 manage, conserve, and provide for the harvest of wildlife within such
15 area((: PROVIDED, HOWEVER, That)). However, no hunting shall be
16 permitted in any state park.

17 NEW SECTION. **Sec. 2134.** (1) The powers, duties, and functions of
18 the department of fish and wildlife are hereby transferred to the
19 department of conservation and recreation. All references to the
20 department of fish and wildlife in the Revised Code of Washington shall
21 be construed to mean the director or the department of conservation and
22 recreation.

23 (2)(a) All reports, documents, surveys, books, records, files,
24 papers, or written material in the possession of the department of fish
25 and wildlife shall be delivered to the custody of the department of
26 conservation and recreation. All cabinets, furniture, office
27 equipment, motor vehicles, and other tangible property employed by the
28 department of fish and wildlife shall be made available to the
29 department of conservation and recreation. All funds, credits, or
30 other assets held by the department of fish and wildlife shall be
31 assigned to the department of conservation and recreation.

32 (b) Any appropriations made to the department of fish and wildlife
33 shall, on the effective date of this section, be transferred and
34 credited to the department of conservation and recreation.

35 (c) If any question arises as to the transfer of any personnel,
36 funds, books, documents, records, papers, files, equipment, or other

1 tangible property used or held in the exercise of the powers and the
2 performance of the duties and functions transferred, the director of
3 financial management shall make a determination as to the proper
4 allocation and certify the same to the state agencies concerned.

5 (3) All rules and all pending business before the department of
6 fish and wildlife shall be continued and acted upon by the department
7 of conservation and recreation. All existing contracts and obligations
8 shall remain in full force and shall be performed by the department of
9 conservation and recreation.

10 (4) The transfer of the powers, duties, functions, and personnel of
11 the department of fish and wildlife shall not affect the validity of
12 any act performed before the effective date of this section.

13 (5) If apportionments of budgeted funds are required because of the
14 transfers directed by this section, the director of financial
15 management shall certify the apportionments to the agencies affected,
16 the state auditor, and the state treasurer. Each of these shall make
17 the appropriate transfer and adjustments in funds and appropriation
18 accounts and equipment records in accordance with the certification.

19 (6) All employees of the department of fish and wildlife engaged in
20 performing the powers, functions, and duties transferred to the
21 department of conservation and recreation, are transferred to the
22 department of conservation and recreation. All employees classified
23 under chapter 41.06 RCW, the state civil service law, are assigned to
24 the department of conservation and recreation to perform their usual
25 duties upon the same terms as formerly, without any loss of rights,
26 subject to any action that may be appropriate thereafter in accordance
27 with the laws and rules governing state civil service law.

28 NEW SECTION. **Sec. 2135.** (1) The powers, duties, and functions of
29 the law enforcement and heritage program at the department of natural
30 resources are hereby transferred to the department of conservation and
31 recreation.

32 (2) All employees of the department of natural resources engaged in
33 performing the powers, functions, and duties transferred to the
34 department of conservation and recreation, are transferred to the
35 department of conservation and recreation. All employees classified
36 under chapter 41.06 RCW, the state civil service law, are assigned to
37 the department of conservation and recreation to perform their usual

1 duties upon the same terms as formerly, without any loss of rights,
2 subject to any action that may be appropriate thereafter in accordance
3 with the laws and rules governing state civil service law.

4 NEW SECTION. **Sec. 2136.** The following acts or parts of acts are
5 each repealed:

6 (1) RCW 77.04.013 (Findings and intent) and 1995 1st sp.s. c 2 s 1;

7 (2) RCW 77.04.020 (Composition of department--Powers and duties)
8 and 2000 c 107 s 202, 1996 c 267 s 32, 1993 sp.s. c 2 s 59, 1987 c 506
9 s 4, 1980 c 78 s 3, & 1955 c 36 s 77.04.020;

10 (3) RCW 77.04.080 (Director--Qualifications--Duties--Salary) and
11 2000 c 107 s 205, 1995 1st sp.s. c 2 s 5, 1993 sp.s. c 2 s 64, 1987 c
12 506 s 9, 1980 c 78 s 8, & 1955 c 36 s 77.04.080;

13 (4) RCW 77.04.090 (Rule-making authority--Certified copy as
14 evidence) and 1996 c 267 s 35, 1995 c 403 s 111, 1984 c 240 s 1, 1980
15 c 78 s 16, & 1955 c 36 s 77.12.050;

16 (5) RCW 77.04.140 (Unofficial printings of laws or rules--Approval
17 required) and 1995 1st sp.s. c 2 s 13, 1983 1st ex.s. c 46 s 17, & 1955
18 c 12 s 75.08.110;

19 (6) RCW 77.15.005 (Finding--Intent) and 1998 c 190 s 1;

20 (7) RCW 43.300.010 (Department created--Transfer of powers, duties,
21 and functions) and 1993 sp.s. c 2 s 2;

22 (8) RCW 43.300.040 (Director's duties) and 1996 c 267 s 33 & 1993
23 sp.s. c 2 s 5; and

24 (9) RCW 43.300.050 (Exempt positions) and 1993 sp.s. c 2 s 6.

25 NEW SECTION. **Sec. 2137.** Section 2091 of this act expires July 30,
26 2014.

27 NEW SECTION. **Sec. 2138.** The consolidation directed pursuant to
28 sections 2001 through 2137 of this act takes effect July 1, 2012.

1 PART 3

2 CONSOLIDATING THE PARKS AND RECREATION COMMISSION INTO
3 THE DEPARTMENT OF CONSERVATION AND RECREATION

4 **Sec. 3001.** RCW 79A.05.010 and 1999 c 249 s 101 are each amended to
5 read as follows:

6 The definitions in this section apply throughout this title unless
7 the context clearly requires otherwise.

8 (1) "Commission" means the (~~state~~) parks and recreation advisory
9 commission.

10 (2) "Chair" means the member of the commission elected pursuant to
11 RCW 79A.05.025.

12 (3) "Director" and "director of (~~the state parks and recreation~~
13 ~~commission~~)" conservation and recreation mean the director of
14 (~~parks~~) the department of conservation and recreation or the
15 director's designee.

16 (4) "Recreation" means those activities of a voluntary and leisure
17 time nature that aid in promoting entertainment, pleasure, play,
18 relaxation, or instruction.

19 (5) "Natural forest" means a forest that faithfully represents, or
20 is meant to become representative of, its unaltered state.

21 (6) "Department" means the department of conservation and
22 recreation.

23 **Sec. 3002.** RCW 79A.05.015 and 1999 c 249 s 201 are each amended to
24 read as follows:

25 (~~There is hereby created a "state parks and recreation commission"~~
26 ~~consisting~~) The parks and recreation advisory commission is created
27 within the department of conservation and recreation. The commission
28 consists of seven citizens of the state. The members of the commission
29 shall be appointed by the governor (~~by and with the advice and consent~~
30 ~~of the senate~~) and shall serve for a term of six years, expiring on
31 December 31st of even-numbered years, and until their successors are
32 appointed. In case of a vacancy, the governor shall fill the vacancy
33 for the unexpired term of the commissioner whose office has become
34 vacant.

1 In making the appointments to the commission, the governor shall
2 choose citizens who understand park and recreation needs and interests.
3 No person shall serve if he or she holds any elective or full-time
4 appointive state, county, or municipal office. Members of the
5 commission (~~shall be compensated in accordance with RCW 43.03.240 and~~
6 ~~in addition~~) shall be allowed their travel expenses incurred while
7 absent from their usual places of residence in accordance with RCW
8 43.03.050 and 43.03.060.

9 (~~Payment of expenses pertaining to the operation of the commission~~
10 ~~shall be made upon vouchers certified to by such persons as shall be~~
11 ~~designated by the commission.~~)

12 NEW SECTION. **Sec. 3003.** A new section is added to chapter 79A.05
13 RCW to read as follows:

14 The commission shall provide guidance to the director regarding
15 policies associated with acquiring, operating, enhancing, and
16 protecting a diverse system of recreational, cultural, historical, and
17 natural sites and state parks.

18 The commission has the following responsibilities and duties:

19 (1) To provide a forum for public involvement to guide decision
20 making related to outdoor recreation and parks management and the
21 adoption of policies and regulations that promote the outdoor
22 recreation, cultural, historical, and natural resources protection,
23 education, funding, and wise management of our state parks system.

24 (2) To provide guidance to the department in developing long-range
25 strategies for funding and managing the state parks system and winter
26 recreation and boating programs.

27 (3) To assist the department in developing communication
28 strategies, budgets, and revenue proposals.

29 (4) To solicit public input regarding the acquisition, transfer,
30 sales, or leasing of state park lands.

31 (5) To advise the director on current trends and public opinions
32 regarding outdoor recreation and parks management.

33 **Sec. 3004.** RCW 79A.05.020 and 1999 c 249 s 301 are each amended to
34 read as follows:

35 In addition to whatever other duties may exist in law or be imposed
36 in the future, it is the duty of the (~~commission~~) department to:

1 (1) Implement integrated pest management practices and regulate
2 pests as required by RCW 17.15.020;

3 (2) Take steps necessary to control spartina and purple loosestrife
4 as required by RCW 17.26.020;

5 (3) Participate in the implementation of chapter 19.02 RCW;

6 (4) ~~((Coordinate planning and provide staffing and administrative
7 assistance to the Lewis and Clark trail committee as required by RCW
8 27.34.340;~~

9 ~~(5))~~ Administer those portions of chapter 46.10 RCW not dealing
10 with registration and licensing of snowmobiles as required by RCW
11 ~~((46.10.210))~~ 46.10.370;

12 ~~((6))~~ (5) Consult and participate in the scenic and recreational
13 highway system as required by chapter 47.39 RCW; and

14 ~~((7))~~ (6) Develop, prepare, and distribute information relating
15 to marine oil recycling tanks and sewage holding tank pumping stations,
16 in cooperation with other departments, as required by chapter 88.02
17 RCW.

18 ~~((The commission has the power reasonably necessary to carry out
19 these duties.))~~

20 **Sec. 3005.** RCW 79A.05.025 and 1999 c 249 s 202 are each amended to
21 read as follows:

22 The commission shall elect one of its members as chair. The
23 commission may be convened at such times as the chair deems
24 necessary~~((, and a))~~. A majority of the members shall constitute a
25 quorum for the transaction of business.

26 **Sec. 3006.** RCW 79A.05.030 and 2005 c 373 s 1 and 2005 c 360 s 5
27 are each reenacted and amended to read as follows:

28 The ~~((commission))~~ department shall:

29 (1) Have the care, charge, control, and supervision of all parks
30 and parkways acquired or set aside by the state for park or parkway
31 purposes.

32 (2) Adopt policies, and adopt, issue, and enforce rules pertaining
33 to the use, care, and administration of state parks and parkways. The
34 ~~((commission))~~ department shall cause a copy of the rules to be kept
35 posted in a conspicuous place in every state park to which they are

1 applicable, but failure to post or keep any rule posted shall be no
2 defense to any prosecution for the violation thereof.

3 (3) Permit the use of state parks and parkways by the public under
4 such rules as shall be adopted.

5 (4) Clear, drain, grade, seed, and otherwise improve or beautify
6 parks and parkways, and erect structures, buildings, fireplaces, and
7 comfort stations and build and maintain paths, trails, and roadways
8 through or on parks and parkways.

9 (5) Grant concessions or leases in state parks and parkways, upon
10 such rentals, fees, or percentage of income or profits and for such
11 terms, in no event longer than fifty years, and upon such conditions as
12 shall be approved by the ~~((commission))~~ department: PROVIDED, ~~((That~~
13 ~~leases exceeding a twenty-year term shall require a unanimous vote of~~
14 ~~the commission: PROVIDED FURTHER, That if, during the term of any~~
15 ~~concession or lease, it is the opinion of the commission that it would~~
16 ~~be in the best interest of the state, the commission may, with the~~
17 ~~consent of the concessionaire or lessee, alter and amend the terms and~~
18 ~~conditions of such concession or lease: PROVIDED FURTHER,))~~ That
19 television station leases shall be subject to the provisions of RCW
20 79A.05.085, only: PROVIDED FURTHER, That the rates of such concessions
21 or leases shall be renegotiated at five-year intervals. No concession
22 shall be granted which will prevent the public from having free access
23 to the scenic attractions of any park or parkway.

24 (6) ~~((Employ such))~~ Authorize voluntary assistance as it deems
25 necessary. ~~((Commission))~~ Department expenses relating to its use of
26 volunteer assistance shall be limited to premiums or assessments for
27 the insurance of volunteers by the department of labor and industries,
28 compensation of staff who assist volunteers, materials and equipment
29 used in authorized volunteer projects, training, reimbursement of
30 volunteer travel as provided in RCW 43.03.050 and 43.03.060, and other
31 reasonable expenses relating to volunteer recognition. The
32 ~~((commission))~~ department, at its discretion, may waive ~~((commission))~~
33 department fees otherwise applicable to volunteers. The ~~((commission))~~
34 department shall not use volunteers to replace or supplant classified
35 positions. The use of volunteers may not lead to the elimination of
36 any employees or permanent positions in the bargaining unit.

37 (7) ~~((By majority vote of its authorized membership))~~ Select and
38 purchase or obtain options upon, lease, or otherwise acquire for and in

1 the name of the state such tracts of land, including shore and tide
2 lands, for park and parkway purposes as it deems proper. If the
3 (~~commission~~) department cannot acquire any tract at a price it deems
4 reasonable, it may(~~(, by majority vote of its authorized membership,)~~)
5 obtain title thereto, or any part thereof, by condemnation proceedings
6 conducted by the attorney general as provided for the condemnation of
7 rights-of-way for state highways. Option agreements executed under
8 authority of this subsection shall be valid only if:

9 (a) The cost of the option agreement does not exceed one dollar;
10 and

11 (b) Moneys used for the purchase of the option agreement are from
12 (i) funds appropriated therefor, or (ii) funds appropriated for
13 undesignated land acquisitions, or (iii) funds deemed by the
14 (~~commission~~) department to be in excess of the amount necessary for
15 the purposes for which they were appropriated; and

16 (c) The maximum amount payable for the property upon exercise of
17 the option does not exceed the appraised value of the property.

18 (8) Cooperate with the United States, or any county or city of this
19 state, in any matter pertaining to the acquisition, development,
20 redevelopment, renovation, care, control, or supervision of any park or
21 parkway, and enter into contracts in writing to that end. All parks or
22 parkways, to which the state contributed or in whose care, control, or
23 supervision the state participated pursuant to the provisions of this
24 section, shall be governed by the provisions hereof.

25 (9) Within allowable resources, maintain policies that increase the
26 number of people who have access to free or low-cost recreational
27 opportunities for physical activity, including noncompetitive physical
28 activity.

29 (10) Adopt rules establishing the requirements for a criminal
30 history record information search for the following: Job applicants,
31 volunteers, and independent contractors who have unsupervised access to
32 children or vulnerable adults, or who will be responsible for
33 collecting or disbursing cash or processing credit/debit card
34 transactions. These background checks will be done through the
35 Washington state patrol criminal identification section and may include
36 a national check from the federal bureau of investigation, which shall
37 be through the submission of fingerprints. A permanent employee of the

1 ((~~commission~~)) department, employed as of July 24, 2005, is exempt from
2 the provisions of this subsection.

3 **Sec. 3007.** RCW 79A.05.035 and 1999 c 249 s 303 are each amended to
4 read as follows:

5 (1) The ((~~commission~~)) department shall:

6 (a) Manage timber and land under its jurisdiction to maintain and
7 enhance aesthetic and recreational values;

8 (b) Apply modern conservation practices to maintain and enhance
9 aesthetic, recreational, and ecological resources; and

10 (c) Designate and preserve certain forest areas throughout the
11 state as natural forests or natural areas for interpretation, study,
12 and preservation purposes.

13 (2) Trees may be removed from state parks:

14 (a) When hazardous to persons, property, or facilities;

15 (b) As part of a park maintenance or development project, or
16 conservation practice;

17 (c) As part of a road or utility easement; or

18 (d) When damaged by a catastrophic forest event.

19 (3) Tree removal under subsection (2) of this section shall be done
20 by ((~~commission~~)) department personnel, unless the personnel lack
21 necessary expertise. Except in emergencies and when feasible,
22 significant trees shall be removed only after they have been marked or
23 appraised by a professional forester. The removal of significant trees
24 from a natural forest may take place only after a public hearing has
25 been held, except in emergencies.

26 (4) When feasible, felled timber shall be left on the ground for
27 natural purposes or used for park purposes including, but not limited
28 to, building projects, trail mulching, and firewood. In natural forest
29 areas, first consideration shall be given to leaving timber on the
30 ground for natural purposes.

31 (5) The ((~~commission~~)) department may issue permits to individuals
32 under RCW 4.24.210 and 79A.05.090 for the removal of wood debris from
33 state parks for personal firewood use.

34 (6) Only timber that qualifies for cutting or removal under
35 subsection (2) of this section may be sold. Timber shall be sold only
36 when surplus to the needs of the park.

1 (7) Net revenue derived from timber sales shall be deposited in the
2 state parks renewal and stewardship account created in RCW 79A.05.215.

3 **Sec. 3008.** RCW 79A.05.040 and 1999 c 249 s 401 are each amended to
4 read as follows:

5 (~~In addition to other duties the commission may from time to time~~
6 ~~impose,~~) It is the duty of the director or the director's designee to:

7 (1) Ensure the control of weeds in parks to the extent required by
8 RCW 17.04.160 and 17.10.205; and

9 (2) Participate in the operations of the environmental enhancement
10 and job creation task force under chapter 43.21J RCW.

11 The director or the director's designee has the power reasonably
12 necessary to carry out these duties.

13 **Sec. 3009.** RCW 79A.05.045 and 1999 c 249 s 304 are each amended to
14 read as follows:

15 (1) The (~~commission~~) department shall provide waste reduction and
16 recycling information in each state park campground and day-use area.

17 (2) The (~~commission~~) department shall provide recycling
18 receptacles in the day-use and campground areas of at least forty state
19 parks. The receptacles shall be clearly marked for the disposal of at
20 least two of the following recyclable materials: Aluminum, glass,
21 newspaper, plastic, and tin. The (~~commission~~) department shall
22 endeavor to provide recycling receptacles in parks that are near urban
23 centers or in heavily used parks.

24 (3) The (~~commission~~) department shall provide daily maintenance
25 of such receptacles from April through September of each year.

26 (4) The (~~commission~~) department is authorized to enter into
27 agreements with any person, company, or nonprofit organization to
28 provide for the collection and transport of recyclable materials and
29 related activities under this section.

30 **Sec. 3010.** RCW 79A.05.050 and 2002 c 175 s 52 are each amended to
31 read as follows:

32 (1) The (~~commission~~) department shall establish a policy and
33 procedures for supervising and evaluating community restitution
34 activities that may be imposed under RCW 70.93.060(3) including a

1 description of what constitutes satisfactory completion of community
2 restitution.

3 (2) The ((~~commission~~)) department shall inform each state park of
4 the policy and procedures regarding community restitution activities,
5 and each state park shall then notify the ((~~commission~~)) department as
6 to whether or not the park elects to participate in the community
7 restitution program. The ((~~commission~~)) department shall transmit a
8 list notifying the district courts of each state park that elects to
9 participate.

10 **Sec. 3011.** RCW 79A.05.055 and 1997 c 137 s 1 are each amended to
11 read as follows:

12 The ((~~commission~~)) department may:

13 (1) Study and appraise parks and recreational needs of the state
14 and assemble and disseminate information relative to parks and
15 recreation;

16 (2) Make provisions for the publication and sale of interpretive,
17 recreational, and historical materials and literature. Proceeds from
18 such sales shall be directed to the parks improvement account; and

19 (3) Coordinate the parks and recreational functions of the various
20 state departments, and cooperate with state and federal agencies in the
21 promotion of parks and recreational opportunities.

22 **Sec. 3012.** RCW 79A.05.059 and 2010 c 161 s 1162 are each amended
23 to read as follows:

24 The state parks education and enhancement account is created in the
25 custody of the state treasurer. All receipts from the sale of
26 Washington state department of conservation and recreation, division of
27 parks and recreation ((~~commission~~)) special license plates, after the
28 deductions permitted by RCW 46.68.425, must be deposited into the
29 account. Expenditures from the account may only be used to provide
30 public educational opportunities and enhancement of Washington state
31 parks. Only the director or the director's designee may authorize
32 expenditures from the account. The account is subject to allotment
33 procedures under chapter 43.88 RCW, but an appropriation is not
34 required for expenditures.

1 **Sec. 3013.** RCW 79A.05.060 and 1999 c 249 s 402 are each amended to
2 read as follows:

3 (1) The parks improvement account is hereby established in the
4 state treasury.

5 (2) The (~~commission~~) department shall deposit all moneys received
6 from the sale of interpretive, recreational, and historical literature
7 and materials in this account. Moneys in the account may be spent only
8 for development, production, and distribution costs associated with
9 literature and materials.

10 (3) Disbursements from the account shall be on the authority of the
11 director, or the director's designee. The account is subject to the
12 allotment procedure provided under chapter 43.88 RCW. No appropriation
13 is required for disbursement of moneys to be used for support of
14 further production of materials provided for in RCW 79A.05.055(2). The
15 director may transfer a portion of the moneys in this account to the
16 state parks renewal and stewardship account and may expend moneys so
17 transferred for any purpose provided for in RCW 79A.05.215.

18 **Sec. 3014.** RCW 79A.05.065 and 2010 c 161 s 1163 are each amended
19 to read as follows:

20 (1)(a) The (~~commission~~) department shall grant to any person who
21 meets the eligibility requirements specified in this section a senior
22 citizen's pass which shall: (i) Entitle such a person, and members of
23 his or her camping unit, to a fifty percent reduction in the campsite
24 rental fee prescribed by the (~~commission~~) department; and (ii)
25 entitle such a person to free admission to any state park.

26 (b) The (~~commission~~) department shall grant a senior citizen's
27 pass to any person who applies for the senior citizen's pass and who
28 meets the following requirements:

29 (i) The person is at least sixty-two years of age;

30 (ii) The person is a domiciliary of the state of Washington and
31 meets reasonable residency requirements prescribed by the
32 (~~commission~~) department; and

33 (iii) The person and his or her spouse have a combined income that
34 would qualify the person for a property tax exemption pursuant to RCW
35 84.36.381. The financial eligibility requirements of this subsection
36 (1)(b)(iii) apply regardless of whether the applicant for a senior

1 citizen's pass owns taxable property or has obtained or applied for
2 such property tax exemption.

3 (c) Each senior citizen's pass granted pursuant to this section is
4 valid as long as the senior citizen meets the requirements of (b)(ii)
5 of this subsection. A senior citizen meeting the eligibility
6 requirements of this section may make a voluntary donation for the
7 upkeep and maintenance of state parks.

8 (d) A holder of a senior citizen's pass shall surrender the pass
9 upon request of a (~~commission~~) department employee when the employee
10 has reason to believe the holder fails to meet the criteria in (b) of
11 this subsection. The holder shall have the pass returned upon
12 providing proof to the satisfaction of the director that the holder
13 meets the eligibility criteria for obtaining the senior citizen's pass.

14 (2)(a) Any resident of Washington who is disabled as defined by the
15 social security administration and who receives social security
16 benefits for that disability, or any other benefits for that disability
17 from any other governmental or nongovernmental source, or who is
18 entitled to benefits for permanent disability under RCW 71A.10.020(3)
19 due to unemployability full time at the minimum wage, or who is legally
20 blind or profoundly deaf, or who has been issued a card, decal, or
21 special license plate for a permanent disability under RCW
22 (~~46.16.381~~) 46.19.010 shall be entitled to receive, regardless of age
23 and upon making application therefor, a disability pass at no cost to
24 the holder. The pass shall: (i) Entitle such a person, and members of
25 his or her camping unit, to a fifty percent reduction in the campsite
26 rental fee prescribed by the (~~commission~~) department; and (ii)
27 entitle such a person to free admission to any state park.

28 (b) A card, decal, or special license plate issued for a permanent
29 disability under RCW 46.19.010 may serve as a pass for the holder to
30 entitle that person and members of the person's camping unit to a fifty
31 percent reduction in the campsite rental fee prescribed by the
32 (~~commission~~) department, and to allow the holder free admission to
33 state parks.

34 (3) Any resident of Washington who is a veteran and has a service-
35 connected disability of at least thirty percent shall be entitled to
36 receive a lifetime veteran's disability pass at no cost to the holder.
37 The pass shall: (a) Entitle such a person, and members of his or her

1 camping unit, to free use of any campsite within any state park; (b)
2 entitle such a person to free admission to any state park; and (c)
3 entitle such a person to an exemption from any reservation fees.

4 (4)(a) Any Washington state resident who provides out-of-home care
5 to a child, as either a licensed foster-family home or a person related
6 to the child, is entitled to a foster home pass.

7 (b) An applicant for a foster home pass must request a pass in the
8 manner required by the ((~~commission~~)) department. Upon receipt of a
9 properly submitted request, the ((~~commission~~)) department shall verify
10 with the department of social and health services that the applicant
11 qualifies under (a) of this subsection. Once issued, a foster home
12 pass is valid for the period, which may not be less than one year,
13 designated by the ((~~commission~~)) department.

14 (c) When accompanied by a child receiving out-of-home care from the
15 pass holder, a foster home pass: (i) Entitles such a person, and
16 members of his or her camping unit, to free use of any campsite within
17 any state park; and (ii) entitles such a person to free admission to
18 any state park.

19 (d) For the purposes of this subsection (4):

20 (i) "Out-of-home care" means placement in a foster-family home or
21 with a person related to the child under the authority of chapter
22 13.32A, 13.34, or 74.13 RCW;

23 (ii) "Foster-family home" has the same meaning as defined in RCW
24 74.15.020; and

25 (iii) "Person related to the child" means those persons referred to
26 in RCW 74.15.020(2)(a) (i) through (vi).

27 (5) All passes issued pursuant to this section are valid at all
28 parks any time during the year. However, the pass is not valid for
29 admission to concessionaire operated facilities.

30 (6) The ((~~commission~~)) department shall negotiate payment and
31 costs, to allow holders of a foster home pass free access and usage of
32 park campsites, with the following nonoperated, nonstate-owned parks:
33 Central Ferry, Chief Timothy, Crow Butte, and Lyons Ferry. The
34 ((~~commission~~)) department shall seek state general fund reimbursement
35 on a biennial basis.

36 (7) The ((~~commission~~)) department may deny or revoke any Washington
37 state park pass issued under this section for cause, including but not
38 limited to the following:

- 1 (a) Residency outside the state of Washington;
- 2 (b) Violation of laws or state park rules resulting in eviction
3 from a state park;
- 4 (c) Intimidating, obstructing, or assaulting a park employee or
5 park volunteer who is engaged in the performance of official duties;
- 6 (d) Fraudulent use of a pass;
- 7 (e) Providing false information or documentation in the application
8 for a state parks pass;
- 9 (f) Refusing to display or show the pass to park employees when
10 requested; or
- 11 (g) Failing to provide current eligibility information upon request
12 by the agency or when eligibility ceases or changes.
- 13 (8) This section shall not affect or otherwise impair the power of
14 the ((~~commission~~)) department to continue or discontinue any other
15 programs it has adopted for senior citizens.
- 16 (9) The ((~~commission~~)) department may engage in a mutually agreed
17 upon reciprocal or discounted program for all or specific pass programs
18 with other outdoor recreation agencies.
- 19 (10) The ((~~commission~~)) department shall adopt those rules as it
20 finds appropriate for the administration of this section. Among other
21 things, the rules shall prescribe a definition of "camping unit" which
22 will authorize a reasonable number of persons traveling with the person
23 having a pass to stay at the campsite rented by such a person, a
24 minimum Washington residency requirement for applicants for a senior
25 citizen's pass, and an application form to be completed by applicants
26 for a senior citizen's pass.

27 **Sec. 3015.** RCW 79A.05.070 and 2006 c 141 s 1 are each amended to
28 read as follows:

29 The ((~~commission~~)) department may:

30 (1) Make rules and regulations for the proper administration of its
31 duties;

32 (2) Accept any grants of funds made with or without a matching
33 requirement by the United States, or any agency thereof, for purposes
34 in keeping with the purposes of this chapter; accept gifts, bequests,
35 devises and endowments for purposes in keeping with such purposes;
36 enter into cooperative agreements with and provide for private
37 nonprofit groups to use state park property and facilities to raise

1 money to contribute gifts, grants, and support to the ((~~commission~~))
2 department for the purposes of this chapter. The ((~~commission~~))
3 department may assist the nonprofit group in a cooperative effort by
4 providing necessary agency personnel and services, if available.
5 However, none of the moneys raised may inure to the benefit of the
6 nonprofit group, except in furtherance of its purposes to benefit the
7 ((~~commission~~)) department as provided in this chapter. The agency and
8 the private nonprofit group shall agree on the nature of any project to
9 be supported by such gift or grant prior to the use of any agency
10 property or facilities for raising money. Any such gifts may be in the
11 form of recreational facilities developed or built in part or in whole
12 for public use on agency property, provided that the facility is
13 consistent with the purposes of the agency;

14 (3) Require certification by the ((~~commission~~)) department of all
15 ((~~parks and recreation~~)) division workers employed in state aided or
16 state controlled programs;

17 (4) Act jointly, when advisable, with the United States, any other
18 state agencies, institutions, departments, boards, or commissions in
19 order to carry out the objectives and responsibilities of this chapter;

20 (5) Grant franchises and easements for any legitimate purpose on
21 parks or parkways, for such terms and subject to such conditions and
22 considerations as the ((~~commission~~)) department shall specify;

23 (6) Charge such fees for services, utilities, and use of facilities
24 as the ((~~commission~~)) department shall deem proper. The ((~~commission~~))
25 department may not charge fees for general park access or parking;

26 (7) Enter into agreements whereby individuals or companies may rent
27 undeveloped parks or parkway land for grazing, agricultural, or mineral
28 development purposes (~~upon such terms and conditions as the commission~~
29 ~~shall deem proper~~), for a term not to exceed forty years; and

30 (~~(8) ((Determine the qualifications of and employ a director of~~
31 ~~parks and recreation who shall receive a salary as fixed by the~~
32 ~~governor in accordance with the provisions of RCW 43.03.040 and~~
33 ~~determine the qualifications and salary of and employ such other~~
34 ~~persons as may be needed to carry out the provisions hereof; and~~

35 (+9)) Without being limited to the powers ((~~hereinbefore~~))
36 enumerated, the ((~~commission~~)) department shall have such other powers
37 as in the judgment of a majority of its members are deemed necessary to
38 effectuate the purposes of this chapter: PROVIDED, That the

1 ((~~commission~~)) department shall not have power to supervise directly
2 any local park or recreation district, and no funds shall be made
3 available for such purpose.

4 **Sec. 3016.** RCW 79A.05.080 and 1965 c 8 s 43.51.062 are each
5 amended to read as follows:

6 The ((~~state parks and recreation commission~~)) department is hereby
7 authorized to lease the use of such areas in Mount Spokane state park,
8 Steptoe Butte state park, Kamiak Butte state park or any other state
9 park for television stations as the ((~~commission~~)) department may
10 decide are suitable for that purpose: PROVIDED, That this authority
11 shall not extend to school lands or lands held by the state of
12 Washington for educational purposes.

13 **Sec. 3017.** RCW 79A.05.085 and 1974 ex.s. c 151 s 1 are each
14 amended to read as follows:

15 The ((~~commission~~)) department shall determine the fair market value
16 for television station leases based upon independent appraisals and
17 existing leases for television stations shall be extended at said fair
18 market rental for at least one period of not more than twenty years:
19 PROVIDED, That the rates in said leases shall be renegotiated at five
20 year intervals: PROVIDED FURTHER, That said stations shall permit the
21 attachment of antennae of publicly operated broadcast and microwave
22 stations where electronically practical to combine the towers:
23 PROVIDED FURTHER, That notwithstanding any term to the contrary in any
24 lease, this section shall not preclude the ((~~commission~~)) department
25 from prescribing new and reasonable lease terms relating to the
26 modification, placement or design of facilities operated by or for a
27 station, and any extension of a lease granted under this section shall
28 be subject to this proviso(~~(:—PROVIDED FURTHER, That notwithstanding~~
29 ~~any other provision of law the director in his discretion may waive any~~
30 ~~requirement that any environmental impact statement or environmental~~
31 ~~assessment be submitted as to any lease negotiated and signed between~~
32 ~~January 1, 1974 and December 31, 1974))~~).

33 **Sec. 3018.** RCW 79A.05.090 and 1983 c 193 s 1 are each amended to
34 read as follows:

35 Persons over the age of sixty-five are exempt from any permit or

1 other administrative fee imposed by the ((~~commission~~)) department for
2 the collection of wood debris in state parks, if such wood is for
3 personal use.

4 **Sec. 3019.** RCW 79A.05.095 and 1999 c 249 s 901 are each amended to
5 read as follows:

6 The ((~~commission~~)) director may receive and accept donations of
7 lands for state park purposes, and shall be responsible for the
8 management and control of all lands so acquired. ((~~It~~)) The director
9 may from time to time recommend to the legislature the acquisition of
10 lands for park purposes by purchase or condemnation.

11 **Sec. 3020.** RCW 79A.05.100 and 1997 c 137 s 3 are each amended to
12 read as follows:

13 The ((~~commission~~)) director may receive in trust any money donated
14 or bequeathed to it, and carry out the terms of such donation or
15 bequest, or, in the absence of such terms, expend the same as it may
16 deem advisable for park or parkway purposes.

17 Money so received shall be deposited in the state parks renewal and
18 stewardship account.

19 **Sec. 3021.** RCW 79A.05.105 and 1965 c 8 s 43.51.100 are each
20 amended to read as follows:

21 Inasmuch as the value of land with standing timber is increasing
22 and will continue to increase from year to year and no loss will be
23 caused to the common school fund or other fund into which the proceeds
24 of the sale of any land held by the state would be paid by postponing
25 the sale thereof, the commissioner of public lands may, upon his or her
26 own motion, and shall, when directed so to do by the ((~~state parks and~~
27 ~~recreation commission~~)) department, withdraw from sale any land held by
28 the state abutting on any public highway and certify to the
29 ((~~commission~~)) director that such land is withheld from sale pursuant
30 to the terms of this section.

31 Such lands shall not be sold until directed by the legislature, and
32 shall in the meantime be under the care, charge, control, and
33 supervision of the ((~~commission~~)) department.

1 **Sec. 3022.** RCW 79A.05.110 and 1999 c 249 s 902 are each amended to
2 read as follows:

3 The commissioner of public lands may, upon his or her own motion,
4 and shall, when directed so to do by the ~~((commission))~~ director,
5 withdraw from sale any land held by the state and not acquired directly
6 from the United States with reservations as to the manner of sale
7 thereof and the purposes for which it may be sold, and certify to the
8 ~~((commission))~~ department that such land is withheld from sale pursuant
9 to the terms of this section.

10 All such land shall be under the care, charge, control, and
11 supervision of the ~~((commission))~~ department, and after appraisal in
12 such manner as the ~~((commission))~~ department directs may be exchanged
13 for land of equal value, and to this end the ~~((chair and secretary of~~
14 ~~the commission))~~ director may execute deeds of conveyance in the name
15 of the state.

16 **Sec. 3023.** RCW 79A.05.115 and 2009 c 338 s 1 are each amended to
17 read as follows:

18 (1) The ~~((commission))~~ department shall develop and maintain a
19 cross-state trail facility with appropriate appurtenances.

20 (2) This section expires July 1, 2019, unless the department of
21 transportation enters into a franchise agreement for a rail line over
22 any of the portions of the Milwaukee Road corridor between Ellensburg
23 and Marengo by July 1, 2019.

24 **Sec. 3024.** RCW 79A.05.120 and 2009 c 338 s 2 are each amended to
25 read as follows:

26 (1) To facilitate completion of a cross-state trail under the
27 management of the ~~((parks and recreation commission))~~ department,
28 management and control of lands known as the Milwaukee Road corridor
29 shall be transferred between state agencies as follows on the date a
30 franchise agreement is entered into for a rail line over portions of
31 the Milwaukee Road corridor:

32 (a) Portions owned by the state between Ellensburg and the Columbia
33 river that are managed by the ~~((parks and recreation commission))~~
34 department are transferred to the department of transportation;

35 (b) Portions owned by the state between the west side of the

1 Columbia river and Royal City Junction and between Warden and Lind that
2 are managed by the department of natural resources are transferred to
3 the department of transportation;

4 (c) Portions owned by the state between Lind and the Idaho border
5 that are managed by the department of natural resources are transferred
6 to the (~~(parks and recreation commission))~~ department as of June 7,
7 2006; and

8 (d) Portions owned by the state between Lind and Marengo are
9 transferred to the department of transportation.

10 (2) The department of natural resources may, by mutual agreement
11 with the (~~(parks and recreation commission))~~ department, transfer
12 management authority over portions of the Milwaukee Road corridor to
13 the (~~(state parks and recreation commission))~~ department, at any time
14 prior to the department of transportation entering into a franchise
15 agreement.

16 (3) This section expires July 1, 2019, and no transfers shall occur
17 unless the department of transportation enters into a franchise
18 agreement for a rail line over any of the portions of the Milwaukee
19 Road corridor between Ellensburg and Marengo by July 1, 2019.

20 **Sec. 3025.** RCW 79A.05.125 and 2009 c 338 s 3 are each amended to
21 read as follows:

22 (1) The department of transportation shall negotiate one or more
23 franchises with rail carriers to establish and maintain a rail line
24 over portions of the Milwaukee Road corridor owned by the state between
25 Ellensburg and Marengo. The department of transportation may negotiate
26 such a franchise with any qualified rail carrier. Criteria for
27 negotiating the franchise and establishing the right-of-way include:

28 (a) Assurances that resources from the franchise will be sufficient
29 to compensate the state for use of the property, including completion
30 of a cross-state trail between Easton and the Idaho border;

31 (b) Types of payment for use of the franchise, including payment
32 for the use of federally granted trust lands in the transportation
33 corridor;

34 (c) Standards for maintenance of the line;

35 (d) Provisions ensuring that both the conventional and intermodal
36 rail service needs of local shippers are met. Such accommodations may

1 comprise agreements with the franchisee to offer or maintain adequate
2 service or to provide service by other carriers at commercially
3 reasonable rates;

4 (e) Provisions requiring the franchisee, upon reasonable request of
5 any other rail operator, to provide rail service and interchange
6 freight over what is commonly known as the Stampede Pass rail line from
7 Cle Elum to Auburn at commercially reasonable rates;

8 (f) If any part of the franchise agreement is invalidated by
9 actions or rulings of the federal surface transportation board or a
10 court of competent jurisdiction, the remaining portions of the
11 franchise agreement are not affected;

12 (g) Compliance with environmental standards; and

13 (h) Provisions for insurance and the coverage of liability.

14 (2) The franchise may provide for periodic review of financial
15 arrangements under the franchise.

16 (3) The department of transportation, in consultation with the
17 (~~(parks and recreation commission)~~) department and the senate and house
18 transportation committees, shall negotiate the terms of the franchise,
19 and shall present the agreement to the (~~(parks and recreation~~
20 ~~commission)~~) department for approval of as to terms and provisions
21 affecting the cross-state trail or affecting the (~~(commission)~~)
22 department.

23 (4) This section expires July 1, 2019, unless the department of
24 transportation enters into a franchise agreement for a rail line over
25 any of the portions of the Milwaukee Road corridor between Ellensburg
26 and Marengo by July 1, 2019.

27 **Sec. 3026.** RCW 79A.05.130 and 2009 c 338 s 4 are each amended to
28 read as follows:

29 (1) The cross-state trail account is created in the custody of the
30 state treasurer. Eleven million five hundred thousand dollars is
31 provided to the (~~(state parks and recreation commission)~~) department to
32 acquire, construct, and maintain a cross-state trail. This amount may
33 consist of: (a) Legislative appropriations intended for trail
34 development; (b) payments for the purchase of federally granted trust
35 lands; and (c) franchise fees derived from use of the rail corridor.
36 The legislature intends that any amounts provided from the

1 transportation fund are to be repaid to the transportation fund from
2 franchise fees.

3 (2) The department of transportation shall deposit franchise fees
4 from use of the rail corridor according to the following priority: (a)
5 To the department of transportation for actual costs incurred in
6 administering the franchise; (b) to the department of natural resources
7 as compensation for use of federally granted trust lands in the rail
8 corridor; (c) to the transportation fund to reimburse any amounts
9 transferred or appropriated from that fund by the legislature for trail
10 development; (d) to the cross-state trail account, not to exceed eleven
11 million five hundred thousand dollars, provided that this amount shall
12 be reduced proportionate with any funds transferred or appropriated by
13 the 1996 legislature or paid from franchise fees for the purchase of
14 federally granted trust lands or for trail development; and (e) the
15 remainder to the essential rail assistance account, created under RCW
16 47.76.250. Expenditures from the cross-state trail account may be used
17 only for the acquisition, development, operation, and maintenance of
18 the cross-state trail. Only the director of the (~~state parks and
19 recreation commission~~) department or the director's designee may
20 authorize expenditures from the account. The account is subject to
21 allotment procedures under chapter 43.88 RCW, but no appropriation is
22 required for expenditures.

23 (3) The (~~commission~~) department may acquire land from willing
24 sellers for the cross-state trail, but not by eminent domain.

25 (4) The (~~commission~~) department shall adopt rules describing the
26 cross-state trail.

27 (5) This section expires July 1, 2019, unless the department of
28 transportation enters into a franchise agreement for a rail line over
29 any of the portions of the Milwaukee Road corridor between Ellensburg
30 and Marengo by July 1, 2019.

31 **Sec. 3027.** RCW 79A.05.140 and 1999 c 59 s 2 are each amended to
32 read as follows:

33 The (~~state parks and recreation commission~~) department may grant
34 permits to individuals, groups, churches, charities, organizations,
35 agencies, clubs, or associations to improve any state park or parkway,
36 or any lands belonging to the state and withdrawn from sale under the
37 provisions of this chapter. These improvements shall not interfere

1 with access to or use of such public lands or facilities by the general
2 public and shall benefit the public in terms of safety, recreation,
3 aesthetics, or wildlife or natural area preservation. These
4 improvements on public lands and facilities shall be for the use of all
5 members of the general public.

6 **Sec. 3028.** RCW 79A.05.145 and 1999 c 59 s 3 are each amended to
7 read as follows:

8 Any such individual, group, organization, agency, club, or
9 association desiring to obtain such permit shall make application
10 therefor in writing to the (~~commission~~) department, describing the
11 lands proposed to be improved and stating the nature of the proposed
12 improvement.

13 **Sec. 3029.** RCW 79A.05.150 and 1982 c 156 s 3 are each amended to
14 read as follows:

15 If the (~~state parks and recreation commission~~) department
16 determines that the proposed improvement will substantially alter a
17 park, parkway, or park land, it shall require the applicant to submit
18 detailed plans and specifications of the proposed improvement, which,
19 as submitted, or as modified by the (~~state parks and recreation~~
20 ~~commission~~) department, shall be incorporated in the permit when
21 granted.

22 **Sec. 3030.** RCW 79A.05.155 and 2000 c 11 s 31 are each amended to
23 read as follows:

24 If the (~~commission~~) department determines it necessary, the
25 applicant shall execute and file with the secretary of state a bond
26 payable to the state, in such penal sum as the (~~commission~~)
27 department shall require, with good and sufficient sureties to be
28 approved by the (~~commission~~) department, conditioned that the grantee
29 of the permit will make the improvement in accordance with the plans
30 and specifications contained in the permit, and, in case the
31 improvement is made upon lands withdrawn from sale under the provisions
32 of RCW 79A.05.105, will pay into the state treasury to the credit of
33 the fund to which the proceeds of the sale of such lands would belong,
34 the appraised value of all merchantable timber and material on the
35 land, destroyed, or used in making such improvement.

1 **Sec. 3031.** RCW 79A.05.160 and 1965 c 8 s 43.51.170 are each
2 amended to read as follows:

3 The (~~members of the state parks and recreation commission and such~~
4 ~~of its~~) director, and department employees as the (~~commission~~)
5 department may designate, shall be vested with police powers to enforce
6 the laws of this state.

7 **Sec. 3032.** RCW 79A.05.165 and 2007 c 441 s 2 are each amended to
8 read as follows:

9 (1) Every person is guilty of a misdemeanor who:

10 (a) Cuts, breaks, injures, destroys, takes, or removes any tree,
11 shrub, timber, plant, or natural object in any park or parkway except
12 in accordance with such rules as the (~~commission~~) department may
13 prescribe; or

14 (b) Kills, or pursues with intent to kill, any bird or animal in
15 any park or parkway except in accordance with a research pass, permit,
16 or other approval issued by the (~~commission~~) department, pursuant to
17 rule, for scientific research purposes; or

18 (c) Takes any fish from the waters of any park or parkway, except
19 in conformity with such general rules as the (~~commission~~) department
20 may prescribe; or

21 (d) Willfully mutilates, injures, defaces, or destroys any
22 guidepost, notice, tablet, fence, inclosure, or work for the protection
23 or ornamentation of any park or parkway; or

24 (e) Lights any fire upon any park or parkway, except in such places
25 as the (~~commission~~) department has authorized, or willfully or
26 carelessly permits any fire which he or she has lighted or which is
27 under his or her charge, to spread or extend to or burn any of the
28 shrubbery, trees, timber, ornaments, or improvements upon any park or
29 parkway, or leaves any campfire which he or she has lighted or which
30 has been left in his or her charge, unattended by a competent person,
31 without extinguishing it; or

32 (f) Places within any park or parkway or affixes to any object
33 therein contained, without a written license from the (~~commission~~)
34 department, any word, character, or device designed to advertise any
35 business, profession, article, thing, exhibition, matter, or event.

36 (2)(a) Except as provided in (b) of this subsection, a person who

1 violates any rule adopted, promulgated, or issued by the ((~~commission~~))
2 department pursuant to the provisions of this chapter is guilty of a
3 misdemeanor.

4 (b) The ((~~commission~~)) department may specify by rule, when not
5 inconsistent with applicable statutes, that violation of the rule is an
6 infraction under chapter 7.84 RCW.

7 **Sec. 3033.** RCW 79A.05.170 and 1991 sp.s. c 13 s 23 are each
8 amended to read as follows:

9 (1) Any lands owned by the ((~~state parks and recreation~~
10 ~~commission~~)) department, which are determined to be surplus to the
11 needs of the state for development for state park purposes and which
12 the ((~~commission~~)) director proposes to deed to a local government or
13 other entity, shall be accompanied by a clause requiring that if the
14 land is not used for outdoor recreation purposes, ownership of the land
15 shall revert to the ((~~state parks and recreation commission~~))
16 department.

17 (2) The ((~~state parks and recreation commission~~)) department, in
18 cases where land subject to such a reversionary clause is proposed for
19 use or disposal for purposes other than recreation, shall require that,
20 if the land is surplus to the needs of the ((~~commission~~)) department
21 for park purposes at the time the ((~~commission~~)) department becomes
22 aware of its proposed use for nonrecreation purposes, the holder of the
23 land or property shall reimburse the ((~~commission~~)) department for the
24 release of the reversionary interest in the land. The reimbursement
25 shall be in the amount of the fair market value of the reversionary
26 interest as determined by a qualified appraiser agreeable to the
27 ((~~commission~~)) department. Appraisal costs shall be borne by the local
28 entity which holds title to the land.

29 (3) Any funds generated under a reimbursement under this section
30 shall be deposited in the parkland acquisition account which is hereby
31 created in the state treasury. Moneys in this account are to be used
32 solely for the purchase or acquisition of property for use as state
33 park property by the ((~~commission~~)) department, as directed by the
34 legislature; all such funds shall be subject to legislative
35 appropriation.

1 **Sec. 3034.** RCW 79A.05.175 and 2007 c 145 s 1 are each amended to
2 read as follows:

3 Whenever the ((~~commission~~)) department finds that any land under
4 its control cannot advantageously be used for park purposes, it is
5 authorized to dispose of such land by the method provided in this
6 section or by the method provided in RCW 79A.05.170. If such lands are
7 school or other grant lands, control thereof shall be relinquished by
8 ((~~resolution~~)) certification of the ((~~commission~~)) director to the
9 proper state officials. If such lands were acquired under restrictive
10 conveyances by which the state may hold them only so long as they are
11 used for park purposes, they may be returned to the donor or grantors
12 by the ((~~commission~~)) department. All other such lands may be either
13 sold by the ((~~commission~~)) department to the highest bidder or
14 exchanged for other lands of equal value by the ((~~commission~~))
15 department, and all conveyance documents shall be executed by the
16 governor. All such exchanges shall be accompanied by a transfer fee,
17 to be set by the ((~~commission~~)) department and paid by the other party
18 to the transfer; such fee shall be paid into the parkland acquisition
19 account established under RCW 79A.05.170. The ((~~commission~~)) director
20 may accept sealed bids, electronic bids, or oral bids at auction. Bids
21 on all sales shall be solicited at least twenty days in advance of the
22 sale date by an advertisement appearing at least once a week for two
23 consecutive weeks in a newspaper of general circulation in the county
24 in which the land to be sold is located. If the ((~~commission~~))
25 director feels that no bid received adequately reflects the fair value
26 of the land to be sold, ((~~it~~)) the director may reject all bids, and
27 may call for new bids. All proceeds derived from the sale of such park
28 property shall be paid into the park land acquisition account. All
29 land considered for exchange shall be evaluated by the ((~~commission~~))
30 department to determine its adaptability to park usage. The equal
31 value of all lands exchanged shall first be determined by the
32 appraisals to the satisfaction of the ((~~commission~~)) department. No
33 sale or exchange of state park lands shall be made without the
34 ((~~unanimous consent of the commission~~)) approval of the director.

35 **Sec. 3035.** RCW 79A.05.178 and 2000 c 42 s 1 are each amended to
36 read as follows:

37 (1) Notwithstanding any other provision of this chapter, the

1 ((~~commission~~)) department may directly dispose of up to ten contiguous
2 acres of real property, without public auction, to resolve trespass,
3 property ownership disputes, and boundary adjustments with adjacent
4 private property owners. Real property to be disposed of under this
5 section may be disposed of only after appraisal and for at least fair
6 market value, and only if the transaction is in the best interest of
7 the state. The ((~~commission~~)) department shall cooperate with
8 potential purchasers to arrive at a mutually agreeable sales price. If
9 necessary, determination of fair market value may include the use of
10 separate independent appraisals by each party and the review of the
11 appraisals, as agreed upon by the parties. All conveyance documents
12 shall be executed by the governor. All proceeds from the disposal of
13 the property shall be paid into the park land acquisition account.
14 (~~(No disposal of real property may be made without the unanimous~~
15 ~~consent of the commission.)~~)

16 (2) Prior to the disposal of any real property under subsection (1)
17 of this section, the ((~~commission~~)) department shall hold a public
18 hearing on the proposal in the county where the real property, or the
19 greatest portion of the real property, is located. At least ten days,
20 but not more than twenty-five days, prior to the hearing, the
21 ((~~commission~~)) department shall publish a paid public notice of
22 reasonable size in display advertising form, setting forth the date,
23 time, and place of the hearing, at least once in one or more daily
24 newspapers of general circulation in the county and at least once in
25 one or more weekly newspapers circulated in the area where the real
26 property is located. A news release concerning the public hearing must
27 be disseminated among print and electronic media in the area where the
28 real property is located. The public notice and news release shall
29 also identify the real property involved in the proposed disposal and
30 describe the purpose of the proposed disposal. A summary of the
31 testimony presented at the public hearing shall be prepared for the
32 ((~~commission's~~)) director's consideration when reviewing the proposed
33 disposal of real property.

34 (3) If there is a failure to substantially comply with the
35 procedures set out under this section, then the agreement to dispose of
36 the real property is subject to being declared invalid by a court of
37 competent jurisdiction. Such a suit must be brought within one year of
38 the date of the real property disposal agreement.

1 **Sec. 3036.** RCW 79A.05.180 and 1998 c 42 s 2 are each amended to
2 read as follows:

3 Before the director (~~((of parks and recreation presents a proposed~~
4 ~~exchange to the parks and recreation commission))~~ makes a decision
5 involving an exchange of state land pursuant to this chapter, the
6 director shall hold a public hearing on the proposal in the county
7 where the state lands or the greatest proportion thereof is located.
8 Ten days but not more than twenty-five days prior to such hearing, the
9 director shall publish a paid public notice of reasonable size in
10 display advertising form, setting forth the date, time, and place of
11 the hearing, at least once in one or more daily newspapers of general
12 circulation in the county and at least once in one or more weekly
13 newspapers circulated in the area where the state owned land is
14 located. A news release pertaining to the hearing shall be
15 disseminated among printed and electronic media in the area where the
16 state land is located. The public notice and news release also shall
17 identify lands involved in the proposed exchange and describe the
18 purposes of the exchange and proposed use of the lands involved. A
19 summary of the testimony presented at the hearings shall be prepared
20 for the (~~commission's~~) director's consideration when reviewing the
21 (~~director's~~) exchange proposal. If there is a failure to
22 substantially comply with the procedures set forth in this section,
23 then the exchange agreement shall be subject to being declared invalid
24 by a court. Any such suit must be brought within one year from the
25 date of the exchange agreement.

26 **Sec. 3037.** RCW 79A.05.185 and 1999 c 249 s 904 are each amended to
27 read as follows:

28 To encourage the development of the Puget Sound country as a
29 recreational boating area, the (~~commission~~) department is authorized
30 to establish landing, launch ramp, and other facilities for small
31 pleasure boats at places on Puget Sound frequented by such boats and
32 where the (~~commission~~) department shall find such facilities will be
33 of greatest advantage to the users of pleasure boats. The
34 (~~commission~~) department is authorized to acquire land or to make use
35 of lands belonging to the state for such purposes, and to construct the
36 necessary floats, launch ramp, and other desirable structures and to

1 make such further development of any area used in connection therewith
2 as in the judgment of the ((~~commission~~)) department is best calculated
3 to facilitate the public enjoyment thereof.

4 **Sec. 3038.** RCW 79A.05.195 and 1999 c 249 s 905 are each amended to
5 read as follows:

6 (1) The ((~~commission~~)) department shall develop a cost-effective
7 plan to identify historic archaeological resources in at least one
8 state park containing a military fort located in Puget Sound. The plan
9 shall include the use of a professional archaeologist and volunteer
10 citizens.

11 (2) Any park land that is made available for use by recreational
12 metal detectors under this section shall count toward the requirements
13 established in RCW 79A.05.190.

14 **Sec. 3039.** RCW 79A.05.200 and 2000 c 11 s 32 are each amended to
15 read as follows:

16 The department shall have all the powers, functions, and duties
17 ~~((heretofore exercised by the department of fish and wildlife, or its~~
18 ~~director,))~~ respecting the management, control, and operation of the
19 following enumerated tidelands, which are presently suitable for public
20 recreational use, ~~((are hereby transferred to the parks and recreation~~
21 ~~commission which shall also have respecting such tidelands all the~~
22 ~~powers conferred by this chapter,))~~ as now or hereafter amended,
23 respecting parks and parkways:

24 Parcel No. 1. (Toandos Peninsula) The tidelands of the second
25 class, owned by the state of Washington, situate in front of, adjacent
26 to, or abutting upon lots 1, 2, and 3, section 5, lots 1, 2, and 3,
27 section 4, and lot 1, section 3, all in township 25 north, range 1
28 west, W.M., with a frontage of 158.41 lineal chains, more or less.

29 Parcel No. 2. (Shine) The tidelands of the second class, owned by
30 the state of Washington, situate in front of, adjacent to, or abutting
31 upon lots 1, 2, 3 and that portion of lot 4 lying north of the south
32 8.35 chains thereof as measured along the government meander line, all
33 in section 35, township 28 north, range 1 east, W.M., with a frontage
34 of 76.70 lineal chains, more or less.

35 Subject to an easement for right-of-way for county road granted to

1 Jefferson county December 8, 1941 under application No. 1731, records
2 of department of public lands.

3 Parcel No. 3. (Mud Bay - Lopez Island) The tidelands of the second
4 class, owned by the state of Washington situate in front of, adjacent
5 to, or abutting upon lots 5, 6 and 7, section 18, lot 5, section 7 and
6 lots 3, 4, and 5, section 8, all in township 34 north, range 1 west,
7 W.M., with a frontage of 172.11 lineal chains, more or less.

8 Excepting, however, any tideland of the second class in front of
9 said lot 3, section 8 conveyed through deeds issued April 14, 1909
10 pursuant to the provisions of chapter 24, Laws of 1895 under
11 application No. 4985, records of department of public lands.

12 Parcel No. 4. (Spencer Spit) The tidelands of the second class,
13 owned by the state of Washington, situate in front of, adjacent to, or
14 abutting upon lots 1, 3, and 4, section 7, and lot 5, section 18 all in
15 township 35 north, range 1 west, W.M., with a frontage of 118.80 lineal
16 chains, more or less.

17 Parcel No. 5. (Lilliwaup) The tidelands of the second class, owned
18 by the state of Washington, lying easterly of the east line of vacated
19 state oyster reserve plat No. 133 produced southerly and situate in
20 front of, adjacent to or abutting upon lot 9, section 30, lot 8,
21 section 19 and lot 5 and the south 20 acres of lot 4, section 20, all
22 in township 23 north, range 3 west, W.M., with a frontage of 62.46
23 lineal chains, more or less.

24 **Sec. 3040.** RCW 79A.05.205 and 2000 c 11 s 33 are each amended to
25 read as follows:

26 The (~~state parks and recreation commission~~) department may take
27 appropriate action to provide public and private access, including
28 roads and docks, to and from the tidelands described in RCW 79A.05.200.

29 **Sec. 3041.** RCW 79A.05.210 and 1999 c 249 s 906 are each amended to
30 read as follows:

31 (1) The department of natural resources and the (~~commission~~)
32 department shall have authority to negotiate sales to the
33 (~~commission~~) department, for park and outdoor recreation purposes, of
34 trust lands at fair market value.

35 (2) The department of natural resources and the (~~commission~~)
36 department shall negotiate a sale to the (~~commission~~) department of

1 the lands and timber thereon identified in the joint study under
2 section 4, chapter 163, Laws of 1985, and commonly referred to as the
3 Point Lawrence trust property, San Juan county – on the extreme east
4 point of Orcas Island. Timber conservation and management practices
5 provided for in RCW 79A.05.035 and 79A.05.305 shall govern the
6 management of land and timber transferred under this subsection as of
7 the effective date of the transfer, upon payment for the property, and
8 nothing in this chapter shall be construed as restricting or otherwise
9 modifying the department of natural resources' management, control, or
10 use of such land and timber until such date.

11 **Sec. 3042.** RCW 79A.05.220 and 1987 c 466 s 3 are each amended to
12 read as follows:

13 The (~~(parks and recreation commission)~~) department and the
14 department of natural resources may periodically conduct a joint review
15 of trust lands managed by the department of natural resources to
16 identify those parcels which may be appropriate for transfer to the
17 (~~(commission)~~) department for public recreation purposes.

18 **Sec. 3043.** RCW 79A.05.225 and 1999 c 249 s 1401 are each amended
19 to read as follows:

20 In addition to its other powers, duties, and functions the
21 (~~(commission)~~) department may:

22 (1) Plan, construct, and maintain suitable facilities for winter
23 recreational activities on lands administered or acquired by the
24 (~~(commission)~~) department or as authorized on lands administered by
25 other public agencies or private landowners by agreement;

26 (2) Provide and issue upon payment of the proper fee, under RCW
27 79A.05.230, 79A.05.240, and 46.61.585, with the assistance of such
28 authorized agents as may be necessary for the convenience of the
29 public, special permits to park in designated winter recreational area
30 parking spaces;

31 (3) Administer the snow removal operations for all designated
32 winter recreational area parking spaces; and

33 (4) Compile, publish, and distribute maps indicating such parking
34 spaces, adjacent trails, and areas and facilities suitable for winter
35 recreational activities.

1 The ((~~commission~~)) department may contract with any public or
2 private agency for the actual conduct of such duties, but shall remain
3 responsible for the proper administration thereof. The ((~~commission~~))
4 department is not liable for unintentional injuries to users of lands
5 administered for winter recreation purposes under this section or under
6 RCW ((~~46.10.210~~)) 46.10.370, whether the lands are administered by the
7 ((~~commission~~)) department, by other public agencies, or by private
8 landowners through agreement with the ((~~commission~~)) department.
9 Nothing in this section prevents the liability of the ((~~commission~~))
10 department for injuries sustained by a user by reason of a known
11 dangerous artificial latent condition for which warning signs have not
12 been conspicuously posted. A road covered with snow and groomed for
13 the purposes of winter recreation consistent with this chapter and
14 chapter 46.10 RCW shall not be presumed to be a known dangerous
15 artificial latent condition for the purposes of this chapter.

16 **Sec. 3044.** RCW 79A.05.230 and 1990 c 49 s 3 are each amended to
17 read as follows:

18 The fee for the issuance of special winter recreational area
19 parking permits shall be determined by the ((~~commission~~)) department
20 after consultation with the winter recreation advisory committee. If
21 the person making application therefor is also the owner of a
22 snowmobile registered pursuant to chapter 46.10 RCW, there shall be no
23 fee for the issuance of an annual permit. All special winter
24 recreational area parking permits shall commence and expire on the
25 dates established by the ((~~commission~~)) department.

26 **Sec. 3045.** RCW 79A.05.235 and 1991 sp.s. c 13 s 6 are each amended
27 to read as follows:

28 There is hereby created the winter recreational program account in
29 the state treasury. Special winter recreational area parking permit
30 fees collected under this chapter shall be remitted to the state
31 treasurer to be deposited in the winter recreational program account
32 and shall be appropriated only to the ((~~commission~~)) department for
33 nonsnowmobile winter recreation purposes including the administration,
34 acquisition, development, operation, planning, and maintenance of
35 winter recreation facilities and the development and implementation of
36 winter recreation, safety, enforcement, and education programs. The

1 ((~~commission~~)) department may accept gifts, grants, donations, or
2 moneys from any source for deposit in the winter recreational program
3 account.

4 Any public agency in this state may develop and implement winter
5 recreation programs. The ((~~commission~~)) department may make grants to
6 public agencies and contract with any public or private agency or
7 person to develop and implement winter recreation programs.

8 **Sec. 3046.** RCW 79A.05.240 and 1982 c 11 s 4 are each amended to
9 read as follows:

10 The ((~~commission~~)) department may, after consultation with the
11 winter recreation advisory committee, adopt rules ((~~and regulations~~))
12 prohibiting or restricting overnight parking at any special state
13 winter recreational parking areas owned or administered by it. Where
14 such special state winter recreational parking areas are administered
15 by the ((~~commission~~)) department pursuant to an agreement with other
16 public agencies, such agreement may provide for prohibition or
17 restriction of overnight parking.

18 **Sec. 3047.** RCW 79A.05.250 and 2000 c 11 s 34 are each amended to
19 read as follows:

20 The ((~~commission~~)) department may adopt such rules as are necessary
21 to implement and enforce RCW 79A.05.225 through 79A.05.240 and
22 46.61.585 after consultation with the winter recreation advisory
23 committee.

24 **Sec. 3048.** RCW 79A.05.255 and 2000 c 48 s 1 and 2000 c 11 s 35 are
25 each reenacted and amended to read as follows:

26 (1) There is created a winter recreation advisory committee to
27 advise the ((~~parks and recreation commission~~)) department in the
28 administration of this chapter and to assist and advise the
29 ((~~commission~~)) department in the development of winter recreation
30 facilities and programs.

31 (2) The committee shall consist of:

32 (a) Six representatives of the nonsnowmobiling winter recreation
33 public appointed by the ((~~commission~~)) department, including a resident
34 of each of the six geographical areas of this state where

1 nonsnowmobiling winter recreation activity occurs, as defined by the
2 ((~~commission~~)) department.

3 (b) Three representatives of the snowmobiling public appointed by
4 the ((~~commission~~)) department.

5 (c) One representative of the department of natural resources, one
6 representative of the department of fish and wildlife, and one
7 representative of the Washington state association of counties, each of
8 whom shall be appointed by the director of the particular department or
9 association.

10 (3) The terms of the members appointed under subsection (2)(a) and
11 (b) of this section shall begin on October 1st of the year of
12 appointment and shall be for three years or until a successor is
13 appointed, except in the case of appointments to fill vacancies for the
14 remainder of the unexpired term: PROVIDED, That the first of these
15 members shall be appointed for terms as follows: Three members shall
16 be appointed for one year, three members shall be appointed for two
17 years, and three members shall be appointed for three years.

18 (4) Members of the committee shall be reimbursed from the winter
19 recreational program account created by RCW 79A.05.235 for travel
20 expenses as provided in RCW 43.03.050 and 43.03.060.

21 (5) The committee shall meet at times and places it determines not
22 less than twice each year and additionally as required by the committee
23 chair or by majority vote of the committee. The chair of the committee
24 shall be chosen under procedures adopted by the committee. The
25 committee shall adopt any other procedures necessary to govern its
26 proceedings.

27 (6) The director ((~~of parks and recreation~~)) or the director's
28 designee shall serve as secretary to the committee and shall be a
29 nonvoting member.

30 **Sec. 3049.** RCW 79A.05.280 and 1977 ex.s. c 281 s 4 are each
31 amended to read as follows:

32 The ((~~parks and recreation commission~~)) department is authorized to
33 accept grants or moneys from any federal or private source for support
34 of hostels. The ((~~commission~~)) department at its discretion is
35 directed to apportion and transfer any such moneys to contracting
36 agencies or political subdivisions which operate hostels: PROVIDED,
37 That the ((~~commission~~)) department shall establish rules and

1 regulations for the operation of hostels which are substantially
2 similar to the operating standards and customs established by the
3 American Youth Hostels Incorporated.

4 **Sec. 3050.** RCW 79A.05.285 and 1999 c 249 s 907 are each amended to
5 read as follows:

6 The (~~commission~~) department is authorized to evaluate and acquire
7 land under RCW (~~79.01.612~~) 79.10.030 in cooperation with the
8 department of natural resources.

9 **Sec. 3051.** RCW 79A.05.290 and 1999 c 249 s 908 are each amended to
10 read as follows:

11 The (~~commission~~) department may select land held by the
12 department of natural resources for acquisition under RCW 79A.50.010 et
13 seq.

14 **Sec. 3052.** RCW 79A.05.310 and 1998 c 245 s 66 are each amended to
15 read as follows:

16 The (~~state parks and recreation commission~~) department shall:

17 (1) Coordinate a statewide program of boating safety education
18 using to the maximum extent possible existing programs offered by the
19 United States power squadron and the United States coast guard
20 auxiliary;

21 (2) Adopt rules in accordance with chapter 34.05 RCW, consistent
22 with United States coast guard regulations, standards, and precedents,
23 as needed for the efficient administration and enforcement of this
24 section;

25 (3) Enter into agreements aiding the administration of this
26 chapter;

27 (4) Adopt and administer a casualty and accident reporting program
28 consistent with United States coast guard regulations;

29 (5) Adopt and enforce recreational boating safety rules, including
30 but not necessarily limited to equipment and navigating requirements,
31 consistent with United States coast guard regulations;

32 (6) Coordinate with local and state agencies the development of
33 biennial plans and programs for the enhancement of boating safety,
34 safety education, and enforcement of safety rules and laws; allocate
35 money appropriated to the (~~commission~~) department for these programs

1 as necessary; and accept and administer any public or private grants or
2 federal funds which are obtained for these purposes under chapter 43.88
3 RCW; and

4 (7) Take additional actions necessary to gain acceptance of a
5 program of boating safety for this state under the federal boating
6 safety act of 1971.

7 **Sec. 3053.** RCW 79A.05.320 and 2000 c 11 s 39 are each amended to
8 read as follows:

9 The (~~state parks and recreation commission~~) department shall do
10 the following with respect to the portion of the Milwaukee Road
11 corridor under its control:

12 (1) Manage the corridor as a recreational trail except when closed
13 under RCW 79A.05.325;

14 (2) Close the corridor to hunting;

15 (3) Close the corridor to all motorized vehicles except: (a)
16 Emergency or law enforcement vehicles; (b) vehicles necessary for
17 access to utility lines; and (c) vehicles necessary for maintenance of
18 the corridor, or construction of the trail;

19 (4) Comply with legally enforceable conditions contained in the
20 deeds for the corridor;

21 (5) Control weeds under the applicable provisions of chapters
22 17.04, 17.06, and 17.10 RCW; and

23 (6) Clean and maintain culverts.

24 **Sec. 3054.** RCW 79A.05.325 and 1989 c 129 s 3 are each amended to
25 read as follows:

26 The (~~state parks and recreation commission~~) department may do the
27 following with respect to the portion of the Milwaukee Road corridor
28 under its control:

29 (1) Enter into agreements to allow the realignment or modification
30 of public roads, farm crossings, water conveyance facilities, and other
31 utility crossings;

32 (2) Regulate activities and restrict uses, including, but not
33 limited to, closing portions of the corridor to reduce fire danger or
34 protect public safety;

35 (3) Place hazard warning signs and close hazardous structures;

1 (4) Renegotiate deed restrictions upon agreement with affected
2 parties; and

3 (5) Approve and process the sale or exchange of lands or easements
4 if such a sale or exchange will not adversely affect the recreational
5 potential of the corridor; and

6 (6) Manage the portion of the Milwaukee Road corridor lying between
7 the eastern corporate limits of the city of Kittitas and the eastern
8 end of the corridor under ((~~commission~~)) department control for
9 recreational access limited to holders of permits issued by the
10 ((~~commission~~)) department. The ((~~commission~~)) department shall, for
11 the purpose of issuing permits for corridor use, adopt rules necessary
12 for the orderly and safe use of the corridor and the protection of
13 adjoining landowners, which may include restrictions on the total
14 numbers of permits issued, numbers in a permitted group, and periods
15 during which the corridor is available for permitted users. The
16 ((~~commission~~)) department may increase recreational management of this
17 portion of the corridor and eliminate the permit system as it
18 determines in its discretion based upon available funding and other
19 resources.

20 **Sec. 3055.** RCW 79A.05.330 and 1984 c 174 s 5 are each amended to
21 read as follows:

22 The ((~~state parks and recreation commission~~)) department shall
23 identify opportunities and encourage volunteer work, private
24 contributions, and support from tax-exempt foundations to develop,
25 operate, and maintain the recreation trail on the portion of the
26 Milwaukee Road under its control.

27 **Sec. 3056.** RCW 79A.05.335 and 1991 c 107 s 1 are each amended to
28 read as follows:

29 The legislature finds that the lands owned and managed by the
30 ((~~state parks and recreation commission~~)) department are a significant
31 collection of valuable natural, historical, and cultural resources for
32 the citizens of Washington state. The legislature further finds that
33 if citizens understand and appreciate the state park ecological
34 resources, they will come to appreciate and understand the ecosystems
35 and natural resources throughout the state. Therefore, the ((~~state~~

1 ~~parks and recreation commission~~)) department may increase the use of
2 its facilities and resources to provide environmental interpretation
3 throughout the state parks system.

4 **Sec. 3057.** RCW 79A.05.340 and 1991 c 107 s 2 are each amended to
5 read as follows:

6 The (~~state parks and recreation commission~~)) department may
7 provide environmental interpretative activities for visitors to state
8 parks that:

9 (1) Explain the functions, history, and cultural aspects of
10 ecosystems;

11 (2) Explain the relationship between human needs, human behaviors
12 and attitudes, and the environment; and

13 (3) Offer experiences and information to increase citizen
14 appreciation and stewardship of the environment and its multiple uses.

15 **Sec. 3058.** RCW 79A.05.345 and 1991 c 107 s 3 are each amended to
16 read as follows:

17 The (~~state parks and recreation commission~~)) department may
18 consult and enter into agreements with and solicit assistance from
19 private sector organizations and other governmental agencies that are
20 interested in conserving and interpreting Washington's environment.
21 The (~~commission~~)) department shall not permit commercial advertising
22 in state park lands or interpretive centers as a condition of such
23 agreements. Logos or credit lines for sponsoring organizations may be
24 permitted. The (~~commission~~)) department shall maintain an accounting
25 of all monetary gifts provided, and expenditures of monetary gifts
26 shall not be used to increase personnel.

27 **Sec. 3059.** RCW 79A.05.351 and 2007 c 176 s 2 are each amended to
28 read as follows:

29 (1) The outdoor education and recreation grant program is hereby
30 created, subject to the availability of funds in the outdoor education
31 and recreation account. The (~~commission~~)) department shall establish
32 and implement the program by rule to provide opportunities for public
33 agencies, private nonprofit organizations, formal school programs,
34 nonformal after-school programs, and community-based programs to

1 receive grants from the account. Programs that provide outdoor
2 education opportunities to schools shall be fully aligned with the
3 state's essential academic learning requirements.

4 (2) The program shall be phased in beginning with the schools and
5 students with the greatest needs in suburban, rural, and urban areas of
6 the state. The program shall focus on students who qualify for free
7 and reduced-price lunch, who are most likely to fail academically, or
8 who have the greatest potential to drop out of school.

9 (3) The director shall set priorities and develop criteria for the
10 awarding of grants to outdoor environmental, ecological, agricultural,
11 or other natural resource-based education and recreation programs
12 considering at least the following:

13 (a) Programs that contribute to the reduction of academic failure
14 and dropout rates;

15 (b) Programs that make use of research-based, effective
16 environmental, ecological, agricultural, or other natural resource-
17 based education curriculum;

18 (c) Programs that contribute to healthy life styles through outdoor
19 recreation and sound nutrition;

20 (d) Various Washington state parks as venues and use of the
21 (~~commission's~~) department's personnel as a resource;

22 (e) Programs that maximize the number of participants that can be
23 served;

24 (f) Programs that will commit matching and in-kind resources;

25 (g) Programs that create partnerships with public and private
26 entities;

27 (h) Programs that provide students with opportunities to directly
28 experience and understand nature and the natural world; and

29 (i) Programs that include ongoing program evaluation, assessment,
30 and reporting of their effectiveness.

31 (4) The director shall create an advisory committee to assist and
32 advise the (~~commission~~) department in the development and
33 administration of the outdoor education and recreation program. The
34 director should solicit representation on the committee from the office
35 of the superintendent of public instruction, (~~the department of fish~~
36 ~~and wildlife,~~) the business community, outdoor organizations with an
37 interest in education, and any others the (~~commission~~) director deems
38 sufficient to ensure a cross section of stakeholders. When the

1 director creates such an advisory committee, its members shall be
2 reimbursed from the outdoor education and recreation program account
3 for travel expenses as provided in RCW 43.03.050 and 43.03.060.

4 (5) The outdoor education and recreation program account is created
5 in the custody of the state treasurer. Funds deposited in the outdoor
6 education and recreation program account shall be transferred only to
7 the ((~~commission~~)) department to be used solely for the
8 ((~~commission's~~)) department's outdoor education and recreation program
9 purposes identified in this section including the administration of the
10 program. The director may accept gifts, grants, donations, or moneys
11 from any source for deposit in the outdoor education and recreation
12 program account. Any public agency in this state may develop and
13 implement outdoor education and recreation programs. The director may
14 make grants to public agencies and contract with any public or private
15 agency or person to develop and implement outdoor education and
16 recreation programs. The outdoor education and recreation program
17 account is subject to allotment procedures under chapter 43.88 RCW, but
18 an appropriation is not required for expenditures.

19 **Sec. 3060.** RCW 79A.05.355 and 1993 c 267 s 1 are each amended to
20 read as follows:

21 The ((~~state parks and recreation commission~~)) department shall act
22 as the lead agency for the establishment of underwater parks in state
23 waters and for environmental reviews of projects necessary to establish
24 underwater parks. The ((~~commission~~)) department may enter into
25 interagency agreements to facilitate timely receipt of necessary
26 permits from other state agencies and local governments.

27 **Sec. 3061.** RCW 79A.05.360 and 1999 c 249 s 1301 are each amended
28 to read as follows:

29 The ((~~commission~~)) department may establish a system of underwater
30 parks to provide for diverse recreational diving opportunities and to
31 conserve and protect unique marine resources of the state of
32 Washington. In establishing and maintaining an underwater park system,
33 the ((~~commission~~)) department may:

- 34 (1) Plan, construct, and maintain underwater parks;
- 35 (2) Acquire property and enter management agreements with other

1 units of state government for the management of lands, tidelands, and
2 bedlands as underwater parks;

3 (3) Construct artificial reefs and other underwater features to
4 enhance marine life and recreational uses of an underwater park;

5 (4) Accept gifts and donations for the benefit of underwater parks;

6 (5) Facilitate private efforts to construct artificial reefs and
7 underwater parks;

8 (6) Work with the federal government, local governments and other
9 appropriate agencies of state government, including but not limited to:
10 The department of natural resources(~~(, the department of fish and~~
11 ~~wildlife))~~) and the natural heritage council to carry out the purposes
12 of this chapter; and

13 (7) Contract with other state agencies or local governments for the
14 management of an underwater park unit.

15 **Sec. 3062.** RCW 79A.05.370 and 1993 c 267 s 4 are each amended to
16 read as follows:

17 In establishing an underwater park system, the (~~commission~~)
18 department shall seek to create diverse recreational opportunities in
19 areas throughout Washington state. The (~~commission~~) department shall
20 place a high priority upon creating units that possess unique or
21 diverse marine life or underwater natural or artificial features such
22 as shipwrecks.

23 **Sec. 3063.** RCW 79A.05.375 and 1993 c 267 s 5 are each amended to
24 read as follows:

25 The (~~commission~~) department is not liable for unintentional
26 injuries to users of underwater parks, whether the facilities are
27 administered by the (~~commission~~) department or by another entity or
28 person. However, nothing in this section prevents the liability of the
29 (~~commission~~) department for injuries sustained by a user by reason of
30 a known dangerous artificial latent condition for which warning signs
31 have not been conspicuously posted.

32 **Sec. 3064.** RCW 79A.05.380 and 2003 c 338 s 1 are each amended to
33 read as follows:

34 The legislature recognizes the increase in water-oriented
35 recreation by users of human and wind-powered, beachable vessels such

1 as kayaks, canoes, or day sailors on Washington's waters. These
2 recreationists frequently require overnight camping facilities along
3 the shores of public or private beaches. The legislature now creates
4 a water trail recreation program, to be administered by the
5 (~~Washington state parks and recreation commission~~) department. The
6 legislature recognizes that the effort to develop water trail sites is
7 a continuing need and that the (~~commission~~) department provides
8 beneficial expertise and consultation to water trail user groups,
9 agencies, and private landowners for the existing Cascadia marine trail
10 and Willapa Bay water trail.

11 **Sec. 3065.** RCW 79A.05.385 and 2003 c 338 s 2 and 2003 c 126 s 601
12 are each reenacted and amended to read as follows:

13 In addition to its other powers, duties, and functions, the
14 (~~commission~~) department may:

15 (1) Plan, construct, and maintain suitable facilities for water
16 trail activities on lands administered or acquired by the
17 (~~commission~~) department or as authorized on lands administered by
18 tribes or other public agencies or private landowners by agreement.

19 (2) Compile, publish, distribute, and charge a fee for maps or
20 other forms of public information indicating areas and facilities
21 suitable for water trail activities.

22 (3) Contract with a public agency, private entity, or person for
23 the actual conduct of these duties.

24 (4) Work with individuals or organizations who wish to volunteer
25 their time to support the water trail recreation program.

26 (5) Provide expertise and consultation to individuals, agencies,
27 and organizations in the continued development of water trail sites in
28 this state.

29 **Sec. 3066.** RCW 79A.05.390 and 1993 c 182 s 3 are each amended to
30 read as follows:

31 The (~~commission~~) department may make water trail program grants
32 to public agencies or tribal governments and may contract with any
33 public agency, tribal government, entity, or person to develop and
34 implement water trail programs.

1 **Sec. 3067.** RCW 79A.05.395 and 1993 c 182 s 4 are each amended to
2 read as follows:

3 The ((~~commission~~)) department is not liable for unintentional
4 injuries to users of facilities administered for water trail purposes
5 under this chapter, whether the facilities are administered by the
6 ((~~commission~~)) department or by any other entity or person. However,
7 nothing in this section prevents the liability of the ((~~commission~~))
8 department for injuries sustained by a user by reason of a known
9 dangerous artificial latent condition for which warning signs have not
10 been conspicuously posted.

11 **Sec. 3068.** RCW 79A.05.410 and 2003 c 338 s 3 are each amended to
12 read as follows:

13 The ((~~commission~~)) department may adopt rules to administer the
14 water trail program and facilities on areas owned or administered by
15 the ((~~commission~~)) department. Where water trail facilities
16 administered by other public or private entities are incorporated into
17 the water trail system, the rules adopted by those entities shall
18 prevail. The ((~~commission~~)) department is not responsible or liable
19 for enforcement of these alternative rules.

20 **Sec. 3069.** RCW 79A.05.415 and 1993 c 182 s 8 are each amended to
21 read as follows:

22 Violation of the provisions of the ((~~commission's~~)) department's
23 rules governing the use of water trail facilities and property shall
24 constitute a civil infraction, punishable as provided under chapter
25 7.84 RCW.

26 **Sec. 3070.** RCW 79A.05.425 and 2003 c 338 s 4 are each amended to
27 read as follows:

28 (~~(Any unspent balance of funds in the water trail program account
29 created in RCW 79A.05.405 as of June 30, 2003, must be transferred to
30 the state parks renewal and stewardship account created in RCW
31 79A.05.215.)~~) All receipts from sales of materials under RCW
32 79A.05.385 and all monetary civil penalties collected under RCW
33 79A.05.415 must be deposited in the state parks renewal and stewardship
34 account. Any gifts, grants, donations, or moneys from any source
35 received by the ((~~commission~~)) department for the water trail program

1 must also be deposited in the state parks renewal and stewardship
2 account. Funds transferred or deposited into the state parks renewal
3 and stewardship account under this section must be used solely for
4 water trail program purposes.

5 **Sec. 3071.** RCW 79A.05.505 and 1999 c 249 s 1201 are each amended
6 to read as follows:

7 There is hereby created and established a youth development and
8 conservation division within the (~~commission~~) department. The
9 (~~commission~~) department shall appoint such supervisory personnel as
10 necessary to carry out the purposes of RCW 79A.05.500 through
11 79A.05.530.

12 **Sec. 3072.** RCW 79A.05.510 and 1975 c 7 s 1 are each amended to
13 read as follows:

14 Composition of the corps shall consist of youths who are citizens
15 of the United States and residents of the state of Washington of good
16 character and health, and who are not more than twenty-one years of
17 age. In order to enroll, an individual must agree to comply with rules
18 (~~and regulations promulgated~~) adopted by the (~~commission~~)
19 department. The period of enrollment shall be for thirty, sixty, or
20 ninety days or for such shorter period as determined by the
21 (~~commission~~) department. If permitted by the (~~commission~~)
22 department an individual may reenroll. Enrollment shall basically be
23 allocated on a percentage basis to each of the forty-nine legislative
24 districts on the basis of the ratio that the population of each
25 district bears to the total population of the state of Washington, but
26 the (~~commission~~) department may also take into account problems of
27 substantial unemployment in certain areas.

28 **Sec. 3073.** RCW 79A.05.515 and 1999 c 249 s 1202 are each amended
29 to read as follows:

30 (1) The minimum compensation shall be at the rate of twenty-five
31 dollars per week, except that up to the minimum state wage may be paid
32 on the basis of assigned leadership responsibilities or special skills.

33 (2) Enrollees shall be furnished quarters, subsistence, medical and
34 hospital services, transportation, equipment, as the (~~commission~~)

1 department may deem necessary and appropriate for their needs. Such
2 quarters, subsistence, and equipment may be furnished by any
3 governmental or public agency.

4 (3) The compensation of enrollees of any program under this chapter
5 may be paid biweekly.

6 **Sec. 3074.** RCW 79A.05.525 and 1965 c 8 s 43.51.560 are each
7 amended to read as follows:

8 The ((~~commission~~)) department may expend such amounts as necessary
9 for supplies, material and equipment to be used by enrollees in
10 connection with their work, recreation, health, or welfare; the
11 ((~~commission~~)) department shall purchase government surplus materials,
12 supplies and equipment when available and as needed.

13 The ((~~commission~~)) department may accept any gifts, grants or
14 contributions of money, material, lands, or personal property as it
15 deems appropriate and may administer and dispose of them as it
16 determines to be in the interests of the general public.

17 **Sec. 3075.** RCW 79A.05.530 and 1975 c 7 s 3 are each amended to
18 read as follows:

19 The ((~~commission~~)) department may, by agreement with an individual
20 or company enroll and supervise additional young persons, who shall be
21 furnished compensation, subsistence, quarters, supplies and materials
22 by the cooperating private company or individual, to develop, maintain
23 or improve natural and artificial recreational areas for the health and
24 happiness of the general public. The corps shall not be engaged in the
25 development, improvement or maintenance of a commercial recreational
26 area or resort, and the individual or corporation entering such
27 agreement with the ((~~commission~~)) department shall make such improved
28 areas available to the general public without cost for a period of at
29 least five years. Private individuals may reserve the right to close
30 the area during periods of fire hazard or during periods when excess
31 damage would be caused by public use.

32 **Sec. 3076.** RCW 79A.05.535 and 2000 c 11 s 44 are each amended to
33 read as follows:

34 The ((~~state parks and recreation commission~~)) department is

1 authorized to enter into agreements with and accept grants from the
2 federal government for the support of any program within the purposes
3 of RCW 79A.05.500 through 79A.05.530.

4 **Sec. 3077.** RCW 79A.05.540 and 2000 c 11 s 45 are each amended to
5 read as follows:

6 Notwithstanding the provisions of RCW 79A.05.510 and 79A.05.515,
7 the ((~~commission~~)) department may determine the length of enrollment
8 and the compensation of enrollees in accordance with the standards of
9 any federal act or regulation under which an agreement is made with, or
10 a grant is received from the federal government pursuant to RCW
11 79A.05.535.

12 **Sec. 3078.** RCW 79A.05.545 and 1999 c 249 s 701 are each amended to
13 read as follows:

14 The ((~~commission~~)) department shall cooperate in implementing and
15 operating the conservation corps as required by chapter 43.220 RCW.

16 **Sec. 3079.** RCW 79A.05.610 and 2000 c 11 s 46 are each amended to
17 read as follows:

18 Except as otherwise provided in RCW 79A.05.600 through 79A.05.630,
19 the Washington State Seashore Conservation Area shall be under the
20 jurisdiction of the ((~~Washington state parks and recreation~~
21 ~~commission~~)) department, which shall administer RCW 79A.05.600 through
22 79A.05.630 in accordance with the powers granted it herein and under
23 the appropriate provisions of this chapter.

24 **Sec. 3080.** RCW 79A.05.615 and 2000 c 11 s 47 are each amended to
25 read as follows:

26 The ((~~Washington state parks and recreation commission~~)) department
27 shall administer the Washington State Seashore Conservation Area in
28 harmony with the broad principles set forth in RCW 79A.05.600. Where
29 feasible, the area shall be preserved in its present state; everywhere
30 it shall be maintained in the best possible condition for public use.
31 All forms of public outdoor recreation shall be permitted and
32 encouraged in the area, unless specifically excluded or limited by the
33 ((~~commission~~)) department. While the primary purpose in the
34 establishment of the area is to preserve the coastal beaches for public

1 recreation, other uses shall be allowed as provided in RCW 79A.05.600
2 through 79A.05.630, or when found not inconsistent with public
3 recreational use by the (~~Washington state parks and recreation~~
4 ~~commission~~) department.

5 **Sec. 3081.** RCW 79A.05.620 and 2000 c 11 s 48 are each amended to
6 read as follows:

7 In administering the Washington State Seashore Conservation Area,
8 the (~~Washington state parks and recreation commission~~) department
9 shall seek the cooperation and assistance of federal agencies, other
10 state agencies, and local political subdivisions. All state agencies,
11 and the governing officials of each local subdivision shall cooperate
12 with the (~~commission~~) department in carrying out its duties. Except
13 as otherwise provided in RCW 79A.05.600 through 79A.05.630, and
14 notwithstanding any other provision of law, other state agencies and
15 local subdivisions shall perform duties in the Washington State
16 Seashore Conservation Area which are within their normal jurisdiction,
17 except when such performance clearly conflicts with the purposes of RCW
18 79A.05.600 through 79A.05.630.

19 **Sec. 3082.** RCW 79A.05.625 and 2000 c 11 s 49 are each amended to
20 read as follows:

21 Nothing in RCW 79A.05.600 through 79A.05.630 and 79A.05.635 through
22 79A.05.695 shall be construed to interfere with the powers, duties and
23 authority of the department (~~of fish and wildlife~~) to regulate the
24 conservation or taking of food fish and shellfish. Nor shall anything
25 in RCW 79A.05.600 through 79A.05.630 and 79A.05.635 through 79A.05.695
26 be construed to interfere with the powers, duties and authority of the
27 department (~~of fish and wildlife~~) to regulate, manage, conserve, and
28 provide for the harvest of wildlife within such area: PROVIDED,
29 HOWEVER, That no hunting shall be permitted in any state park.

30 **Sec. 3083.** RCW 79A.05.630 and 2000 c 11 s 50 are each amended to
31 read as follows:

32 Lands within the Seashore Conservation Area shall not be sold,
33 leased, or otherwise disposed of, except as herein provided. The
34 (~~commission~~) department may, under authority granted in RCW
35 79A.05.175 and 79A.05.180, exchange state park lands in the Seashore

1 Conservation Area for lands of equal value to be managed by the
2 (~~commission~~) department consistent with this chapter. Only state
3 park lands lying east of the Seashore Conservation Line, as it is
4 located at the time of exchange, may be so exchanged. The department
5 of natural resources may lease the lands within the Washington State
6 Seashore Conservation Area as well as the accreted lands along the
7 ocean in state ownership for the exploration and production of oil and
8 gas: PROVIDED, That oil drilling rigs and equipment will not be placed
9 on the Seashore Conservation Area or state-owned accreted lands.

10 Sale of sand from accretions shall be made to supply the needs of
11 cranberry growers for cranberry bogs in the vicinity and shall not be
12 prohibited if found by the (~~commission~~) department to be reasonable,
13 and not generally harmful or destructive to the character of the land:
14 PROVIDED, That the (~~commission~~) department may grant leases and
15 permits for the removal of sands for construction purposes from any
16 lands within the Seashore Conservation Area if found by the
17 (~~commission~~) department to be reasonable and not generally harmful or
18 destructive to the character of the land: PROVIDED FURTHER, That net
19 income from such leases shall be deposited in the state parks renewal
20 and stewardship account.

21 **Sec. 3084.** RCW 79A.05.650 and 2000 c 11 s 54 are each amended to
22 read as follows:

23 (1) Except as provided in RCW 79A.05.655 and 79A.05.660, a total of
24 forty percent of the length of the beach subject to the recreation
25 management plan shall be reserved for pedestrian use under this section
26 and RCW 79A.05.665. Restrictions on motorized traffic under this
27 section shall be from April 15th to the day following Labor day of each
28 year. Local jurisdictions may adopt provisions within recreation
29 management plans that exceed the requirements of this section. The
30 (~~commission~~) department shall not require that a plan designate for
31 pedestrian use more than forty percent of the land subject to the plan.

32 (2) In designating areas to be reserved for pedestrian use, the
33 plan shall consider the following:

- 34 (a) Public safety;
- 35 (b) Statewide interest in recreational use of the ocean beaches;
- 36 (c) Protection of shorebird and marine mammal habitats;
- 37 (d) Preservation of native beach vegetation;

- 1 (e) Protection of sand dune topography;
- 2 (f) Prudent management of clam beds;
- 3 (g) Economic impacts to the local community; and
- 4 (h) Public access and parking availability.

5 **Sec. 3085.** RCW 79A.05.665 and 2000 c 11 s 56 are each amended to
6 read as follows:

7 Recreation management plans shall, upon request of the
8 ~~((commission))~~ department, reserve on a permanent, seasonal, or
9 temporary basis, land adjoining national wildlife refuges and state
10 parks for pedestrian use. After a plan is approved, the ~~((commission))~~
11 department may require local jurisdictions to adopt amendments to the
12 plan governing driving on land adjoining wildlife refuges and state
13 parks. Land reserved for pedestrian use under this section for at
14 least the period from April 15th through the day following Labor Day of
15 each year shall be included when determining compliance with the
16 requirements of RCW 79A.05.650.

17 **Sec. 3086.** RCW 79A.05.670 and 1999 c 249 s 1102 are each amended
18 to read as follows:

19 In preparing, adopting, or approving a recreation management plan,
20 local jurisdictions and the ~~((commission))~~ department shall consult
21 with the ~~((department of fish and wildlife and the))~~ United States fish
22 and wildlife service.

23 **Sec. 3087.** RCW 79A.05.685 and 2000 c 11 s 57 are each amended to
24 read as follows:

25 Recreation management plans shall be adopted by each participating
26 jurisdiction and submitted to the ~~((commission))~~ department by
27 September 1, 1989. The ~~((commission))~~ department shall approve the
28 proposed plan if, in the ~~((commission's))~~ department's judgment, the
29 plan adequately fulfills the requirements of RCW 79A.05.600 through
30 79A.05.695.

31 If the proposed plan is not approved, the ~~((commission))~~ department
32 shall suggest modifications to the participating local governments.
33 Local governments shall have ninety days after receiving the suggested
34 modifications to resubmit a recreation management plan. Thereafter, if
35 the ~~((commission))~~ department finds that a plan does not adequately

1 fulfill the requirements of RCW 79A.05.600 through 79A.05.695, the
2 ((~~commission~~)) department may amend the proposal or adopt an
3 alternative plan.

4 If a plan for all or any portion of the Seashore Conservation Area
5 is not submitted in accordance with RCW 79A.05.635 through 79A.05.695,
6 the ((~~commission~~)) department shall adopt a recreation management plan
7 for that site.

8 Administrative rules adopted by the ((~~commission~~)) department under
9 RCW 43.51.680 shall remain in effect for all or any portion of each
10 ocean beach until a recreation management plan for that site is adopted
11 or approved by the ((~~commission~~)) department.

12 The ((~~commission~~)) department shall not adopt a recreation
13 management plan for all or any portion of an ocean beach while appeal
14 of a ((~~commission~~)) department decision regarding that site is pending.

15 **Sec. 3088.** RCW 79A.05.688 and 1999 c 249 s 1103 are each amended
16 to read as follows:

17 Any individual, partnership, corporation, association,
18 organization, cooperative, local government, or state agency aggrieved
19 by a decision of the ((~~commission~~)) department under this chapter may
20 appeal under chapter 34.05 RCW.

21 **Sec. 3089.** RCW 79A.05.690 and 1988 c 75 s 13 are each amended to
22 read as follows:

23 The ((~~commission~~)) department shall cooperate with state and local
24 law enforcement agencies in meeting the need for law enforcement within
25 the Seashore Conservation Area.

26 **Sec. 3090.** RCW 79A.05.695 and 2000 c 11 s 59 are each amended to
27 read as follows:

28 Amendments to the recreation management plan may be adopted jointly
29 by each local government participating in the plan and submitted to the
30 ((~~commission~~)) department for approval. The ((~~commission~~)) department
31 shall approve a proposed amendment if, in the ((~~commission's~~))
32 department's judgment, the amendment adequately fulfills the
33 requirements of RCW 79A.05.600 through 79A.05.695.

34 After a plan is approved, the ((~~commission~~)) department may require
35 local jurisdictions to adopt amendments to the plan if the

1 ((~~commission~~)) department finds that such amendments are necessary to
2 protect public health and safety, or to protect significant natural
3 resources as determined by the agency having jurisdiction over the
4 resource.

5 **Sec. 3091.** RCW 79A.05.705 and 1969 ex.s. c 162 s 2 are each
6 amended to read as follows:

7 There is hereby created a ((~~Washington state parks~~)) department of
8 conservation and recreation ((~~commission~~)) conservation area to be
9 known as "Green River Gorge conservation area."

10 **Sec. 3092.** RCW 79A.05.710 and 1969 ex.s. c 162 s 3 are each
11 amended to read as follows:

12 In addition to all other powers and duties prescribed by law, the
13 ((~~state parks and recreation commission~~)) department is authorized and
14 directed to acquire such real property, easements, or rights in the
15 Green River Gorge in King county, together with such real property,
16 easements, and rights as is necessary for such park and conservation
17 purposes in any manner authorized by law for the acquisition of lands
18 for parks and parkway purposes. Except for such real property as is
19 necessary and convenient for development of picnicking or camping areas
20 and their related facilities, it is the intent of this section that
21 such property shall be acquired to preserve, as much as possible, the
22 gorge within the canyon rim in its natural pristine state.

23 **Sec. 3093.** RCW 79A.05.715 and 1969 ex.s. c 162 s 4 are each
24 amended to read as follows:

25 Nothing herein shall be construed as authorizing or directing the
26 ((~~state parks and recreation commission~~)) department to acquire any
27 real property, easements, or rights in the Green River Gorge in King
28 county which are now held by any state agency for the purposes of
29 outdoor recreation, conservation, fish, or wildlife management or
30 public hunting or fishing without the approval of such agency.

31 **Sec. 3094.** RCW 79A.05.735 and 2000 c 11 s 60 are each amended to
32 read as follows:

33 The state department of natural resources and the ((~~state parks and~~
34 ~~recreation commission~~)) department have joined together in excellent

1 cooperation in the conducting of this study along with the citizen
2 advisory subcommittee and have joined together (~~in cooperation with~~
3 ~~the department of fish and wildlife~~) to accomplish other projects of
4 multidisciplinary concern, and because it may be in the best interests
5 of the state to continue such cooperation, (~~the state parks and~~
6 ~~recreation commission,~~) the department of natural resources(~~(7)~~) and
7 the department (~~of fish and wildlife~~) are hereby directed to consider
8 both short and long term objectives, the expertise of each agency's
9 staff, and alternatives such as reasonably may be expected to safeguard
10 the conservation area's values as described in RCW 79A.05.725 giving
11 due regard to efficiency and economy of management: PROVIDED, That the
12 interests conveyed to or by the state agencies identified in this
13 section shall be managed by the department of natural resources until
14 such time as the (~~state parks and recreation commission~~) department
15 or other public agency is managing public recreation areas and
16 facilities located in such close proximity to the conservation area
17 described in RCW 79A.05.730 so as to make combined management of those
18 areas and facilities and transfer of management of the conservation
19 area more efficient and economical than continued management by the
20 department of natural resources. At that time the department of
21 natural resources is directed to negotiate with the appropriate public
22 agency for the transfer of those management responsibilities for the
23 interests obtained within the conservation area under RCW 79A.05.725
24 through 79A.05.745: PROVIDED FURTHER, That the state agencies
25 identified in this section may, by mutual agreement, undertake
26 management of portions of the conservation area as they may from time
27 to time determine in accordance with those rules and regulations
28 established for natural area preserves under chapter 79.70 RCW, for
29 natural and conservation areas under present WAC 352-16-020(3) and (6),
30 and under chapter 77.12 RCW.

31 **Sec. 3095.** RCW 79A.05.780 and 2000 c 11 s 63 are each amended to
32 read as follows:

33 The (~~Washington state parks and recreation commission~~) department
34 is directed to consult with the Yakima county commissioners in the
35 acquisition, development, and operation of the Yakima river
36 conservation area in accordance with the purposes of RCW 79A.05.750

1 through 79A.05.795 and the Yakima river study authorized in section
2 170, chapter 269, Laws of 1975, first extraordinary session.

3 **Sec. 3096.** RCW 79A.05.793 and 2000 c 11 s 64 are each amended to
4 read as follows:

5 Nothing in RCW 79A.05.750 through 79A.05.795 shall be construed to
6 interfere with the powers, duties, and authority of the ((state))
7 department ((of fish and wildlife or the state fish and wildlife
8 commission)) to regulate, manage, conserve, and provide for the harvest
9 of wildlife within such area: PROVIDED, HOWEVER, That no hunting shall
10 be permitted in any state park.

11 **Sec. 3097.** RCW 46.10.300 and 2010 c 161 s 225 are each reenacted
12 and amended to read as follows:

13 The following definitions apply throughout this chapter unless the
14 context clearly requires otherwise.

15 (1) "All terrain vehicle" means any self-propelled vehicle other
16 than a snowmobile, capable of cross-country travel on or immediately
17 over land, water, snow, ice, marsh, swampland, and other natural
18 terrain, including, but not limited to, four-wheel vehicles, amphibious
19 vehicles, ground effect or air cushion vehicles, and any other means of
20 land transportation deriving motive power from any source other than
21 muscle or wind; except any vehicle designed primarily for travel on,
22 over, or in the water, farm vehicles, or any military or law
23 enforcement vehicles.

24 (2) (~~"Commission" means the Washington state parks and recreation~~
25 ~~commission.~~

26 ~~(3))~~ "Committee" means the (~~Washington state parks and recreation~~
27 ~~commission~~) department of conservation and recreation snowmobile
28 advisory committee.

29 ~~((4))~~ (3) "Dealer" means a person, partnership, association, or
30 corporation engaged in the business of selling snowmobiles or all
31 terrain vehicles at wholesale or retail in this state.

32 ~~((5))~~ (4) "Highway" means the entire width of the right-of-way of
33 a primary and secondary state highway, including any portion of the
34 interstate highway system.

35 ~~((6))~~ (5) "Hunt" means any effort to kill, injure, capture, or
36 disturb a wild animal or wild bird.

1 (~~(7)~~) (6) "Public roadway" means the entire width of the right-
2 of-way of any road or street designed and ordinarily used for travel or
3 parking of motor vehicles, which is controlled by a public authority
4 other than the Washington state department of transportation, and which
5 is open as a matter of right to the general public for ordinary
6 vehicular traffic.

7 **Sec. 3098.** RCW 46.10.320 and 2010 c 161 s 235 and 2010 c 8 s 9004
8 are each reenacted and amended to read as follows:

9 (1) There is created in the (~~Washington state parks and recreation~~
10 ~~commission~~) department of conservation and recreation a snowmobile
11 advisory committee to advise the (~~commission~~) department of
12 conservation and recreation regarding the administration of this
13 chapter.

14 (2) The purpose of the committee is to assist and advise the
15 (~~commission~~) department of conservation and recreation in the planned
16 development of snowmobile facilities and programs.

17 (3) The committee shall consist of:

18 (a) Six interested snowmobilers, appointed by the (~~commission~~)
19 director of conservation and recreation; each such member shall be a
20 resident of one of the six geographical areas throughout this state
21 where snowmobile activity occurs, as defined by the (~~commission~~)
22 department of conservation and recreation;

23 (b) Three representatives of the nonsnowmobiling public, appointed
24 by the (~~commission~~) director of conservation and recreation; and

25 (c) One representative of the department of natural resources(~~(~~
26 ~~one representative of the department of fish and wildlife,~~) and one
27 representative of the Washington state association of counties; each of
28 whom shall be appointed by the director of such department or
29 association.

30 (4) Terms of the members appointed under subsection (3)(a) and (b)
31 of this section shall commence on October 1st of the year of
32 appointment and shall be for three years or until a successor is
33 appointed, except in the case of appointments to fill vacancies which
34 shall be for the remainder of the unexpired term: PROVIDED, That the
35 first such members shall be appointed for terms as follows: Three
36 members shall be appointed for one year, three members shall be

1 appointed for two years, and three members shall be appointed for three
2 years.

3 (5) Members of the committee shall be reimbursed for travel
4 expenses as provided in RCW 43.03.050 and 43.03.060. Expenditures
5 under this subsection shall be from the snowmobile account created by
6 RCW 46.68.350.

7 (6) The committee may meet at times and places fixed by the
8 committee. The committee shall meet not less than twice each year and
9 additionally as required by the committee chair or by majority vote of
10 the committee. One of the meetings shall be coincident with a meeting
11 of the ((~~commission~~)) department of conservation and recreation at
12 which the committee shall provide a report to the ((~~commission~~))
13 department of conservation and recreation. The chair of the committee
14 shall be chosen under procedures adopted by the committee from those
15 members appointed under subsection (3)(a) and (b) of this section.

16 (7) The ((~~Washington state parks and recreation commission~~))
17 department of conservation and recreation shall serve as recording
18 secretary to the committee. A representative of the department of
19 licensing shall serve as an ex officio member of the committee and
20 shall be notified of all meetings of the committee. The recording
21 secretary and the ex officio member shall be nonvoting members.

22 (8) The committee shall adopt procedures to govern its proceedings.

23 **Sec. 3099.** RCW 46.10.370 and 1979 ex.s. c 182 s 15 are each
24 amended to read as follows:

25 With the exception of the registration and licensing provisions,
26 this chapter shall be administered by the ((~~Washington state parks and
27 recreation commission~~)) department of conservation and recreation. The
28 department shall consult with the ((~~commission~~)) department of
29 conservation and recreation prior to adopting rules to carry out its
30 duties under this chapter. After consultation with the committee, the
31 ((~~commission~~)) department of conservation and recreation shall adopt
32 such rules as may be necessary to carry out its duties under this
33 chapter. Nothing in this chapter is intended to discourage
34 experimental or pilot programs which could enhance snowmobile safety or
35 recreational snowmobiling.

1 **Sec. 3100.** RCW 70.114.010 and 1979 ex.s. c 79 s 1 are each amended
2 to read as follows:

3 The legislature finds that the migrant labor housing project
4 constructed on property purchased by the state in Yakima county should
5 be continued until June 30, 1981. The employment security department
6 is authorized to set day use or extended period use fees, consistent
7 with those established by the department of (~~(parks)~~) conservation and
8 recreation.

9 **Sec. 3101.** RCW 79.10.030 and 2003 c 334 s 398 are each amended to
10 read as follows:

11 (1) Except as provided in subsection (2) of this section, the
12 department shall manage and control all lands acquired by the state by
13 escheat or under RCW 79.19.010 through 79.19.110 and all lands acquired
14 by the state by deed of sale or gift or by devise, except such lands
15 which are conveyed or devised to the state to be used for a particular
16 purpose.

17 (2) When land is acquired by the state by escheat which because of
18 its location or features may be suitable for park purposes, the
19 department shall notify the (~~(state parks and recreation commission)~~)
20 department of conservation and recreation. The department and the
21 (~~(commission)~~) department of conservation and recreation shall jointly
22 evaluate the land for its suitability for park purposes, based upon the
23 features of the land and the need for park facilities in the vicinity.
24 Where the department and (~~(commission)~~) the department of conservation
25 and recreation determine that such land is suitable for park purposes,
26 it shall be offered for transfer to the (~~(commission)~~) department of
27 conservation and recreation, or, in the event that the (~~(commission)~~)
28 department of conservation and recreation declines to accept the land,
29 to the local jurisdiction providing park facilities in that area. When
30 so offered, the payment required by the recipient agency shall not
31 exceed the costs incurred by the department in managing and protecting
32 the land since receipt by the state.

33 (3) The department may review lands acquired by escheat since
34 January 1, 1983, for their suitability for park purposes, and apply the
35 evaluation and transfer procedures authorized by subsection (2) of this
36 section.

1 **Sec. 3102.** RCW 79A.30.010 and 2000 c 11 s 83 are each amended to
2 read as follows:

3 (~~Unless the context clearly indicates otherwise,~~) The definitions
4 in this section apply throughout this chapter unless the context
5 clearly requires otherwise.

6 (1) "Authority" means the Washington state horse park authority
7 authorized to be created in RCW 79A.30.030.

8 (2) (~~"Commission" means the Washington state parks and recreation~~
9 ~~commission.~~) "Department" means the department of conservation and
10 recreation.

11 (3) "Horses" includes all domesticated members of the taxonomic
12 family Equidae, including but not limited to horses, donkeys, and
13 mules.

14 (4) "State horse park" means the Washington state horse park
15 established in RCW 79A.30.020.

16 **Sec. 3103.** RCW 79A.30.020 and 2000 c 11 s 84 are each amended to
17 read as follows:

18 (1) The Washington state horse park is hereby established, to be
19 located at a site approved by the (~~commission~~) department. In
20 approving a site for the state horse park, the (~~commission~~)
21 department shall consider areas with large blocks of land suitable for
22 park development, the distance to various population centers in the
23 state, the ease of transportation to the site for large vehicles
24 traveling along either a north-south or an east-west corridor, and
25 other factors deemed important by the (~~commission~~) department.

26 (2) Ownership of land for the state horse park shall be as follows:

27 (a) The (~~commission~~) department is vested with and shall retain
28 ownership of land provided by the state for the state horse park. Any
29 lands acquired by the (~~commission~~) department after July 23, 1995,
30 for the state horse park shall be purchased under chapter 79A.15 RCW.
31 The legislature encourages the (~~commission~~) department to provide a
32 long-term lease of the selected property to the Washington state horse
33 park authority at a minimal charge. The lease shall contain provisions
34 ensuring public access to and use of the horse park facilities, and
35 generally maximizing public recreation opportunities at the horse park,
36 provided that the facility remains available primarily for horse-
37 related activities.

1 (b) Land provided for the state horse park by the county in which
2 the park is located shall remain in the ownership of that county unless
3 the county determines otherwise. The legislature encourages the county
4 to provide a long-term lease of selected property to the Washington
5 state horse park authority at a minimal charge.

6 (c) If the authority acquires additional lands through donations,
7 grants, or other means, or with funds generated from the operation of
8 the state horse park, the authority shall retain ownership of those
9 lands. The authority shall also retain ownership of horse park site
10 improvements paid for by or through donations or gifts to the
11 authority.

12 (3) Development, promotion, operation, management, and maintenance
13 of the state horse park is the responsibility of the authority created
14 in RCW 79A.30.030.

15 **Sec. 3104.** RCW 79A.30.030 and 2000 c 11 s 85 are each amended to
16 read as follows:

17 (1) A nonprofit corporation may be formed under the nonprofit
18 corporation provisions of chapter 24.03 RCW to carry out the purposes
19 of this chapter. Except as provided in RCW 79A.30.040, the corporation
20 shall have all the powers and be subject to the same restrictions as
21 are permitted or prescribed to nonprofit corporations and shall
22 exercise those powers only for carrying out the purposes of this
23 chapter and those purposes necessarily implied therefrom. The
24 nonprofit corporation shall be known as the Washington state horse park
25 authority. The articles of incorporation shall provide that it is the
26 responsibility of the authority to develop, promote, operate, manage,
27 and maintain the Washington state horse park. The articles of
28 incorporation shall provide for appointment of directors and other
29 conduct of business consistent with the requirements of this chapter.

30 (2)(a) The articles of incorporation shall provide for a seven-
31 member board of directors for the authority, all appointed by the
32 governor. Board members shall serve three-year terms, except that two
33 of the original appointees shall serve one-year terms, and two of the
34 original appointees shall serve two-year terms. A board member may
35 serve consecutive terms.

36 (b) The articles of incorporation shall provide that the governor
37 appoint board members as follows:

1 (i) One board member shall represent the interests of the
2 ((~~commission~~)) department. In making this appointment, the governor
3 shall solicit recommendations from the ((~~commission~~)) department;

4 (ii) One board member shall represent the interests of the county
5 in which the park is located. In making this appointment, the governor
6 shall solicit recommendations from the county legislative authority;
7 and

8 (iii) Five board members shall represent the geographic and sports
9 discipline diversity of equestrian interests in the state, and at least
10 one of these members shall have business experience relevant to the
11 organization of horse shows or operation of a horse show facility. In
12 making these appointments, the governor shall solicit recommendations
13 from a variety of active horse-related organizations in the state.

14 (3) The articles of incorporation shall include a policy that
15 provides for the preferential use of a specific area of the horse park
16 facilities at nominal cost for horse groups associated with youth
17 groups and ((~~the disabled~~)) individuals with disabilities.

18 (4) The governor shall make appointments to fill board vacancies
19 for positions authorized under subsection (2) of this section, upon
20 additional solicitation of recommendations from the board of directors.

21 (5) The board of directors shall perform their duties in the best
22 interests of the authority, consistent with the standards applicable to
23 directors of nonprofit corporations under RCW 24.03.127.

24 **Sec. 3105.** RCW 79A.30.050 and 1995 c 200 s 6 are each amended to
25 read as follows:

26 (1) If the authority and state agencies find it mutually beneficial
27 to do so, they are authorized to collaborate and cooperate on projects
28 of shared interest. Agencies authorized to collaborate with the
29 authority include but are not limited to: The ((~~commission~~))
30 department for activities and projects related to public recreation;
31 the department of agriculture for projects related to the equine
32 agricultural industry; the department of ((~~community, trade, and~~
33 ~~economic development~~)) commerce with respect to community and economic
34 development and tourism issues associated with development of the state
35 horse park; Washington State University with respect to opportunities
36 for animal research, education, and extension; the department of
37 ecology with respect to opportunities for making the state horse park's

1 waste treatment facilities a demonstration model for the handling of
2 waste to protect water quality; and with local community colleges with
3 respect to programs related to horses, economic development, business,
4 and tourism.

5 (2) The authority shall cooperate with 4-H clubs, pony clubs, youth
6 groups, and local park departments to provide youth recreational
7 activities. The authority shall also provide for preferential use of
8 an area of the horse park facility for youth and the disabled at
9 nominal cost.

10 **Sec. 3106.** RCW 79A.40.030 and 2000 c 11 s 88 are each amended to
11 read as follows:

12 The (~~state parks and recreation commission~~) department of
13 conservation and recreation shall have the authority and the
14 responsibility for the inspection of the devices set forth in RCW
15 79A.40.010 and in addition shall have the following powers and duties:

16 (1) Whenever the (~~commission~~) department of conservation and
17 recreation, after hearing called upon its own motion or upon complaint,
18 finds that additional apparatus, equipment, facilities or devices for
19 use or in connection with the transportation or conveyance of persons
20 upon the devices set forth in RCW 79A.40.010, ought reasonably to be
21 provided, or any repairs or improvements to, or changes in, any
22 theretofore in use ought reasonably to be made, or any additions or
23 changes in construction should reasonably be made thereto, in order to
24 promote the security and safety of the public or employees, it may make
25 and serve an order directing such repairs, improvements, changes, or
26 additions to be made.

27 (2) If the (~~commission~~) department of conservation and recreation
28 finds that the equipment, or appliances in connection therewith, or the
29 apparatus, or other structures of the recreational device set forth in
30 RCW 79A.40.010 are defective, and that the operation thereof is
31 dangerous to the employees of the owner or operator of such device or
32 to the public, it shall immediately give notice to the owner or
33 operator of such device of the repairs or reconstruction necessary to
34 place the same in a safe condition, and may prescribe the time within
35 which they shall be made. If, in its opinion, it is needful or proper,
36 the (~~commission~~) department of conservation and recreation may forbid

1 the operation of the device until it is repaired and placed in a safe
2 condition.

3 **Sec. 3107.** RCW 79A.55.010 and 1999 c 249 s 801 and 1999 c 151 s
4 1701 are each reenacted and amended to read as follows:

5 The definitions (~~(set forth)~~) in this section apply throughout this
6 chapter unless the context clearly requires otherwise.

7 (1) (~~("Commission" means the state parks and recreation~~
8 ~~commission.))~~ "Department" means the department of conservation and
9 recreation.

10 (2) "Participating local government" means the legislative
11 authority of any city or county, a portion of whose territorial
12 jurisdiction is bounded by or includes a river or river segment of the
13 state's scenic river system.

14 (3) "River" means a flowing body of water or a section, segment, or
15 portion thereof.

16 (4) "River area" means a river and the land area in its immediate
17 environs as established by the participating agencies not exceeding a
18 width of one-quarter mile landward from the streamway on either side of
19 the river.

20 (5) "Scenic easement" means the negotiated right to control the use
21 of land, including the air space above the land, for the purpose of
22 protecting the scenic view throughout the visual corridor.

23 (6) "Streamway" means that stream-dependent corridor of single or
24 multiple, wet or dry, channel or channels within which the usual
25 seasonal or storm water run-off peaks are contained, and within which
26 environment the flora, fauna, soil, and topography is dependent on or
27 influenced by the height and velocity of the fluctuating river
28 currents.

29 (7) "System" means all the rivers and river areas in the state
30 designated by the legislature for inclusion as scenic rivers but does
31 not include tributaries of a designated river unless specifically
32 included by the legislature. The inclusion of a river in the system
33 does not mean that other rivers or tributaries in a drainage basin
34 shall be required to be part of the management program developed for
35 the system unless the rivers and tributaries within the drainage basin
36 are specifically designated for inclusion by the legislature.

1 (8) "Visual corridor" means that area which can be seen in a normal
2 summer month by a person of normal vision walking either bank of a
3 river included in the system. The visual corridor shall not exceed the
4 river area.

5 **Sec. 3108.** RCW 79A.60.010 and 2005 c 392 s 2 are each amended to
6 read as follows:

7 Unless the context clearly requires otherwise, the definitions in
8 this section apply throughout this chapter.

9 (1) "Accredited course" means a mandatory course of instruction on
10 boating safety education that has been approved by the ((~~commission~~)
11 department).

12 (2) "Boat wastes" includes, but is not limited to, sewage, garbage,
13 marine debris, plastics, contaminated bilge water, cleaning solvents,
14 paint scrapings, or discarded petroleum products associated with the
15 use of vessels.

16 (3) "Boater" means any person on a vessel on waters of the state of
17 Washington.

18 (4) "Boater education card" means a card issued to a person who has
19 successfully completed a boating safety education test and has paid the
20 registration fee for a serial number record to be maintained in the
21 ((~~commission's~~) department's) database.

22 (5) "Boating educator" means a person providing an accredited
23 course.

24 (6) "Carrying passengers for hire" means carrying passengers in a
25 vessel on waters of the state for valuable consideration, whether given
26 directly or indirectly or received by the owner, agent, operator, or
27 other person having an interest in the vessel. This shall not include
28 trips where expenses for food, transportation, or incidentals are
29 shared by participants on an even basis. Anyone receiving compensation
30 for skills or money for amortization of equipment and carrying
31 passengers shall be considered to be carrying passengers for hire on
32 waters of the state.

33 (7) "Certificate of accomplishment" means a form of certificate
34 approved by the ((~~commission~~) department) and issued by a boating
35 educator to a person who has successfully completed an accredited
36 course.

1 (8) (~~"Commission" means the state parks and recreation~~
2 ~~commission.~~) "Department" means the department of conservation and
3 recreation.

4 (9) "Darkness" means that period between sunset and sunrise.

5 (10) "Environmentally sensitive area" means a restricted body of
6 water where discharge of untreated sewage from boats is especially
7 detrimental because of limited flushing, shallow water, commercial or
8 recreational shellfish, swimming areas, diversity of species, the
9 absence of other pollution sources, or other characteristics.

10 (11) "Guide" means any individual, including but not limited to
11 subcontractors and independent contractors, engaged for compensation or
12 other consideration by a whitewater river outfitter for the purpose of
13 operating vessels. A person licensed under RCW 77.65.480 or 77.65.440
14 and acting as a fishing guide is not considered a guide for the
15 purposes of this chapter.

16 (12) "Marina" means a facility providing boat moorage space, fuel,
17 or commercial services. Commercial services include but are not
18 limited to overnight or live-aboard boating accommodations.

19 (13) "Motor driven boats and vessels" means all boats and vessels
20 which are self propelled.

21 (14) "Motor vessel safety operating and equipment checklist" means
22 a printed list of the safety requirements for a vessel with a motor
23 installed or attached to the vessel being rented, chartered, or leased
24 and meeting minimum requirements adopted by the (~~commission~~)
25 department in accordance with RCW 79A.60.630.

26 (15) "Muffler" or "muffler system" means a sound suppression device
27 or system, including an underwater exhaust system, designed and
28 installed to abate the sound of exhaust gases emitted from an internal
29 combustion engine and that prevents excessive or unusual noise.

30 (16) "Operate" means to steer, direct, or otherwise have physical
31 control of a vessel that is underway.

32 (17) "Operator" means an individual who steers, directs, or
33 otherwise has physical control of a vessel that is underway or
34 exercises actual authority to control the person at the helm.

35 (18) "Observer" means the individual riding in a vessel who is
36 responsible for observing a water skier at all times.

37 (19) "Owner" means a person who has a lawful right to possession of

1 a vessel by purchase, exchange, gift, lease, inheritance, or legal
2 action whether or not the vessel is subject to a security interest.

3 (20) "Person" means any individual, sole proprietorship,
4 partnership, corporation, nonprofit corporation or organization,
5 limited liability company, firm, association, or other legal entity
6 located within or outside this state.

7 (21) "Personal flotation device" means a buoyancy device, life
8 preserver, buoyant vest, ring buoy, or buoy cushion that is designed to
9 float a person in the water and that is approved by the ((~~commission~~))
10 department.

11 (22) "Personal watercraft" means a vessel of less than sixteen feet
12 that uses a motor powering a water jet pump, as its primary source of
13 motive power and that is designed to be operated by a person sitting,
14 standing, or kneeling on, or being towed behind the vessel, rather than
15 in the conventional manner of sitting or standing inside the vessel.

16 (23) "Polluted area" means a body of water used by boaters that is
17 contaminated by boat wastes at unacceptable levels, based on applicable
18 water quality and shellfish standards.

19 (24) "Public entities" means all elected or appointed bodies,
20 including tribal governments, responsible for collecting and spending
21 public funds.

22 (25) "Reckless" or "recklessly" means acting carelessly and
23 heedlessly in a willful and wanton disregard of the rights, safety, or
24 property of another.

25 (26) "Rental motor vessel" means a motor vessel that is legally
26 owned by a person that is registered as a rental and leasing agency for
27 recreational motor vessels, and for which there is a written and signed
28 rental, charter, or lease agreement between the owner, or owner's
29 agent, of the vessel and the operator of the vessel.

30 (27) "Sewage pumpout or dump unit" means:

31 (a) A receiving chamber or tank designed to receive vessel sewage
32 from a "porta-potty" or a portable container; and

33 (b) A stationary or portable mechanical device on land, a dock,
34 pier, float, barge, vessel, or other location convenient to boaters,
35 designed to remove sewage waste from holding tanks on vessels.

36 (28) "Underway" means that a vessel is not at anchor, or made fast
37 to the shore, or aground.

1 (29) "Vessel" includes every description of watercraft on the
2 water, other than a seaplane, used or capable of being used as a means
3 of transportation on the water. However, it does not include inner
4 tubes, air mattresses, sailboards, and small rafts or flotation devices
5 or toys customarily used by swimmers.

6 (30) "Water skiing" means the physical act of being towed behind a
7 vessel on, but not limited to, any skis, aquaplane, kneeboard, tube, or
8 any other similar device.

9 (31) "Waters of the state" means any waters within the territorial
10 limits of Washington state.

11 (32) "Whitewater river outfitter" means any person who is
12 advertising to carry or carries passengers for hire on any whitewater
13 river of the state, but does not include any person whose only service
14 on a given trip is providing instruction in canoeing or kayaking
15 skills.

16 (33) "Whitewater rivers of the state" means those rivers and
17 streams, or parts thereof, within the boundaries of the state as listed
18 in RCW 79A.60.470 or as designated by the ~~((commission))~~ department
19 under RCW 79A.60.495.

20 **Sec. 3109.** RCW 79A.65.010 and 2002 c 286 s 20 are each amended to
21 read as follows:

22 ~~((Unless the context clearly requires otherwise,))~~ The definitions
23 in this section apply throughout this chapter unless the context
24 clearly requires otherwise.

25 (1) "Charges" means charges of the ~~((commission))~~ department for
26 moorage and storage, and all other charges related to the vessel and
27 owing to or that become owing to the ~~((commission))~~ department,
28 including but not limited to costs of securing, disposing, or removing
29 vessels, damages to any ~~((commission))~~ department facility, and any
30 costs of sale and related legal expenses for implementing RCW
31 79A.65.020 and 79A.65.030.

32 ~~(("Commission" means the Washington state parks and recreation~~
33 ~~commission.))~~ "Department" means the department of conservation and
34 recreation.

35 (3) ~~((Commission))~~ Department facility" means any moorage
36 facility, as that term is defined in RCW 53.08.310, owned, leased,

1 operated, managed, or otherwise controlled by the ((~~commission~~))
2 department or by a person pursuant to a contract with the
3 ((~~commission~~)) department.

4 (4) "Owner" means a person who has a lawful right to possession of
5 a vessel by purchase, exchange, gift, lease, inheritance, or legal
6 action whether or not the vessel is subject to a security interest, and
7 shall not include the holder of a bona fide security interest.

8 (5) "Person" means any natural person, firm, partnership,
9 corporation, association, organization, or any other entity.

10 (6)(a) "Registered owner" means any person that is either: (i)
11 Shown as the owner in a vessel certificate of documentation issued by
12 the secretary of the United States department of transportation under
13 46 U.S.C. Sec. 12103; or (ii) the registered owner or legal owner of a
14 vessel for which a certificate of title has been issued under chapter
15 88.02 RCW; or (iii) the owner of a vessel registered under the vessel
16 registration laws of another state under which laws the ((~~commission~~))
17 department can readily identify the ownership of vessels registered
18 with that state.

19 (b) "Registered owner" also includes: (i) Any holder of a security
20 interest or lien recorded with the United States department of
21 transportation with respect to a vessel on which a certificate of
22 documentation has been issued; (ii) any holder of a security interest
23 identified in a certificate of title for a vessel registered under
24 chapter 88.02 RCW; or (iii) any holder of a security interest in a
25 vessel where the holder is identified in vessel registration
26 information of a state with vessel registration laws that fall within
27 (a)(iii) of this subsection and under which laws the ((~~commission~~))
28 department can readily determine the identity of the holder.

29 (c) "Registered owner" does not include any vessel owner or holder
30 of a lien or security interest in a vessel if the vessel does not have
31 visible information affixed to it (such as name and hailing port or
32 registration numbers) that will enable the ((~~commission~~)) department to
33 obtain ownership information for the vessel without incurring
34 unreasonable expense.

35 (7) "Registered vessel" means a vessel having a registered owner.

36 (8) "Secured vessel" means any vessel that has been secured by the
37 ((~~commission~~)) department that remains in the ((~~commission's~~))
38 department's possession and control.

1 (9) "Unauthorized vessel" means a vessel using a ((~~commission~~))
2 department facility of any type whose owner has not paid the required
3 moorage fees or has left the vessel beyond the posted time limits, or
4 a vessel otherwise present without permission of the ((~~commission~~))
5 department.

6 (10) "Vessel" means every watercraft or part thereof constructed,
7 used, or capable of being used as a means of transportation on the
8 water. It includes any equipment or personal property on the vessel
9 that is used or capable of being used for the operation, navigation, or
10 maintenance of the vessel.

11 NEW SECTION. Sec. 3110. (1) The powers, duties, and functions of
12 the parks and recreation commission are hereby transferred to the
13 department of conservation and recreation. All references to the parks
14 and recreation commission in the Revised Code of Washington shall be
15 construed to mean the director or the department of conservation and
16 recreation.

17 (2)(a) All reports, documents, surveys, books, records, files,
18 papers, or written material in the possession of the parks and
19 recreation commission shall be delivered to the custody of the
20 department of conservation and recreation. All cabinets, furniture,
21 office equipment, motor vehicles, and other tangible property employed
22 by the parks and recreation commission shall be made available to the
23 department of conservation and recreation. All funds, credits, or
24 other assets held by the parks and recreation commission shall be
25 assigned to the department of conservation and recreation.

26 (b) Any appropriations made to the parks and recreation commission
27 shall, on the effective date of this section, be transferred and
28 credited to the department of conservation and recreation.

29 (c) If any question arises as to the transfer of any personnel,
30 funds, books, documents, records, papers, files, equipment, or other
31 tangible property used or held in the exercise of the powers and the
32 performance of the duties and functions transferred, the director of
33 financial management shall make a determination as to the proper
34 allocation and certify the same to the state agencies concerned.

35 (3) All rules and all pending business before the parks and
36 recreation commission shall be continued and acted upon by the

1 department of conservation and recreation. All existing contracts and
2 obligations shall remain in full force and shall be performed by the
3 department of conservation and recreation.

4 (4) The transfer of the powers, duties, functions, and personnel of
5 the parks and recreation commission shall not affect the validity of
6 any act performed before the effective date of this section.

7 (5) If apportionments of budgeted funds are required because of the
8 transfers directed by this section, the director of financial
9 management shall certify the apportionments to the agencies affected,
10 the state auditor, and the state treasurer. Each of these shall make
11 the appropriate transfer and adjustments in funds and appropriation
12 accounts and equipment records in accordance with the certification.

13 (6) All employees of the parks and recreation commission engaged in
14 performing the powers, functions, and duties transferred to the
15 department of conservation and recreation are transferred to the
16 department of conservation and recreation. All employees classified
17 under chapter 41.06 RCW, the state civil service law, are assigned to
18 the department of conservation and recreation to perform their usual
19 duties upon the same terms as formerly, without any loss of rights,
20 subject to any action that may be appropriate thereafter in accordance
21 with the laws and rules governing state civil service law.

22 NEW SECTION. **Sec. 3111.** The following acts or parts of acts are
23 each repealed:

24 (1) RCW 79A.05.075 (Delegation of commission's powers and duties to
25 director) and 1999 c 249 s 306 & 1969 ex.s. c 31 s 2;

26 (2) RCW 79A.05.300 (Establishment of urban area state parks by
27 parks and recreation commission) and 2000 c 11 s 37 & 1980 c 89 s 4;
28 and

29 (3) RCW 79A.05.315 (Milwaukee Road corridor--Transfer of management
30 control to commission) and 1989 c 129 s 1 & 1984 c 174 s 2.

31 NEW SECTION. **Sec. 3112.** The consolidation directed pursuant to
32 sections 3001 through 3111 of this act takes effect July 1, 2012.

1 value and disappearing from public use. There is consequently an
2 urgent need for the acquisition or improvement of waterfront land on
3 fresh and salt water suitable for marine recreational use by Washington
4 residents and visitors. To meet this need, it is necessary and proper
5 that the portion of motor vehicle fuel taxes paid by boat owners and
6 operators on fuel consumed in their watercraft and not reclaimed as
7 presently provided by law should be expended for the acquisition or
8 improvement of marine recreation land on the Pacific Ocean, Puget
9 Sound, bays, lakes, rivers, reservoirs and other fresh and salt waters
10 of the state.

11 **Sec. 4002.** RCW 79A.25.010 and 2007 c 241 s 40 are each amended to
12 read as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

15 (1) "Marine recreation land" means any land with or without
16 improvements which (a) provides access to, or in whole or in part
17 borders on, fresh or salt water suitable for recreational use by
18 watercraft, or (b) may be used to create, add to, or make more usable,
19 bodies of water, waterways, or land, for recreational use by
20 watercraft.

21 (2) "Public body" means any county, city, town, port district, park
22 and recreation district, metropolitan park district, or other municipal
23 corporation which is authorized to acquire or improve public outdoor
24 recreation land, and shall also mean Indian tribes now or hereafter
25 recognized as such by the federal government for participation in the
26 land and water conservation program.

27 (3) "Tax on marine fuel" means motor vehicle fuel tax which is (a)
28 tax on fuel used in, or sold or distributed for use in, any watercraft,
29 (b) refundable pursuant to chapter 82.36 RCW, and (c) paid to the
30 director of licensing with respect to taxable sales, distributions, or
31 uses occurring on or after December 3, 1964.

32 (4) "Watercraft" means any boat, vessel, or other craft used for
33 navigation on or through water.

34 (5) "Board" means the recreation and conservation funding board.

35 (6) "Director" means the director of the (~~recreation and~~
36 ~~conservation office~~) department of conservation and recreation.

1 (7) (~~"Office," "recreation and conservation office," or "the~~
2 ~~office of recreation and conservation" means~~) "Department" means the
3 department of conservation and recreation, the state agency responsible
4 for administration of programs and activities of the recreation and
5 conservation funding board, the salmon recovery funding board, the
6 invasive species council, and such other duties or boards, councils, or
7 advisory groups as are or may be established or directed for
8 administrative placement in the (~~agency~~) department.

9 (8) "Council" means the Washington invasive species council created
10 in RCW 79A.25.310.

11 **Sec. 4003.** RCW 79A.25.020 and 2007 c 241 s 41 are each amended to
12 read as follows:

13 The director shall have the following powers and duties:

14 (1) To supervise the administrative operations of the boards(~~(~~
15 ~~office,~~) and (~~their~~) staff that implement this chapter;

16 (2) To administer recreation and conservation grant-in-aid programs
17 and contracts, and provide technical assistance to state and local
18 agencies;

19 (3) To prepare and update a strategic plan for the acquisition,
20 renovation, and development of recreational resources and the
21 preservation and conservation of open space. The plan shall be
22 prepared in coordination with the office of the governor and the office
23 of financial management, with participation of federal, state, and
24 local agencies having recreational responsibilities, user groups,
25 private sector interests, and the general public. The plan shall be
26 submitted to the recreation and conservation funding board for review,
27 and the board shall submit its recommendations on the plan to the
28 governor. The plan shall include, but is not limited to: (a) An
29 inventory of current resources; (b) a forecast of recreational resource
30 demand; (c) identification and analysis of actual and potential funding
31 sources; (d) a process for broad scale information gathering; (e) an
32 assessment of the capabilities and constraints, both internal and
33 external to state government, that affect the ability of the state to
34 achieve the goals of the plan; (f) an analysis of strategic options and
35 decisions available to the state; (g) an implementation strategy that
36 is coordinated with executive policy and budget priorities; and (h)

1 elements necessary to qualify for participation in or the receipt of
2 aid from any federal program for outdoor recreation;

3 (4) To represent and promote the interests of the state on
4 recreational issues and further the mission of the board (~~and~~
5 ~~office~~));

6 (5) Upon approval of the relevant board, to enter into contracts
7 and agreements with private nonprofit corporations to further state
8 goals of preserving, conserving, and enhancing recreational resources
9 and open space for the public benefit and use;

10 (6) To appoint such technical and other committees as may be
11 necessary to carry out the purposes of this chapter;

12 (7) To create and maintain a repository for data, studies,
13 research, and other information relating to recreation and conservation
14 resources in the state, and to encourage the interchange of such
15 information;

16 (8) To encourage and provide opportunities for interagency and
17 regional coordination and cooperative efforts between public agencies
18 and between public and private entities involved in the development and
19 preservation of recreational and conservation resources; and

20 (9) To prepare the state trails plan, as required by RCW
21 79A.35.040.

22 **Sec. 4004.** RCW 79A.25.110 and 2007 c 241 s 47 are each amended to
23 read as follows:

24 There is created the recreation and conservation funding board,
25 within the department of conservation and recreation, consisting of the
26 commissioner of public lands(~~, the director of parks and recreation,~~
27 ~~and the director of fish and wildlife, or their designees,~~) and, by
28 appointment of the governor with the advice and consent of the senate,
29 five members from the public at large who have a demonstrated interest
30 in and a general knowledge of outdoor recreation and conservation in
31 the state. The terms of members appointed from the public at large
32 shall commence on January 1st of the year of appointment and shall be
33 for three years or until a successor is appointed, except in the case
34 of appointments to fill vacancies which shall be for the remainder of
35 the unexpired term. The governor shall appoint one of the members from
36 the public at large to serve as chair of the board for the duration of
37 the member's term. Members employed by the state shall serve without

1 additional pay and participation in the work of the board shall be
2 deemed performance of their employment. Members from the public at
3 large shall be compensated in accordance with RCW 43.03.240 and shall
4 be entitled to reimbursement individually for travel expenses incurred
5 in performance of their duties as members of the board in accordance
6 with RCW 43.03.050 and 43.03.060.

7 NEW SECTION. **Sec. 4005.** A new section is added to chapter 79A.25
8 RCW to read as follows:

9 (1) It is the intent of the legislature that a proper barrier be
10 maintained between the board and the department in matters affecting
11 the department as either a grant applicant or grant recipient, or both.

12 (2) For those grant award and management issues where the
13 department is either a grant applicant or grant recipient, or both,
14 including but not limited to issues of project scope changes, deed
15 restrictions, conversions, and time extensions, the board shall have
16 independent and final decision-making authority. The board shall adopt
17 written policies and procedures by July 1, 2012, to implement this
18 section.

19 **Sec. 4006.** RCW 79A.25.150 and 2010 c 128 s 7 are each amended to
20 read as follows:

21 When requested by the board, members employed by the state shall
22 furnish assistance to the board from their departments for the analysis
23 and review of proposed plans and projects, and such assistance shall be
24 a proper charge against the appropriations to the several agencies
25 represented on the board. Assistance may be in the form of money,
26 personnel, or equipment and supplies, whichever is most suitable to the
27 needs of the board.

28 ~~((The director of the recreation and conservation office shall be
29 appointed by, and serve at the pleasure of, the governor. The governor
30 shall select the director from a list of three candidates submitted by
31 the board. However, the governor may request and the board shall
32 provide an additional list or lists from which the governor may select
33 the director. The director shall have background and experience in the
34 areas of recreation and conservation management and policy. The
35 director shall be paid a salary to be fixed by the governor in
36 accordance with the provisions of RCW 43.03.040. The director shall~~

1 ~~appoint such personnel as may be necessary to carry out the duties of~~
2 ~~the office. Not more than three employees appointed by the director~~
3 ~~shall be exempt from the provisions of chapter 41.06 RCW.))~~

4 **Sec. 4007.** RCW 79A.25.220 and 2007 c 241 s 55 are each amended to
5 read as follows:

6 (1) A ten-member firearms range advisory committee is hereby
7 created to provide advice and counsel to the board. The members shall
8 be appointed by the director (~~of the recreation and conservation~~
9 ~~office~~)) from the following groups:

- 10 (a) Law enforcement;
- 11 (b) Washington military department;
- 12 (c) Black powder shooting sports;
- 13 (d) Rifle shooting sports;
- 14 (e) Pistol shooting sports;
- 15 (f) Shotgun shooting sports;
- 16 (g) Archery shooting sports;
- 17 (h) Hunter education;
- 18 (i) Hunters; and
- 19 (j) General public.

20 (2) The firearms range advisory committee members shall serve two-
21 year terms with five new members being selected each year beginning
22 with the third year of the committee's existence. The firearms range
23 advisory committee members shall not receive compensation from the
24 firearms range account. However, travel and per diem costs shall be
25 paid consistent with regulations for state employees.

26 (3) The (~~office~~) department shall provide administrative,
27 operational, and logistical support for the firearms range advisory
28 committee. Expenses directly incurred for supporting this program may
29 be charged by the (~~office~~) department against the firearms range
30 account. Expenses shall not exceed ten percent of the yearly income
31 for the range account.

32 (4) The board shall in cooperation with the firearms range advisory
33 committee:

- 34 (a) Develop an application process;
- 35 (b) Develop an audit and accountability program;
- 36 (c) Screen, prioritize, and approve grant applications; and
- 37 (d) Monitor compliance by grant recipients.

1 (5) The department of natural resources(~~(, the department of fish~~
2 ~~and wildlife,~~) and the Washington military department are encouraged
3 to provide land, facilitate land exchanges, and support the development
4 of shooting range facilities.

5 **Sec. 4008.** RCW 79A.25.240 and 2009 c 345 s 13 are each amended to
6 read as follows:

7 The (~~recreation and conservation office~~) department shall provide
8 necessary grants and loan administration support to the salmon recovery
9 funding board as provided in RCW 77.85.120. The (~~office~~) department
10 shall also be responsible for tracking salmon recovery expenditures
11 under RCW 77.85.140. The (~~office~~) department shall provide all
12 necessary administrative support to the salmon recovery funding board,
13 and the salmon recovery funding board shall be located with the
14 (~~office~~) department.

15 **Sec. 4009.** RCW 79A.25.830 and 2007 c 241 s 60 are each amended to
16 read as follows:

17 The recreation and conservation funding board or (~~office~~) the
18 department may receive gifts, grants, or endowments from public and
19 private sources that are made from time to time, in trust or otherwise,
20 for the use and benefit of the purposes of RCW 79A.25.800 through
21 79A.25.830 and spend gifts, grants, or endowments or income from the
22 public or private sources according to their terms, unless the receipt
23 of the gifts, grants, or endowments violates RCW 42.17.710.

24 NEW SECTION. **Sec. 4010.** Section 82, chapter 11, Laws of 2000;
25 section 60, chapter 241, Laws of 2007; and section 4009 of this act
26 expire one year after RCW 82.14.0494 expires.

27 **Sec. 4011.** RCW 43.21J.030 and 2007 c 341 s 62 and 2007 c 241 s 4
28 are each reenacted and amended to read as follows:

29 (1) There is created the environmental enhancement and job creation
30 task force within the office of the governor. The purpose of the task
31 force is to provide a coordinated and comprehensive approach to
32 implementation of chapter 516, Laws of 1993. The task force shall
33 consist of the commissioner of public lands, the director of the
34 department of (~~fish and wildlife~~) conservation and recreation, the

1 director of the department of ecology, (~~the director of the parks and~~
2 ~~recreation commission,~~) the timber team coordinator, the executive
3 director of the workforce training and education coordinating board,
4 and the executive director of the Puget Sound partnership, or their
5 designees. The task force may seek the advice of the following
6 agencies and organizations: The department of (~~community, trade, and~~
7 ~~economic development~~) commerce, the conservation commission, the
8 employment security department, the (~~recreation and conservation~~
9 ~~office~~) department of conservation and recreation, appropriate federal
10 agencies, appropriate special districts, the Washington state
11 association of counties, the association of Washington cities, labor
12 organizations, business organizations, timber-dependent communities,
13 environmental organizations, and Indian tribes. The governor shall
14 appoint the task force chair. Members of the task force shall serve
15 without additional pay. Participation in the work of the committee by
16 agency members shall be considered in performance of their employment.
17 The governor shall designate staff and administrative support to the
18 task force and shall solicit the participation of agency personnel to
19 assist the task force.

20 (2) The task force shall have the following responsibilities:

21 (a) Soliciting and evaluating, in accordance with the criteria set
22 forth in RCW 43.21J.040, requests for funds from the environmental and
23 forest restoration account and making distributions from the account.
24 The task force shall award funds for projects and training programs it
25 approves and may allocate the funds to state agencies for disbursement
26 and contract administration;

27 (b) Coordinating a process to assist state agencies and local
28 governments to implement effective environmental and forest restoration
29 projects funded under this chapter;

30 (c) Considering unemployment profile data provided by the
31 employment security department.

32 (3) Beginning July 1, 1994, the task force shall have the following
33 responsibilities:

34 (a) To solicit and evaluate proposals from state and local
35 agencies, private nonprofit organizations, and tribes for environmental
36 and forest restoration projects;

37 (b) To rank the proposals based on criteria developed by the task
38 force in accordance with RCW 43.21J.040; and

1 (c) To determine funding allocations for projects to be funded from
2 the account created in RCW 43.21J.020 and for projects or programs as
3 designated in the omnibus operating and capital appropriations acts.

4 **Sec. 4012.** RCW 43.41.270 and 2009 c 345 s 12 are each amended to
5 read as follows:

6 (1) The office of financial management shall assist natural
7 resource-related agencies in developing outcome-focused performance
8 measures for administering natural resource-related and environmentally
9 based grant and loan programs. These performance measures are to be
10 used in determining grant eligibility, for program management and
11 performance assessment.

12 (2) The office of financial management and the (~~recreation and~~
13 ~~conservation office~~) department of conservation and recreation shall
14 assist natural resource-related agencies in developing recommendations
15 for a monitoring program to measure outcome-focused performance
16 measures required by this section. The recommendations must be
17 consistent with the framework and coordinated monitoring strategy
18 developed by the monitoring oversight committee established in RCW
19 77.85.210.

20 (3) Natural resource agencies shall consult with grant or loan
21 recipients including local governments, tribes, nongovernmental
22 organizations, and other interested parties, and report to the office
23 of financial management on the implementation of this section.

24 (4) For purposes of this section, "natural resource-related
25 agencies" include the department of ecology, the department of natural
26 resources, (~~the department of fish and wildlife,~~) the state
27 conservation commission, the (~~recreation and conservation funding~~
28 ~~board~~) department of conservation and recreation, the salmon recovery
29 funding board, and the public works board within the department of
30 (~~community, trade, and economic development~~) commerce.

31 (5) For purposes of this section, "natural resource-related
32 environmentally based grant and loan programs" includes the
33 conservation reserve enhancement program; dairy nutrient management
34 grants under chapter 90.64 RCW; state conservation commission water
35 quality grants under chapter 89.08 RCW; coordinated prevention grants,
36 public participation grants, and remedial action grants under RCW
37 70.105D.070; water pollution control facilities financing under chapter

1 70.146 RCW; aquatic lands enhancement grants under RCW 79.105.150;
2 habitat grants under the Washington wildlife and recreation program
3 under RCW 79A.15.040; salmon recovery grants under chapter 77.85 RCW;
4 and the public works trust fund program under chapter 43.155 RCW. The
5 term also includes programs administered by the department of (~~fish
6 and wildlife~~) conservation and recreation related to protection or
7 recovery of fish stocks which are funded with moneys from the capital
8 budget.

9 **Sec. 4013.** RCW 43.60A.150 and 2007 c 451 s 2 and 2007 c 241 s 6
10 are each reenacted and amended to read as follows:

11 (1) The Washington veterans conservation corps is created. The
12 department shall establish enrollment procedures for the program.
13 Enrollees may choose to participate in either or both the volunteer
14 projects list authorized in subsection (2) of this section, and the
15 training, certification, and placement program authorized in RCW
16 43.60A.151.

17 (2) The department shall create a list of veterans who are
18 interested in working on projects that restore Washington's natural
19 habitat. The department shall promote the opportunity to volunteer for
20 the veterans conservation corps through its local counselors and
21 representatives. Only veterans who grant their approval may be
22 included on the list. The department shall consult with the salmon
23 recovery board, the recreation and conservation funding board, the
24 department of natural resources, (~~the department of fish and wildlife,
25 and the state parks and recreation commission~~), and the department of
26 conservation and recreation to determine the most effective ways to
27 market the veterans conservation corps to agencies and local sponsors
28 of habitat restoration projects.

29 **Sec. 4014.** RCW 43.99N.060 and 2009 c 497 s 6026 are each amended
30 to read as follows:

31 (1) The stadium and exhibition center account is created in the
32 custody of the state treasurer. All receipts from the taxes imposed
33 under RCW 82.14.0494 and distributions under RCW 67.70.240(5) shall be
34 deposited into the account. Only the director of the office of
35 financial management or the director's designee may authorize

1 expenditures from the account. The account is subject to allotment
2 procedures under chapter 43.88 RCW. An appropriation is not required
3 for expenditures from this account.

4 (2) Until bonds are issued under RCW 43.99N.020, up to five million
5 dollars per year beginning January 1, 1999, shall be used for the
6 purposes of subsection (3)(b) of this section, all remaining moneys in
7 the account shall be transferred to the public stadium authority,
8 created under RCW 36.102.020, to be used for public stadium authority
9 operations and development of the stadium and exhibition center.

10 (3) After bonds are issued under RCW 43.99N.020, all moneys in the
11 stadium and exhibition center account shall be used exclusively for the
12 following purposes in the following priority:

13 (a) On or before June 30th of each year, the office of financial
14 management shall accumulate in the stadium and exhibition center
15 account an amount at least equal to the amount required in the next
16 succeeding twelve months for the payment of principal of and interest
17 on the bonds issued under RCW 43.99N.020;

18 (b) An additional reserve amount not in excess of the expected
19 average annual principal and interest requirements of bonds issued
20 under RCW 43.99N.020 shall be accumulated and maintained in the
21 account, subject to withdrawal by the state treasurer at any time if
22 necessary to meet the requirements of (a) of this subsection, and,
23 following any withdrawal, reaccumulated from the first tax revenues and
24 other amounts deposited in the account after meeting the requirements
25 of (a) of this subsection; and

26 (c) The balance, if any, shall be transferred to the youth athletic
27 facility account under subsection (4) of this section.

28 Any revenues derived from the taxes authorized by RCW 36.38.010(5)
29 and 36.38.040 or other amounts that if used as provided under (a) and
30 (b) of this subsection would cause the loss of any tax exemption under
31 federal law for interest on bonds issued under RCW 43.99N.020 shall be
32 deposited in and used exclusively for the purposes of the youth
33 athletic facility account and shall not be used, directly or
34 indirectly, as a source of payment of principal of or interest on bonds
35 issued under RCW 43.99N.020, or to replace or reimburse other funds
36 used for that purpose.

37 (4) Any moneys in the stadium and exhibition center account not
38 required or permitted to be used for the purposes described in

1 subsection (3)(a) and (b) of this section shall be deposited in the
2 youth athletic facility account hereby created in the state treasury.
3 Expenditures from the account may be used only for purposes of grants
4 or loans to cities, counties, and qualified nonprofit organizations for
5 community outdoor athletic facilities. Only the director of the
6 (~~recreation and conservation office~~) department of conservation and
7 recreation or the director's designee may authorize expenditures from
8 the account, subject to approval by the recreation and conservation
9 funding board. The account is subject to allotment procedures under
10 chapter 43.88 RCW, but an appropriation is not required for
11 expenditures. The athletic facility grants or loans may be used for
12 acquiring, developing, equipping, maintaining, and improving community
13 outdoor athletic facilities. Funds shall be divided equally between
14 the development of new community outdoor athletic facilities, the
15 improvement of existing community outdoor athletic facilities, and the
16 maintenance of existing community outdoor athletic facilities. Cities,
17 counties, and qualified nonprofit organizations must submit proposals
18 for grants or loans from the account. To the extent that funds are
19 available, cities, counties, and qualified nonprofit organizations must
20 meet eligibility criteria as established by the director of the
21 (~~recreation and conservation office~~) department of conservation and
22 recreation. The grants and loans shall be awarded on a competitive
23 application process and the amount of the grant or loan shall be in
24 proportion to the population of the city or county for where the
25 community outdoor athletic facility is located. Grants or loans
26 awarded in any one year need not be distributed in that year. In the
27 2009-2011 biennium, if there are not enough project applications
28 submitted in a category within the account to meet the requirement of
29 equal distribution of funds to each category, the director of the
30 recreation and conservation office may distribute any remaining funds
31 to other categories within the account. The director of the
32 (~~recreation and conservation office~~) department of conservation and
33 recreation may expend up to one and one-half percent of the moneys
34 deposited in the account created in this subsection for administrative
35 purposes.

36 **Sec. 4015.** RCW 46.09.530 and 2010 c 161 s 223 are each amended to
37 read as follows:

1 (1) After deducting administrative expenses and the expense of any
2 programs conducted under this chapter, the board shall, at least once
3 each year, distribute the funds it receives under RCW 46.68.045 and
4 46.09.520 to state agencies, counties, municipalities, federal
5 agencies, nonprofit off-road vehicle organizations, and Indian tribes.
6 Funds distributed under this section to nonprofit off-road vehicle
7 organizations may be spent only on projects or activities that benefit
8 off-road vehicle recreation on lands once publicly owned that come into
9 private ownership in a federally approved land exchange completed
10 between January 1, 1998, and January 1, 2005.

11 (2) The board shall adopt rules governing applications for funds
12 administered by the (~~recreation and conservation office~~) department
13 of conservation and recreation under this chapter and shall determine
14 the amount of money distributed to each applicant. Agencies receiving
15 funds under this chapter for capital purposes shall consider the
16 possibility of contracting with the (~~state parks and recreation~~
17 ~~commission~~) department of conservation and recreation, the department
18 of natural resources, or other federal, state, and local agencies to
19 employ the youth development and conservation corps or other youth
20 crews in completing the project.

21 (3) The board shall require each applicant for acquisition or
22 development funds under this section to comply with the requirements of
23 either the state environmental policy act, chapter 43.21C RCW, or the
24 national environmental policy act (42 U.S.C. Sec. 4321 et seq.).

25 **Sec. 4016.** RCW 77.85.020 and 2009 c 345 s 4 are each amended to
26 read as follows:

27 (1) (~~Beginning December 2010, the recreation and conservation~~
28 ~~office~~) The governor's salmon recovery office shall produce a biennial
29 report on the statewide status of salmon recovery and watershed health,
30 summarize projects and programs funded by the salmon recovery funding
31 board, and summarize progress as measured by high-level indicators and
32 state agency compliance with applicable protocols established by the
33 forum for monitoring salmon recovery and watershed health. The report
34 must be a consolidation of the current reporting activities, including
35 the salmon recovery funding board and the forum on monitoring salmon
36 recovery and watershed health, on the status of salmon recovery and
37 watershed health in Washington state, in accordance with RCW

1 77.85.250(8). The report shall also include a high-level status report
2 on watershed planning efforts under chapter 90.82 RCW as summarized by
3 the department of ecology and on salmon recovery and watershed planning
4 as summarized by the Puget Sound partnership. The report's
5 introduction must include a list of high-level questions related to the
6 status of watershed health and salmon recovery to help decision makers
7 and the public respond to salmon recovery and watershed health
8 management needs.

9 (2) The department, the department of ecology, the department of
10 natural resources, and the (~~state conservation commission~~) department
11 of agriculture shall provide to the (~~recreation and conservation~~
12 ~~office~~) governor's salmon recovery office information requested by the
13 office necessary to prepare the consolidated report on salmon recovery
14 and watershed health.

15 **Sec. 4017.** RCW 77.85.030 and 2009 c 345 s 2 are each amended to
16 read as follows:

17 (1) The governor's salmon recovery office shall coordinate state
18 strategy to allow for salmon recovery to healthy sustainable population
19 levels with productive commercial and recreational fisheries. A
20 primary purpose of the office is to coordinate and assist in the
21 development, implementation, and revision of regional salmon recovery
22 plans as an integral part of a statewide strategy developed consistent
23 with the guiding principles and procedures under RCW 77.85.150.

24 (2) The governor's salmon recovery office is also responsible for
25 maintaining the statewide salmon recovery strategy to reflect
26 applicable provisions of regional recovery plans, habitat protection
27 and restoration plans, water quality plans, and other private, local,
28 regional, state agency and federal plans, projects, and activities that
29 contribute to salmon recovery.

30 (3) The governor's salmon recovery office shall also work with
31 regional salmon recovery organizations on salmon recovery issues in
32 order to ensure a coordinated and consistent statewide approach to
33 salmon recovery and shall work with federal agencies to accomplish
34 implementation of federal commitments in the recovery plans.

35 (4) The governor's salmon recovery office may also:

36 (a) Assist state agencies, local governments, landowners, and other

1 interested parties in obtaining federal assurances that plans,
2 programs, or activities are consistent with fish recovery under the
3 federal endangered species act;

4 (b) Act as liaison to local governments, the state congressional
5 delegation, the United States congress, federally recognized tribes,
6 and the federal executive branch agencies for issues related to the
7 state's salmon recovery plans;

8 (c) Provide periodic reports pursuant to RCW 77.85.020;

9 (d) Provide, as appropriate, technical and administrative support
10 to science panels on issues pertaining to salmon recovery;

11 (e) In cooperation with the regional recovery organizations,
12 prepare a timeline and implementation plan that, together with a
13 schedule and recommended budget, identifies specific actions in
14 regional recovery plans for state agency actions and assistance
15 necessary to implement local and regional recovery plans; and

16 (f) As necessary, provide recommendations to the legislature that
17 would further the success of salmon recovery, including recommendations
18 for state agency actions in the succeeding biennium and state financial
19 and technical assistance for projects and activities to be undertaken
20 in local and regional salmon recovery plans. The recommendations may
21 include:

22 (i) The need to expand or improve nonregulatory programs and
23 activities; and

24 (ii) The need for state funding assistance to recovery activities
25 and projects.

26 (5) For administrative purposes, the governor's salmon recovery
27 office is located within the (~~recreation and conservation office~~)
28 department of conservation and recreation.

29 **Sec. 4018.** RCW 77.85.050 and 2009 c 345 s 3 and 2009 c 333 s 25
30 are each reenacted and amended to read as follows:

31 (1)(a) Counties, cities, and tribal governments must jointly
32 designate, by resolution or by letters of support, the area for which
33 a habitat project list is to be developed and the lead entity that is
34 to be responsible for submitting the habitat project list. No project
35 included on a habitat project list shall be considered mandatory in
36 nature and no private landowner may be forced or coerced into

1 participation in any respect. The lead entity may be a county, city,
2 conservation district, special district, tribal government, regional
3 recovery organization, or other entity.

4 (b) The lead entity shall establish a committee that consists of
5 representative interests of counties, cities, conservation districts,
6 tribes, environmental groups, business interests, landowners, citizens,
7 volunteer groups, regional fish enhancement groups, and other habitat
8 interests. The purpose of the committee is to provide a citizen-based
9 evaluation of the projects proposed to promote salmon habitat.

10 (c) The committee shall compile a list of habitat projects,
11 establish priorities for individual projects, define the sequence for
12 project implementation, and submit these activities as the habitat
13 project list. The committee shall also identify potential federal,
14 state, local, and private funding sources.

15 (2) The area covered by the habitat project list must be based, at
16 a minimum, on a WRIA, combination of WRIsAs, or any other area as agreed
17 to by the counties, cities, and tribes in resolutions or in letters of
18 support meeting the requirements of this subsection. Preference will
19 be given to projects in an area that contain a salmon species that is
20 listed or proposed for listing under the federal endangered species
21 act.

22 (3) The lead entity shall submit the habitat project list to the
23 salmon recovery funding board in accordance with procedures adopted by
24 the board.

25 (4) The (~~recreation and conservation office~~) department of
26 conservation and recreation shall administer funding to support the
27 functions of lead entities.

28 **Sec. 4019.** RCW 77.85.110 and 2007 c 241 s 20 are each amended to
29 read as follows:

30 (1) The salmon recovery funding board is created consisting of
31 (~~ten~~) nine members.

32 (2) Five members of the board shall be voting members who are
33 appointed by the governor, subject to confirmation by the senate. One
34 of these voting members shall be a cabinet-level appointment as the
35 governor's representative to the board. Board members who represent
36 the general public shall not have a financial or regulatory interest in
37 salmon recovery. The governor shall appoint one of the general public

1 members of the board as the chair. The voting members of the board
2 shall be appointed for terms of four years, except that two members
3 initially shall be appointed for terms of two years and three members
4 shall initially be appointed for terms of three years. In making the
5 appointments, the governor shall seek a board membership that
6 collectively provide the expertise necessary to provide strong fiscal
7 oversight of salmon recovery expenditures, and that provide extensive
8 knowledge of local government processes and functions and an
9 understanding of issues relevant to salmon recovery in Washington
10 state. The governor shall appoint at least three of the voting members
11 of the board no later than ninety days after July 1, 1999. Vacant
12 positions on the board shall be filled in the same manner as the
13 original appointments. The governor may remove members of the board
14 for good cause.

15 In addition to the five voting members of the board, the following
16 (~~five~~) four state officials shall serve as ex officio nonvoting
17 members of the board: The director of the department (~~of fish and~~
18 ~~wildlife, the executive director of the conservation commission~~) of
19 conservation and recreation, the secretary of transportation, the
20 director of the department of ecology, and the commissioner of public
21 lands. The state officials serving in an ex officio capacity may
22 designate a representative of their respective agencies to serve on the
23 board in their behalf. Such designations shall be made in writing and
24 in such manner as is specified by the board.

25 (3) Staff support to the board shall be provided by the
26 (~~recreation and conservation office~~) department of conservation and
27 recreation. For administrative purposes, the board shall be located
28 with the (~~recreation and conservation office~~) department of
29 conservation and recreation.

30 (4) Members of the board who do not represent state agencies shall
31 be compensated as provided by RCW 43.03.250. Members of the board
32 shall be reimbursed for travel expenses as provided by RCW 43.03.050
33 and 43.03.060.

34 **Sec. 4020.** RCW 77.85.120 and 2007 c 241 s 21 are each amended to
35 read as follows:

36 (1) The salmon recovery funding board is responsible for making

1 grants and loans for salmon habitat projects and salmon recovery
2 activities from the amounts appropriated to the board for this purpose.
3 To accomplish this purpose the board may:

4 (a) Provide assistance to grant applicants regarding the procedures
5 and criteria for grant and loan awards;

6 (b) Make and execute all manner of contracts and agreements with
7 public and private parties as the board deems necessary, consistent
8 with the purposes of this chapter;

9 (c) Accept any gifts, grants, or loans of funds, property, or
10 financial or other aid in any form from any other source on any terms
11 that are not in conflict with this chapter;

12 (d) Adopt rules under chapter 34.05 RCW as necessary to carry out
13 the purposes of this chapter; and

14 (e) Do all acts and things necessary or convenient to carry out the
15 powers expressly granted or implied under this chapter.

16 (2) The (~~recreation and conservation office~~) department of
17 conservation and recreation shall provide all necessary grants and
18 loans administration assistance to the board, and shall distribute
19 funds as provided by the board in RCW 77.85.130.

20 NEW SECTION. Sec. 4021. A new section is added to chapter 77.85
21 RCW to read as follows:

22 (1) It is the intent of the legislature that a proper barrier be
23 maintained between the recreation and conservation funding board and
24 the department in matters affecting the department as either a grant
25 applicant or grant recipient, or both.

26 (2) For those grant award and management issues where the
27 department is either a grant applicant or grant recipient, or both,
28 including but not limited to issues of project scope changes, deed
29 restrictions, conversions, and time extensions, the recreation and
30 conservation funding board shall have independent and final decision-
31 making authority. The recreation and conservation funding board shall
32 adopt written policies and procedures by July 1, 2012, to implement
33 this section.

34 **Sec. 4022.** RCW 77.85.140 and 2009 c 518 s 9 and 2009 c 345 s 8 are
35 each reenacted and amended to read as follows:

36 (1) Habitat project lists shall be submitted to the salmon recovery

1 funding board for funding at least once a year on a schedule
2 established by the board. The board shall provide the legislature with
3 a list of the proposed projects and a list of the projects funded by
4 October 1st of each year for informational purposes. Project sponsors
5 who complete salmon habitat projects approved for funding from habitat
6 project lists and have met grant application deadlines will be paid by
7 the salmon recovery funding board within thirty days of project
8 completion.

9 (2) The (~~recreation and conservation office~~) department of
10 conservation and recreation shall track all funds allocated for salmon
11 habitat projects and salmon recovery activities on behalf of the board,
12 including both funds allocated by the board and funds allocated by
13 other state or federal agencies for salmon recovery or water quality
14 improvement.

15 **Sec. 4023.** RCW 84.34.055 and 2007 c 241 s 73 are each amended to
16 read as follows:

17 (1)(a) The county legislative authority may direct the county
18 planning commission to set open space priorities and adopt, after a
19 public hearing, an open space plan and public benefit rating system for
20 the county. The plan shall consist of criteria for determining
21 eligibility of lands, the process for establishing a public benefit
22 rating system, and an assessed valuation schedule. The assessed
23 valuation schedule shall be developed by the county assessor and shall
24 be a percentage of market value based upon the public benefit rating
25 system. The open space plan, the public benefit rating system, and the
26 assessed valuations schedule shall not be effective until approved by
27 the county legislative authority after at least one public hearing:
28 PROVIDED, That any county which has complied with the procedural
29 requisites of chapter 393, Laws of 1985, prior to July 28, 1985, need
30 not repeat those procedures in order to adopt an open space plan
31 pursuant to chapter 393, Laws of 1985.

32 (b) County legislative authorities, in open space plans, public
33 benefit rating systems, and assessed valuation schedules, shall give
34 priority consideration to lands used for buffers that are planted with
35 or primarily contain native vegetation.

36 (c) "Priority consideration" as used in this section may include,

1 but is not limited to, establishing classification eligibility and
2 maintenance criteria for buffers meeting the requirements of (b) of
3 this subsection.

4 (d) County legislative authorities shall meet the requirements of
5 (b) of this subsection no later than July 1, 2006, unless buffers
6 already receive priority consideration in the existing open space
7 plans, public benefit rating systems, and assessed valuation schedules.

8 (2) In adopting an open space plan, recognized sources shall be
9 used unless the county does its own survey of important open space
10 priorities or features, or both. Recognized sources include but are
11 not limited to the natural heritage database; the state office of
12 historic preservation; the (~~recreation and conservation office~~)
13 department of conservation and recreation inventory of dry accretion
14 beach and shoreline features; state, national, county, or city
15 registers of historic places; the shoreline master program; or studies
16 by the (~~parks and recreation commission and by the departments of fish~~
17 ~~and wildlife and~~) department of natural resources. Features and sites
18 may be verified by an outside expert in the field and approved by the
19 appropriate state or local agency to be sent to the county legislative
20 authority for final approval as open space.

21 (3) When the county open space plan is adopted, owners of open
22 space lands then classified under this chapter shall be notified in the
23 same manner as is provided in RCW 84.40.045 of their new assessed
24 value. These lands may be removed from classification, upon request of
25 owner, without penalty within thirty days of notification of value.

26 (4) The open space plan and public benefit rating system under this
27 section may be adopted for taxes payable in 1986 and thereafter.

28 NEW SECTION. Sec. 4024. (1) The powers, duties, and functions of
29 the recreation and conservation office are hereby transferred to the
30 department of conservation and recreation. All references to the
31 recreation and conservation office in the Revised Code of Washington
32 shall be construed to mean the director or the department of
33 conservation and recreation.

34 (2)(a) All reports, documents, surveys, books, records, files,
35 papers, or written material in the possession of the recreation and
36 conservation office shall be delivered to the custody of the department
37 of conservation and recreation. All cabinets, furniture, office

1 equipment, motor vehicles, and other tangible property employed by the
2 recreation and conservation office shall be made available to the
3 department of conservation and recreation. All funds, credits, or
4 other assets held by the recreation and conservation office shall be
5 assigned to the department of conservation and recreation.

6 (b) Any appropriations made to the recreation and conservation
7 office shall, on the effective date of this section, be transferred and
8 credited to the department of conservation and recreation.

9 (c) If any question arises as to the transfer of any personnel,
10 funds, books, documents, records, papers, files, equipment, or other
11 tangible property used or held in the exercise of the powers and the
12 performance of the duties and functions transferred, the director of
13 financial management shall make a determination as to the proper
14 allocation and certify the same to the state agencies concerned.

15 (3) All rules and all pending business before the recreation and
16 conservation office shall be continued and acted upon by the department
17 of conservation and recreation. All existing contracts and obligations
18 shall remain in full force and shall be performed by the office of
19 conservation and recreation.

20 (4) The transfer of the powers, duties, functions, and personnel of
21 the recreation and conservation office shall not affect the validity of
22 any act performed before the effective date of this section.

23 (5) If apportionments of budgeted funds are required because of the
24 transfers directed by this section, the director of financial
25 management shall certify the apportionments to the agencies affected,
26 the state auditor, and the state treasurer. Each of these shall make
27 the appropriate transfer and adjustments in funds and appropriation
28 accounts and equipment records in accordance with the certification.

29 (6) All employees of the recreation and conservation office engaged
30 in performing the powers, functions, and duties transferred to the
31 department of conservation and recreation, are transferred to the
32 department of conservation and recreation. All employees classified
33 under chapter 41.06 RCW, the state civil service law, are assigned to
34 the department of conservation and recreation to perform their usual
35 duties upon the same terms as formerly, without any loss of rights,
36 subject to any action that may be appropriate thereafter in accordance
37 with the laws and rules governing state civil service law.

1 NEW SECTION. **Sec. 4025.** The consolidation directed pursuant to
2 sections 4001 through 4024 of this act takes effect July 1, 2012.

1 PART 5

2 UPDATING VARIOUS STATUTES TO REFLECT THE TRANSFER OF
3 DUTIES TO THE DEPARTMENT OF CONSERVATION AND RECREATION

4 Sec. 5001. RCW 17.15.020 and 1997 c 357 s 3 are each amended to
5 read as follows:

6 Each of the following state agencies or institutions shall
7 implement integrated pest management practices when carrying out the
8 agency's or institution's duties related to pest control:

- 9 (1) The department of agriculture;
10 (2) The state noxious weed control board;
11 (3) The department of ecology;
12 (4) The department of ~~((fish and wildlife))~~ conservation and
13 recreation;
14 (5) The department of transportation;
15 (6) ~~((The parks and recreation commission;~~
16 ~~+7+))~~ The department of natural resources;
17 ~~((+8+))~~ (7) The department of corrections;
18 ~~((+9+))~~ (8) The department of general administration; and
19 ~~((+10+))~~ (9) Each state institution of higher education, for the
20 institution's own building and grounds maintenance.

21 Sec. 5002. RCW 17.26.020 and 2003 c 39 s 10 are each amended to
22 read as follows:

23 (1) Facilitating the control of spartina and purple loosestrife is
24 a high priority for all state agencies.

25 (2) The department of natural resources is responsible for spartina
26 and purple loosestrife control on state-owned aquatic lands managed by
27 the department of natural resources.

28 (3) The department of ~~((fish and wildlife))~~ conservation and
29 recreation is responsible for spartina and purple loosestrife control
30 on state-owned aquatic lands managed by the department of ~~((fish and~~
31 ~~wildlife))~~ conservation and recreation.

32 (4) ~~((The state parks and recreation commission is responsible for~~
33 ~~spartina and purple loosestrife control on state-owned aquatic lands~~
34 ~~managed by the state parks and recreation commission.~~

1 ~~(5)~~) Unless the context clearly requires otherwise, the
2 definitions in this subsection apply throughout this chapter, RCW
3 90.48.020, 90.58.030, and (~~77.55.150~~) 77.55.081:

4 (a) "Spartina" means *Spartina alterniflora*, *Spartina anglica*,
5 *Spartina x townsendii*, and *Spartina patens*.

6 (b) "Purple loosestrife" means *Lythrum salicaria* and *Lythrum*
7 *virgatum*.

8 (c) "Aquatic noxious weed" means an aquatic weed on the state
9 noxious weed list adopted under RCW 17.10.080.

10 **Sec. 5003.** RCW 19.02.050 and 1997 c 391 s 11 are each amended to
11 read as follows:

12 The legislature hereby directs the full participation by the
13 following agencies in the implementation of this chapter:

14 (1) Department of agriculture;

15 (2) Secretary of state;

16 (3) Department of social and health services;

17 (4) Department of revenue;

18 (5) Department of (~~fish and wildlife~~) conservation and
19 recreation;

20 (6) (~~Department of~~) Employment security department;

21 (7) Department of labor and industries;

22 (8) Department of (~~community, trade, and economic development~~)
23 commerce;

24 (9) Liquor control board;

25 (10) Department of health;

26 (11) Department of licensing;

27 (12) (~~Parks and recreation commission~~;

28 ~~(13)~~) Utilities and transportation commission; and

29 (~~(14)~~) (13) Other agencies as determined by the governor.

30 **Sec. 5004.** RCW 39.04.155 and 2009 c 74 s 1 are each amended to
31 read as follows:

32 (1) This section provides uniform small works roster provisions to
33 award contracts for construction, building, renovation, remodeling,
34 alteration, repair, or improvement of real property that may be used by
35 state agencies and by any local government that is expressly authorized
36 to use these provisions. These provisions may be used in lieu of other

1 procedures to award contracts for such work with an estimated cost of
2 three hundred thousand dollars or less. The small works roster process
3 includes the limited public works process authorized under subsection
4 (3) of this section and any local government authorized to award
5 contracts using the small works roster process under this section may
6 award contracts using the limited public works process under subsection
7 (3) of this section.

8 (2)(a) A state agency or authorized local government may create a
9 single general small works roster, or may create a small works roster
10 for different specialties or categories of anticipated work. Where
11 applicable, small works rosters may make distinctions between
12 contractors based upon different geographic areas served by the
13 contractor. The small works roster or rosters shall consist of all
14 responsible contractors who have requested to be on the list, and where
15 required by law are properly licensed or registered to perform such
16 work in this state. A state agency or local government establishing a
17 small works roster or rosters may require eligible contractors desiring
18 to be placed on a roster or rosters to keep current records of any
19 applicable licenses, certifications, registrations, bonding, insurance,
20 or other appropriate matters on file with the state agency or local
21 government as a condition of being placed on a roster or rosters. At
22 least once a year, the state agency or local government shall publish
23 in a newspaper of general circulation within the jurisdiction a notice
24 of the existence of the roster or rosters and solicit the names of
25 contractors for such roster or rosters. In addition, responsible
26 contractors shall be added to an appropriate roster or rosters at any
27 time they submit a written request and necessary records. Master
28 contracts may be required to be signed that become effective when a
29 specific award is made using a small works roster.

30 (b) A state agency establishing a small works roster or rosters
31 shall adopt rules implementing this subsection. A local government
32 establishing a small works roster or rosters shall adopt an ordinance
33 or resolution implementing this subsection. Procedures included in
34 rules adopted by the department of general administration in
35 implementing this subsection must be included in any rules providing
36 for a small works roster or rosters that is adopted by another state
37 agency, if the authority for that state agency to engage in these
38 activities has been delegated to it by the department of general

1 administration under chapter 43.19 RCW. An interlocal contract or
2 agreement between two or more state agencies or local governments
3 establishing a small works roster or rosters to be used by the parties
4 to the agreement or contract must clearly identify the lead entity that
5 is responsible for implementing the provisions of this subsection.

6 (c) Procedures shall be established for securing telephone,
7 written, or electronic quotations from contractors on the appropriate
8 small works roster to assure that a competitive price is established
9 and to award contracts to the lowest responsible bidder, as defined in
10 RCW 39.04.010. Invitations for quotations shall include an estimate of
11 the scope and nature of the work to be performed as well as materials
12 and equipment to be furnished. However, detailed plans and
13 specifications need not be included in the invitation. This subsection
14 does not eliminate other requirements for architectural or engineering
15 approvals as to quality and compliance with building codes. Quotations
16 may be invited from all appropriate contractors on the appropriate
17 small works roster. As an alternative, quotations may be invited from
18 at least five contractors on the appropriate small works roster who
19 have indicated the capability of performing the kind of work being
20 contracted, in a manner that will equitably distribute the opportunity
21 among the contractors on the appropriate roster. However, if the
22 estimated cost of the work is from one hundred fifty thousand dollars
23 to three hundred thousand dollars, a state agency or local government
24 that chooses to solicit bids from less than all the appropriate
25 contractors on the appropriate small works roster must also notify the
26 remaining contractors on the appropriate small works roster that
27 quotations on the work are being sought. The government has the sole
28 option of determining whether this notice to the remaining contractors
29 is made by: (i) Publishing notice in a legal newspaper in general
30 circulation in the area where the work is to be done; (ii) mailing a
31 notice to these contractors; or (iii) sending a notice to these
32 contractors by facsimile or other electronic means. For purposes of
33 this subsection (2)(c), "equitably distribute" means that a state
34 agency or local government soliciting bids may not favor certain
35 contractors on the appropriate small works roster over other
36 contractors on the appropriate small works roster who perform similar
37 services.

1 (d) A contract awarded from a small works roster under this section
2 need not be advertised.

3 (e) Immediately after an award is made, the bid quotations obtained
4 shall be recorded, open to public inspection, and available by
5 telephone inquiry.

6 (3) In lieu of awarding contracts under subsection (2) of this
7 section, a state agency or authorized local government may award a
8 contract for work, construction, alteration, repair, or improvement
9 projects estimated to cost less than thirty-five thousand dollars using
10 the limited public works process provided under this subsection.
11 Public works projects awarded under this subsection are exempt from the
12 other requirements of the small works roster process provided under
13 subsection (2) of this section and are exempt from the requirement that
14 contracts be awarded after advertisement as provided under RCW
15 39.04.010.

16 For limited public works projects, a state agency or authorized
17 local government shall solicit electronic or written quotations from a
18 minimum of three contractors from the appropriate small works roster
19 and shall award the contract to the lowest responsible bidder as
20 defined under RCW 39.04.010. After an award is made, the quotations
21 shall be open to public inspection and available by electronic request.
22 A state agency or authorized local government shall attempt to
23 distribute opportunities for limited public works projects equitably
24 among contractors willing to perform in the geographic area of the
25 work. A state agency or authorized local government shall maintain a
26 list of the contractors contacted and the contracts awarded during the
27 previous twenty-four months under the limited public works process,
28 including the name of the contractor, the contractor's registration
29 number, the amount of the contract, a brief description of the type of
30 work performed, and the date the contract was awarded. For limited
31 public works projects, a state agency or authorized local government
32 may waive the payment and performance bond requirements of chapter
33 39.08 RCW and the retainage requirements of chapter 60.28 RCW, thereby
34 assuming the liability for the contractor's nonpayment of laborers,
35 mechanics, subcontractors, materialpersons, suppliers, and taxes
36 imposed under Title 82 RCW that may be due from the contractor for the
37 limited public works project, however the state agency or authorized

1 local government shall have the right of recovery against the
2 contractor for any payments made on the contractor's behalf.

3 (4) The breaking of any project into units or accomplishing any
4 projects by phases is prohibited if it is done for the purpose of
5 avoiding the maximum dollar amount of a contract that may be let using
6 the small works roster process or limited public works process.

7 (5)(a) A state agency or authorized local government may use the
8 limited public works process of subsection (3) of this section to
9 solicit and award small works roster contracts to small businesses that
10 are registered contractors with gross revenues under one million
11 dollars annually as reported on their federal tax return.

12 (b) A state agency or authorized local government may adopt
13 additional procedures to encourage small businesses that are registered
14 contractors with gross revenues under two hundred fifty thousand
15 dollars annually as reported on their federal tax returns to submit
16 quotations or bids on small works roster contracts.

17 (6) As used in this section, "state agency" means the department of
18 general administration, (~~(the state parks and recreation commission,~~)
19 the department of natural resources, the department of (~~fish and~~
20 ~~wildlife~~) conservation and recreation, the department of
21 transportation, any institution of higher education as defined under
22 RCW 28B.10.016, and any other state agency delegated authority by the
23 department of general administration to engage in construction,
24 building, renovation, remodeling, alteration, improvement, or repair
25 activities.

26 **Sec. 5005.** RCW 39.04.290 and 2001 c 34 s 1 are each amended to
27 read as follows:

28 (1) A state agency or local government may award contracts of any
29 value for the design, fabrication, and installation of building
30 engineering systems by: (a) Using a competitive bidding process or
31 request for proposals process where bidders are required to provide
32 final specifications and a bid price for the design, fabrication, and
33 installation of building engineering systems, with the final
34 specifications being approved by an appropriate design, engineering,
35 and/or public regulatory body; or (b) using a competitive bidding
36 process where bidders are required to provide final specifications for
37 the final design, fabrication, and installation of building engineering

1 systems as part of a larger project with the final specifications for
2 the building engineering systems portion of the project being approved
3 by an appropriate design, engineering, and/or public regulatory body.
4 The provisions of chapter 39.80 RCW do not apply to the design of
5 building engineering systems that are included as part of a contract
6 described under this section.

7 (2) The definitions in this subsection apply throughout this
8 section unless the context clearly requires otherwise.

9 (a) "Building engineering systems" means those systems where
10 contracts for the systems customarily have been awarded with a
11 requirement that the contractor provide final approved specifications,
12 including fire alarm systems, building sprinkler systems, pneumatic
13 tube systems, extensions of heating, ventilation, or air conditioning
14 control systems, chlorination and chemical feed systems, emergency
15 generator systems, building signage systems, pile foundations, and
16 curtain wall systems.

17 (b) "Local government" means any county, city, town, school
18 district, or other special district, municipal corporation, or quasi-
19 municipal corporation.

20 (c) "State agency" means the department of general administration,
21 (~~the state parks and recreation commission,~~) the department of (~~fish~~
22 ~~and wildlife~~) conservation and recreation, the department of natural
23 resources, any institution of higher education as defined under RCW
24 28B.10.016, and any other state agency delegated authority by the
25 department of general administration to engage in building, renovation,
26 remodeling, alteration, improvement, or repair activities.

27 **Sec. 5006.** RCW 42.52.570 and 2008 c 247 s 1 are each amended to
28 read as follows:

29 (1) The department of (~~fish and wildlife and the parks and~~
30 ~~recreation commission~~) conservation and recreation may approve private
31 business activity in state-owned housing provided under Title 77 RCW or
32 chapter 79A.05 RCW.

33 (2) Prior to granting approval of private business activity in
34 state-owned housing, the department of (~~fish and wildlife and the~~
35 ~~parks and recreation commission~~) conservation and recreation must
36 adopt a private business activity policy that is approved by the
37 executive ethics board.

1 (a) The private business activity policy may only authorize private
2 business activity by the resident state employee while the employee is
3 off duty or the employee's spouse who is approved for residency in the
4 agency housing or the employee's children.

5 (b) The private business activity policy may not allow private
6 business activity that negatively impacts the agency's operations. For
7 the purposes of this section, "negatively impacts" includes but is not
8 limited to: (i) Negative impacts to visitors' services or access; (ii)
9 in-person visits to state-owned housing for the purpose of transacting
10 business that negatively impacts agency operations; (iii) the
11 incurrence of additional expenses by the state; (iv) the use of signage
12 in the state-owned residence; (v) advertising on state-owned property;
13 or (vi) an appearance of state endorsement of the private business
14 activity.

15 (3) The private business activity must comply with all other local,
16 state, and federal laws.

17 (4) All approvals of a private business activity in state-owned
18 housing must be by the agency director or designee in writing.

19 (5) A state employee is presumed not to be in violation of RCW
20 42.52.070 or 42.52.160 if the employee or the employee's spouse or
21 child complies with this section.

22 **Sec. 5007.** RCW 43.17.400 and 2007 c 62 s 2 are each amended to
23 read as follows:

24 (1) The definitions in this subsection apply throughout this
25 section unless the context clearly requires otherwise.

26 (a) "Disposition" means sales, exchanges, or other actions
27 resulting in a transfer of land ownership.

28 (b) "State agencies" includes:

29 (i) The department of natural resources established in chapter
30 43.30 RCW;

31 (ii) The department of ((fish and wildlife)) conservation and
32 recreation established in chapter 43.300 RCW;

33 (iii) The department of transportation established in chapter 47.01
34 RCW; and

35 (iv) ((The parks and recreation commission established in chapter
36 79A.05 RCW; and

1 (~~v~~)) The department of general administration established in this
2 chapter.

3 (2) State agencies proposing disposition of state-owned land must
4 provide written notice of the proposed disposition to the legislative
5 authorities of the counties, cities, and towns in which the land is
6 located at least sixty days before entering into the disposition
7 agreement.

8 (3) The requirements of this section are in addition and
9 supplemental to other requirements of the laws of this state.

10 **Sec. 5008.** RCW 43.19.450 and 1994 c 264 s 15 are each amended to
11 read as follows:

12 The director of general administration shall appoint and deputize
13 an assistant director to be known as the supervisor of engineering and
14 architecture who shall have charge and supervision of the division of
15 engineering and architecture. With the approval of the director, the
16 supervisor may appoint and employ such assistants and personnel as may
17 be necessary to carry out the work of the division.

18 No person shall be eligible for appointment as supervisor of
19 engineering and architecture unless he or she is licensed to practice
20 the profession of engineering or the profession of architecture in the
21 state of Washington and for the last five years prior to his or her
22 appointment has been licensed to practice the profession of engineering
23 or the profession of architecture.

24 As used in this section, "state facilities" includes all state
25 buildings, related structures, and appurtenances constructed for any
26 elected state officials, institutions, departments, boards,
27 commissions, colleges, community colleges, except the state
28 universities, The Evergreen State College and regional universities.
29 "State facilities" does not include facilities owned by or used for
30 operational purposes and constructed for the department of
31 transportation, department of (~~fish and wildlife~~) conservation and
32 recreation, or department of natural resources(~~(, or state parks and~~
33 ~~recreation commission)~~)).

34 The director of general administration, through the division of
35 engineering and architecture shall:

36 (1) Prepare cost estimates and technical information to accompany

1 the capital budget and prepare or contract for plans and specifications
2 for new construction and major repairs and alterations to state
3 facilities.

4 (2) Contract for professional architectural, engineering, and
5 related services for the design of new state facilities and major
6 repair or alterations to existing state facilities.

7 (3) Provide contract administration for new construction and the
8 repair and alteration of existing state facilities.

9 (4) In accordance with the public works laws, contract on behalf of
10 the state for the new construction and major repair or alteration of
11 state facilities.

12 The director may delegate any and all of the functions under
13 subsections (1) through (4) of this section to any agency upon such
14 terms and conditions as considered advisable.

15 The director may delegate the authority granted to the department
16 under RCW 39.04.150 to any agency upon such terms as considered
17 advisable.

18 **Sec. 5009.** RCW 43.21B.110 and 2010 c 210 s 7 and 2010 c 84 s 2 are
19 each reenacted and amended to read as follows:

20 (1) The hearings board shall only have jurisdiction to hear and
21 decide appeals from the following decisions of the department, the
22 director, local conservation districts, the air pollution control
23 boards or authorities as established pursuant to chapter 70.94 RCW,
24 local health departments, the department of natural resources, and the
25 department of ~~((fish and wildlife, and the parks and recreation
26 commission))~~ conservation and recreation:

27 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
28 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
29 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

30 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
31 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
32 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

33 (c) A final decision by the department or director made under
34 chapter 183, Laws of 2009.

35 (d) Except as provided in RCW 90.03.210(2), the issuance,
36 modification, or termination of any permit, certificate, or license by
37 the department or any air authority in the exercise of its

1 jurisdiction, including the issuance or termination of a waste disposal
2 permit, the denial of an application for a waste disposal permit, the
3 modification of the conditions or the terms of a waste disposal permit,
4 or a decision to approve or deny an application for a solid waste
5 permit exemption under RCW 70.95.300.

6 (e) Decisions of local health departments regarding the grant or
7 denial of solid waste permits pursuant to chapter 70.95 RCW.

8 (f) Decisions of local health departments regarding the issuance
9 and enforcement of permits to use or dispose of biosolids under RCW
10 70.95J.080.

11 (g) Decisions of the department regarding waste-derived fertilizer
12 or micronutrient fertilizer under RCW 15.54.820, and decisions of the
13 department regarding waste-derived soil amendments under RCW 70.95.205.

14 (h) Decisions of local conservation districts related to the denial
15 of approval or denial of certification of a dairy nutrient management
16 plan; conditions contained in a plan; application of any dairy nutrient
17 management practices, standards, methods, and technologies to a
18 particular dairy farm; and failure to adhere to the plan review and
19 approval timelines in RCW 90.64.026.

20 (i) Any other decision by the department or an air authority which
21 pursuant to law must be decided as an adjudicative proceeding under
22 chapter 34.05 RCW.

23 (j) Decisions of the department of natural resources, the
24 department of (~~fish and wildlife~~) conservation and recreation, and
25 the department that are reviewable under chapter 76.09 RCW, and the
26 department of natural resources' appeals of county, city, or town
27 objections under RCW 76.09.050(7).

28 (k) Forest health hazard orders issued by the commissioner of
29 public lands under RCW 76.06.180.

30 (l) Decisions of the department of (~~fish and wildlife~~)
31 conservation and recreation to issue, deny, condition, or modify a
32 hydraulic project approval permit under chapter 77.55 RCW.

33 (m) Decisions of the department of natural resources that are
34 reviewable under RCW 78.44.270.

35 (n) Decisions of a state agency that is an authorized public entity
36 under RCW 79.100.010 to take temporary possession or custody of a
37 vessel or to contest the amount of reimbursement owed that are
38 reviewable under RCW 79.100.120.

1 (2) The following hearings shall not be conducted by the hearings
2 board:

3 (a) Hearings required by law to be conducted by the shorelines
4 hearings board pursuant to chapter 90.58 RCW.

5 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
6 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

7 (c) Appeals of decisions by the department under RCW 90.03.110 and
8 90.44.220.

9 (d) Hearings conducted by the department to adopt, modify, or
10 repeal rules.

11 ~~((e) Appeals of decisions by the department as provided in chapter
12 43.21B RCW.))~~

13 (3) Review of rules and regulations adopted by the hearings board
14 shall be subject to review in accordance with the provisions of the
15 administrative procedure act, chapter 34.05 RCW.

16 **Sec. 5010.** RCW 43.21B.110 and 2010 c 210 s 8 and 2010 c 84 s 3 are
17 each reenacted and amended to read as follows:

18 (1) The hearings board shall only have jurisdiction to hear and
19 decide appeals from the following decisions of the department, the
20 director, local conservation districts, the air pollution control
21 boards or authorities as established pursuant to chapter 70.94 RCW,
22 local health departments, the department of natural resources, and the
23 department of ~~((fish and wildlife, and the parks and recreation
24 commission))~~ conservation and recreation:

25 (a) Civil penalties imposed pursuant to RCW 18.104.155, 70.94.431,
26 70.105.080, 70.107.050, 76.09.170, 77.55.291, 78.44.250, 88.46.090,
27 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

28 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
29 43.27A.190, 70.94.211, 70.94.332, 70.105.095, 86.16.020, 88.46.070,
30 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

31 (c) Except as provided in RCW 90.03.210(2), the issuance,
32 modification, or termination of any permit, certificate, or license by
33 the department or any air authority in the exercise of its
34 jurisdiction, including the issuance or termination of a waste disposal
35 permit, the denial of an application for a waste disposal permit, the
36 modification of the conditions or the terms of a waste disposal permit,

1 or a decision to approve or deny an application for a solid waste
2 permit exemption under RCW 70.95.300.

3 (d) Decisions of local health departments regarding the grant or
4 denial of solid waste permits pursuant to chapter 70.95 RCW.

5 (e) Decisions of local health departments regarding the issuance
6 and enforcement of permits to use or dispose of biosolids under RCW
7 70.95J.080.

8 (f) Decisions of the department regarding waste-derived fertilizer
9 or micronutrient fertilizer under RCW 15.54.820, and decisions of the
10 department regarding waste-derived soil amendments under RCW 70.95.205.

11 (g) Decisions of local conservation districts related to the denial
12 of approval or denial of certification of a dairy nutrient management
13 plan; conditions contained in a plan; application of any dairy nutrient
14 management practices, standards, methods, and technologies to a
15 particular dairy farm; and failure to adhere to the plan review and
16 approval timelines in RCW 90.64.026.

17 (h) Any other decision by the department or an air authority which
18 pursuant to law must be decided as an adjudicative proceeding under
19 chapter 34.05 RCW.

20 (i) Decisions of the department of natural resources, the
21 department of ((fish and wildlife)) conservation and recreation, and
22 the department that are reviewable under chapter 76.09 RCW, and the
23 department of natural resources' appeals of county, city, or town
24 objections under RCW 76.09.050(7).

25 (j) Forest health hazard orders issued by the commissioner of
26 public lands under RCW 76.06.180.

27 (k) Decisions of the department of ((fish and wildlife))
28 conservation and recreation to issue, deny, condition, or modify a
29 hydraulic project approval permit under chapter 77.55 RCW.

30 (l) Decisions of the department of natural resources that are
31 reviewable under RCW 78.44.270.

32 (m) Decisions of a state agency that is an authorized public entity
33 under RCW 79.100.010 to take temporary possession or custody of a
34 vessel or to contest the amount of reimbursement owed that are
35 reviewable under RCW 79.100.120.

36 (2) The following hearings shall not be conducted by the hearings
37 board:

1 (a) Hearings required by law to be conducted by the shorelines
2 hearings board pursuant to chapter 90.58 RCW.

3 (b) Hearings conducted by the department pursuant to RCW 70.94.332,
4 70.94.390, 70.94.395, 70.94.400, 70.94.405, 70.94.410, and 90.44.180.

5 (c) Appeals of decisions by the department under RCW 90.03.110 and
6 90.44.220.

7 (d) Hearings conducted by the department to adopt, modify, or
8 repeal rules.

9 ~~((e) Appeals of decisions by the department as provided in chapter
10 43.21L RCW.))~~

11 (3) Review of rules and regulations adopted by the hearings board
12 shall be subject to review in accordance with the provisions of the
13 administrative procedure act, chapter 34.05 RCW.

14 **Sec. 5011.** RCW 43.21F.062 and 2010 c 145 s 9 are each amended to
15 read as follows:

16 (1) In addition to the duties prescribed in RCW 43.21F.045, the
17 department must develop guidance applicable to all state agencies for
18 achieving a unified state position upon matters involving the siting
19 and operation of renewable energy facilities in the state's coastal and
20 estuarine marine waters. The guidance must provide procedures for
21 coordinating the views and responsibilities of any state agency with
22 jurisdiction or expertise over the matter under consideration, which
23 may include federal policy proposals, activities, permits, licenses, or
24 the extension of funding for activities in or affecting the state's
25 marine waters. In developing the guidance, the director must consult
26 with agencies with primary responsibilities for permitting and
27 management of marine waters and bedlands, including the departments of
28 natural resources, ecology, transportation, and ~~((fish and wildlife,
29 and the state parks and recreation commission))~~ conservation and
30 recreation, the Puget Sound partnership, and the energy facility site
31 evaluation council. The director must also consult and incorporate
32 relevant information from the regional activities related to renewable
33 energy siting in marine waters, including those under the west coast
34 governors' agreement on ocean health.

35 (2) The director may not commence development of the guidance until
36 federal, private, or other nonstate funding is secured for this

1 activity. The director must adopt the guidance within one year of
2 securing such funds.

3 (3) This section is intended to promote consistency and multiple
4 agency coordination in developing positions and exercising jurisdiction
5 in matters involving the siting and operation of renewable energy
6 facilities and does not diminish or abrogate the authority or
7 jurisdiction of any state agency over such matters established under
8 any other law.

9 **Sec. 5012.** RCW 43.21J.030 and 2007 c 341 s 62 and 2007 c 241 s 4
10 are each reenacted and amended to read as follows:

11 (1) There is created the environmental enhancement and job creation
12 task force within the office of the governor. The purpose of the task
13 force is to provide a coordinated and comprehensive approach to
14 implementation of chapter 516, Laws of 1993. The task force shall
15 consist of the commissioner of public lands, the director of the
16 department of (~~fish and wildlife~~) conservation and recreation, the
17 director of the department of ecology, (~~the director of the parks and
18 recreation commission,~~) the timber team coordinator, the executive
19 director of the workforce training and education coordinating board,
20 and the executive director of the Puget Sound partnership, or their
21 designees. The task force may seek the advice of the following
22 agencies and organizations: The department of (~~community, trade, and
23 economic development~~) commerce, the conservation commission, the
24 employment security department, (~~the recreation and conservation
25 office,~~) appropriate federal agencies, appropriate special districts,
26 the Washington state association of counties, the association of
27 Washington cities, labor organizations, business organizations, timber-
28 dependent communities, environmental organizations, and Indian tribes.
29 The governor shall appoint the task force chair. Members of the task
30 force shall serve without additional pay. Participation in the work of
31 the committee by agency members shall be considered in performance of
32 their employment. The governor shall designate staff and
33 administrative support to the task force and shall solicit the
34 participation of agency personnel to assist the task force.

35 (2) The task force shall have the following responsibilities:

36 (a) Soliciting and evaluating, in accordance with the criteria set
37 forth in RCW 43.21J.040, requests for funds from the environmental and

1 forest restoration account and making distributions from the account.
2 The task force shall award funds for projects and training programs it
3 approves and may allocate the funds to state agencies for disbursement
4 and contract administration;

5 (b) Coordinating a process to assist state agencies and local
6 governments to implement effective environmental and forest restoration
7 projects funded under this chapter;

8 (c) Considering unemployment profile data provided by the
9 employment security department.

10 (3) Beginning July 1, 1994, the task force shall have the following
11 responsibilities:

12 (a) To solicit and evaluate proposals from state and local
13 agencies, private nonprofit organizations, and tribes for environmental
14 and forest restoration projects;

15 (b) To rank the proposals based on criteria developed by the task
16 force in accordance with RCW 43.21J.040; and

17 (c) To determine funding allocations for projects to be funded from
18 the account created in RCW 43.21J.020 and for projects or programs as
19 designated in the omnibus operating and capital appropriations acts.

20 **Sec. 5013.** RCW 43.60A.150 and 2007 c 451 s 2 and 2007 c 241 s 6
21 are each reenacted and amended to read as follows:

22 (1) The Washington veterans conservation corps is created. The
23 department shall establish enrollment procedures for the program.
24 Enrollees may choose to participate in either or both the volunteer
25 projects list authorized in subsection (2) of this section, and the
26 training, certification, and placement program authorized in RCW
27 43.60A.151.

28 (2) The department shall create a list of veterans who are
29 interested in working on projects that restore Washington's natural
30 habitat. The department shall promote the opportunity to volunteer for
31 the veterans conservation corps through its local counselors and
32 representatives. Only veterans who grant their approval may be
33 included on the list. The department shall consult with the salmon
34 recovery board, the recreation and conservation funding board, the
35 department of natural resources, and the department of (~~fish and~~
36 ~~wildlife, and the state parks and recreation commission~~) conservation

1 and recreation to determine the most effective ways to market the
2 veterans conservation corps to agencies and local sponsors of habitat
3 restoration projects.

4 **Sec. 5014.** RCW 43.81.010 and 1994 c 264 s 27 are each amended to
5 read as follows:

6 The legislature recognizes that significant benefits accrue to the
7 state and that certain types of state operations are more efficient
8 when personnel services are available on an extended basis. Such
9 operations include certain types of facilities managed by agencies such
10 as the departments of natural resources, corrections, (~~fish and~~
11 ~~wildlife~~) conservation and recreation, social and health services,
12 transportation, and veterans affairs(~~(, and the parks and recreation~~
13 ~~commission)~~)).

14 The means of assuring that such personnel are available on an
15 extended basis is through the establishment of on-site state-owned or
16 leased living facilities. The legislature also recognizes the
17 restrictions and hardship placed upon those personnel who are required
18 to reside in such state-owned or leased living facilities in order to
19 provide extended personnel services.

20 The legislature further recognizes that there are instances where
21 it is to the benefit of the state to have state-owned or leased living
22 facilities occupied even though such occupancy is not required by the
23 agency as a condition of employment.

24 **Sec. 5015.** RCW 43.82.010 and 2007 c 506 s 8 are each amended to
25 read as follows:

26 (1) The director of general administration, on behalf of the agency
27 involved and after consultation with the office of financial
28 management, shall purchase, lease, lease purchase, rent, or otherwise
29 acquire all real estate, improved or unimproved, as may be required by
30 elected state officials, institutions, departments, commissions,
31 boards, and other state agencies, or federal agencies where joint state
32 and federal activities are undertaken and may grant easements and
33 transfer, exchange, sell, lease, or sublease all or part of any surplus
34 real estate for those state agencies which do not otherwise have the
35 specific authority to dispose of real estate. This section does not

1 transfer financial liability for the acquired property to the
2 department of general administration.

3 (2) Except for real estate occupied by federal agencies, the
4 director shall determine the location, size, and design of any real
5 estate or improvements thereon acquired or held pursuant to subsection
6 (1) of this section. Facilities acquired or held pursuant to this
7 chapter, and any improvements thereon, shall conform to standards
8 adopted by the director and approved by the office of financial
9 management governing facility efficiency unless a specific exemption
10 from such standards is provided by the director of general
11 administration. The director of general administration shall report to
12 the office of financial management and the appropriate committees of
13 the legislature annually on any exemptions granted pursuant to this
14 subsection.

15 (3) The director of general administration may fix the terms and
16 conditions of each lease entered into under this chapter, except that
17 no lease shall extend greater than twenty years in duration. The
18 director of general administration may enter into a long-term lease
19 greater than ten years in duration upon a determination by the director
20 of the office of financial management that the long-term lease provides
21 a more favorable rate than would otherwise be available, it appears to
22 a substantial certainty that the facility is necessary for use by the
23 state for the full length of the lease term, and the facility meets the
24 standards adopted pursuant to subsection (2) of this section. The
25 director of general administration may enter into a long-term lease
26 greater than ten years in duration if an analysis shows that the life-
27 cycle cost of leasing the facility is less than the life-cycle cost of
28 purchasing or constructing a facility in lieu of leasing the facility.

29 (4) Except as permitted under chapter 39.94 RCW, no lease for or on
30 behalf of any state agency may be used or referred to as collateral or
31 security for the payment of securities offered for sale through a
32 public offering. Except as permitted under chapter 39.94 RCW, no lease
33 for or on behalf of any state agency may be used or referred to as
34 collateral or security for the payment of securities offered for sale
35 through a private placement without the prior written approval of the
36 state treasurer. However, this limitation shall not prevent a lessor
37 from assigning or encumbering its interest in a lease as security for

1 the repayment of a promissory note provided that the transaction would
2 otherwise be an exempt transaction under RCW 21.20.320. The state
3 treasurer shall adopt rules that establish the criteria under which any
4 such approval may be granted. In establishing such criteria the state
5 treasurer shall give primary consideration to the protection of the
6 state's credit rating and the integrity of the state's debt management
7 program. If it appears to the state treasurer that any lease has been
8 used or referred to in violation of this subsection or rules adopted
9 under this subsection, then he or she may recommend that the governor
10 cause such lease to be terminated. The department of general
11 administration shall promptly notify the state treasurer whenever it
12 may appear to the department that any lease has been used or referred
13 to in violation of this subsection or rules adopted under this
14 subsection.

15 (5) It is the policy of the state to encourage the colocation and
16 consolidation of state services into single or adjacent facilities,
17 whenever appropriate, to improve public service delivery, minimize
18 duplication of facilities, increase efficiency of operations, and
19 promote sound growth management planning.

20 (6) The director of general administration shall provide
21 coordinated long-range planning services to identify and evaluate
22 opportunities for colocating and consolidating state facilities. Upon
23 the renewal of any lease, the inception of a new lease, or the purchase
24 of a facility, the director of general administration shall determine
25 whether an opportunity exists for colocating the agency or agencies in
26 a single facility with other agencies located in the same geographic
27 area. If a colocation opportunity exists, the director of general
28 administration shall consult with the affected state agencies and the
29 office of financial management to evaluate the impact colocation would
30 have on the cost and delivery of agency programs, including whether
31 program delivery would be enhanced due to the centralization of
32 services. The director of general administration, in consultation with
33 the office of financial management, shall develop procedures for
34 implementing colocation and consolidation of state facilities.

35 (7) The director of general administration is authorized to
36 purchase, lease, rent, or otherwise acquire improved or unimproved real
37 estate as owner or lessee and to lease or sublet all or a part of such
38 real estate to state or federal agencies. The director of general

1 administration shall charge each using agency its proportionate rental
2 which shall include an amount sufficient to pay all costs, including,
3 but not limited to, those for utilities, janitorial and accounting
4 services, and sufficient to provide for contingencies; which shall not
5 exceed five percent of the average annual rental, to meet unforeseen
6 expenses incident to management of the real estate.

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

20 (9) In order to obtain maximum utilization of space, the director
21 of general administration shall make space utilization studies, and
22 shall establish standards for use of space by state agencies. Such
23 studies shall include the identification of opportunities for
24 colocation and consolidation of state agency office and support
25 facilities.

26 (10) The director of general administration may construct new
27 buildings on, or improve existing facilities, and furnish and equip,
28 all real estate under his or her management. Prior to the construction
29 of new buildings or major improvements to existing facilities or
30 acquisition of facilities using a lease purchase contract, the director
31 of general administration shall conduct an evaluation of the facility
32 design and budget using life-cycle cost analysis, value-engineering,
33 and other techniques to maximize the long-term effectiveness and
34 efficiency of the facility or improvement.

35 (11) All conveyances and contracts to purchase, lease, rent,
36 transfer, exchange, or sell real estate and to grant and accept
37 easements shall be approved as to form by the attorney general, signed

1 by the director of general administration or the director's designee,
2 and recorded with the county auditor of the county in which the
3 property is located.

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

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

12 (a) The state college and universities for research or experimental
13 purposes;

14 (b) The state liquor control board for liquor stores and
15 warehouses; and

16 (c) The department of natural resources, the department of (~~fish
17 and wildlife~~) conservation and recreation, and the department of
18 transportation(~~, and the state parks and recreation commission~~) for
19 purposes other than the leasing of offices, warehouses, and real estate
20 for similar purposes.

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

26 (15) The department of general administration shall report annually
27 to the office of financial management and the appropriate fiscal
28 committees of the legislature on facility leases executed for all state
29 agencies for the preceding year, lease terms, and annual lease costs.
30 The report must include leases executed under RCW 43.82.045 and
31 subsection (12) of this section.

32 **Sec. 5016.** RCW 43.220.020 and 1999 c 280 s 1 are each amended to
33 read as follows:

34 The Washington conservation corps is hereby created, to be
35 implemented by the following state departments: The employment
36 security department, the department of ecology, the department of

1 ((~~fish and wildlife~~)) conservation and recreation, and the department
2 of natural resources(~~(, and the state parks and recreation~~
3 ~~commission)~~)).

4 **Sec. 5017.** RCW 79.19.080 and 2003 c 334 s 531 are each amended to
5 read as follows:

6 Periodically, at intervals to be determined by the board, the
7 department shall identify trust lands which are expected to convert to
8 commercial, residential, or industrial uses within ten years. The
9 department shall adhere to existing local comprehensive plans, zoning
10 classifications, and duly adopted local policies when making this
11 identification and determining the fair market value of the property.

12 The department shall hold a public hearing on the proposal in the
13 county where the state land is located. At least fifteen days but not
14 more than thirty days before the hearing, the department shall publish
15 a public notice of reasonable size in display advertising form, setting
16 forth the date, time, and place of the hearing, at least once in one or
17 more daily newspapers of general circulation in the county and at least
18 once in one or more weekly newspapers circulated in the area where the
19 trust land is located. At the same time that the published notice is
20 given, the department shall give written notice of the hearings to the
21 departments of ((~~fish and wildlife~~)) conservation and recreation and
22 general administration, ((~~to the parks and recreation commission,~~)) and
23 to the county, city, or town in which the property is situated. The
24 department shall disseminate a news release pertaining to the hearing
25 among printed and electronic media in the area where the trust land is
26 located. The public notice and news release also shall identify trust
27 lands in the area which are expected to convert to commercial,
28 residential, or industrial uses within ten years.

29 A summary of the testimony presented at the hearings shall be
30 prepared for the board's consideration. The board shall designate
31 trust lands which are expected to convert to commercial, residential,
32 or industrial uses as urban land. Descriptions of lands designated by
33 the board shall be made available to the county and city or town in
34 which the land is situated and for public inspection and copying at the
35 department's administrative office in Olympia, Washington and at each
36 area office.

1 The hearing and notice requirements of this section apply to those
2 trust lands which have been identified by the department prior to July
3 1, 1984, as being expected to convert to commercial, residential, or
4 industrial uses within the next ten years, and which have not been sold
5 or exchanged prior to July 1, 1984.

6 **Sec. 5018.** RCW 79.100.010 and 2007 c 342 s 1 are each amended to
7 read as follows:

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) "Abandoned vessel" means a vessel that has been left, moored,
11 or anchored in the same area without the express consent, or contrary
12 to the rules of, the owner, manager, or lessee of the aquatic lands
13 below or on which the vessel is located for either a period of more
14 than thirty consecutive days or for more than a total of ninety days in
15 any three hundred sixty-five-day period, and the vessel's owner is:
16 (a) Not known or cannot be located; or (b) known and located but is
17 unwilling to take control of the vessel. For the purposes of this
18 subsection (1) only, "in the same area" means within a radius of five
19 miles of any location where the vessel was previously moored or
20 anchored on aquatic lands.

21 (2) "Aquatic lands" means all tidelands, shorelands, harbor areas,
22 and the beds of navigable waters, including lands owned by the state
23 and lands owned by other public or private entities.

24 (3) "Authorized public entity" includes any of the following: The
25 department of natural resources; the department of (~~fish and wildlife;~~
26 ~~the parks and recreation commission~~) conservation and recreation; a
27 metropolitan park district; a port district; and any city, town, or
28 county with ownership, management, or jurisdiction over the aquatic
29 lands where an abandoned or derelict vessel is located.

30 (4) "Department" means the department of natural resources.

31 (5) "Derelict vessel" means the vessel's owner is known and can be
32 located, and exerts control of a vessel that:

33 (a) Has been moored, anchored, or otherwise left in the waters of
34 the state or on public property contrary to RCW 79.02.300 or rules
35 adopted by an authorized public entity;

36 (b) Has been left on private property without authorization of the
37 owner; or

1 (c) Has been left for a period of seven consecutive days, and:

2 (i) Is sunk or in danger of sinking;

3 (ii) Is obstructing a waterway; or

4 (iii) Is endangering life or property.

5 (6) "Owner" means any natural person, firm, partnership,
6 corporation, association, government entity, or organization that has
7 a lawful right to possession of a vessel by purchase, exchange, gift,
8 lease, inheritance, or legal action whether or not the vessel is
9 subject to a security interest.

10 (7) "Vessel" means every species of watercraft or other mobile
11 artificial contrivance, powered or unpowered, intended to be used for
12 transporting people or goods on water or for floating marine
13 construction or repair and which does not exceed two hundred feet in
14 length. "Vessel" includes any trailer used for the transportation of
15 watercraft, or any attached floats or debris.

16 **Sec. 5019.** RCW 79.145.030 and 2005 c 155 s 903 are each amended to
17 read as follows:

18 The department shall have the authority to coordinate
19 implementation of the action plan with appropriate state agencies
20 including (~~the parks and recreation commission and~~) the departments
21 of ecology and (~~fish and wildlife~~) conservation and recreation. The
22 department is authorized to adopt, in consultation with affected
23 agencies, the necessary rules to provide for the cleanup and to prevent
24 pollution of the waters of the state and aquatic lands by plastic and
25 other marine debris.

26 **Sec. 5020.** RCW 79A.15.010 and 2009 c 341 s 1 are each amended to
27 read as follows:

28 The definitions in this section apply throughout this chapter
29 unless the context clearly requires otherwise.

30 (1) "Acquisition" means the purchase on a willing seller basis of
31 fee or less than fee interests in real property. These interests
32 include, but are not limited to, options, rights of first refusal,
33 conservation easements, leases, and mineral rights.

34 (2) "Board" means the recreation and conservation funding board.

35 (3) "Critical habitat" means lands important for the protection,
36 management, or public enjoyment of certain wildlife species or groups

1 of species, including, but not limited to, wintering range for deer,
2 elk, and other species, waterfowl and upland bird habitat, fish
3 habitat, and habitat for endangered, threatened, or sensitive species.

4 (4) "Farmlands" means any land defined as "farm and agricultural
5 land" in RCW 84.34.020(2).

6 (5) "Local agencies" means a city, county, town, federally
7 recognized Indian tribe, special purpose district, port district, or
8 other political subdivision of the state providing services to less
9 than the entire state.

10 (6) "Natural areas" means areas that have, to a significant degree,
11 retained their natural character and are important in preserving rare
12 or vanishing flora, fauna, geological, natural historical, or similar
13 features of scientific or educational value.

14 (7) "Nonprofit nature conservancy corporation or association" means
15 an organization as defined in RCW 84.34.250.

16 (8) "Riparian habitat" means land adjacent to water bodies, as well
17 as submerged land such as streambeds, which can provide functional
18 habitat for salmonids and other fish and wildlife species. Riparian
19 habitat includes, but is not limited to, shorelines and near-shore
20 marine habitat, estuaries, lakes, wetlands, streams, and rivers.

21 (9) "Special needs populations" means physically restricted people
22 or people of limited means.

23 (10) "State agencies" means (~~the state parks and recreation~~
24 ~~commission,~~) the department of natural resources, the department of
25 general administration, and the department of (~~fish and wildlife~~)
26 conservation and recreation.

27 (11) "Trails" means public ways constructed for and open to
28 pedestrians, equestrians, or bicyclists, or any combination thereof,
29 other than a sidewalk constructed as a part of a city street or county
30 road for exclusive use of pedestrians.

31 (12) "Urban wildlife habitat" means lands that provide habitat
32 important to wildlife in proximity to a metropolitan area.

33 (13) "Water access" means boat or foot access to marine waters,
34 lakes, rivers, or streams.

35 **Sec. 5021.** RCW 79A.20.030 and 1994 c 264 s 30 are each amended to
36 read as follows:

1 (1) Moneys appropriated for this chapter from the state wildlife
2 and recreation lands management account shall be expended in the
3 following manner:

4 (a) Not less than thirty percent for basic stewardship;

5 (b) Not less than twenty percent for improved or developed
6 resources;

7 (c) Not less than fifteen percent for human use management; and

8 (d) Not more than fifteen percent for administration.

9 (e) The remaining twenty to thirty-five percent shall be considered
10 unallocated.

11 (2) In the event that moneys appropriated for this chapter to the
12 state wildlife and recreation lands management account under the
13 initial allocation prove insufficient to meet basic stewardship needs,
14 the unallocated amount shall be used to fund basic stewardship needs.

15 (3) Each eligible agency is not required to meet this specific
16 percentage distribution. However, funding across agencies should meet
17 these percentages during each biennium.

18 (4) It is intended that moneys disbursed from this account not
19 replace existing operation and maintenance funding levels from other
20 state sources.

21 (5) Agencies eligible to receive funds from this account are the
22 departments of (~~fish and wildlife~~) conservation and recreation and
23 natural resources(~~, and the state parks and recreation commission~~)).

24 (6) Moneys appropriated for this chapter from the state wildlife
25 and recreation lands management account shall be distributed in the
26 following manner:

27 (a) Not less than twenty-five percent to the (~~state~~) department
28 of conservation and recreation for the parks and recreation
29 (~~commission~~) division.

30 (b) Not less than twenty-five percent to the department of natural
31 resources.

32 (c) Not less than twenty-five percent to the department of
33 conservation and recreation for fish and wildlife programs.

34 (d) The remaining funds shall be allocated to eligible agencies
35 based upon an evaluation of remaining unfunded needs.

36 (7) The office of financial management shall review eligible state
37 agency requests and make recommendations on the allocation of funds

1 provided under this chapter as part of the governor's operating budget
2 request to the legislature.

3 **Sec. 5022.** RCW 79A.25.260 and 2007 c 247 s 1 are each amended to
4 read as follows:

5 (1) The habitat and recreation lands coordinating group is
6 established. The habitat and recreation lands coordinating group must
7 include representatives from the (~~committee~~) board, (~~the state parks~~
8 ~~and recreation commission,~~) the department of natural resources, and
9 the Washington state department of (~~fish and wildlife~~) conservation
10 and recreation. The members of the habitat and recreation lands
11 coordinating group must have subject matter expertise with the issues
12 presented in this section. Representatives from appropriate
13 stakeholder organizations and local government must also be considered
14 for participation on the habitat and recreation lands coordinating
15 group, but may only be appointed or invited by the director.

16 (2) To ensure timely completion of the duties assigned to the
17 habitat and recreation lands coordinating group, the director shall
18 submit yearly progress reports to the office of financial management.

19 (3) The habitat and recreation lands coordinating group must:

20 (a) Review agency land acquisition and disposal plans and policies
21 to help ensure statewide coordination of habitat and recreation land
22 acquisitions and disposals;

23 (b) Produce an interagency, statewide biennial forecast of habitat
24 and recreation land (~~acquisitions~~ [acquisition]) acquisition and
25 disposal plans;

26 (c) Establish procedures for publishing the biennial forecast of
27 acquisition and disposal plans on web sites or other centralized,
28 easily accessible formats;

29 (d) Develop and convene an annual forum for agencies to coordinate
30 their near-term acquisition and disposal plans;

31 (e) Develop a recommended method for interagency geographic
32 information system-based documentation of habitat and recreation lands
33 in cooperation with other state agencies using geographic information
34 systems;

35 (f) Develop recommendations for standardization of acquisition and
36 disposal recordkeeping, including identifying a preferred process for
37 centralizing acquisition data;

1 (g) Develop an approach for monitoring the success of acquisitions;
2 (h) Identify and commence a dialogue with key state and federal
3 partners to develop an inventory of potential public lands for transfer
4 into habitat and recreation land management status;

5 (i) Review existing and proposed habitat conservation plans on a
6 regular basis to foster statewide coordination and save costs.

7 (4) The group shall revisit the (~~committee's~~) board's and
8 Washington wildlife and recreation program's planning requirements to
9 determine whether coordination of state agency habitat and recreation
10 land acquisition and disposal could be improved by modifying those
11 requirements.

12 (5) The group must develop options for centralizing coordination of
13 habitat and recreation land acquisition made with funds from federal
14 grants. The advantages and drawbacks of the following options, at a
15 minimum, must be developed:

16 (a) Requiring that agencies provide early communication on the
17 status of federal grant applications to the (~~committee~~) board, the
18 office of financial management, or directly to the legislature;

19 (b) Establishing a centralized pass-through agency for federal
20 funds, where individual agencies would be the primary applicants.

21 (6) This section expires July 31, 2012. Prior to January 1, 2012,
22 the (~~committee~~) board shall make a formal recommendation to the
23 appropriate committees of the legislature as to whether the existence
24 of the habitat and recreation lands coordinating group should be
25 continued beyond July 31, 2012, and if so, whether any modifications to
26 its enabling statute should be pursued. The (~~committee~~) board shall
27 involve all participants in the habitat and recreation lands
28 coordinating group when developing the recommendations.

29 **Sec. 5023.** RCW 84.34.055 and 2007 c 241 s 73 are each amended to
30 read as follows:

31 (1)(a) The county legislative authority may direct the county
32 planning commission to set open space priorities and adopt, after a
33 public hearing, an open space plan and public benefit rating system for
34 the county. The plan shall consist of criteria for determining
35 eligibility of lands, the process for establishing a public benefit
36 rating system, and an assessed valuation schedule. The assessed
37 valuation schedule shall be developed by the county assessor and shall

1 be a percentage of market value based upon the public benefit rating
2 system. The open space plan, the public benefit rating system, and the
3 assessed valuations schedule shall not be effective until approved by
4 the county legislative authority after at least one public hearing:
5 PROVIDED, That any county which has complied with the procedural
6 requisites of chapter 393, Laws of 1985, prior to July 28, 1985, need
7 not repeat those procedures in order to adopt an open space plan
8 pursuant to chapter 393, Laws of 1985.

9 (b) County legislative authorities, in open space plans, public
10 benefit rating systems, and assessed valuation schedules, shall give
11 priority consideration to lands used for buffers that are planted with
12 or primarily contain native vegetation.

13 (c) "Priority consideration" as used in this section may include,
14 but is not limited to, establishing classification eligibility and
15 maintenance criteria for buffers meeting the requirements of (b) of
16 this subsection.

17 (d) County legislative authorities shall meet the requirements of
18 (b) of this subsection no later than July 1, 2006, unless buffers
19 already receive priority consideration in the existing open space
20 plans, public benefit rating systems, and assessed valuation schedules.

21 (2) In adopting an open space plan, recognized sources shall be
22 used unless the county does its own survey of important open space
23 priorities or features, or both. Recognized sources include but are
24 not limited to the natural heritage database; the state office of
25 historic preservation; the recreation and conservation office inventory
26 of dry accretion beach and shoreline features; state, national, county,
27 or city registers of historic places; the shoreline master program; or
28 studies by ~~((the parks and recreation commission and by))~~ the
29 departments of ~~((fish and wildlife))~~ conservation and recreation and
30 natural resources. Features and sites may be verified by an outside
31 expert in the field and approved by the appropriate state or local
32 agency to be sent to the county legislative authority for final
33 approval as open space.

34 (3) When the county open space plan is adopted, owners of open
35 space lands then classified under this chapter shall be notified in the
36 same manner as is provided in RCW 84.40.045 of their new assessed
37 value. These lands may be removed from classification, upon request of
38 owner, without penalty within thirty days of notification of value.

1 (4) The open space plan and public benefit rating system under this
2 section may be adopted for taxes payable in 1986 and thereafter.

3 **Sec. 5024.** RCW 90.48.366 and 2007 c 347 s 1 are each amended to
4 read as follows:

5 The department, in consultation with the departments of (~~fish and~~
6 ~~wildlife~~) conservation and recreation and natural resources, (~~and the~~
7 ~~parks and recreation commission,~~) shall adopt rules establishing a
8 compensation schedule for the discharge of oil in violation of this
9 chapter and chapter 90.56 RCW. The amount of compensation assessed
10 under this schedule shall be no less than one dollar per gallon of oil
11 spilled and no greater than one hundred dollars per gallon of oil
12 spilled. The compensation schedule shall reflect adequate compensation
13 for unquantifiable damages or for damages not quantifiable at
14 reasonable cost for any adverse environmental, recreational, aesthetic,
15 or other effects caused by the spill and shall take into account:

16 (1) Characteristics of any oil spilled, such as toxicity,
17 dispersibility, solubility, and persistence, that may affect the
18 severity of the effects on the receiving environment, living organisms,
19 and recreational and aesthetic resources;

20 (2) The sensitivity of the affected area as determined by such
21 factors as: (a) The location of the spill; (b) habitat and living
22 resource sensitivity; (c) seasonal distribution or sensitivity of
23 living resources; (d) areas of recreational use or aesthetic
24 importance; (e) the proximity of the spill to important habitats for
25 birds, aquatic mammals, fish, or to species listed as threatened or
26 endangered under state or federal law; (f) significant archaeological
27 resources as determined by the department of archaeology and historic
28 preservation; and (g) other areas of special ecological or recreational
29 importance, as determined by the department; and

30 (3) Actions taken by the party who spilled oil or any party liable
31 for the spill that: (a) Demonstrate a recognition and affirmative
32 acceptance of responsibility for the spill, such as the immediate
33 removal of oil and the amount of oil removed from the environment; or
34 (b) enhance or impede the detection of the spill, the determination of
35 the quantity of oil spilled, or the extent of damage, including the
36 unauthorized removal of evidence such as injured fish or wildlife.

1 **Sec. 5025.** RCW 90.48.368 and 2007 c 347 s 2 are each amended to
2 read as follows:

3 (1) The department shall adopt rules establishing a formal process
4 for preassessment screening of damages resulting from spills to the
5 waters of the state causing the death of, or injury to, fish, animals,
6 vegetation, or other resources of the state. The rules shall specify
7 the conditions under which the department shall convene a preassessment
8 screening committee. The preassessment screening process shall occur
9 concurrently with reconnaissance activities. The committee shall use
10 information obtained from reconnaissance activities as well as any
11 other relevant resource and resource use information. For each
12 incident, the committee shall determine whether a damage assessment
13 investigation should be conducted, or, whether the compensation
14 schedule authorized under RCW 90.48.366 and 90.48.367 should be used to
15 assess damages. The committee may accept restoration or enhancement
16 projects or studies proposed by the liable parties in lieu of some or
17 all of: (a) The compensation schedule authorized under RCW 90.48.366
18 and 90.48.367; or (b) the claims from damage assessment studies
19 authorized under RCW 90.48.142.

20 (2) A preassessment screening committee may consist of
21 representatives of the departments of ecology, archaeology and historic
22 preservation, (~~(fish and wildlife)~~) conservation and recreation,
23 health, and natural resources, (~~(and the parks and recreation~~
24 ~~commission,~~) as well as other federal, state, and local agencies, and
25 tribal and local governments whose presence would enhance the
26 reconnaissance or damage assessment aspects of spill response. The
27 department shall chair the committee and determine which
28 representatives will be needed on a spill-by-spill basis.

29 (3) The committee shall consider the following factors when
30 determining whether a damage assessment study authorized under RCW
31 90.48.367 should be conducted: (a) Whether evidence from
32 reconnaissance investigations suggests that injury has occurred or is
33 likely to occur to publicly owned resources; (b) the potential loss in
34 services provided by resources injured or likely to be injured and the
35 expected value of the potential loss; (c) whether a restoration project
36 to return lost services is technically feasible; (d) the accuracy of
37 damage quantification methods that could be used and the anticipated
38 cost-effectiveness of applying each method; (e) the extent to which

1 likely injury to resources can be verified with available
2 quantification methods; and (f) whether the injury, once quantified,
3 can be translated into monetary values with sufficient precision or
4 accuracy.

5 (4) When a resource damage assessment is required for an oil spill
6 in the waters of the state, as defined in RCW 90.56.010, the state
7 trustee agency responsible for the resource and habitat damaged shall
8 conduct the damage assessment and pursue all appropriate remedies with
9 the responsible party.

10 (5) Oil spill damage assessment studies authorized under RCW
11 90.48.367 may only be conducted if the committee, after considering the
12 factors enumerated in subsection (3) of this section, determines that
13 the damages to be investigated are quantifiable at a reasonable cost
14 and that proposed assessment studies are clearly linked to
15 quantification of the damages incurred.

16 (6) As new information becomes available, the committee may
17 reevaluate the scope of damage assessment using the factors listed in
18 subsection (3) of this section and may reduce or expand the scope of
19 damage assessment as appropriate.

20 (7) The preassessment screening process shall provide for the
21 ongoing involvement of persons who may be liable for damages resulting
22 from an oil spill. The department may negotiate with a potentially
23 liable party to perform restoration and enhancement projects or studies
24 which may substitute for all or part of the compensation authorized
25 under RCW 90.48.366 and 90.48.367 or the damage assessment studies
26 authorized under RCW 90.48.367.

27 (8) For the purposes of this section and RCW 90.48.367, the cost of
28 a damage assessment shall be considered "reasonable" when the
29 anticipated cost of the damage assessment is expected to be less than
30 the anticipated damage that may have occurred or may occur.

31 NEW SECTION. **Sec. 5026.** Section 5009 of this act expires June 30,
32 2019.

33 NEW SECTION. **Sec. 5027.** Section 5010 of this act takes effect
34 June 30, 2019.

1 NEW SECTION. **Sec. 5028.** The consolidation directed pursuant to
2 sections 5001 through 5027 of this act takes effect July 1, 2012.

PART 6

MERGING THE CONSERVATION COMMISSION INTO THE DEPARTMENT OF AGRICULTURE

Sec. 6001. RCW 89.08.020 and 1999 c 305 s 1 are each amended to read as follows:

~~((Unless the context clearly indicates otherwise, as used in this chapter:))~~ The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commission" and "state conservation commission" means the
~~((agency created hereunder. All former references to "state soil and water conservation committee", "state committee" or "committee" shall be deemed to be references to the "state conservation commission";))~~
advisory commission created in RCW 89.08.030 within the department of agriculture.

(2) "Department" means the department of agriculture.

(3) "Director" means the director of the department of agriculture.

(4) "District," or "conservation district" means a governmental subdivision of this state and a public body corporate and politic, organized in accordance with the provisions of chapter 184, Laws of 1973 1st ex. sess., for the purposes, with the powers, and subject to the restrictions set forth in this chapter. All districts created under chapter 184, Laws of 1973 1st ex. sess. shall be known as conservation districts and shall have all the powers and duties set out in chapter 184, Laws of 1973 1st ex. sess. All references in chapter 184, Laws of 1973 1st ex. sess. to "districts", or "soil and water conservation districts" shall be deemed to be reference to "conservation districts."~~((+))~~

(5) "Board" and "supervisors" mean the board of supervisors of a conservation district.~~((+)).~~

(6) "Land occupier" or "occupier of land" includes any person, firm, political subdivision, government agency, municipality, public or private corporation, copartnership, association, or any other entity whatsoever which holds title to, or is in possession of, any lands lying within a district organized under the provisions of chapter 184, Laws of 1973 1st ex. sess., whether as owner, lessee, renter, tenant, or otherwise.~~((+)).~~

1 (7) "District elector" or "voter" means a registered voter in the
2 county where the district is located who resides within the district
3 boundary or in the area affected by a petition((+)).

4 (8) "Due notice" means a notice published at least twice, with at
5 least six days between publications, in a publication of general
6 circulation within the affected area, or if there is no such
7 publication, by posting at a reasonable number of public places within
8 the area, where it is customary to post notices concerning county and
9 municipal affairs. Any hearing held pursuant to due notice may be
10 postponed from time to time without a new notice((+)).

11 (9) "Renewable natural resources," "natural resources" or
12 "resources" includes land, air, water, vegetation, fish, wildlife, wild
13 rivers, wilderness, natural beauty, scenery and open space((+)).

14 (10) "Conservation" includes conservation, development,
15 improvement, maintenance, preservation, protection and use, and
16 alleviation of floodwater and sediment damages, and the disposal of
17 excess surface waters.

18 (11) "Farm and agricultural land" means either (a) land in any
19 contiguous ownership of twenty or more acres devoted primarily to
20 agricultural uses; (b) any parcel of land five acres or more but less
21 than twenty acres devoted primarily to agricultural uses, which has
22 produced a gross income from agricultural uses equivalent to one
23 hundred dollars or more per acre per year for three of the five
24 calendar years preceding the date of application for classification
25 under this chapter; or (c) any parcel of land of less than five acres
26 devoted primarily to agricultural uses which has produced a gross
27 income of one thousand dollars or more per year for three of the five
28 calendar years preceding the date of application for classification
29 under this chapter. Agricultural lands shall also include farm
30 woodlots of less than twenty and more than five acres and the land on
31 which appurtenances necessary to production, preparation or sale of the
32 agricultural products exist in conjunction with the lands producing
33 such products. Agricultural lands shall also include any parcel of
34 land of one to five acres, which is not contiguous, but which otherwise
35 constitutes an integral part of farming operations being conducted on
36 land qualifying under this section as "farm and agricultural lands."

1 **Sec. 6002.** RCW 89.08.030 and 1987 c 180 s 1 are each amended to
2 read as follows:

3 (1) There is hereby established (~~(to serve as an agency of the~~
4 ~~state and to perform the functions conferred upon it by law,~~) within
5 the department an advisory commission to be known as the state
6 conservation commission(~~(, which shall succeed to all powers, duties~~
7 ~~and property of the state soil and water conservation committee)~~). The
8 commission shall carry out all the functions and duties enumerated in
9 this chapter or specified in other laws.

10 (2)(a) The commission shall consist of ten members, five of whom
11 are ex officio. Two members shall be appointed by the governor, one of
12 whom shall be a landowner or operator of a farm. At least two of the
13 three elected members shall be landowners or operators of a farm and
14 shall be elected as (~~herein~~) provided in this section. The appointed
15 members shall serve for a term of four years.

16 (b) The three elected members shall be elected for three-year
17 terms, one shall be elected each year by the district supervisors at
18 their annual statewide meeting. One of the members shall reside in
19 eastern Washington, one in central Washington and one in western
20 Washington, the specific boundaries to be determined by district
21 supervisors. At the first such election, the term of the member from
22 western Washington shall be one year, central Washington two years and
23 eastern Washington three years, and successors shall be elected for
24 three years.

25 (c) Unexpired term vacancies in the office of appointed commission
26 members shall be filled by appointment by the governor in the same
27 manner as full-term appointments. Unexpired terms of elected
28 commission members shall be filled by the regional vice president of
29 the Washington association of conservation districts who is serving
30 that part of the state where the vacancy occurs, such term to continue
31 only until district supervisors can fill the unexpired term by electing
32 the commission member.

33 (d) The director of the department of ecology, the director of the
34 department of agriculture, the commissioner of public lands, the
35 president of the Washington association of conservation districts, and
36 the dean of the college of agriculture at Washington State University
37 shall be ex officio members of the commission. An ex officio member of

1 the commission shall hold office so long as he or she retains the
2 office by virtue of which he or she is a member of the commission. Ex
3 officio members may delegate their authority.

4 (e) The commission may invite appropriate officers of cooperating
5 organizations, state and federal agencies to serve as advisers to the
6 conservation commission.

7 **Sec. 6003.** RCW 89.08.040 and 2009 c 55 s 1 are each amended to
8 read as follows:

9 Members shall ~~((be compensated in accordance with RCW 43.03.250 and
10 shall be entitled to))~~ receive travel expenses in accordance with RCW
11 43.03.050 and 43.03.060 incurred in the discharge of their duties.

12 ~~((The commission shall keep a record of its official actions, shall
13 adopt a seal, which shall be judicially noticed, and may perform such
14 acts, hold such public hearings, and adopt such rules as may be
15 necessary for the execution of its functions under chapter 184, Laws of
16 1973 1st ex. sess. The state department of ecology is empowered to pay
17 the travel expenses of the elected and appointed members of the state
18 conservation commission, and the salaries, wages and other expenses of
19 such administrative officers or other employees as may be required
20 under the provisions of this chapter.))~~

21 **Sec. 6004.** RCW 89.08.050 and 2009 c 55 s 2 are each amended to
22 read as follows:

23 The ~~((commission))~~ department may employ ~~((an administrative
24 officer, and))~~ such technical experts and ~~((such))~~ other agents and
25 employees ~~((, permanent and temporary as it may require, and shall
26 determine their qualifications, duties, and compensation. The
27 commission may call upon the attorney general for such legal services
28 as it))~~ that the department determines the commission may require.

29 ~~((It))~~ The commission shall have authority to delegate to its
30 chair ~~((,))~~ or to one or more of its members ~~((, to one or more agents or
31 employees such))~~ those duties and powers as it deems proper. ~~((As long
32 as the commission and the office of financial management under the
33 provisions of chapter 43.82 RCW deems it appropriate and financially
34 justifiable to do so, the commission shall be supplied with suitable
35 office accommodations at the central office of the department of
36 ecology, and shall be furnished the necessary supplies and equipment.))~~

1 The commission shall organize annually and select a chair from
2 among its members, who shall serve for one year from the date of the
3 chair's selection. A majority of the commission shall constitute a
4 quorum and all actions of the commission shall be by a majority vote of
5 the members present and voting at a meeting at which a quorum is
6 present.

7 **Sec. 6005.** RCW 89.08.070 and 2009 c 55 s 3 are each amended to
8 read as follows:

9 In addition to the duties and powers hereinafter conferred upon the
10 commission, it shall have the following duties and powers:

11 (1) To offer such assistance as may be appropriate to the
12 supervisors of conservation districts organized under the provisions of
13 chapter 184, Laws of 1973 1st ex. sess., in the carrying out of any of
14 their powers and programs:

15 (a) To assist and guide districts in the preparation and carrying
16 out of programs for resource conservation authorized under chapter 184,
17 Laws of 1973 1st ex. sess.;

18 (b) To review district programs;

19 (c) To coordinate the programs of the several districts and resolve
20 any conflicts in such programs;

21 (d) To facilitate, promote, assist, harmonize, coordinate, and
22 guide the resource conservation programs and activities of districts as
23 they relate to other special purpose districts, counties, and other
24 public agencies.

25 (2) To keep the supervisors of each of the several conservation
26 districts organized under the provisions of chapter 184, Laws of 1973
27 1st ex. sess. informed of the activities and experience of all other
28 districts organized hereunder, and to facilitate an interchange of
29 advice and experience between such districts and cooperation between
30 them.

31 (3) To review agreements, or forms of agreements, proposed to be
32 entered into by districts with other districts or with any state,
33 federal, interstate, or other public or private agency, organization,
34 or individual, and advise the districts concerning such agreements or
35 forms of agreements.

36 (4) (~~To secure the cooperation and assistance of the United States~~

1 and any of its agencies, and of agencies of this state in the work of
2 such districts.

3 ~~(5) To recommend the inclusion in annual and longer term budgets~~
4 ~~and appropriation legislation of the state of Washington of funds~~
5 ~~necessary for appropriation by the legislature to finance the~~
6 ~~activities of the commission and the conservation districts; to~~
7 ~~administer the provisions of any law hereinafter enacted by the~~
8 ~~legislature appropriating funds for expenditure in connection with the~~
9 ~~activities of conservation districts; to distribute to conservation~~
10 ~~districts funds, equipment, supplies and services received by the~~
11 ~~commission for that purpose from any source, subject to such conditions~~
12 ~~as shall be made applicable thereto in any state or federal statute or~~
13 ~~local ordinance making available such funds, property or services; to~~
14 ~~adopt rules establishing guidelines and suitable controls to govern the~~
15 ~~use by conservation districts of such funds, property and services; and~~
16 ~~to review all budgets, administrative procedures and operations of such~~
17 ~~districts and advise the districts concerning their conformance with~~
18 ~~applicable laws and rules.~~

19 ~~(6))~~ To encourage the cooperation and collaboration of state,
20 federal, regional, interstate and local public and private agencies
21 with the conservation districts, and facilitate arrangements under
22 which the conservation districts may serve county governing bodies and
23 other agencies as their local operating agencies in the administration
24 of any activity concerned with the conservation of renewable natural
25 resources.

26 ~~((7) To disseminate information throughout the state concerning~~
27 ~~the activities and programs of the conservation districts organized~~
28 ~~hereunder, and to encourage the formation of such districts in areas~~
29 ~~where their organization is desirable; to make available information~~
30 ~~concerning the needs and the work of the conservation district and the~~
31 ~~commission to the governor, the legislature, executive agencies of the~~
32 ~~government of this state, political subdivisions of this state,~~
33 ~~cooperating federal agencies, and the general public.~~

34 ~~(8) Pursuant to procedures developed mutually by the commission and~~
35 ~~other state and local agencies that are authorized to plan or~~
36 ~~administer activities significantly affecting the conservation of~~
37 ~~renewable natural resources, to receive from such agencies for review~~
38 ~~and comment suitable descriptions of their plans, programs and~~

1 ~~activities for purposes of coordination with district conservation~~
2 ~~programs; to arrange for and participate in conferences necessary to~~
3 ~~avoid conflict among such plans and programs, to call attention to~~
4 ~~omissions, and to avoid duplication of effort.~~

5 ~~(9)) (5) To compile information and make studies, summaries and~~
6 ~~analysis of district programs in relation to each other and to other~~
7 ~~resource conservation programs on a statewide basis.~~

8 ~~((10) To assist conservation districts in obtaining legal services~~
9 ~~from state and local legal officers.~~

10 ~~(11) To require annual reports from conservation districts, the~~
11 ~~form and content of which shall be developed by the commission.~~

12 ~~(12) To establish by rule, with the assistance and advice of the~~
13 ~~state auditor's office, adequate and reasonably uniform accounting and~~
14 ~~auditing procedures which shall be used by conservation districts.~~

15 ~~(13) To seek and accept grants from any source, public or private,~~
16 ~~to fulfill the purposes of the agency. The commission may also accept~~
17 ~~gifts or endowments that are made from time to time, in trust or~~
18 ~~otherwise, including real and personal property, for the use and~~
19 ~~benefit consistent with the purposes of this chapter.~~

20 ~~(14) To conduct conferences, seminars, and training sessions~~
21 ~~consistent with the purposes of this chapter, and may accept grants,~~
22 ~~gifts, and contributions, and may contract for services, to accomplish~~
23 ~~these activities. The commission may recover costs for these~~
24 ~~activities, whether the activity is sponsored or cosponsored by the~~
25 ~~commission, at a rate determined by the commission. The commission may~~
26 ~~provide reimbursement to participants in these activities and other~~
27 ~~commission sponsored meetings and events, as appropriate and approved~~
28 ~~by the commission, consistent with applicable statutes. The commission~~
29 ~~may provide meals for participants in working meetings.~~

30 ~~(15) To adopt rules to implement this section as it deems~~
31 ~~appropriate.))~~

32 NEW SECTION. Sec. 6006. A new section is added to chapter 89.08
33 RCW to read as follows:

34 In addition to the duties and powers conferred upon the department,
35 it shall have the following duties and powers:

36 (1) To secure the cooperation and assistance of the United States

1 and any of its agencies, and of agencies of this state in the work of
2 such districts.

3 (2) To recommend the inclusion in annual and longer-term budgets
4 and appropriation legislation of the state of Washington of funds
5 necessary for appropriation by the legislature to finance the
6 activities of the commission and the conservation districts; to
7 administer the provisions of any law enacted by the legislature
8 appropriating funds for expenditure in connection with the activities
9 of conservation districts; to distribute to conservation districts
10 funds, equipment, supplies, and services received by the commission for
11 that purpose from any source, subject to conditions as shall be made
12 applicable thereto in any state or federal statute or local ordinance
13 making available the funds, property, or services; to adopt rules
14 establishing guidelines and suitable controls to govern the use by
15 conservation districts of the funds, property, and services; and to
16 review all budgets, administrative procedures, and operations of the
17 districts and advise the districts concerning their conformance with
18 applicable laws and rules.

19 (3) To disseminate information throughout the state concerning the
20 activities and programs of the conservation districts organized under
21 this chapter, and to encourage the formation of districts in areas
22 where their organization is desirable; to make available information
23 concerning the needs and the work of the conservation district and the
24 commission to the governor, the legislature, executive agencies of the
25 government of this state, political subdivisions of this state,
26 cooperating federal agencies, and the general public.

27 (4) Pursuant to procedures developed mutually by the commission and
28 other state and local agencies that are authorized to plan or
29 administer activities significantly affecting the conservation of
30 renewable natural resources, to receive from such agencies for review
31 and comment suitable descriptions of their plans, programs, and
32 activities for purposes of coordination with district conservation
33 programs; to arrange for and participate in conferences necessary to
34 avoid conflict among such plans and programs, to call attention to
35 omissions, and to avoid duplication of effort.

36 (5) To assist conservation districts in obtaining legal services
37 from state and local legal officers.

1 (6) To require annual reports from conservation districts, the form
2 and content of which must be developed by the commission.

3 (7) To establish by rule, with the assistance and advice of the
4 state auditor's office, adequate and reasonably uniform accounting and
5 auditing procedures which must be used by conservation districts.

6 (8) To seek and accept grants from any source, public or private,
7 to fulfill the purposes of the agency. The department may also accept
8 gifts or endowments that are made from time to time, in trust or
9 otherwise, including real and personal property, for the use and
10 benefit consistent with the purposes of this chapter.

11 (9) To conduct conferences, seminars, and training sessions
12 consistent with the purposes of this chapter. The department may
13 accept grants, gifts, and contributions, and may contract for service,
14 to accomplish these activities. The department may recover costs for
15 these activities, whether the activity is sponsored or cosponsored by
16 the department, at a rate determined by the commission. The department
17 may provide reimbursement to participants in these activities and other
18 sponsored meetings and events, as appropriate, consistent with
19 applicable statutes.

20 (10) To adopt rules to implement this section as it deems
21 appropriate.

22 **Sec. 6007.** RCW 89.08.080 and 1999 c 305 s 2 are each amended to
23 read as follows:

24 To form a conservation district, twenty percent of the voters
25 within the area to be affected may file a petition with the
26 ((~~commission~~)) department asking that the area be organized into a
27 district.

28 The petition shall give the name of the proposed district, state
29 that it is needed in the interest of the public health, safety, and
30 welfare, give a general description of the area proposed to be
31 organized and request that the ((~~commission~~)) department determine that
32 it be created, and that it define the boundaries thereof and call an
33 election on the question of creating the district.

34 If more than one petition is filed covering parts of the same area,
35 the ((~~commission~~)) department may consolidate all or any of them.

1 **Sec. 6008.** RCW 89.08.090 and 1973 1st ex.s. c 184 s 10 are each
2 amended to read as follows:

3 (1) The department shall provide a petition to the commission for
4 a hearing and recommendation on the disposition of the petition.

5 (2) Within thirty days after a petition is filed, the commission
6 shall give due notice of the time and place of a public hearing
7 thereon. At the hearing all interested persons shall be heard.

8 (3) If it appears to the commission that additional land should be
9 included in the district, the hearing shall be adjourned and a new
10 notice given covering the entire area and a new date fixed for further
11 hearing, unless waiver of notice by the owners of the additional land
12 is filed with the commission.

13 (4) No district shall include any portion of a railroad right-of-
14 way, or another similar district. The lands included in a district
15 need not be contiguous.

16 **Sec. 6009.** RCW 89.08.100 and 1973 1st ex.s. c 184 s 11 are each
17 amended to read as follows:

18 After the hearing, the commission shall provide to the department
19 its finding and recommendations. If the commission finds that the
20 public health, safety, and welfare warrant the creation of the
21 district, it shall recommend to the department to enter an order to
22 that effect and define the boundaries thereof by metes and bounds or by
23 legal subdivisions.

24 In making its findings the commission shall consider the topography
25 of the particular area and of the state generally; the composition of
26 the soil; the distribution of erosion; the prevailing land use
27 practices; the effects upon and benefits to the land proposed to be
28 included; the relation of the area to existing watersheds and
29 agricultural regions and to other similar districts organized or
30 proposed; and consider such other physical, geographical, and economic
31 factors as are relevant.

32 If the commission finds there is no need for the district, it shall
33 recommend to the department to enter an order denying the petition~~((~~
34 ~~and no petition covering the same or substantially the same area may be~~
35 ~~filed within six months thereafter))~~.

1 election, which shall state generally the purpose of the election, the
2 date thereof, the place and hours of voting, and set forth the
3 boundaries of the proposed district.

4 Only qualified district electors within the proposed district as
5 determined by the (~~commission~~) department may vote at the election.
6 Each voter shall vote in the polling place nearest the voter's
7 residence.

8 **Sec. 6014.** RCW 89.08.140 and 1973 1st ex.s. c 184 s 15 are each
9 amended to read as follows:

10 The (~~commission~~) department shall bear all expense of giving the
11 notices and conducting the hearings and election, and shall issue
12 regulations governing all hearings and elections and supervise the
13 conduct thereof. It shall provide for registration of eligible voters
14 or prescribe the procedure to determine the eligible voters. No
15 informality in connection with the election shall invalidate the
16 results, if the notice thereof was substantially given, and the
17 election fairly conducted.

18 **Sec. 6015.** RCW 89.08.150 and 1999 c 305 s 5 are each amended to
19 read as follows:

20 If a majority of the votes cast at the election are against the
21 creation of the district, the (~~commission shall~~) department may deny
22 the petition. If a majority favor the district, the (~~commission~~
23 ~~shall~~) department, with the assistance of the commission, may
24 determine the practicability of the project.

25 In making such determination, the commission and the department
26 shall consider the attitude of the voters of the district; the number
27 of eligible voters who voted at the election; the size of the majority
28 vote; the wealth and income of the land occupiers; the probable expense
29 of carrying out the project; and any other economic factors relevant
30 thereto.

31 If the commission finds that the project is impracticable it shall
32 recommend to the department to enter an order to that effect and deny
33 the petition. (~~When~~) If the department denies the petition (~~has~~
34 ~~been denied~~), no new petition covering the same or substantially the
35 same area may be filed within six months therefrom.

1 **Sec. 6016.** RCW 89.08.160 and 1973 1st ex.s. c 184 s 17 are each
2 amended to read as follows:

3 If the ((~~commission~~)) department finds the project practicable, it
4 shall appoint two supervisors from a list provided by the commission,
5 one of whom shall be a landowner or operator of a farm, who shall be
6 qualified by training and experience to perform the specialized skilled
7 services required of them. They, with the three elected supervisors,
8 two of whom shall be landowners or operators of a farm, shall
9 constitute the governing board of the district.

10 The two appointed supervisors shall file with the secretary of
11 state a sworn application, reciting that a petition was filed with the
12 ((~~commission~~)) department for the creation of the district; that all
13 required proceedings were had thereon; that they were appointed by the
14 ((~~commission~~)) department as such supervisors; and that the application
15 is being filed to complete the organization of the district. It shall
16 contain the names and residences of the applicants, a certified copy of
17 their appointments, the name of the district, the location of the
18 office of the supervisors and the term of office of each applicant.

19 The application shall be accompanied by a statement of the
20 ((~~commission~~)) department, reciting that a petition was filed, notice
21 issued, and hearing held thereon as required; that it determined the
22 need for the district and defined the boundaries thereof; that notice
23 was given and an election held on the question of creating the
24 district; that a majority vote favored the district, and that the
25 ((~~commission~~)) department had determined the district practicable; and
26 shall set forth the boundaries of the district.

27 **Sec. 6017.** RCW 89.08.170 and 1973 1st ex.s. c 184 s 18 are each
28 amended to read as follows:

29 If the secretary of state finds that the name of the proposed
30 district is such as will not be confused with that of any other
31 district, ((~~he~~)) the secretary of state shall enter the application and
32 statement in his or her records. If ((~~he~~)) the secretary of state
33 finds the name may be confusing, he or she shall certify that fact to
34 the ((~~commission~~)) department, which shall submit a new name free from
35 such objections, and ((~~he~~)) the secretary of state shall enter the
36 application and statement as modified, in his or her records.

1 Thereupon the district shall be considered organized into a body
2 corporate.

3 The secretary of state shall then issue to the supervisors a
4 certificate of organization of the district under the seal of the
5 state, and shall record the certificate in his or her office. Proof of
6 the issuance of the certificate shall be evidence of the establishment
7 of the district, and a certified copy of the certificate shall be
8 admissible as evidence and shall be proof of the filing and contents
9 thereof. The name of a conservation district may be changed upon
10 recommendation by the supervisors of a district and approval by the
11 (~~state conservation commission~~) department and the secretary of
12 state. The new name shall be recorded by the secretary of state
13 following the same general procedure as for the previous name.

14 **Sec. 6018.** RCW 89.08.180 and 1999 c 305 s 6 are each amended to
15 read as follows:

16 Territory may be added to an existing district upon filing a
17 petition as in the case of formation with the (~~commission~~) department
18 by twenty percent of the voters of the affected area to be included.
19 The same procedure shall be followed as for the creation of the
20 district.

21 As an alternate procedure, the (~~commission~~) department may upon
22 the petition of a majority of the voters in any one or more districts
23 or in unorganized territory adjoining a conservation district change
24 the boundaries of a district, or districts, if such action will promote
25 the practical and feasible administration of such district or
26 districts.

27 Upon petition of the boards of supervisors of two or more
28 districts, the (~~commission~~) department may approve the combining of
29 all or parts of such districts and name the district, or districts,
30 with the approval of the name by the secretary of state. A public
31 hearing and/or a referendum may be held if deemed necessary or
32 desirable by the (~~commission~~) department in order to determine the
33 wishes of the voters.

34 When districts are combined, the joint boards of supervisors will
35 first select a (~~chairman~~) chair, secretary, and other necessary
36 officers and select a regular date for meetings. All elected
37 supervisors will continue to serve as members of the board until the

1 expiration of their current term of office, and/or until the election
2 date nearest their expiration date. All appointed supervisors will
3 continue to serve until the expiration of their current term of office,
4 at which time the ((~~commission~~)) department will make the necessary
5 appointments. In the event that more than two districts are combined,
6 a similar procedure will be set up and administered by the
7 ((~~commission~~)) department.

8 When districts are combined or territory is moved from one district
9 to another, the property, records, and accounts of the districts
10 involved shall be distributed to the remaining district or districts as
11 approved by the ((~~commission~~)) department. A new certificate of
12 organization, naming and describing the new district or districts,
13 shall be issued by the secretary of state.

14 **Sec. 6019.** RCW 89.08.185 and 1999 c 305 s 7 are each amended to
15 read as follows:

16 The local governing body of any city or incorporated town within an
17 existing district may approve by majority vote a petition to withdraw
18 from the district. The petition shall be submitted to the district for
19 its approval. If approved by the district, the petition shall be sent
20 to the ((~~commission~~)) department. The ((~~commission~~)) department shall
21 approve the petition and forward it to the secretary of state and the
22 boundary of the district shall be adjusted accordingly. If the
23 petition is not approved by the district, the district shall adopt a
24 resolution specifying the reasons why the petition is not approved.
25 The petition and the district's resolution shall be sent to the
26 ((~~commission~~)) department for its review. The ((~~commission~~))
27 department shall approve or reject the petition based upon criteria it
28 has adopted for the evaluation of petitions in dispute. If the
29 ((~~commission~~)) department approves the petition, it shall forward the
30 petition to the secretary of state and the boundaries of the district
31 shall be adjusted accordingly. The criteria used by the ((~~commission~~))
32 department to evaluate petitions which are in dispute shall be adopted
33 as rules by the ((~~commission~~)) department under chapter 34.05 RCW, the
34 administrative procedure act.

35 **Sec. 6020.** RCW 89.08.190 and 2002 c 43 s 3 are each amended to
36 read as follows:

1 Within thirty days after the issuance of the certificate of
2 organization, unless the time is extended by the ((~~commission~~))
3 department, petitions shall be filed with the ((~~commission~~)) department
4 to nominate candidates for the three elected supervisors. The petition
5 shall be signed by not less than twenty-five district electors, and a
6 district elector may sign petitions nominating more than one person.

7 In the case of a new district, the ((~~commission~~)) department shall
8 give due notice to elect the three supervisors. All provisions
9 pertaining to elections on the creation of a district shall govern this
10 election so far as applicable. The names of all nominees shall appear
11 on the ballot in alphabetical order, together with instructions to vote
12 for three. The three candidates receiving the most votes shall be
13 declared elected supervisors, the one receiving the most being elected
14 for a three-year term, the next for two and the last for one year. An
15 alternate method of dividing the district into three zones may be used
16 when requested by the board of supervisors and approved by the
17 ((~~commission~~)) department. In such case, instructions will be to vote
18 for one in each zone. The candidate receiving the most votes in a zone
19 shall be declared elected.

20 Each year after the creation of the first board of supervisors, the
21 board shall by resolution and by giving due notice, set a date during
22 the first quarter of each calendar year at which time it shall conduct
23 an election, except that for elections in 2002 only, the board shall
24 set the date during the second quarter of the calendar year at which
25 time it shall conduct an election. Names of candidates nominated by
26 petition shall appear in alphabetical order on the ballots, together
27 with an extra line wherein may be written in the name of any other
28 candidate. The ((~~commission~~)) department shall establish procedures
29 for elections, canvass the returns and announce the official results
30 thereof. Election results may be announced by polling officials at the
31 close of the election subject to official canvass of ballots by the
32 ((~~commission~~)) department. Supervisors elected shall take office at
33 the first board meeting following the election.

34 **Sec. 6021.** RCW 89.08.200 and 1973 1st ex.s. c 184 s 21 are each
35 amended to read as follows:

36 The term of office of each supervisor shall be three years and
37 until his or her successor is appointed or elected and qualified,

1 except that the supervisors first appointed shall serve for one and two
2 years respectively from the date of their appointments, as designated
3 in their appointments.

4 In the case of elected supervisors, the term of office of each
5 supervisor shall be three years and until his or her successor is
6 elected and qualified, except that for the first election, the one
7 receiving the largest number of votes shall be elected for three years;
8 the next largest two years; and the third largest one year. Successors
9 shall be elected for three-year terms.

10 Vacancies in the office of appointed supervisors shall be filled by
11 the (~~(state conservation commission)~~) department. Vacancies in the
12 office of elected supervisors shall be filled by appointment made by
13 the remaining supervisors for the unexpired term.

14 A majority of the supervisors shall constitute a quorum and the
15 concurrence of a majority is required for any official action or
16 determination.

17 Supervisors shall serve without compensation, but they shall be
18 entitled to expenses, including traveling expenses, necessarily
19 incurred in discharge of their duties. A supervisor may be removed by
20 the (~~(state conservation commission)~~) department upon notice and
21 hearing, for neglect of duty or malfeasance in office, but for no other
22 reason.

23 The governing board shall designate a (~~(chairman)~~) chair from time
24 to time.

25 **Sec. 6022.** RCW 89.08.210 and 2000 c 45 s 1 are each amended to
26 read as follows:

27 The supervisors may employ a secretary, treasurer, technical
28 experts, and such other officers, agents, and employees, permanent and
29 temporary, as they may require, and determine their qualifications,
30 duties, and compensation. It may call upon the attorney general for
31 legal services, or may employ its own counsel and legal staff. The
32 supervisors may delegate to their (~~(chairman)~~) chair, to one or more
33 supervisors, or to one or more agents or employees such powers and
34 duties as it deems proper. The supervisors shall furnish to the
35 (~~(commission)~~) department, upon request, copies of such internal rules,
36 regulations, orders, contracts, forms, and other documents as they
37 shall adopt or employ, and such other information concerning their

1 activities as the ((~~commission~~)) department may require in the
2 performance of its duties under chapter 184, Laws of 1973 1st ex. sess.
3 The supervisors shall provide for the execution of surety bonds for
4 officers and all employees who shall be entrusted with funds or
5 property.

6 The supervisors shall provide for the keeping of a full and
7 accurate record of all proceedings, resolutions, regulations, and
8 orders issued or adopted. The supervisors shall provide for an annual
9 audit of the accounts of receipts and disbursements in accordance with
10 procedures prescribed by ((~~regulations~~)) rules of the ((~~commission~~))
11 department.

12 The board may invite the legislative body of any municipality or
13 county near or within the district, to designate a representative to
14 advise and consult with it on all questions of program and policy which
15 may affect the property, water supply, or other interests of such
16 municipality or county. The governing body of a district shall appoint
17 such advisory committees as may be needed to assure the availability of
18 appropriate channels of communication to the board of supervisors, to
19 persons affected by district operations, and to local, regional, state
20 and interstate special-purpose districts and agencies responsible for
21 community planning, zoning, or other resource development activities.
22 The district shall keep such committees informed of its work, and such
23 advisory committees shall submit recommendations from time to time to
24 the board of supervisors.

25 **Sec. 6023.** RCW 89.08.220 and 1999 c 305 s 8 are each amended to
26 read as follows:

27 A conservation district organized under the provisions of chapter
28 184, Laws of 1973 1st ex. sess. shall constitute a governmental
29 subdivision of this state, and a public body corporate and politic
30 exercising public powers, but shall not levy taxes or issue bonds and
31 such district, and the supervisors thereof, shall have the following
32 powers, in addition to others granted in other sections of chapter 184,
33 Laws of 1973 1st ex. sess.:

34 (1) To conduct surveys, investigations, and research relating to
35 the conservation of renewable natural resources and the preventive and
36 control measures and works of improvement needed, to publish the
37 results of such surveys, investigations, or research, and to

1 disseminate information concerning such preventive and control measures
2 and works of improvement: PROVIDED, That in order to avoid duplication
3 of research activities, no district shall initiate any research program
4 except in cooperation with the government of this state or any of its
5 agencies, or with the United States or any of its agencies;

6 (2) To conduct educational and demonstrational projects on any
7 lands within the district upon obtaining the consent of the occupier of
8 such lands and such necessary rights or interests in such lands as may
9 be required in order to demonstrate by example the means, methods,
10 measures, and works of improvement by which the conservation of
11 renewable natural resources may be carried out;

12 (3) To carry out preventative and control measures and works of
13 improvement for the conservation of renewable natural resources, within
14 the district including, but not limited to, engineering operations,
15 methods of cultivation, the growing of vegetation, changes in use of
16 lands, and the measures listed in RCW 89.08.010, on any lands within
17 the district upon obtaining the consent of the occupier of such lands
18 and such necessary rights or interests in such lands as may be
19 required;

20 (4) To cooperate or enter into agreements with, and within the
21 limits of appropriations duly made available to it by law, to furnish
22 financial or other aid to any agency, governmental or otherwise, or any
23 occupier of lands within the district in the carrying on of preventive
24 and control measures and works of improvement for the conservation of
25 renewable natural resources within the district, subject to such
26 conditions as the supervisors may deem necessary to advance the
27 purposes of chapter 184, Laws of 1973 1st ex. sess. For purposes of
28 this subsection only, land occupiers who are also district supervisors
29 are not subject to the provisions of RCW 42.23.030;

30 (5) To obtain options upon and to acquire in any manner, except by
31 condemnation, by purchase, exchange, lease, gift, bequest, devise, or
32 otherwise, any property, real or personal, or rights or interests
33 therein; to maintain, administer, and improve any properties acquired,
34 to receive income from such properties and to expend such income in
35 carrying out the purposes and provisions of chapter 184, Laws of 1973
36 1st ex. sess.; and to sell, lease, or otherwise dispose of any of its
37 property or interests therein in furtherance of the purposes and the
38 provisions of chapter 184, Laws of 1973 1st ex. sess.;

1 (6) To make available, on such terms, as it shall prescribe, to
2 land occupiers within the district, agricultural and engineering
3 machinery and equipment, fertilizer, seeds, seedlings, and such other
4 equipment and material as will assist them to carry on operations upon
5 their lands for the conservation of renewable natural resources;

6 (7) To prepare and keep current a comprehensive long-range program
7 recommending the conservation of all the renewable natural resources of
8 the district. Such programs shall be directed toward the best use of
9 renewable natural resources and in a manner that will best meet the
10 needs of the district and the state, taking into consideration, where
11 appropriate, such uses as farming, grazing, timber supply, forest,
12 parks, outdoor recreation, potable water supplies for urban and rural
13 areas, water for agriculture, minimal flow, and industrial uses,
14 watershed stabilization, control of soil erosion, retardation of water
15 run-off, flood prevention and control, reservoirs and other water
16 storage, restriction of developments of floodplains, protection of open
17 space and scenery, preservation of natural beauty, protection of fish
18 and wildlife, preservation of wilderness areas and wild rivers, the
19 prevention or reduction of sedimentation and other pollution in rivers
20 and other waters, and such location of highways, schools, housing
21 developments, industries, airports and other facilities and structures
22 as will fit the needs of the state and be consistent with the best uses
23 of the renewable natural resources of the state. The program shall
24 include an inventory of all renewable natural resources in the
25 district, a compilation of current resource needs, projections of
26 future resource requirements, priorities for various resource
27 activities, projected timetables, descriptions of available
28 alternatives, and provisions for coordination with other resource
29 programs.

30 The district shall also prepare an annual work plan, which shall
31 describe the action programs, services, facilities, materials, working
32 arrangements and estimated funds needed to carry out the parts of the
33 long-range programs that are of the highest priorities.

34 The districts shall hold public hearings at appropriate times in
35 connection with the preparation of programs and plans, shall give
36 careful consideration to the views expressed and problems revealed in
37 hearings, and shall keep the public informed concerning their programs,
38 plans, and activities. Occupiers of land shall be invited to submit

1 proposals for consideration to such hearings. The districts may
2 supplement such hearings with meetings, referenda and other suitable
3 means to determine the wishes of interested parties and the general
4 public in regard to current and proposed plans and programs of a
5 district. They shall confer with public and private agencies,
6 individually and in groups, to give and obtain information and
7 understanding of the impact of district operations upon agriculture,
8 forestry, water supply and quality, flood control, particular
9 industries, commercial concerns and other public and private interests,
10 both rural and urban.

11 Each district shall submit to the (~~commission~~) department its
12 proposed long-range program and annual work plans for review and
13 comment.

14 The long-range renewable natural resource program, together with
15 the supplemental annual work plans, developed by each district under
16 the foregoing procedures shall have official status as the authorized
17 program of the district, and it shall be published by the districts as
18 its "renewable resources program". Copies shall be made available by
19 the districts to the appropriate counties, municipalities, special
20 purpose districts and state agencies, and shall be made available in
21 convenient places for examination by public land occupier or private
22 interest concerned. Summaries of the program and selected material
23 therefrom shall be distributed as widely as feasible for public
24 information;

25 (8) To administer any project or program concerned with the
26 conservation of renewable natural resources located within its
27 boundaries undertaken by any federal, state, or other public agency by
28 entering into a contract or other appropriate administrative
29 arrangement with any agency administering such project or program;

30 (9) Cooperate with other districts organized under chapter 184,
31 Laws of 1973 1st ex. sess. in the exercise of any of its powers;

32 (10) To accept donations, gifts, and contributions in money,
33 services, materials, or otherwise, from the United States or any of its
34 agencies, from this state or any of its agencies, or from any other
35 source, and to use or expend such moneys, services, materials, or any
36 contributions in carrying out the purposes of chapter 184, Laws 1973
37 1st ex. sess.;

1 (11) To sue and be sued in the name of the district; to have a seal
2 which shall be judicially noticed; have perpetual succession unless
3 terminated as hereinafter provided; to make and execute contracts and
4 other instruments, necessary or convenient to the exercise of its
5 powers; to borrow money and to pledge, mortgage and assign the income
6 of the district and its real or personal property therefor; and to
7 make, amend rules and regulations not inconsistent with chapter 184,
8 Laws of 1973 1st ex. sess. and to carry into effect its purposes;

9 (12) Any two or more districts may engage in joint activities by
10 agreement between or among them in planning, financing, constructing,
11 operating, maintaining, and administering any program or project
12 concerned with the conservation of renewable natural resources. The
13 districts concerned may make available for purposes of the agreement
14 any funds, property, personnel, equipment, or services available to
15 them under chapter 184, Laws of 1973 1st ex. sess.;

16 Any district may enter into such agreements with a district or
17 districts in adjoining states to carry out such purposes if the law in
18 such other states permits the districts in such states to enter into
19 such agreements.

20 The (~~commission~~) department shall have authority to propose,
21 guide, and facilitate the establishment and carrying out of any such
22 agreement;

23 (13) Every district shall, through public hearings, annual
24 meetings, publications, or other means, keep the general public,
25 agencies and occupiers of land within the district, informed of the
26 works and activities planned and administered by the district, of the
27 purposes these will serve, of the income and expenditures of the
28 district, of the funds borrowed by the district and the purposes for
29 which such funds are expended, and of the results achieved annually by
30 the district; and

31 (14) The supervisors of conservation districts may designate an
32 area, state, and national association of conservation districts as a
33 coordinating agency in the execution of the duties imposed by this
34 chapter, and to make gifts in the form of dues, quotas, or otherwise to
35 such associations for costs of services rendered, and may support and
36 attend such meetings as may be required to promote and perfect the
37 organization and to effect its purposes.

1 **Sec. 6024.** RCW 89.08.341 and 1973 1st ex.s. c 184 s 24 are each
2 amended to read as follows:

3 Any agency of the government of this state and any local political
4 subdivision of this state is hereby authorized to make such
5 arrangements with any district, through contract, regulation or other
6 appropriate means, wherever it believes that such arrangements will
7 promote administrative efficiency or economy.

8 In connection with any such arrangements, any state or local agency
9 or political subdivision of this state is authorized, within the limits
10 of funds available to it, to contribute funds, equipment, property or
11 services to any district; and to collaborate with a district in jointly
12 planning, constructing, financing or operating any work or activity
13 provided for in such arrangements and in the joint acquisition,
14 maintenance and operation of equipment or facilities in connection
15 therewith.

16 State agencies, the districts, and other local agencies are
17 authorized to make available to each other maps, reports and data in
18 their possession that are useful in the preparation of their respective
19 programs and plans for resource conservation. The districts shall keep
20 the state and local agencies fully informed concerning the status and
21 progress of the preparation of their resource conservation programs and
22 plans.

23 The ((~~state conservation commission~~)) department and the counties
24 of the state may provide respective conservation districts such
25 administrative funds as will be necessary to carry out the purpose of
26 chapter 184, Laws of 1973 1st ex. sess.

27 **Sec. 6025.** RCW 89.08.350 and 1999 c 305 s 9 are each amended to
28 read as follows:

29 At any time after five years from the organization of a district,
30 twenty percent of the voters in the district may file with the
31 ((~~commission~~)) department a petition, praying that the district be
32 dissolved. The department shall provide the petition to the commission
33 for a hearing recommendation on the disposition of the petition. The
34 commission may hold public hearings thereon, and within sixty days from
35 receipt of the petition, shall recommend to the department whether to
36 hold an election on the question of the dissolution. If the commission
37 recommends an election, the department shall give due notice of an

1 election on the question of dissolution. ((It)) The department shall
2 provide appropriate ballots, conduct the election, canvass the returns,
3 and declare the results in the same manner as for elections to create
4 a district.

5 All district electors may vote at the election. No informality
6 relating to the election shall invalidate it if notice is substantially
7 given and the election is fairly conducted.

8 **Sec. 6026.** RCW 89.08.370 and 1999 c 305 s 11 are each amended to
9 read as follows:

10 If the district is ordered dissolved, the supervisors shall
11 forthwith terminate the affairs of the district and dispose of all
12 district property at public auction, and pay the proceeds therefrom to
13 pay any debts of the district and any remaining balance to the state
14 treasurer.

15 They shall then file a verified application with the secretary of
16 state for the dissolution of the district, accompanied by a certificate
17 of the ((commission)) department reciting the determination that
18 further operation of the district is impracticable. The application
19 shall recite that the property of the district has been disposed of,
20 that the proceeds therefrom have been used to pay any debts of the
21 district and any remaining balance paid to the treasurer, and contain
22 a full accounting of the property and proceeds. Thereupon the
23 secretary shall issue to the supervisors a certificate of dissolution
24 and file a copy thereof in his or her records.

25 **Sec. 6027.** RCW 89.08.410 and 2005 c 31 s 1 are each amended to
26 read as follows:

27 The state conservation commission may recommend to the department
28 and the department may authorize grants to conservation districts from
29 moneys appropriated to the ((commission)) department for such purposes
30 as provided in this section. Such grants shall be awarded annually on
31 or before the last day of June of each year and shall be made only to
32 those conservation districts that apply for the grants. The
33 ((conservation commission)) department may adopt rules pertaining to
34 eligibility and distribution of these funds. ((The conservation
35 commission shall submit a report on the distribution of these funds to
36 the appropriate committees of the legislature by September 30, 2007.))

1 **Sec. 6028.** RCW 89.08.470 and 2003 c 39 s 47 are each amended to
2 read as follows:

3 (1) (~~By January 1, 1996,~~) The department, with the advice of the
4 Washington conservation commission, shall develop, in consultation with
5 other state agencies, tribes, and local governments, a consolidated
6 application process for permits for a watershed restoration project
7 developed by an agency or sponsored by an agency on behalf of a
8 volunteer organization. The consolidated process shall include a
9 single permit application form for use by all responsible state and
10 local agencies. The (~~commission~~) department shall encourage use of
11 the consolidated permit application process by any federal agency
12 responsible for issuance of related permits. The permit application
13 forms to be consolidated shall include, at a minimum, applications for:
14 (a) Approvals related to water quality standards under chapter 90.48
15 RCW; (b) hydraulic project approvals under chapter 77.55 RCW; and (c)
16 section 401 water quality certifications under 33 U.S.C. Sec. 1341 and
17 chapter 90.48 RCW.

18 (2) If a watershed restoration project is also a fish habitat
19 enhancement project that meets the criteria of RCW (~~77.55.290(1)~~)
20 77.55.181(1), the project sponsor shall instead follow the permit
21 review and approval process established in RCW (~~77.55.290~~) 77.55.181
22 with regard to state and local government permitting requirements. The
23 sponsor shall so notify state and local permitting authorities.

24 **Sec. 6029.** RCW 89.08.480 and 1995 c 378 s 4 are each amended to
25 read as follows:

26 Each agency of the state and unit of local government that claims
27 jurisdiction or the right to require permits, other approvals, or fees
28 as a condition of allowing a watershed restoration project to proceed
29 shall designate an office or official as a designated recipient of
30 project applications and shall inform the (~~conservation commission~~)
31 department of the designation.

32 **Sec. 6030.** RCW 89.08.520 and 2008 c 299 s 27 are each amended to
33 read as follows:

34 (1) In administering grant programs to improve water quality and
35 protect habitat, the (~~commission~~) department shall:

1 (a) Require grant recipients to incorporate the environmental
2 benefits of the project into their grant applications;

3 (b) In its grant prioritization and selection process, consider:

4 (i) The statement of environmental benefits;

5 (ii) Whether, except as conditioned by RCW 89.08.580, the applicant
6 is a Puget Sound partner, as defined in RCW 90.71.010, and except as
7 otherwise provided in RCW 89.08.590, and effective one calendar year
8 following the development and statewide availability of model evergreen
9 community management plans and ordinances under RCW 35.105.050, whether
10 the applicant is an entity that has been recognized, and what gradation
11 of recognition was received, in the evergreen community recognition
12 program created in RCW 35.105.030; and

13 (iii) Whether the project is referenced in the action agenda
14 developed by the Puget Sound partnership under RCW 90.71.310; and

15 (c) Not provide funding, after January 1, 2010, for projects
16 designed to address the restoration of Puget Sound that are in conflict
17 with the action agenda developed by the Puget Sound partnership under
18 RCW 90.71.310.

19 (2)(a) The (~~commission~~) department shall also develop appropriate
20 outcome-focused performance measures to be used both for management and
21 performance assessment of the grant program.

22 (b) The (~~commission~~) department shall work with the districts to
23 develop uniform performance measures across participating districts
24 and, to the extent possible, the (~~commission~~) department should
25 coordinate its performance measure system with other natural resource-
26 related agencies as defined in RCW 43.41.270. The (~~commission~~)
27 department shall consult with affected interest groups in implementing
28 this section.

29 **Sec. 6031.** RCW 89.08.530 and 2007 c 352 s 4 are each amended to
30 read as follows:

31 (1) The agricultural conservation easements program is created.
32 The (~~state conservation commission~~) department shall manage the
33 program and adopt rules as necessary to implement the legislature's
34 intent with the advice of the commission.

35 (2) The (~~commission~~) department shall report to the legislature
36 on an on-going basis regarding potential funding sources for the

1 purchase of agricultural conservation easements under the program and
2 recommend changes to existing funding authorized by the legislature.

3 (3) All funding for the program shall be deposited into the
4 agricultural conservation easements account created in RCW 89.08.540.
5 Expenditures from the account shall be made to local governments and
6 private nonprofits on a match or no match required basis at the
7 discretion of the department with the recommendation of the commission.
8 Moneys in the account may be used to purchase easements in perpetuity
9 or to purchase or lease easements for a fixed term.

10 (4) Easements purchased with money from the agricultural
11 conservation easements account run with the land.

12 **Sec. 6032.** RCW 89.08.540 and 2007 c 352 s 5 are each amended to
13 read as follows:

14 (1) The agricultural conservation easements account is created in
15 the custody of the state treasurer. All receipts from legislative
16 appropriations, other sources as directed by the legislature, and
17 gifts, grants, or endowments from public or private sources must be
18 deposited into the account. Expenditures from the account may be used
19 only for the purchase of easements in perpetuity or for the purchase or
20 lease of easements for a fixed term under the agricultural conservation
21 easements program. Only the (~~state conservation commission, or the~~
22 ~~executive director of the commission on the commission's behalf,~~)
23 director or the director's designee may authorize expenditures from the
24 account. The account is subject to allotment procedures under chapter
25 43.88 RCW, but an appropriation is not required for expenditures.

26 (2) The (~~commission~~) department is authorized to receive and
27 expend gifts, grants, or endowments from public or private sources that
28 are made available, in trust or otherwise, for the use and benefit of
29 the agricultural conservation easements program.

30 **Sec. 6033.** RCW 89.08.550 and 2005 c 30 s 1 are each amended to
31 read as follows:

32 (1) The conservation assistance revolving account is created in the
33 custody of the state treasurer. Moneys from the account may only be
34 spent after appropriation. Moneys placed in the account shall include
35 principal and interest from the repayment of any loans granted under
36 this section, and any other moneys appropriated to the account by the

1 legislature. Expenditures from the account may be used only to make
2 loans to landowners for projects enrolled in the conservation reserve
3 enhancement program and the continuous conservation reserve program.

4 (2) In order to aid the financing of conservation reserve
5 enhancement program projects and continuous conservation reserve
6 program projects, the (~~(conservation commission))~~ department, through
7 the conservation districts, may make interest-free loans to these
8 enrollees from the conservation assistance revolving account. The
9 (~~(conservation commission))~~ department may require such terms and
10 conditions as it deems necessary to carry out the purposes of this
11 section. Loans to landowners shall be for costs associated with the
12 installation of conservation improvements eligible for and secured by
13 federal farm service agency practice incentive payment reimbursement.
14 Loans under this program promote critical habitat protection and
15 restoration by bridging the financing gap between project
16 implementation and federal funding. The (~~(conservation commission))~~
17 department shall give loan preferences to those projects expected to
18 generate the greatest environmental benefits and that occur in basins
19 with critical or depressed salmonid stocks. Money received from
20 landowners in loan repayments made under this section shall be paid
21 into the conservation assistance revolving account for uses consistent
22 with this section.

23 **Sec. 6034.** RCW 89.08.580 and 2007 c 341 s 29 are each amended to
24 read as follows:

25 When administering water quality and habitat protection grants
26 under this chapter, the (~~(commission))~~ department shall give preference
27 only to Puget Sound partners, as defined in RCW 90.71.010, in
28 comparison to other entities that are eligible to be included in the
29 definition of Puget Sound partner. Entities that are not eligible to
30 be a Puget Sound partner due to geographic location, composition,
31 exclusion from the scope of the Puget Sound action agenda developed by
32 the Puget Sound partnership under RCW 90.71.310, or for any other
33 reason, shall not be given less preferential treatment than Puget Sound
34 partners.

35 **Sec. 6035.** RCW 89.08.590 and 2008 c 299 s 32 are each amended to
36 read as follows:

1 When administering funds under this chapter, the ((commission))
2 department shall give preference only to an evergreen community
3 recognized under RCW 35.105.030 in comparison to other entities that
4 are eligible to receive evergreen community designation. Entities not
5 eligible for designation as an evergreen community shall not be given
6 less preferential treatment than an evergreen community.

7 **Sec. 6036.** RCW 43.03.028 and 2010 1st sp.s. c 7 s 2 are each
8 amended to read as follows:

9 (1) The department of personnel shall study the duties and salaries
10 of the directors of the several departments and the members of the
11 several boards and commissions of state government, who are subject to
12 appointment by the governor or whose salaries are fixed by the
13 governor, and of the chief executive officers of the following agencies
14 of state government:

15 The arts commission; the human rights commission; the board of
16 accountancy; the board of pharmacy; the eastern Washington historical
17 society; the Washington state historical society; the recreation and
18 conservation office; the criminal justice training commission; the
19 department of personnel; the state library; the traffic safety
20 commission; the horse racing commission; the advisory council on
21 vocational education; the public disclosure commission; ((~~the state~~
22 ~~conservation commission;~~)) the commission on Hispanic affairs; the
23 commission on Asian Pacific American affairs; the state board for
24 volunteer firefighters and reserve officers; the transportation
25 improvement board; the public employment relations commission; the
26 forest practices appeals board; and the energy facilities site
27 evaluation council.

28 (2) The department of personnel shall report to the governor or the
29 chairperson of the appropriate salary fixing authority at least once in
30 each fiscal biennium on such date as the governor may designate, but
31 not later than seventy-five days prior to the convening of each regular
32 session of the legislature during an odd-numbered year, its
33 recommendations for the salaries to be fixed for each position.

34 **Sec. 6037.** RCW 43.41.270 and 2009 c 345 s 12 are each amended to
35 read as follows:

36 (1) The office of financial management shall assist natural

1 resource-related agencies in developing outcome-focused performance
2 measures for administering natural resource-related and environmentally
3 based grant and loan programs. These performance measures are to be
4 used in determining grant eligibility, for program management and
5 performance assessment.

6 (2) The office of financial management and the recreation and
7 conservation office shall assist natural resource-related agencies in
8 developing recommendations for a monitoring program to measure outcome-
9 focused performance measures required by this section. The
10 recommendations must be consistent with the framework and coordinated
11 monitoring strategy developed by the monitoring oversight committee
12 established in RCW 77.85.210.

13 (3) Natural resource agencies shall consult with grant or loan
14 recipients including local governments, tribes, nongovernmental
15 organizations, and other interested parties, and report to the office
16 of financial management on the implementation of this section.

17 (4) For purposes of this section, "natural resource-related
18 agencies" include the department of ecology, the department of natural
19 resources, the department of fish and wildlife, (~~the state~~
20 ~~conservation commission,~~) the recreation and conservation funding
21 board, the salmon recovery funding board, and the public works board
22 within the department of (~~community, trade, and economic development~~)
23 commerce.

24 (5) For purposes of this section, "natural resource-related
25 environmentally based grant and loan programs" includes the
26 conservation reserve enhancement program; dairy nutrient management
27 grants under chapter 90.64 RCW; (~~state conservation commission~~)
28 department of agriculture water quality grants under chapter 89.08 RCW;
29 coordinated prevention grants, public participation grants, and
30 remedial action grants under RCW 70.105D.070; water pollution control
31 facilities financing under chapter 70.146 RCW; aquatic lands
32 enhancement grants under RCW 79.105.150; habitat grants under the
33 Washington wildlife and recreation program under RCW 79A.15.040; salmon
34 recovery grants under chapter 77.85 RCW; and the public works trust
35 fund program under chapter 43.155 RCW. The term also includes programs
36 administered by the department of fish and wildlife related to
37 protection or recovery of fish stocks which are funded with moneys from
38 the capital budget.

1 **Sec. 6038.** RCW 43.325.020 and 2009 c 451 s 3 are each amended to
2 read as follows:

3 (1) The energy freedom program is established within the
4 department. The director may establish policies and procedures
5 necessary for processing, reviewing, and approving applications made
6 under this chapter.

7 (2) When reviewing applications submitted under this program, the
8 director shall consult with those agencies and other public entities
9 having expertise and knowledge to assess the technical and business
10 feasibility of the project and probability of success. These agencies
11 may include, but are not limited to, Washington State University, the
12 University of Washington, the department of ecology, the department of
13 natural resources, the department of agriculture, the department of
14 general administration, local clean air authorities, (~~the Washington~~
15 ~~state conservation commission,~~) and the clean energy leadership
16 council created in section 2, chapter 318, Laws of 2009.

17 (3) Except as provided in subsections (4) and (5) of this section,
18 the director, in cooperation with the department of agriculture, may
19 approve an application only if the director finds:

20 (a) The project will convert farm products, wastes, cellulose, or
21 biogas directly into electricity or biofuel or other coproducts
22 associated with such conversion;

23 (b) The project demonstrates technical feasibility and directly
24 assists in moving a commercially viable project into the marketplace
25 for use by Washington state citizens;

26 (c) The facility will produce long-term economic benefits to the
27 state, a region of the state, or a particular community in the state;

28 (d) The project does not require continuing state support;

29 (e) The assistance will result in new jobs, job retention, or
30 higher incomes for citizens of the state;

31 (f) The state is provided an option under the assistance agreement
32 to purchase a portion of the fuel or feedstock to be produced by the
33 project, exercisable by the department of general administration;

34 (g) The project will increase energy independence or diversity for
35 the state;

36 (h) The project will use feedstocks produced in the state, if
37 feasible, except this criterion does not apply to the construction of

1 facilities used to distribute and store fuels that are produced from
2 farm products or wastes;

3 (i) Any product produced by the project will be suitable for its
4 intended use, will meet accepted national or state standards, and will
5 be stored and distributed in a safe and environmentally sound manner;

6 (j) The application provides for adequate reporting or disclosure
7 of financial and employment data to the director, and permits the
8 director to require an annual or other periodic audit of the project
9 books; and

10 (k) For research and development projects, the application has been
11 independently reviewed by a peer review committee as defined in RCW
12 43.325.010 and the findings delivered to the director.

13 (4) When reviewing an application for a refueling project, the
14 coordinator may award a grant or a loan to an applicant if the director
15 finds:

16 (a) The project will offer alternative fuels to the motoring
17 public;

18 (b) The project does not require continued state support;

19 (c) The project is located within a green highway zone as defined
20 in RCW 43.325.010;

21 (d) The project will contribute towards an efficient and adequately
22 spaced alternative fuel refueling network along the green highways
23 designated in RCW 47.17.020, 47.17.135, and 47.17.140; and

24 (e) The project will result in increased access to alternative
25 fueling infrastructure for the motoring public along the green highways
26 designated in RCW 47.17.020, 47.17.135, and 47.17.140.

27 (5) When reviewing an application for energy efficiency
28 improvements, renewable energy improvements, or innovative energy
29 technology, the director may award a grant or a loan to an applicant if
30 the director finds:

31 (a) The project or program will result in increased access for the
32 public, state and local governments, and businesses to energy
33 efficiency improvements, renewable energy improvements, or innovative
34 energy technologies;

35 (b) The project or program demonstrates technical feasibility and
36 directly assists in moving a commercially viable project into the
37 marketplace for use by Washington state citizens;

1 (c) The project or program does not require continued state
2 support; or

3 (d) The federal government has provided funds with a limited time
4 frame for use for energy independence and security, energy efficiency,
5 renewable energy, innovative energy technologies, or conservation.

6 (6)(a) The director may approve a project application for
7 assistance under subsection (3) of this section up to five million
8 dollars. In no circumstances shall this assistance constitute more
9 than fifty percent of the total project cost.

10 (b) The director may approve a refueling project application for a
11 grant or a loan under subsection (4) of this section up to fifty
12 thousand dollars. In no circumstances shall a grant or a loan award
13 constitute more than fifty percent of the total project cost.

14 (7) The director shall enter into agreements with approved
15 applicants to fix the terms and rates of the assistance to minimize the
16 costs to the applicants, and to encourage establishment of a viable
17 bioenergy or biofuel industry, or a viable energy efficiency, renewable
18 energy, or innovative energy technology industry. The agreement shall
19 include provisions to protect the state's investment, including a
20 requirement that a successful applicant enter into contracts with any
21 partners that may be involved in the use of any assistance provided
22 under this program, including services, facilities, infrastructure, or
23 equipment. Contracts with any partners shall become part of the
24 application record.

25 (8) The director may defer any payments for up to twenty-four
26 months or until the project starts to receive revenue from operations,
27 whichever is sooner.

28 **Sec. 6039.** RCW 77.85.020 and 2009 c 345 s 4 are each amended to
29 read as follows:

30 (1) Beginning December 2010, the recreation and conservation office
31 shall produce a biennial report on the statewide status of salmon
32 recovery and watershed health, summarize projects and programs funded
33 by the salmon recovery funding board, and summarize progress as
34 measured by high-level indicators and state agency compliance with
35 applicable protocols established by the forum for monitoring salmon
36 recovery and watershed health. The report must be a consolidation of
37 the current reporting activities, including the salmon recovery funding

1 board and the forum on monitoring salmon recovery and watershed health,
2 on the status of salmon recovery and watershed health in Washington
3 state, in accordance with RCW 77.85.250(8). The report shall also
4 include a high-level status report on watershed planning efforts under
5 chapter 90.82 RCW as summarized by the department of ecology and on
6 salmon recovery and watershed planning as summarized by the Puget Sound
7 partnership. The report's introduction must include a list of high-
8 level questions related to the status of watershed health and salmon
9 recovery to help decision makers and the public respond to salmon
10 recovery and watershed health management needs.

11 (2) The department, the department of ecology, the department of
12 natural resources, and the (~~state conservation commission~~) department
13 of agriculture shall provide to the recreation and conservation office
14 information requested by the office necessary to prepare the
15 consolidated report on salmon recovery and watershed health.

16 **Sec. 6040.** RCW 77.85.220 and 2003 c 391 s 4 are each amended to
17 read as follows:

18 (1) If a limiting factors analysis has been conducted under this
19 chapter for a specific geographic area and that analysis shows
20 insufficient intertidal salmon habitat, the department of fish and
21 wildlife and the county legislative authorities of the affected
22 counties may jointly initiate a salmon intertidal habitat restoration
23 planning process to develop a plan that addresses the intertidal
24 habitat goals contained in the limiting factors analysis. The fish and
25 wildlife commission and the county legislative authorities of the
26 geographic area shall jointly appoint a task force composed of the
27 following members:

28 (a) One representative of the fish and wildlife commission,
29 appointed by the chair of the commission;

30 (b) Two representatives of the agricultural industry familiar with
31 agricultural issues in the geographic area, one appointed by an
32 organization active in the geographic area and one appointed by a
33 statewide organization representing the industry;

34 (c) Two representatives of environmental interest organizations
35 with familiarity and expertise of salmon habitat, one appointed by an
36 organization in the geographic area and one appointed by a statewide
37 organization representing environmental interests;

1 (d) One representative of a diking and drainage district, appointed
2 by the individual districts in the geographic area or by an association
3 of diking and drainage districts;

4 (e) One representative of the lead entity for salmon recovery in
5 the geographic area, appointed by the lead entity;

6 (f) One representative of each county in the geographic area,
7 appointed by the respective county legislative authorities; and

8 (g) One representative from the office of the governor.

9 (2) Representatives of the United States environmental protection
10 agency, the United States natural resources conservation service,
11 federal fishery agencies, as appointed by their regional director, and
12 tribes with interests in the geographic area shall be invited and
13 encouraged to participate as members of the task force.

14 (3) The task force shall elect a chair and adopt rules for
15 conducting the business of the task force. Staff support for the task
16 force shall be provided by the (~~Washington state conservation~~
17 ~~commission~~) department of agriculture.

18 (4) The task force shall:

19 (a) Review and analyze the limiting factors analysis for the
20 geographic area;

21 (b) Initiate and oversee intertidal salmon habitat studies for
22 enhancement of the intertidal area as provided in RCW 77.85.230;

23 (c) Review and analyze the completed assessments listed in RCW
24 77.85.230;

25 (d) Develop and draft an overall plan that addresses identified
26 intertidal salmon habitat goals that has public support; and

27 (e) Identify appropriate demonstration projects and early
28 implementation projects that are of high priority and should commence
29 immediately within the geographic area.

30 (5) The task force may request briefings as needed on legal issues
31 that may need to be considered when developing or implementing various
32 plan options.

33 (6) Members of the task force shall be reimbursed by the
34 (~~conservation commission~~) department of agriculture for travel
35 expenses as provided in RCW 43.03.050 and 43.03.060.

36 (7) The task force shall provide annual reports that provide an
37 update on its activities to the fish and wildlife commission, to the

1 involved county legislative authorities, and to the lead entity formed
2 under this chapter.

3 **Sec. 6041.** RCW 89.10.010 and 2007 c 352 s 2 are each amended to
4 read as follows:

5 (1) The office of farmland preservation is created and shall be
6 located within the (~~state conservation commission~~) department of
7 agriculture.

8 (2) Staff support for the office shall be provided by the (~~state~~
9 ~~conservation commission~~) department of agriculture.

10 (3) The office of farmland preservation may:

11 (a) Provide advice and assist the (~~state conservation commission~~)
12 department of agriculture in implementing the provisions of RCW
13 89.08.530 and 89.08.540, including the merits of leasing or purchasing
14 easements for fixed terms in addition to purchasing easements in
15 perpetuity;

16 (b) Develop recommendations for the funding level and for the use
17 of the agricultural conservation easements account established in RCW
18 89.08.540 with the guidance of the farmland preservation task force
19 established under RCW 89.10.020;

20 (c) With input from the task force created in RCW 89.10.020,
21 provide an analysis of the major factors that have led to past declines
22 in the amount and use of agricultural lands in Washington and of the
23 factors that will likely affect retention and economic viability of
24 these lands into the future including, but not limited to, pressures to
25 convert land to nonagricultural uses, loss of processing plants and
26 markets, loss of profitability, productivity, and competitive
27 advantage, urban sprawl, water availability and quality, restrictions
28 on agricultural land use, and conversion to recreational or other uses;

29 (d) Develop model programs and tools, including innovative economic
30 incentives for landowners, to retain agricultural land for agricultural
31 production, with the guidance from the farmland preservation task force
32 created under RCW 89.10.020;

33 (e) Provide technical assistance to localities as they develop and
34 implement programs, mechanisms, and tools to encourage the retention of
35 agricultural lands;

36 (f) Develop a grant process and an eligibility certification

1 process for localities to receive grants for local programs and tools
2 to retain agricultural lands for agricultural production;

3 (g) Provide analysis and recommendations as to the continued
4 development and implementation of the farm transition program
5 including, but not limited to, recommending:

6 (i) Assistance in the preparation of business plans for the
7 transition of business interests;

8 (ii) Assistance in the facilitation of transfers of existing
9 properties and agricultural operations to interested buyers; and

10 (iii) Research assistance on agricultural, financial, marketing,
11 and other related transition matters;

12 (h) Begin the development of a farm transition program to assist in
13 the transition of farmland and related businesses from one generation
14 to the next, aligning the farm transition program closely with the
15 farmland preservation effort to assure complementary functions; and

16 (i) Serve as a clearinghouse for incentive programs that would
17 consolidate and disseminate information relating to conservation
18 programs that are accessible to landowners and assist owners of
19 agricultural lands to secure financial assistance to implement
20 conservation easements and other projects.

21 NEW SECTION. **Sec. 6042.** (1) The state conservation commission is
22 hereby abolished and its powers, duties, and functions are hereby
23 transferred to the department of agriculture.

24 (2)(a) All reports, documents, surveys, books, records, files,
25 papers, or written material in the possession of the Washington state
26 conservation commission shall be delivered to the custody of the
27 department of agriculture. All cabinets, furniture, office equipment,
28 motor vehicles, and other tangible property employed by the state
29 conservation commission shall be made available to the department of
30 agriculture for the support of the programs transferred to it under
31 this act. All funds, credits, or other assets held by the Washington
32 state conservation commission shall be assigned to the department of
33 agriculture for the support of the programs transferred to it under
34 this act.

35 (b) Any appropriations made to the state conservation commission
36 shall, on the effective date of this section, be transferred and
37 credited to the department of agriculture.

1 (c) If any question arises as to the transfer of any personnel,
2 funds, books, documents, records, papers, files, equipment, or other
3 tangible property used or held in the exercise of the powers and the
4 performance of the duties and functions transferred, the director of
5 financial management shall make a determination as to the proper
6 allocation and certify the same to the state agencies concerned.

7 (3) All rules and all pending business before the state
8 conservation commission shall be continued and acted upon by the
9 department of agriculture. All existing contracts and obligations
10 shall remain in full force and shall be performed by the department of
11 agriculture.

12 (4) The transfer of the powers, duties, functions, and personnel of
13 the state conservation commission shall not affect the validity of any
14 act performed before the effective date of this section.

15 (5) If apportionments of budgeted funds are required because of the
16 transfers directed by this section, the director of financial
17 management shall certify the apportionments to the agencies affected,
18 the state auditor, and the state treasurer. Each of these shall make
19 the appropriate transfer and adjustments in funds and appropriation
20 accounts and equipment records in accordance with the certification.

21 (6) Nothing contained in this section may be construed to alter any
22 existing collective bargaining unit or the provisions of any existing
23 collective bargaining agreement until the agreement has expired or
24 until the bargaining unit has been modified by action of the public
25 employment relations commission as provided by law.

26 NEW SECTION. **Sec. 6043.** (1) All employees of the state
27 conservation commission are transferred to the jurisdiction of the
28 department of agriculture. All employees classified under chapter
29 41.06 RCW, the state civil service law, are assigned to the department
30 of agriculture to perform their usual duties upon the same terms as
31 formerly, without any loss of rights, subject to any action that may be
32 appropriate thereafter in accordance with the laws and rules governing
33 state civil service law.

34 (2) All classified employees of the state conservation commission
35 assigned to the department of agriculture under this section whose
36 positions are within an existing bargaining unit description at the
37 department of agriculture shall become a part of the existing

1 bargaining unit at the department of agriculture and shall be
2 considered an appropriate inclusion or modification of the existing
3 bargaining unit under the provisions of chapter 41.80 RCW.

4 NEW SECTION. **Sec. 6044.** On the effective date of this section,
5 the directors of the departments of agriculture and the conservation
6 commission must each designate one executive-level representative to
7 serve on a consolidation transition team. This team must, with the
8 assistance of their agencies, develop the following work products:

9 (1) A consolidation transition team report, to be submitted to the
10 office of financial management and the legislature by August 1, 2011.
11 This report must, at a minimum, detail all legislative and fiscal
12 changes necessary for the successful implementation of this
13 consolidation and identify expected costs and savings associated with
14 the consolidation.

15 (2) A supplemental budget request, if necessary, for consideration
16 during the 2012 legislative session. This request must encompass any
17 necessary budgetary and legislative changes for the agencies affected
18 by this consolidation, and be submitted to the office of financial
19 management by September 1, 2011.

20 (3) A second consolidation transition team report, to be submitted
21 to the director of agriculture by July 1, 2012. This report must, at
22 a minimum, detail all additional legislative and fiscal changes
23 necessary for the successful implementation of this consolidation and
24 identify expected costs and savings associated with the consolidation.

25 NEW SECTION. **Sec. 6045.** RCW 89.08.060 (Assistance of other state
26 agencies and institutions) and 1973 1st ex.s. c 184 s 7 & 1955 c 304 s
27 6 are each repealed.

28 NEW SECTION. **Sec. 6046.** The consolidation directed pursuant to
29 sections 6001 through 6045 of this act takes effect July 1, 2012.

1 responsibility program meeting EPA standards for owners and operators
2 of underground petroleum storage tanks in a manner that:

3 (a) Minimizes state involvement in pollution liability claims
4 management and insurance administration;

5 (b) Protects the state of Washington from unwanted and
6 unanticipated liability for accidental release claims;

7 (c) Creates incentives for private insurers to provide needed
8 liability insurance; and

9 (d) Parallels generally accepted principles of insurance and risk
10 management.

11 To that end, this chapter establishes a temporary program to
12 provide pollution liability reinsurance at a price that will encourage
13 a private insurance company or risk retention group to sell pollution
14 liability insurance in accordance with the requirements of this chapter
15 to owners and operators of underground petroleum storage tanks, thereby
16 allowing the owners and operators to comply with the financial
17 responsibility regulations of the EPA.

18 (3) It is not the intent of this chapter to permit owners and
19 operators of underground petroleum storage tanks to obtain pollution
20 liability insurance without regard to the quality or condition of their
21 storage tanks or without regard to the risk management practices of
22 tank owners and operators, nor is it the intent of this chapter to
23 provide coverage or funding for past or existing petroleum releases.
24 Further, it is the intent of the legislature that the program follow
25 generally accepted insurance underwriting and actuarial principles and
26 to deviate from those principles only to the extent necessary and
27 within the tax revenue limits provided, to make pollution liability
28 insurance reasonably affordable and available to owners and operators
29 who meet the requirements of this chapter, particularly to those owners
30 and operators whose underground storage tanks meet a vital economic
31 need within the affected community.

32 (4) The pollution liability insurance program established by this
33 chapter and chapter 70.149 RCW is merged into the department.

34 (5) This section expires June 1, 2013.

35 **Sec. 7002.** RCW 70.148.010 and 1990 c 64 s 2 are each amended to
36 read as follows:

1 Unless the context requires otherwise, the definitions in this
2 section apply throughout this chapter.

3 (1) "Accidental release" means any sudden or nonsudden release of
4 petroleum arising from operating an underground storage tank that
5 results in a need for corrective action, bodily injury, or property
6 damage neither expected nor intended by the owner or operator.

7 (2) "Director" means the (~~Washington pollution liability insurance~~
8 ~~program~~) director of the department or the director's appointed
9 representative.

10 (3) "Bodily injury" means bodily injury, sickness, or disease
11 sustained by any person, including death at any time resulting from the
12 injury, sickness, or disease.

13 (4) "Corrective action" means those actions reasonably required to
14 be undertaken by the insured to remove, treat, neutralize, contain, or
15 clean up an accidental release in order to comply with any statute,
16 ordinance, rule, regulation, directive, order, or similar legal
17 requirement of the United States, the state of Washington, or any
18 political subdivision of the United States or the state of Washington
19 in effect at the time of an accidental release. "Corrective action"
20 includes, when agreed to in writing, in advance by the insurer, action
21 to remove, treat, neutralize, contain, or clean up an accidental
22 release to avert, reduce, or eliminate the liability of the insured for
23 corrective action, bodily injury, or property damage. "Corrective
24 action" also includes actions reasonably necessary to monitor, assess,
25 and evaluate an accidental release.

26 "Corrective action" does not include:

- 27 (a) Replacement or repair of storage tanks or other receptacles;
28 (b) Replacement or repair of piping, connections, and valves of
29 storage tanks or other receptacles;
30 (c) Excavation or backfilling done in conjunction with (a) or (b)
31 of this subsection; or
32 (d) Testing for a suspected accidental release if the results of
33 the testing indicate that there has been no accidental release.

34 (5) "Defense costs" include the costs of legal representation,
35 expert fees, and related costs and expenses incurred in defending
36 against claims or actions brought by or on behalf of:

- 37 (a) The United States, the state of Washington, or any political

1 subdivision of the United States or state of Washington to require
2 corrective action or to recover costs of corrective action; or

3 (b) A third party for bodily injury or property damage caused by an
4 accidental release.

5 (6) (~~"Washington pollution liability insurance program" or~~
6 ~~"program" means the reinsurance program created by this chapter~~)
7 "Department" means the Washington state department of ecology.

8 (7) "Insured" means the owner or operator who is provided insurance
9 coverage in accordance with this chapter.

10 (8) "Insurer" means the insurance company or risk retention group
11 licensed or qualified to do business in Washington and authorized by
12 the (~~director~~) department to provide insurance coverage in accordance
13 with this chapter.

14 (9) "Loss reserve" means the amount traditionally set aside by
15 commercial liability insurers for costs and expenses related to claims
16 that have been made. "Loss reserve" does not include losses that have
17 been incurred but not reported to the insurer.

18 (10) "Occurrence" means an accident, including continuous or
19 repeated exposure to conditions, that results in a release from an
20 underground storage tank.

21 (11) "Operator" means a person in control of, or having
22 responsibility for, the daily operation of an underground storage tank.

23 (12) "Owner" means a person who owns an underground storage tank.

24 (13) "Person" means an individual, trust, firm, joint stock
25 company, corporation (including government corporation), partnership,
26 association, consortium, joint venture, commercial entity, state,
27 municipality, commission, political subdivision of a state, interstate
28 body, the federal government, or any department or agency of the
29 federal government.

30 (14) "Petroleum" means crude oil or any fraction of crude oil that
31 is liquid at standard conditions of temperature and pressure, which
32 means at sixty degrees Fahrenheit and 14.7 pounds per square inch
33 absolute and includes gasoline, kerosene, heating oils, and diesel
34 fuels.

35 (15) "Property damage" means:

36 (a) Physical injury to, destruction of, or contamination of
37 tangible property, including the loss of use of the property resulting
38 from the injury, destruction, or contamination; or

1 (b) Loss of use of tangible property that has not been physically
2 injured, destroyed, or contaminated but has been evacuated, withdrawn
3 from use, or rendered inaccessible because of an accidental release.

4 (16) "Release" means the emission, discharge, disposal, dispersal,
5 seepage, or escape of petroleum from an underground storage tank into
6 or upon land, groundwater, surface water, subsurface soils, or the
7 atmosphere.

8 (17) "Surplus reserve" means the amount traditionally set aside by
9 commercial property and casualty insurance companies to provide
10 financial protection from unexpected losses and to serve, in part, as
11 a measure of an insurance company's net worth.

12 (18) "Tank" means a stationary device, designed to contain an
13 accumulation of petroleum, that is constructed primarily of nonearthen
14 materials such as wood, concrete, steel, or plastic that provides
15 structural support.

16 (19) "Underground storage tank" means any one or a combination of
17 tanks including underground pipes connected to the tank, that is used
18 to contain an accumulation of petroleum and the volume of which
19 (including the volume of the underground pipes connected to the tank)
20 is ten percent or more beneath the surface of the ground.

21 (20) "Pollution liability insurance program" or "program" means the
22 reinsurance program created in this chapter.

23 This section expires June 1, 2013.

24 **Sec. 7003.** RCW 70.148.020 and 2006 c 276 s 1 are each amended to
25 read as follows:

26 (1) The pollution liability insurance program trust account is
27 established in the custody of the state treasurer. All funds
28 appropriated for this chapter and all premiums collected for
29 reinsurance shall be deposited in the account. Expenditures from the
30 account shall be used exclusively for the purposes of this chapter
31 including payment of costs of administering the pollution liability
32 insurance and underground storage tank community assistance programs.
33 Expenditures for payment of administrative and operating costs of the
34 ((agency)) program are subject to the allotment procedures under
35 chapter 43.88 RCW and may be made only after appropriation by statute.
36 No appropriation is required for other expenditures from the account.

1 (2) Each calendar quarter, the ~~((director))~~ department shall report
2 to the insurance commissioner the loss and surplus reserves required
3 for the calendar quarter. The ~~((director))~~ department shall notify the
4 department of revenue of this amount by the fifteenth day of each
5 calendar quarter.

6 (3) Each calendar quarter the ~~((director))~~ department shall
7 determine the amount of reserves necessary to fund commitments made to
8 provide financial assistance under RCW 70.148.130 to the extent that
9 the financial assistance reserves do not jeopardize the operations and
10 liabilities of the pollution liability insurance program. The
11 ~~((director))~~ department shall notify the department of revenue of this
12 amount by the fifteenth day of each calendar quarter. The ~~((director))~~
13 department may immediately establish an initial financial assistance
14 reserve of five million dollars from available revenues. The director
15 may not expend more than fifteen million dollars for the financial
16 assistance program.

17 ~~((During the 2005-2007 fiscal biennium, the legislature may
18 transfer from the pollution liability insurance program trust account
19 to the state general fund such amounts as reflect the excess fund
20 balance of the account.~~

21 ~~(5))~~) This section expires June 1, 2013.

22 **Sec. 7004.** RCW 70.148.025 and 1995 c 20 s 12 are each amended to
23 read as follows:

24 (1) The ~~((director))~~ department shall provide reinsurance through
25 the pollution liability insurance program trust account to the heating
26 oil pollution liability protection program under chapter 70.149 RCW.

27 (2) This section expires June 1, 2013.

28 **Sec. 7005.** RCW 70.148.030 and 1994 sp.s. c 9 s 805 are each
29 amended to read as follows:

30 (1) The ~~((Washington))~~ pollution liability insurance program is
31 ~~((created as an independent agency of the state. The administrative
32 head and appointing authority of the program shall be the director who
33 shall be appointed by the governor, with the consent of the senate, and
34 shall serve at the pleasure of the governor. The salary for this
35 office shall be set by the governor pursuant to RCW 43.03.040. The
36 director shall appoint a deputy director. The director, deputy~~

1 ~~director, and up to three other employees are exempt from the civil~~
2 ~~service law, chapter 41.06 RCW)) merged into the department. The~~
3 ~~administrative head must be appointed by the director. The~~
4 ~~administrative head of the program and up to three other employees are~~
5 ~~exempt from the civil service law, chapter 41.06 RCW, and serve at the~~
6 ~~pleasure of the director.~~

7 (2) The director shall employ such other staff as are necessary to
8 fulfill the responsibilities and duties of the ((~~director~~)) department.
9 The staff is subject to the civil service law, chapter 41.06 RCW. In
10 addition, the director may contract with third parties for services
11 necessary to carry out its activities where this will promote economy,
12 avoid duplication of effort, and make best use of available expertise.
13 To the extent necessary to protect the state from unintended liability
14 and ensure quality program and contract design, the director shall
15 contract with an organization or organizations with demonstrated
16 experience and ability in managing and designing pollution liability
17 insurance and with an organization or organizations with demonstrated
18 experience and ability in managing and designing pollution liability
19 reinsurance. The director shall enter into such contracts after
20 competitive bid but need not select the lowest bid. The contracting
21 activity is not subject to the competitive contracting provisions of
22 RCW 41.06.142. Any such contractor or consultant is prohibited from
23 releasing, publishing, or otherwise using any information made
24 available to it under its contractual responsibility without specific
25 permission of the ((~~program~~)) director. The director may call upon
26 other agencies of the state to provide technical support and available
27 information as necessary to assist the director in meeting the
28 director's responsibilities under this chapter. Agencies shall supply
29 this support and information as promptly as circumstances permit.

30 (3) The ((~~director~~)) department may appoint ad hoc technical
31 advisory committees to obtain expertise necessary to fulfill the
32 purposes of this chapter.

33 (4) This section expires June 1, 2013.

34 **Sec. 7006.** RCW 70.148.035 and 1990 c 64 s 11 are each amended to
35 read as follows:

36 (1) The ((~~director~~)) department may design the program to cover the
37 costs incurred in determining whether a proposed applicant for

1 pollution insurance under the program meets the underwriting standards
2 of the insurer. In covering such costs the (~~director~~) department
3 shall consider the financial resources of the applicant, shall take
4 into consideration the economic impact of the discontinued use of the
5 applicant's storage tank upon the affected community, shall provide
6 coverage within the revenue limits provided under this chapter, and
7 shall limit coverage of such costs to the extent that coverage would be
8 detrimental to providing affordable insurance under the program.

9 (2) This section expires June 1, 2013.

10 **Sec. 7007.** RCW 70.148.040 and 1990 c 64 s 5 are each amended to
11 read as follows:

12 (1) The (~~director~~) department may adopt rules consistent with
13 this chapter to carry out the purposes of this chapter. All rules
14 shall be adopted in accordance with chapter 34.05 RCW.

15 (2) This section expires June 1, 2013.

16 **Sec. 7008.** RCW 70.148.050 and 2006 c 276 s 2 are each amended to
17 read as follows:

18 The (~~director~~) department has the following powers and duties:

19 (1) To design and from time to time revise a reinsurance contract
20 providing coverage to an insurer meeting the requirements of this
21 chapter. Before initially entering into a reinsurance contract, the
22 (~~director~~) department shall prepare an actuarial report describing
23 the various reinsurance methods considered by the (~~director~~)
24 department and describing each method's costs. In designing the
25 reinsurance contract the (~~director~~) department shall consider common
26 insurance industry reinsurance contract provisions and shall design the
27 contract in accordance with the following guidelines:

28 (a) The contract shall provide coverage to the insurer for the
29 liability risks of owners and operators of underground storage tanks
30 for third party bodily injury and property damage and corrective action
31 that are underwritten by the insurer.

32 (b) In the event of an insolvency of the insurer, the reinsurance
33 contract shall provide reinsurance payable directly to the insurer or
34 to its liquidator, receiver, or successor on the basis of the liability
35 of the insurer in accordance with the reinsurance contract. In no

1 event may the program be liable for or provide coverage for that
2 portion of any covered loss that is the responsibility of the insurer
3 whether or not the insurer is able to fulfill the responsibility.

4 (c) The total limit of liability for reinsurance coverage shall not
5 exceed one million dollars per occurrence and two million dollars
6 annual aggregate for each policy underwritten by the insurer less the
7 ultimate net loss retained by the insurer as defined and provided for
8 in the reinsurance contract.

9 (d) Disputes between the insurer and the insurance program shall be
10 settled through arbitration.

11 (2) To design and implement a structure of periodic premiums due
12 the ((~~director~~)) department from the insurer that takes full advantage
13 of revenue collections and projected revenue collections to ensure
14 affordable premiums to the insured consistent with sound actuarial
15 principles.

16 (3) To periodically review premium rates for reinsurance to
17 determine whether revenue appropriations supporting the program can be
18 reduced without substantially increasing the insured's premium costs.

19 (4) To solicit bids from insurers and select an insurer to provide
20 pollution liability insurance to owners and operators of underground
21 storage tanks for third party bodily injury and property damage and
22 corrective action.

23 (5) To monitor the activities of the insurer to ensure compliance
24 with this chapter and protect the program from excessive loss exposure
25 resulting from claims mismanagement by the insurer.

26 (6) To monitor the success of the program and periodically make
27 such reports and recommendations to the legislature as the ((~~director~~))
28 department deems appropriate, and to annually publish a financial
29 report on the pollution liability insurance program trust account
30 showing, among other things, administrative and other expenses paid
31 from the fund.

32 (7) To annually report the financial and loss experience of the
33 insurer as to policies issued under the program and the financial and
34 loss experience of the program to the legislature.

35 (8) To enter into contracts with public and private agencies to
36 assist the ((~~director~~)) department in ((~~his or her~~)) its duties to
37 design, revise, monitor, and evaluate the program and to provide
38 technical or professional assistance to the ((~~director~~)) department.

1 (9) To examine the affairs, transactions, accounts, records,
2 documents, and assets of insurers as the ((~~director~~)) department deems
3 advisable.

4 This section expires June 1, 2013.

5 **Sec. 7009.** RCW 70.148.060 and 2005 c 274 s 341 are each amended to
6 read as follows:

7 (1) All examination and proprietary reports and information
8 obtained by the ((~~director~~)) department and the ((~~director's~~))
9 department's staff in soliciting bids from insurers and in monitoring
10 the insurer selected by the ((~~director~~)) department shall not be made
11 public or otherwise disclosed to any person, firm, corporation, agency,
12 association, governmental body, or other entity.

13 (2) Subsection (1) of this section notwithstanding, the
14 ((~~director~~)) department may furnish all or part of examination reports
15 prepared by the ((~~director~~)) department or by any person, firm,
16 corporation, association, or other entity preparing the reports on
17 behalf of the ((~~director~~)) department to:

18 (a) The Washington state insurance commissioner;

19 (b) A person or organization officially connected with the insurer
20 as officer, director, attorney, auditor, or independent attorney or
21 independent auditor; and

22 (c) The attorney general in his or her role as legal advisor to the
23 ((~~director~~)) department.

24 (3) Subsection (1) of this section notwithstanding, the
25 ((~~director~~)) department may furnish all or part of the examination or
26 proprietary reports or information obtained by the ((~~director~~))
27 department to:

28 (a) The Washington state insurance commissioner; and

29 (b) A person, firm, corporation, association, governmental body, or
30 other entity with whom the ((~~director~~)) department has contracted for
31 services necessary to perform his or her official duties.

32 (4) Examination reports and proprietary information obtained by the
33 ((~~director~~)) department and the ((~~director's~~)) department's staff are
34 not subject to public disclosure under chapter 42.56 RCW.

35 (5) A person who violates any provision of this section is guilty
36 of a gross misdemeanor.

37 (6) This section expires June 1, 2013.

1 **Sec. 7010.** RCW 70.148.070 and 1990 c 64 s 8 are each amended to
2 read as follows:

3 (1) In selecting an insurer to provide pollution liability
4 insurance coverage to owners and operators of underground storage
5 tanks, the ~~((director))~~ department shall evaluate bids based upon
6 criteria established by the ~~((director))~~ department that shall include:

7 (a) The insurer's ability to underwrite pollution liability
8 insurance;

9 (b) The insurer's ability to settle pollution liability claims
10 quickly and efficiently;

11 (c) The insurer's estimate of underwriting and claims adjustment
12 expenses;

13 (d) The insurer's estimate of premium rates for providing coverage;

14 (e) The insurer's ability to manage and invest premiums; and

15 (f) The insurer's ability to provide risk management guidance to
16 insureds.

17 The ~~((director))~~ department shall select the bidder most qualified
18 to provide insurance consistent with this chapter and need not select
19 the bidder submitting the least expensive bid. The ~~((director))~~
20 department may consider bids by groups of insurers and management
21 companies who propose to act in concert in providing coverage and who
22 otherwise meet the requirements of this chapter.

23 (2) The successful bidder shall agree to provide liability
24 insurance coverage to owners and operators of underground storage tanks
25 for third party bodily injury and property damage and corrective action
26 consistent with the following minimum standards:

27 (a) The insurer shall provide coverage for defense costs.

28 (b) The insurer shall collect a deductible from the insured for
29 corrective action in an amount approved by the ~~((director))~~ department.

30 (c) The insurer shall provide coverage for accidental releases in
31 the amount of five hundred thousand dollars per occurrence and one
32 million dollars annual aggregate but no more than one million dollars
33 per occurrence and two million dollars annual aggregate exclusive of
34 defense costs.

35 (d) The insurer shall require insurance applicants to meet at least
36 the following underwriting standards before issuing coverage to the
37 applicant:

1 (i) The applicant must be in compliance with statutes, ordinances,
2 rules, regulations, and orders governing the ownership and operation of
3 underground storage tanks as identified by the ~~((director))~~ department
4 by rule; and

5 (ii) The applicant must exercise adequate underground storage tank
6 risk management as specified by the ~~((director))~~ department by rule.

7 (e) The insurer may exclude coverage for losses arising before the
8 effective date of coverage, and the ~~((director))~~ department may adopt
9 rules establishing standards for determining whether a loss was
10 incurred before the effective date of coverage.

11 (f) The insurer may exclude coverage for bodily injury, property
12 damage, and corrective action as permitted by the ~~((director))~~
13 department by rule.

14 (g) The insurer shall use a variable rate schedule approved by the
15 ~~((director))~~ department taking into account tank type, tank age, and
16 other factors specified by the ~~((director))~~ department.

17 (3) The ~~((director))~~ department shall adopt all rules necessary to
18 implement this section. In developing and adopting rules governing
19 rates, deductibles, underwriting standards, and coverage conditions,
20 limitations, and exclusions, the ~~((director))~~ department shall balance
21 the owner and operator's need for coverage with the need to maintain
22 the actuarial integrity of the program, shall take into consideration
23 the economic impact of the discontinued use of a storage tank upon the
24 affected community, and shall consult with the ~~((standing))~~ ad hoc
25 technical advisory committee established under RCW 70.148.030(3). ~~((In~~
26 ~~developing and adopting rules governing coverage exclusions affecting~~
27 ~~corrective action, the director shall consult with the Washington state~~
28 ~~department of ecology.))~~

29 (4) Notwithstanding the definitions contained in RCW 70.148.010,
30 the ~~((director))~~ department may permit an insurer to use different
31 words or phrases describing the coverage provided under the program.
32 In permitting such deviations from the definitions contained in RCW
33 70.148.010, the ~~((director))~~ department shall consider the regulations
34 adopted by the United States environmental protection agency requiring
35 financial responsibility by owners and operators of underground
36 petroleum storage tanks.

37 (5) Owners and operators of underground storage tanks or sites
38 containing underground storage tanks where a preexisting release has

1 been identified or where the owner or operator knows of a preexisting
2 release are eligible for coverage under the program subject to the
3 following conditions:

4 (a) The owner or operator must have a plan for proceeding with
5 corrective action; and

6 (b) If the owner or operator files a claim with the insurer, the
7 owner or operator has the burden of proving that the claim is not
8 related to a preexisting release until the owner or operator
9 demonstrates to the satisfaction of the ~~((director))~~ department that
10 corrective action has been completed.

11 (6) ~~((When))~~ Within thirty days of a reinsurance contract ~~((has~~
12 ~~been))~~ being entered into by the ~~((agency))~~ department and insurance
13 companies, ~~((the director shall notify the department of ecology of the~~
14 ~~letting of the contract. Within thirty days of that notification,))~~
15 the department ~~((of ecology))~~ shall notify all known owners and
16 operators of petroleum underground storage tanks that appropriate
17 levels of financial responsibility must be established by October 26,
18 1990, in accordance with federal environmental protection agency
19 requirements, and that insurance under the program is available. All
20 owners and operators of petroleum underground storage tanks must also
21 be notified that declaration of method of financial responsibility or
22 intent to seek to be insured under the program must be made to the
23 state by November 1, 1990. If the declaration of method of financial
24 responsibility is not made by November 1, 1990, the department ~~((of~~
25 ~~ecology))~~ shall, pursuant to chapter 90.76 RCW, prohibit the owner or
26 operator of an underground storage tank from obtaining a tank tag or
27 receiving petroleum products until such time as financial
28 responsibility has been established.

29 (7) This section expires June 1, 2013.

30 **Sec. 7011.** RCW 70.148.080 and 1990 c 64 s 9 are each amended to
31 read as follows:

32 (1) If the insurer cancels or refuses to issue or renew a policy,
33 the affected owner or operator may appeal the insurer's decision to the
34 director or the director's designee. The director or the director's
35 designee shall conduct a brief adjudicative proceeding under chapter
36 34.05 RCW.

37 (2) This section expires June 1, 2013.

1 **Sec. 7012.** RCW 70.148.090 and 1990 c 64 s 10 are each amended to
2 read as follows:

3 (1) The activities and operations of the program are exempt from
4 the provisions and requirements of Title 48 RCW and to the extent of
5 their participation in the program, the activities and operations of
6 the insurer selected by the ((~~director~~)) department to provide
7 liability insurance coverage to owners and operators of underground
8 storage tanks are exempt from the requirements of Title 48 RCW except
9 for:

- 10 (a) Chapter 48.03 RCW pertaining to examinations;
11 (b) RCW 48.05.250 pertaining to annual reports;
12 (c) Chapter 48.12 RCW pertaining to assets and liabilities;
13 (d) Chapter 48.13 RCW pertaining to investments;
14 (e) Chapter 48.30 RCW pertaining to deceptive, false, or fraudulent
15 acts or practices; and
16 (f) Chapter 48.92 RCW pertaining to liability risk retention.

17 (2) To the extent of their participation in the program, the
18 insurer selected by the ((~~director~~)) department to provide liability
19 insurance coverage to owners and operators of underground storage tanks
20 shall not participate in the Washington insurance guaranty association
21 nor shall the association be liable for coverage provided to owners and
22 operators of underground storage tanks issued in connection with the
23 program.

24 (3) This section expires June 1, 2013.

25 **Sec. 7013.** RCW 70.148.130 and 2005 c 428 s 2 are each amended to
26 read as follows:

27 (1) Subject to the conditions and limitations of RCW 70.148.120
28 through 70.148.170, the ((~~director~~)) department shall establish and
29 manage a program for providing financial assistance to public and
30 private owners and operators of underground storage tanks who have been
31 certified by the governing body of the county, city, or town in which
32 the tanks are located as meeting a vital local government, public
33 health or safety need. In providing such financial assistance the
34 ((~~director~~)) department shall:

- 35 (a) Require owners and operators, including local government owners
36 and operators, to demonstrate serious financial hardship;

1 (b) Limit assistance to only that amount necessary to supplement
2 applicant financial resources;

3 (c) Limit assistance to no more than two hundred thousand dollars
4 in value for any one underground storage tank site of which amount no
5 more than seventy-five thousand dollars in value may be provided for
6 corrective action; and

7 (d) Whenever practicable, provide assistance through the direct
8 payment of contractors and other professionals for labor, materials,
9 and other services.

10 (2)(a) Except as otherwise provided in RCW 70.148.120 through
11 70.148.170, no grant of financial assistance may be used for any
12 purpose other than for corrective action and repair, replacement,
13 reconstruction, and improvement of underground storage tanks and tank
14 sites. If at any time prior to providing financial assistance or in
15 the course of providing such assistance, it appears to the ~~((director))~~
16 department that corrective action costs may exceed seventy-five
17 thousand dollars, the ~~((director))~~ department may not provide further
18 financial assistance until the owner or operator has developed and
19 implemented a corrective action plan with the department ~~((of~~
20 ~~ecology))~~.

21 (b) A grant of financial assistance may also be made to an owner or
22 operator that has discontinued using underground petroleum storage
23 tanks due to economic hardship. An owner or operator may receive a
24 grant up to two hundred thousand dollars per retailing location if:

25 (i) The property is located in an underserved rural area;

26 (ii) The property was previously used by a private owner or
27 operator to provide motor vehicle fuel; and

28 (iii) The property is at least ten miles from the nearest motor
29 vehicle fuel service station.

30 (3) When requests for financial assistance exceed available funds,
31 the ~~((director))~~ department shall give preference to providing
32 assistance first to those underground storage tank sites which
33 constitute the sole source of petroleum products in remote rural
34 communities.

35 (4) The ~~((director shall consult with the))~~ department ~~((of~~
36 ~~ecology))~~, in approving financial assistance for corrective action
37 ~~((to))~~, shall ensure compliance with ~~((regulations))~~ rules governing
38 underground petroleum storage tanks and corrective action.

1 (5) The ((~~director~~)) department shall approve or disapprove
2 applications for financial assistance within sixty days of receipt of
3 a completed application meeting the requirements of RCW 70.148.120
4 through 70.148.170. The certification by local government of an owner
5 or operator shall not preclude the ((~~director~~)) department from
6 disapproving an application for financial assistance if the
7 ((~~director~~)) department finds that such assistance would not meet the
8 purposes of RCW 70.148.120 through 70.148.170.

9 (6) The ((~~director~~)) department may adopt all rules necessary to
10 implement the financial assistance program and shall consult with the
11 technical advisory committee established under RCW 70.148.030 in
12 developing such rules and in reviewing applications for financial
13 assistance.

14 (7) This section expires June 1, 2013.

15 **Sec. 7014.** RCW 70.148.140 and 1991 c 4 s 3 are each amended to
16 read as follows:

17 (1) To qualify for financial assistance, a private owner or
18 operator retailing petroleum products to the public must:

19 (a) First apply for insurance from the pollution liability
20 insurance program and request financial assistance in a form and manner
21 required by the ((~~director~~)) department;

22 (b) If the ((~~director~~)) department makes a preliminary
23 determination of possible eligibility for financial assistance, apply
24 to the appropriate governing body of the city or town in which the
25 tanks are located or in the case where the tanks are located outside of
26 the jurisdiction of a city or town, then to the appropriate governing
27 body of the county in which the tanks are located, for a determination
28 by the governing body of the city, town, or county that the continued
29 operation of the tanks meets a vital local government, or public health
30 or safety need; and

31 (c) Qualify for insurance coverage from the pollution liability
32 insurance program if such financial assistance were to be provided.

33 (2) In consideration for financial assistance and prior to
34 receiving such assistance the owner and operator must enter into an
35 agreement with the state whereby the owner and operator agree:

36 (a) To sell petroleum products to the public;

1 (b) To maintain the tank site for use in the retail sale of
2 petroleum products for a period of not less than fifteen years from the
3 date of agreement;

4 (c) To sell petroleum products to local government entities within
5 the affected community on a cost-plus basis periodically negotiated
6 between the owner and operator and the city, town, or county in which
7 the tanks are located; and

8 (d) To maintain compliance with state underground storage tank
9 financial responsibility and environmental regulations.

10 (3) The agreement shall be filed as a real property lien against
11 the tank site with the county auditor (~~(of the county))~~ of the county
12 in which the tanks are located. If the owner or operator transfers his
13 or her interest in such property, the new owner or operator must agree
14 to abide by the agreement or any financial assistance provided under
15 RCW 70.148.120 through 70.148.170 shall be immediately repaid to the
16 state by the owner or operator who received such assistance.

17 (4) As determined by the (~~director~~) department, if an owner or
18 operator materially breaches the agreement, any financial assistance
19 provided shall be immediately repaid by such owner or operator.

20 (5) The agreement between an owner and operator and the state
21 required under this section shall expire fifteen years from the date of
22 entering into the agreement.

23 (6) This section expires June 1, 2013.

24 **Sec. 7015.** RCW 70.148.150 and 1991 c 4 s 4 are each amended to
25 read as follows:

26 (1) To qualify for financial assistance, a public owner or operator
27 must:

28 (a) First apply for insurance from the pollution liability
29 insurance program and request financial assistance in a form and manner
30 required by the (~~director~~) department;

31 (b) Provide to the (~~director~~) department a copy of the resolution
32 by the governing body of the city, town, or county having jurisdiction,
33 finding that the continued operation of the tanks is necessary to
34 maintain vital local public health, education, or safety needs;

35 (c) Qualify for insurance coverage from the pollution liability
36 insurance program if such financial assistance were to be provided.

1 (2) The ((~~director~~)) department shall give priority to and shall
2 encourage local government entities to consolidate multiple operational
3 underground storage tank sites into as few sites as possible. For this
4 purpose, the ((~~director~~)) department may provide financial assistance
5 for the establishment of a new local government underground storage
6 tank site contingent upon the closure of other operational sites in
7 accordance with environmental regulations. Within the per site
8 financial limits imposed under RCW 70.148.120 through 70.148.170, the
9 ((~~director~~)) department may authorize financial assistance for the
10 closure of operational sites when closure is for the purpose of
11 consolidation.

12 (3) This section expires June 1, 2013.

13 **Sec. 7016.** RCW 70.148.160 and 1991 c 4 s 5 are each amended to
14 read as follows:

15 To qualify for financial assistance, a rural hospital ((~~as defined~~
16 ~~in RCW 18.89.020~~)), owning or operating an underground storage tank
17 must:

18 (1) First apply for insurance from the pollution liability
19 insurance program and request financial assistance in a form and manner
20 required by the ((~~director~~)) department;

21 (2) Apply to the governing body of the city, town, or county in
22 which the hospital is located for certification that the continued
23 operation of the tank or tanks is necessary to maintain vital local
24 public health or safety needs;

25 (3) Qualify for insurance coverage from the pollution liability
26 insurance program if such financial assistance were to be provided; and

27 (4) Agree to provide charity care ((~~as defined in RCW 70.39.020~~))
28 in an amount of equivalent value to the financial assistance provided
29 under RCW 70.148.120 through 70.148.170. The ((~~director~~)) department
30 shall consult with the department of health to monitor and determine
31 the time period over which such care should be expected to be provided
32 in the local community.

33 (5) This section expires June 1, 2013.

34 **Sec. 7017.** RCW 70.148.170 and 1991 c 4 s 6 are each amended to
35 read as follows:

36 (1) The ((~~director~~)) department shall develop and distribute to

1 appropriate cities, towns, and counties a form for use by the local
2 government in making the certification required for all private owner
3 and operator financial assistance along with instructions on the use of
4 such form.

5 (2) In certifying a private owner or operator retailing petroleum
6 products to the public as meeting vital local government, public health
7 or safety needs, the local government shall:

8 (a) Consider and find that other retail suppliers of petroleum
9 products are located remote from the local community;

10 (b) Consider and find that the owner or operator requesting
11 certification is capable of faithfully fulfilling the agreement
12 required for financial assistance;

13 (c) Designate the local government official who will be responsible
14 for negotiating the price of petroleum products to be sold on a cost-
15 plus basis to the local government entities in the affected communities
16 and the entities eligible to receive petroleum products at such price;
17 and

18 (d) State the vital need or needs that the owner or operator meets.

19 (3) In certifying a hospital as meeting local public health and
20 safety needs the local government shall:

21 (a) Consider and find that the continued use of the underground
22 storage tank by the hospital is necessary; and

23 (b) Consider and find that the hospital provides health care
24 services to the poor and otherwise provides charity care.

25 (4) The (~~director~~) department shall notify the governing body of
26 the city, town, or county providing certification when financial
27 assistance for a private owner or operator has been approved.

28 (5) This section expires June 1, 2013.

29 **Sec. 7018.** RCW 70.149.010 and 1995 c 20 s 1 are each amended to
30 read as follows:

31 (1) It is the intent of the legislature to establish a temporary
32 regulatory program to assist owners and operators of heating oil tanks.
33 The legislature finds that it is in the best interests of all citizens
34 for heating oil tanks to be operated safely and for tank leaks or
35 spills to be dealt with expeditiously. The legislature further finds
36 that it is necessary to protect tank owners from the financial hardship
37 related to damaged heating oil tanks. The problem is especially acute

1 because owners and operators of heating oil tanks used for space
2 heating have been unable to obtain pollution liability insurance or
3 insurance has been unaffordable.

4 (2) The pollution liability insurance program established by this
5 chapter and chapter 70.148 RCW is merged into the department.

6 (3) This section expires June 1, 2013.

7 **Sec. 7019.** RCW 70.149.030 and 1995 c 20 s 3 are each amended to
8 read as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Accidental release" means a sudden or nonsudden release of
12 heating oil, occurring after July 23, 1995, from operating a heating
13 oil tank that results in bodily injury, property damage, or a need for
14 corrective action, neither expected nor intended by the owner or
15 operator.

16 (2) "Bodily injury" means bodily injury, sickness, or disease
17 sustained by a person, including death at any time, resulting from the
18 injury, sickness, or disease.

19 (3)(a) "Corrective action" means those actions reasonably required
20 to be undertaken by the insured to remove, treat, neutralize, contain,
21 or clean up an accidental release in order to comply with a statute,
22 ordinance, rule, regulation, directive, order, or similar legal
23 requirement, in effect at the time of an accidental release, of the
24 United States, the state of Washington, or a political subdivision of
25 the United States or the state of Washington. "Corrective action"
26 includes, where agreed to in writing, in advance by the insurer, action
27 to remove, treat, neutralize, contain, or clean up an accidental
28 release to avert, reduce, or eliminate the liability of the insured for
29 corrective action, bodily injury, or property damage. "Corrective
30 action" also includes actions reasonably necessary to monitor, assess,
31 and evaluate an accidental release.

32 (b) "Corrective action" does not include:

33 (i) Replacement or repair of heating oil tanks or other
34 receptacles; or

35 (ii) Replacement or repair of piping, connections, and valves of
36 tanks or other receptacles.

1 (4) "Defense costs" include the costs of legal representation,
2 expert fees, and related costs and expenses incurred in defending
3 against claims or actions brought by or on behalf of:

4 (a) The United States, the state of Washington, or a political
5 subdivision of the United States or state of Washington to require
6 corrective action or to recover costs of corrective action; or

7 (b) A third party for bodily injury or property damage caused by an
8 accidental release.

9 (5) "Director" means the director of the (~~Washington state~~
10 ~~pollution liability insurance agency~~) department or the director's
11 appointed representative.

12 (6) "Heating oil" means any petroleum product used for space
13 heating in oil-fired furnaces, heaters, and boilers, including stove
14 oil, diesel fuel, or kerosene. "Heating oil" does not include
15 petroleum products used as fuels in motor vehicles, marine vessels,
16 trains, buses, aircraft, or any off-highway equipment not used for
17 space heating, or for industrial processing or the generation of
18 electrical energy.

19 (7) "Heating oil tank" means a tank and its connecting pipes,
20 whether above or below ground, or in a basement, with pipes connected
21 to the tank for space heating of human living or working space on the
22 premises where the tank is located. "Heating oil tank" does not
23 include a decommissioned or abandoned heating oil tank, or a tank used
24 solely for industrial process heating purposes or generation of
25 electrical energy.

26 (8) "Occurrence" means an accident, including continuous or
27 repeated exposure to conditions, that results in a release from a
28 heating oil tank.

29 (9) "Owner or operator" means a person in control of, or having
30 responsibility for, the daily operation of a heating oil tank.

31 (10) "Pollution liability insurance (~~agency~~) program" or
32 "program" means the Washington state pollution liability insurance
33 (~~agency~~) program located within the department.

34 (11) "Property damage" means:

35 (a) Physical injury to, destruction of, or contamination of
36 tangible property, including the loss of use of the property resulting
37 from the injury, destruction, or contamination; or

1 (b) Loss of use of tangible property that has not been physically
2 injured, destroyed, or contaminated but has been evacuated, withdrawn
3 from use, or rendered inaccessible because of an accidental release.

4 (12) "Release" means a spill, leak, emission, escape, or leaching
5 into the environment.

6 (13) "Remedial action costs" means reasonable costs that are
7 attributable to or associated with a remedial action.

8 (14) "Tank" means a stationary device, designed to contain an
9 accumulation of heating oil, that is constructed primarily of
10 nonearthen materials such as concrete, steel, fiberglass, or plastic
11 that provides structural support.

12 (15) "Third-party liability" means the liability of a heating oil
13 tank owner to another person due to property damage or personal injury
14 that results from a leak or spill.

15 (16) "Department" means the Washington state department of ecology.
16 This section expires June 1, 2013.

17 **Sec. 7020.** RCW 70.149.040 and 2009 c 560 s 11 are each amended to
18 read as follows:

19 The ((director)) department shall:

20 (1) Design a program, consistent with RCW 70.149.120, for providing
21 pollution liability insurance for heating oil tanks that provides up to
22 sixty thousand dollars per occurrence coverage and aggregate limits,
23 and protects the state of Washington from unwanted or unanticipated
24 liability for accidental release claims;

25 (2) Administer, implement, and enforce the provisions of this
26 chapter. To assist in administration of the program, the director is
27 authorized to appoint up to two employees who are exempt from the civil
28 service law, chapter 41.06 RCW, and who shall serve at the pleasure of
29 the director;

30 (3) Administer the heating oil pollution liability trust account,
31 as established under RCW 70.149.070;

32 (4) Employ and discharge, at ((his or her)) its discretion, agents,
33 attorneys, consultants, companies, organizations, and employees as
34 deemed necessary, and to prescribe their duties and powers, and fix
35 their compensation;

36 (5) Adopt rules under chapter 34.05 RCW as necessary to carry out
37 the provisions of this chapter;

1 (6) Design and from time to time revise a reinsurance contract
2 providing coverage to an insurer or insurers meeting the requirements
3 of this chapter. The ((~~director~~)) department is authorized to provide
4 reinsurance through the pollution liability insurance program trust
5 account;

6 (7) Solicit bids from insurers and select an insurer to provide
7 pollution liability insurance for third-party bodily injury and
8 property damage, and corrective action to owners and operators of
9 heating oil tanks;

10 (8) Register, and design a means of accounting for, operating
11 heating oil tanks;

12 (9) Implement a program to provide advice and technical assistance
13 to owners and operators of active and abandoned heating oil tanks if
14 contamination from an active or abandoned heating oil tank is
15 suspected. Advice and assistance regarding administrative and
16 technical requirements may include observation of testing or site
17 assessment and review of the results of reports. If the ((~~director~~))
18 department finds that contamination is not present or that the
19 contamination is apparently minor and not a threat to human health or
20 the environment, the ((~~director~~)) department may provide written
21 opinions and conclusions on the results of the investigation to owners
22 and operators of active and abandoned heating oil tanks. The
23 ((~~agency~~)) department is authorized to collect, from persons requesting
24 advice and assistance, the costs incurred by the ((~~agency~~)) department
25 in providing such advice and assistance. The costs may include travel
26 costs and expenses associated with review of reports and preparation of
27 written opinions and conclusions. Funds from cost reimbursement must
28 be deposited in the heating oil pollution liability trust account. The
29 state of Washington, the department, the pollution liability insurance
30 ((~~agency~~)) program, and its officers and employees are immune from all
31 liability, and no cause of action arises from any act or omission in
32 providing, or failing to provide, such advice, opinion, conclusion, or
33 assistance;

34 (10) Establish a public information program to provide information
35 regarding liability, technical, and environmental requirements
36 associated with active and abandoned heating oil tanks;

37 (11) Monitor ((~~agency~~)) program expenditures and seek to minimize

1 costs and maximize benefits to ensure responsible financial
2 stewardship;

3 (12) Study if appropriate user fees to supplement program funding
4 are necessary and develop recommendations for legislation to authorize
5 such fees.

6 This section expires June 1, 2013.

7 **Sec. 7021.** RCW 70.149.050 and 1995 c 20 s 5 are each amended to
8 read as follows:

9 (1) In selecting an insurer to provide pollution liability
10 insurance coverage to owners and operators of heating oil tanks used
11 for space heating, the ((director)) department shall evaluate bids
12 based upon criteria established by the ((director)) department that
13 shall include:

14 (a) The insurer's ability to underwrite pollution liability
15 insurance;

16 (b) The insurer's ability to settle pollution liability claims
17 quickly and efficiently;

18 (c) The insurer's estimate of underwriting and claims adjustment
19 expenses;

20 (d) The insurer's estimate of premium rates for providing coverage;

21 (e) The insurer's ability to manage and invest premiums; and

22 (f) The insurer's ability to provide risk management guidance to
23 insureds.

24 (2) The ((director)) department shall select the bidder most
25 qualified to provide insurance consistent with this chapter and need
26 not select the bidder submitting the least expensive bid. The
27 ((director)) department may consider bids by groups of insurers and
28 management companies who propose to act in concert in providing
29 coverage and who otherwise meet the requirements of this chapter.

30 (3) Owners and operators of heating oil tanks, or sites containing
31 heating oil tanks where a preexisting release has been identified or
32 where the owner or operator knows of a preexisting release are eligible
33 for coverage under the program subject to the following conditions:

34 (a) The owner or operator must have a plan for proceeding with
35 corrective action; and

36 (b) If the owner or operator files a claim with the insurer, the
37 owner or operator has the burden of proving that the claim is not

1 related to a preexisting release until the owner or operator
2 demonstrates to the satisfaction of the ((director)) department that
3 corrective action has been completed.

4 (4) This section expires June 1, 2013.

5 **Sec. 7022.** RCW 70.149.060 and 1995 c 20 s 6 are each amended to
6 read as follows:

7 (1) The activities and operations of the program are exempt from
8 the provisions and requirements of Title 48 RCW and to the extent of
9 their participation in the program, the activities and operations of
10 the insurer selected by the ((director)) department to provide
11 liability insurance coverage to owners and operators of heating oil
12 tanks are exempt from the requirements of Title 48 RCW except for:

13 (a) Chapter 48.03 RCW pertaining to examinations;

14 (b) RCW 48.05.250 pertaining to annual reports;

15 (c) Chapter 48.12 RCW pertaining to assets and liabilities;

16 (d) Chapter 48.13 RCW pertaining to investments;

17 (e) Chapter 48.30 RCW pertaining to deceptive, false, or fraudulent
18 acts or practices; and

19 (f) Chapter 48.92 RCW pertaining to liability risk retention.

20 (2) To the extent of their participation in the program, the
21 insurer selected by the ((director)) department to provide liability
22 insurance coverage to owners and operators of heating oil tanks shall
23 not participate in the Washington insurance guaranty association nor
24 shall the association be liable for coverage provided to owners and
25 operators of heating oil tanks issued in connection with the program.

26 (3) This section expires June 1, 2013.

27 **Sec. 7023.** RCW 70.149.090 and 2005 c 274 s 342 are each amended to
28 read as follows:

29 The following shall be confidential and exempt under chapter 42.56
30 RCW, subject to the conditions set forth in this section:

31 (1) All examination and proprietary reports and information
32 obtained by the ((director)) department and the ((director's))
33 department's staff in soliciting bids from insurers and in monitoring
34 the insurer selected by the ((director)) department may not be made
35 public or otherwise disclosed to any person, firm, corporation, agency,
36 association, governmental body, or other entity.

1 (2) All information obtained by the (~~director~~) department or the
2 (~~director's~~) department's staff related to registration of heating
3 oil tanks to be insured may not be made public or otherwise disclosed
4 to any person, firm, corporation, agency, association, governmental
5 body, or other entity.

6 (3) The (~~director~~) department may furnish all or part of
7 examination reports prepared by the (~~director~~) department or by any
8 person, firm, corporation, association, or other entity preparing the
9 reports on behalf of the (~~director~~) department to:

10 (a) The Washington state insurance commissioner;

11 (b) A person or organization officially connected with the insurer
12 as officer, director, attorney, auditor, or independent attorney or
13 independent auditor; and

14 (c) The attorney general in his or her role as legal advisor to the
15 (~~director~~) department.

16 This section expires June 1, 2013.

17 **Sec. 7024.** RCW 70.149.120 and 2007 c 240 s 2 are each amended to
18 read as follows:

19 (1) The (~~pollution liability insurance agency~~) department shall
20 identify design criteria for heating oil tanks that provide superior
21 protection against future leaks as compared to standard steel tank
22 designs. Any tank designs identified under this section must either be
23 constructed with fiberglass or offer at least an equivalent level of
24 protection against leaks as a standard fiberglass design.

25 (2) The (~~pollution liability insurance agency~~) department shall
26 reimburse any owner or operator, who is participating in the program
27 created in this chapter and who has experienced an occurrence or
28 remedial action, for the difference in price between a standard steel
29 heating tank and a new heating oil tank that satisfies the design
30 standards identified under subsection (1) of this section, if the owner
31 or operator chooses or is required to replace his or her tank at the
32 time of the occurrence or remedial action.

33 (3) Any new heating oil tank reimbursement provided under this
34 section must be funded within the amount of per occurrence coverage
35 provided to the owner or operator under RCW 70.149.040.

36 (4) This section expires June 1, 2013.

1 NEW SECTION. **Sec. 7025.** By October 1, 2011, the department of
2 ecology shall submit a report to the governor and appropriate
3 legislative committees that includes findings on the consolidation of
4 the pollution liability insurance agency within the department of
5 ecology and recommendations for legislation in 2012, including draft
6 legislation, if needed, to implement the recommendations and strategies
7 identified in the report. In the report, the department of ecology
8 shall discuss:

9 (1) Statutory changes that would ensure that the pollution
10 liability insurance program's consolidation within the department of
11 ecology is efficient and effective;

12 (2) The organizational structure of the pollution liability
13 insurance program;

14 (3) The appeals process;

15 (4) Information management;

16 (5) Coordination of the pollution liability insurance program,
17 underground storage tanks rule, and toxics cleanup program;

18 (6) Whether participants utilizing the program under chapter 70.149
19 RCW should be required to continue using oil for home heating for a
20 certain period of time or compensate the fund;

21 (7) The effect of requiring a competitive bid process and other
22 cost control measures as required in RCW 70.149.040; and

23 (8) Reauthorization of the pollution liability insurance program by
24 July 1, 2013.

25 NEW SECTION. **Sec. 7026.** A new section is added to chapter 70.148
26 RCW to read as follows:

27 (1) The pollution liability insurance agency is transferred to the
28 department.

29 (2)(a) All reports, documents, surveys, books, records, files,
30 papers, or written material in the possession of the pollution
31 liability insurance agency shall be delivered to the custody of the
32 department of ecology. All cabinets, furniture, office equipment,
33 motor vehicles, and other tangible property employed by the pollution
34 liability insurance agency shall be transferred to the department of
35 ecology. All funds, credits, or other assets held by the pollution
36 liability insurance agency shall be assigned to the department of
37 ecology.

1 (b) Any appropriations made to the pollution liability insurance
2 agency shall be transferred and credited to the department of ecology.

3 (c) If any question arises as to the transfer of any personnel,
4 funds, books, documents, records, papers, files, equipment, or other
5 tangible property used or held in the exercise of the powers and the
6 performance of the duties and functions transferred, the director of
7 financial management shall make a determination as to the proper
8 allocation and certify the same to the state agencies concerned.

9 (3) All employees of the pollution liability insurance agency are
10 transferred to the jurisdiction of the department of ecology. All
11 employees classified under chapter 41.06 RCW, the state civil service
12 law, are assigned to the department of ecology to perform their usual
13 duties upon the same terms as formerly, without any loss of rights,
14 subject to any action that may be appropriate thereafter in accordance
15 with the laws and rules governing state civil service.

16 (4) All rules and all pending business before the pollution
17 liability insurance agency shall be continued and acted upon by the
18 pollution liability insurance program as part of the department of
19 ecology. All existing contracts and obligations shall remain in full
20 force and shall be performed by the pollution liability insurance
21 program as part of the department of ecology.

22 (5) The transfer of the powers, duties, functions, and personnel of
23 the pollution liability insurance agency to the department of ecology
24 under this act shall not affect the validity of any activity performed
25 before the effective date of this section or the effective date of the
26 consolidation.

27 (6) If apportionments of budgeted funds are required because of the
28 consolidation directed by this section, the director of financial
29 management shall certify the apportionments to the affected agencies,
30 the state auditor, and the state treasurer. Each of these shall make
31 the appropriate transfer and adjustments in funds and appropriation
32 accounts and equipment records in accordance with the certification.

33 (7) All classified employees of the pollution liability insurance
34 agency assigned to the department of ecology under this act whose
35 positions are within an existing bargaining unit description at the
36 department of ecology shall become a part of the existing bargaining
37 unit at the department of ecology and shall be considered an

1 appropriate inclusion or modification of the existing bargaining unit
2 under the provisions of chapter 41.80 RCW.

3 (8) This section expires June 1, 2013.

4 **SUBPART B**
5 **RECLAIMED WATER PROGRAM**

6 **Sec. 7027.** RCW 90.46.005 and 2007 c 445 s 2 are each amended to
7 read as follows:

8 The legislature finds that by encouraging the use of reclaimed
9 water while assuring the health and safety of all Washington citizens
10 and the protection of its environment, the state of Washington will
11 continue to use water in the best interests of present and future
12 generations.

13 To facilitate the immediate use of reclaimed water for uses
14 approved by the department(~~(s)~~) of ecology (~~(and health)~~), the state
15 shall expand both direct financial support and financial incentives for
16 capital investments in water reuse and reclaimed water to effectuate
17 the goals of this chapter. The legislature further directs (~~the~~
18 ~~department of health and~~) the department of ecology to (~~coordinate~~
19 ~~efforts towards developing~~) develop an efficient and streamlined
20 process for creating and implementing processes for the use of
21 reclaimed water.

22 It is hereby declared that the people of the state of Washington
23 have a primary interest in the development of facilities to provide
24 reclaimed water to replace potable water in nonpotable applications, to
25 supplement existing surface and ground water supplies, and to assist in
26 meeting the future water requirements of the state.

27 The legislature further finds and declares that the utilization of
28 reclaimed water by local communities for domestic, agricultural,
29 industrial, recreational, and fish and wildlife habitat creation and
30 enhancement purposes, including wetland enhancement, will contribute to
31 the peace, health, safety, and welfare of the people of the state of
32 Washington. To the extent reclaimed water is appropriate for
33 beneficial uses, it should be so used to preserve potable water for
34 drinking purposes, contribute to the restoration and protection of
35 instream flows that are crucial to preservation of the state's salmonid
36 fishery resources, contribute to the restoration of Puget Sound by

1 reducing wastewater discharge, provide a drought resistant source of
2 water supply for nonpotable needs, or be a source of supply integrated
3 into state, regional, and local strategies to respond to population
4 growth and global warming. Use of reclaimed water constitutes the
5 development of new basic water supplies needed for future generations
6 and local and regional water management planning should consider
7 coordination of infrastructure, development, storage, water reclamation
8 and reuse, and source exchange as strategies to meet water demands
9 associated with population growth and impacts of global warming.

10 The legislature further finds and declares that the use of
11 reclaimed water is not inconsistent with the policy of antidegradation
12 of state waters announced in other state statutes, including the water
13 pollution control act, chapter 90.48 RCW and the water resources act,
14 chapter 90.54 RCW.

15 The legislature finds that other states, including California,
16 Florida, and Arizona, have successfully used reclaimed water to
17 supplement existing water supplies without threatening existing
18 resources or public health.

19 It is the intent of the legislature that the department of ecology
20 (~~and the department of health~~) undertake the necessary steps to
21 encourage the development of water reclamation facilities so that
22 reclaimed water may be made available to help meet the growing water
23 requirements of the state.

24 The legislature further finds and declares that reclaimed water
25 facilities are water pollution control facilities as defined in chapter
26 70.146 RCW and are eligible for financial assistance as provided in
27 chapter 70.146 RCW. The legislature finds that funding demonstration
28 projects will ensure the future use of reclaimed water. (~~The
29 demonstration projects in RCW 90.46.110 are varied in nature and will
30 provide the experience necessary to test different facets of the
31 standards and refine a variety of technologies so that water purveyors
32 can begin to use reclaimed water technology in a more cost effective
33 manner.~~) This is especially critical in smaller cities and
34 communities where the feasibility for such projects is great, but there
35 are scarce resources to develop the necessary facilities.

36 The legislature further finds that the agricultural processing
37 industry can play a critical and beneficial role in promoting the

1 efficient use of water by having the opportunity to develop and reuse
2 agricultural industrial process water from food processing.

3 **Sec. 7028.** RCW 90.46.010 and 2009 c 456 s 1 are each amended to
4 read as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise.

7 (1) "Agricultural industrial process water" means water that has
8 been used for the purpose of agricultural processing and has been
9 adequately and reliably treated, so that as a result of that treatment,
10 it is suitable for other agricultural water use.

11 (2) "Agricultural processing" means the processing of crops or milk
12 to produce a product primarily for wholesale or retail sale for human
13 or animal consumption, including but not limited to potato, fruit,
14 vegetable, and grain processing.

15 (3) "Agricultural water use" means the use of water for irrigation
16 and other uses related to the production of agricultural products.
17 These uses include, but are not limited to, construction, operation,
18 and maintenance of agricultural facilities and livestock operations at
19 farms, ranches, dairies, and nurseries. Examples of these uses
20 include, but are not limited to, dust control, temperature control, and
21 fire control.

22 (4) "Constructed beneficial use wetlands" means those wetlands
23 intentionally constructed on nonwetland sites to produce or create
24 natural wetland functions and values.

25 (5) "Constructed treatment wetlands" means wetland-like
26 impoundments intentionally constructed on nonwetland sites and managed
27 for the primary purpose of further treatment or retention of reclaimed
28 water as distinct from creating natural wetland functions and values.

29 (6) "Direct groundwater recharge" means the controlled subsurface
30 addition of water directly into groundwater for the purpose of
31 replenishing groundwater.

32 (7) "Domestic wastewater" means wastewater from greywater, toilet,
33 or urinal sources.

34 (8) "Greywater or gray water" means domestic type flows from
35 bathtubs, showers, bathroom sinks, washing machines, dishwashers, and
36 kitchen or utility sinks. Gray water does not include flow from a
37 toilet or urinal.

1 (9) "Industrial reuse water" means water that has been used for the
2 purpose of industrial processing and has been adequately and reliably
3 treated so that, as a result of that treatment, it is suitable for
4 other uses.

5 (10) "Land application" means use of reclaimed water as permitted
6 under this chapter for the purpose of irrigation or watering of
7 landscape vegetation.

8 ~~(11) ("Lead agency" means either the department of health or the~~
9 ~~department of ecology that has been designated by rule as the agency~~
10 ~~that will coordinate, review, issue, and enforce a reclaimed water~~
11 ~~permit issued under this chapter.~~

12 ~~(12) "Nonlead agency" means either the department of health or the~~
13 ~~department of ecology, whichever is not the lead agency for purposes of~~
14 ~~this chapter.~~

15 ~~(13))~~ "Person" means any state, individual, public or private
16 corporation, political subdivision, governmental subdivision,
17 governmental agency, municipality, copartnership, association, firm,
18 trust estate, or any other legal entity whatever.

19 ~~((14))~~ (12) "Planned groundwater recharge project" means any
20 reclaimed water project designed for the purpose of recharging
21 groundwater.

22 ~~((15))~~ (13) "Reclaimed water" means water derived in any part
23 from wastewater with a domestic wastewater component that has been
24 adequately and reliably treated, so that it can be used for beneficial
25 purposes. Reclaimed water is not considered a wastewater.

26 ~~((16))~~ (14) "State drinking water contaminant criteria" means the
27 contaminant criteria found in the drinking water quality standards
28 adopted by the state board of health pursuant to chapter 43.20 RCW and
29 the department of health pursuant to chapter 70.119A RCW.

30 ~~((17))~~ (15) "Streamflow or surface water augmentation" means the
31 intentional use of reclaimed water for rivers and streams of the state
32 or other surface water bodies, for the purpose of increasing volumes.

33 ~~((18))~~ (16) "Surface percolation" means the controlled
34 application of water to the ground surface or to unsaturated soil for
35 the purpose of replenishing groundwater.

36 ~~((19))~~ (17) "User" means any person who uses reclaimed water.

37 ~~((20))~~ (18) "Wastewater" means water-carried wastes from

1 residences, buildings, industrial and commercial establishments, or
2 other places, together with such groundwater infiltration and inflow as
3 may be present.

4 ~~((+21))~~ (19) "Wetland or wetlands" means areas that are inundated
5 or saturated by surface water or groundwater at a frequency and
6 duration sufficient to support, and that under normal circumstances do
7 support, a prevalence of vegetation typically adapted to life in
8 saturated soil conditions. Wetlands generally include swamps, marshes,
9 bogs, and similar areas. Wetlands regulated under this chapter shall
10 be delineated in accordance with the manual adopted by the department
11 of ecology pursuant to RCW 90.58.380.

12 (20) "Department" means the department of ecology.

13 **Sec. 7029.** RCW 90.46.015 and 2009 c 456 s 2 are each amended to
14 read as follows:

15 (1) The department ~~((of ecology))~~ shall ~~((, in coordination with the~~
16 ~~department of health,))~~ adopt rules for reclaimed water use consistent
17 with this chapter. The rules must address all aspects of reclaimed
18 water use, including commercial and industrial uses, land applications,
19 direct groundwater recharge, wetland discharge, surface percolation,
20 constructed wetlands, and streamflow or surface water augmentation.
21 The department of health shall, in coordination with the department
22 ~~((of ecology)),~~ adopt rules for greywater reuse. ~~((The rules must also~~
23 ~~designate whether the department of ecology or the department of health~~
24 ~~will be the lead agency responsible for a particular aspect of~~
25 ~~reclaimed water use.))~~ In developing the rules, the ~~((departments of~~
26 ~~health and ecology))~~ department shall amend or rescind any existing
27 rules on reclaimed water in conflict with the new rules.

28 (2) All rules required to be adopted pursuant to this section must
29 be completed no later than December 31, 2010, although the department
30 ~~((of ecology))~~ is encouraged to adopt the final rules as soon as
31 possible.

32 (3) The department ~~((of ecology))~~ must consult with the advisory
33 committee created under RCW 90.46.050 in all aspects of rule
34 development required under this section.

35 **Sec. 7030.** RCW 90.46.030 and 2006 c 279 s 5 are each amended to
36 read as follows:

1 ~~(1)((a) The department of health shall, in coordination with the~~
2 ~~department of ecology, adopt a single set of standards, procedures, and~~
3 ~~guidelines on or before August 1, 1993, for the industrial and~~
4 ~~commercial use of reclaimed water.~~

5 ~~(b) Standards adopted under this section are superseded by any~~
6 ~~rules adopted by the department of ecology pursuant to RCW 90.46.015 as~~
7 ~~they relate to the industrial and commercial use of reclaimed water.~~

8 ~~(2) Unless~~) The department ~~((of ecology adopts))~~ may adopt rules
9 pursuant to RCW 90.46.015 that relate to the industrial and commercial
10 use of reclaimed water ~~((specifying otherwise,))~~. The department ~~((of~~
11 ~~health))~~ may issue a reclaimed water permit for industrial and
12 commercial uses of reclaimed water to the generator of reclaimed water
13 who may then distribute the water, subject to provisions in the permit
14 governing the location, rate, water quality, and purposes of use.
15 Permits issued after the adoption of rules under RCW 90.46.015 must be
16 consistent with the adopted rules.

17 ~~((3))~~ (2) The department ~~((of health))~~ in consultation with the
18 advisory committee established in RCW 90.46.050, shall develop
19 recommendations for a fee structure for permits issued under
20 ~~((subsection (2) of))~~ this ~~((section))~~ chapter. Fees shall be
21 established in amounts to fully recover, and not exceed, expenses
22 incurred by the department ~~((of health))~~ in processing permit
23 applications and modifications, monitoring and evaluating compliance
24 with permits, and conducting inspections and supporting the reasonable
25 overhead expenses that are directly related to these activities.
26 Permit fees may not be used for research or enforcement activities.
27 ~~((The department of health shall not issue permits under this section~~
28 ~~until a fee structure has been established.~~

29 ~~(4))~~ (3) A permit under this section for use of reclaimed water
30 may be issued only to:

31 (a) A municipal, quasi-municipal, or other governmental entity;

32 (b) A private utility as defined in RCW 36.94.010; ~~((or))~~

33 (c) The holder of a waste discharge permit issued under chapter
34 90.48 RCW or operating permit under chapter 70.118B RCW; or

35 (d) The owner of an agricultural processing facility that is
36 generating agricultural industrial process water for agricultural use,
37 or the owner of an industrial facility that is generating industrial
38 process water for reuse.

1 ~~((+5))~~ (4) The authority and duties created in this section are in
2 addition to any authority and duties already provided in law with
3 regard to sewage and wastewater collection, treatment, and disposal for
4 the protection of health and safety of the state's waters. Nothing in
5 this section limits the powers of the state or any political
6 subdivision to exercise such authority.

7 ~~((+6) Unless the department of ecology adopts rules pursuant to RCW
8 90.46.015 that relate to the industrial and commercial use of reclaimed
9 water specifying otherwise, the department of health may implement the
10 requirements of this section through the department of ecology by
11 execution of a formal agreement between the departments. Upon
12 execution of such an agreement, the department of ecology may issue
13 reclaimed water permits for industrial and commercial uses of reclaimed
14 water by issuance of permits under chapter 90.48 RCW, and may establish
15 and collect fees as required for permits issued under chapter 90.48
16 RCW.~~

17 ~~(7) Unless the department of ecology adopts rules pursuant to RCW
18 90.46.015 that relate to the industrial and commercial use of reclaimed
19 water specifying otherwise, and))~~

20 (5) Before deciding whether to issue a permit under this section to
21 a private utility, the department ~~((of health))~~ may require information
22 that is reasonable and necessary to determine whether the private
23 utility has the financial and other resources to ensure the
24 reliability, continuity, and supervision of the reclaimed water
25 facility.

26 **Sec. 7031.** RCW 90.46.050 and 2006 c 279 s 2 are each amended to
27 read as follows:

28 The department ~~((of ecology))~~ shall ~~((, before July 1, 2006,))~~ form
29 an advisory committee ~~((, in coordination with the department of health
30 and the department of agriculture,))~~ which will provide technical
31 assistance in the development of standards, procedures, and guidelines
32 required by this chapter. The advisory committee shall be composed of
33 a broad range of interested individuals representing the various
34 stakeholders that utilize or are potentially impacted by the use of
35 reclaimed water and include a representative from the department of
36 health and a representative from the department of agriculture. The

1 advisory committee must also contain individuals with technical
2 expertise and knowledge of new advancements in technology.

3 **Sec. 7032.** RCW 90.46.090 and 2006 c 279 s 10 are each amended to
4 read as follows:

5 (1) Reclaimed water may be beneficially used for discharge into
6 constructed beneficial use wetlands and constructed treatment wetlands
7 provided the reclaimed water meets the class A or B reclaimed water
8 standards as defined in the reclamation criteria, and the discharge is
9 incorporated into a sewer or water comprehensive plan, as applicable,
10 adopted by the applicable local government and approved by the
11 department of health or department of ecology as applicable.

12 (2) Reclaimed water that does not meet the class A or B reclaimed
13 water standards may be beneficially used for discharge into constructed
14 treatment wetlands where the department (~~(of ecology, in consultation~~
15 ~~with the department of health,)~~) has specifically authorized such use
16 at such lower standards.

17 (3)(a) The department (~~(of ecology and the department of health)~~)
18 must develop appropriate standards for discharging reclaimed water into
19 constructed beneficial use wetlands and constructed treatment wetlands.
20 These standards must be considered as part of the approval process
21 under subsections (1) and (2) of this section.

22 (b) Standards adopted under this section are superseded by any
23 rules adopted by the department (~~(of ecology)~~) pursuant to RCW
24 90.46.015 as they relate to discharge into constructed beneficial use
25 wetlands and constructed treatment wetlands.

26 **Sec. 7033.** RCW 90.46.120 and 2009 c 456 s 5 are each amended to
27 read as follows:

28 (1) The owner of a wastewater treatment facility that is reclaiming
29 water with a permit issued under this chapter has the exclusive right
30 to any reclaimed water generated by the wastewater treatment facility.
31 Use, distribution, storage, and the recovery from storage of reclaimed
32 water permitted under this chapter is exempt from the permit
33 requirements of RCW 90.03.250 and 90.44.060, provided that a permit for
34 recovery of reclaimed water from aquifer storage shall be reviewed
35 under the standards established under RCW 90.03.370(2) for aquifer
36 storage and recovery projects. Revenues derived from the reclaimed

1 water facility shall be used only to offset the cost of operation of
2 the wastewater utility fund or other applicable source of systemwide
3 funding.

4 (2) If the proposed use of reclaimed water is to augment or replace
5 potable water supplies or to create the potential for the development
6 of an additional new potable water supply, then regional water supply
7 plans, or any other potable water supply plans prepared by multiple
8 water purveyors, must consider the proposed use of the reclaimed water
9 as they are developed or updated.

10 (a) Regional water supply plans include those adopted under state
11 board of health laws (chapter 43.20 RCW), the public water system
12 coordination act of 1977 (chapter 70.116 RCW), groundwater protection
13 laws (chapter 90.44 RCW), and the watershed planning act (chapter 90.82
14 RCW).

15 (b) The requirement to consider the use of reclaimed water does not
16 change the plan approval process established under these statutes.

17 (c) When regional water supply plans are being developed, the
18 owners of wastewater treatment facilities that produce or propose to
19 produce reclaimed water for use within the planning area must be
20 included in the planning process.

21 (3) When reclaimed water is available or is proposed for use under
22 a water supply or wastewater plan developed under chapter 43.20,
23 70.116, 90.44, 90.48, or 90.82 RCW these plans must be coordinated to
24 ensure that opportunities for reclaimed water are evaluated. The
25 requirements of this subsection (3) do not apply to water system plans
26 developed under chapter 43.20 RCW for utilities serving less than one
27 thousand service connections.

28 (4) The provisions of any plan for reclaimed water, developed under
29 the authorities in subsections (2) and (3) of this section, should be
30 included by a city, town, or county in reviewing provisions for water
31 supplies in a proposed short plat, short subdivision, or subdivision
32 under chapter 58.17 RCW, where reclaimed water supplies may be proposed
33 for nonpotable purposes in the short plat, short subdivision, or
34 subdivision.

35 ~~((5) By November 30, 2009, the department of ecology shall review~~
36 ~~comments from the reclaimed water advisory committee under RCW~~
37 ~~90.46.050 and the reclaimed water and water rights advisory committee~~
38 ~~under the direction of the department of ecology and submit a~~

1 ~~recommendation to the legislature on the impairment requirements and~~
2 ~~standards for reclaimed water. The department of ecology shall also~~
3 ~~provide a report to the legislature that describes the opinions of the~~
4 ~~stakeholders on the impairment requirements and standards for reclaimed~~
5 ~~water.))~~

6 **Sec. 7034.** RCW 90.46.150 and 2001 c 69 s 3 are each amended to
7 read as follows:

8 The permit to apply agricultural industrial process water to
9 agricultural water use shall be the permit issued under chapter 90.48
10 RCW to the owner of the agricultural processing plant who may then
11 distribute the water through methods including, but not limited to,
12 irrigation systems, subject to provisions in the permit governing the
13 location, rate, water quality, and purpose. ~~((In cases where the~~
14 ~~department of ecology determines that a significant risk to public~~
15 ~~health exists, in land application of the water, the department must~~
16 ~~refer the application to the department of health for review and~~
17 ~~consultation.))~~

18 The owner of the agricultural processing plant who obtains a permit
19 under this section has the exclusive right to the use of any
20 agricultural industrial process water generated from the plant and to
21 the distribution of such water through facilities including irrigation
22 systems. Use and distribution of the water by the owner is exempt from
23 the permit requirements of RCW 90.03.250, 90.03.380, 90.44.060, and
24 90.44.100.

25 Nothing in chapter 69, Laws of 2001 shall be construed to affect
26 any right to reuse agricultural industrial discharge water in existence
27 on or before July 22, 2001.

28 **Sec. 7035.** RCW 90.46.160 and 2002 c 329 s 6 are each amended to
29 read as follows:

30 (1) The permit to use industrial reuse water shall be the permit
31 issued under chapter 90.48 RCW to the owner of the plant that is the
32 source of the industrial process water, who may then distribute the
33 water according to provisions in the permit governing the location,
34 rate, water quality, and purpose. ~~((In cases where the department of~~
35 ~~ecology determines that a proposed use may pose a significant risk to~~

1 ~~public health, the department shall refer the permit application to the~~
2 ~~department of health for review and consultation.))~~

3 (2) The owner of the industrial plant who obtains a permit under
4 this section has the exclusive right to the use of any industrial reuse
5 water generated from the plant and to the distribution of such water.
6 Use and distribution of the water by the owner is exempt from the
7 permit requirements of RCW 90.03.250, 90.03.380, 90.44.060, and
8 90.44.100.

9 (3) Nothing in this section affects any right to reuse industrial
10 process water in existence on or before June 13, 2002.

11 **Sec. 7036.** RCW 90.46.200 and 2009 c 456 s 7 are each amended to
12 read as follows:

13 ~~(1) ((The department of ecology and the department of health shall~~
14 ~~have authority to carry out all the provisions of this chapter~~
15 ~~including, but not limited to, permitting and enforcement. Only the~~
16 ~~department of ecology or the department of health may act as a lead~~
17 ~~agency for purposes of this chapter and will be established as such by~~
18 ~~rule. Enforcement of a permit issued under this chapter shall be at~~
19 ~~the sole discretion of the lead agency that issued the permit.~~

20 ~~(2) All permit applications shall be referred to the nonlead agency~~
21 ~~for review and consultation. The nonlead agency may choose to limit~~
22 ~~the scope of its review.~~

23 ~~(3))~~ The department shall consult with the department of health in
24 cases where a proposed use of reclaimed water may pose a significant
25 risk to public health.

26 (2) The authority and duties created in this chapter are in
27 addition to any authority and duties already provided in law. Nothing
28 in this chapter limits the powers of the state or any political
29 subdivision to exercise such authority.

30 **Sec. 7037.** RCW 90.46.210 and 2009 c 456 s 8 are each amended to
31 read as follows:

32 The ~~((lead agency))~~ department, with the assistance of the attorney
33 general, is authorized to bring any appropriate action at law or in
34 equity, including action for injunctive relief, as may be necessary to
35 carry out the provisions of this chapter. The ~~((lead agency))~~
36 department may bring the action in the superior court of the county in

1 which the violation occurred or in the superior court of Thurston
2 county. The court may award reasonable attorneys' fees for the cost of
3 the attorney general's office in representing the ((~~lead agency~~))
4 department.

5 **Sec. 7038.** RCW 90.46.220 and 2009 c 456 s 9 are each amended to
6 read as follows:

7 (1) Any person proposing to generate any type of reclaimed water
8 for a use regulated under this chapter shall obtain a permit from the
9 ((~~lead agency~~)) department prior to distribution or use of that water.
10 The permittee may then distribute and use the water, subject to the
11 provisions in the permit. The permit must include provisions that
12 protect human health and the environment. At a minimum, the permit
13 must:

- 14 (a) Assure adequate and reliable treatment; and
- 15 (b) Govern the water quality, location, rate, and purpose of use.
- 16 (2) A permit under this chapter may be issued only to:
 - 17 (a) A municipal, quasi-municipal, or other governmental entity;
 - 18 (b) A private utility as defined in RCW 36.94.010;
 - 19 (c) The holder of a waste disposal permit issued under chapter
20 90.48 RCW or operating permit under chapter 70.118B RCW; or
 - 21 (d) The owner of an agricultural processing facility that is
22 generating agricultural industrial process water for agricultural use,
23 or the owner of an industrial facility that is generating industrial
24 process water for reuse.

25 (3) Before deciding whether to issue a permit under this section to
26 a private utility, the ((~~lead agency~~)) department may require
27 information that is reasonable and necessary to determine whether the
28 private utility has the financial and other resources to ensure the
29 reliability, continuity, and supervision of the reclaimed water
30 facility.

31 (4) Permits shall be issued for a fixed term specified by the rules
32 adopted under RCW 90.46.015. A permittee shall apply for permit
33 renewal prior to the end of the term. The rules adopted under RCW
34 90.46.015 shall specify the process of renewal, modification, change of
35 ownership, suspension, and termination.

36 (5) The ((~~lead agency~~)) department may deny an application for a
37 permit or modify, suspend, or revoke a permit for good cause, including

1 but not limited to, any case in which it finds that the permit was
2 obtained by fraud or misrepresentation, or there is or has been a
3 failure, refusal, or inability to comply with the requirements of this
4 chapter or the rules adopted under this chapter.

5 (6) The ~~((lead agency))~~ department shall provide for adequate
6 public notice and opportunity for review and comment on all initial
7 permit applications and renewal applications. Methods for providing
8 notice may include electronic mail, posting on the ~~((lead agency's))~~
9 department's internet site, publication in a local newspaper, press
10 releases, mailings, or other means of notification the ~~((lead agency))~~
11 department determines appropriate. The ~~((lead agency))~~ department
12 shall also publicize notice of final permitting decisions.

13 (7) Any person aggrieved by a permitting decision has the right to
14 an adjudicative proceeding. An adjudicative proceeding conducted under
15 this subsection is governed by chapter 34.05 RCW. ~~((For any permit
16 decision for which the department of ecology is the lead agency under
17 this chapter,))~~ Any appeal shall be in accordance with chapter 43.21B
18 RCW. ~~((For any permit decision for which department of health is the
19 lead agency under this chapter, any application for an adjudicative
20 proceeding must be in writing, state the basis for contesting the
21 action, include a copy of the decision, be served on and received by
22 the department of health within twenty-eight days of receipt of notice
23 of the final decision, and be served in a manner that shows proof of
24 receipt.))~~

25 (8) Permit requirements for the distribution and use of greywater
26 will be established in rules adopted by the department of health under
27 RCW 90.46.015.

28 **Sec. 7039.** RCW 90.46.230 and 2009 c 456 s 10 are each amended to
29 read as follows:

30 (1)(a) Except as otherwise provided in (b) of this subsection, the
31 ~~((lead agency))~~ department or its designee shall have the right to
32 enter and inspect any property related to the purpose of the permit,
33 public or private, at reasonable times with prior notification in order
34 to determine compliance with laws and rules administered by the ~~((lead
35 agency))~~ department. During such inspections, the ~~((lead agency))~~
36 department shall have free and unimpeded access to all data,

1 facilities, and property involved in the generation, distribution, and
2 use of reclaimed water.

3 (b) The (~~lead agency~~) department or its designee need not give
4 prior notification to enter property under (a) of this subsection if
5 the purpose of the entry is to ensure compliance by the permittee with
6 a prior order of the (~~lead agency~~) department or if the (~~lead
7 agency~~) department or its designee has reasonable cause to believe
8 there is a violation of the law that poses a serious threat to public
9 health and safety or the environment.

10 (2) The (~~lead agency~~) department or its designee may apply for an
11 administrative search warrant to a court of competent jurisdiction and
12 an administrative search warrant may issue where:

13 (a) The (~~lead agency~~) department has attempted an inspection
14 under this chapter and access has been actually or constructively
15 denied; or

16 (b) There is reasonable cause to believe that a violation of this
17 chapter or rules adopted under this chapter is occurring or has
18 occurred.

19 **Sec. 7040.** RCW 90.46.240 and 2009 c 456 s 11 are each amended to
20 read as follows:

21 All required feasibility studies, planning documents, engineering
22 reports, and plans and specifications for the construction of new
23 reclaimed water, agricultural industrial process water, and industrial
24 reuse water facilities, including generation, distribution, and use
25 facilities, or for improvements or extensions to existing facilities,
26 and the proposed method of future operation and maintenance of said
27 facility or facilities, shall be submitted to and be approved by the
28 (~~lead agency~~) department, before construction thereof may begin. No
29 approval shall be given until the (~~lead agency~~) department is
30 satisfied that the plans, reports, and specifications and the methods
31 of operation and maintenance submitted are adequate to protect the
32 quality of the water for the intended use as provided for in this
33 chapter and are adequate to protect public health and safety as
34 necessary.

35 **Sec. 7041.** RCW 90.46.250 and 2009 c 456 s 12 are each amended to
36 read as follows:

1 (1) When, in the opinion of the ((~~lead-agency~~)) department, a
2 person violates or creates a substantial potential to violate this
3 chapter, the ((~~lead-agency~~)) department shall notify the person of its
4 determination by registered mail. The determination shall not
5 constitute an appealable order or directive. Within thirty days from
6 the receipt of notice of such determination, the person shall file with
7 the ((~~lead-agency~~)) department a full report stating what steps have
8 been and are being taken to comply with the determination of the ((~~lead~~
9 ~~agency~~)) department. After the full report is filed or after the
10 thirty days have elapsed, the ((~~lead-agency~~)) department may issue the
11 order or directive as it deems appropriate under the circumstances,
12 shall notify the person by registered mail, and shall inform the person
13 of the process for requesting an adjudicative hearing.

14 (2) When it appears to the ((~~lead-agency~~)) department that water
15 quality conditions or other conditions exist which require immediate
16 action to protect human health and safety or the environment, the
17 ((~~lead-agency~~)) department may issue a written order to the person or
18 persons responsible without first issuing a notice of determination
19 pursuant to subsection (1) of this section. An order or directive
20 issued pursuant to this subsection shall be served by registered mail
21 or personally upon any person to whom it is directed, and shall inform
22 the person or persons responsible of the process for requesting an
23 adjudicative hearing.

24 **Sec. 7042.** RCW 90.46.260 and 2009 c 456 s 13 are each amended to
25 read as follows:

26 Any person found guilty of willfully violating any of the
27 provisions of this chapter, or any final written orders or directive of
28 the ((~~lead-agency~~)) department or a court in pursuance thereof, is
29 guilty of a gross misdemeanor, and upon conviction thereof shall be
30 punished by a fine of up to ten thousand dollars and costs of
31 prosecution, or by imprisonment in the county jail for not more than
32 one year, or both, in the discretion of the court. Each day upon which
33 a willful violation of the provisions of this chapter occurs may be
34 deemed a separate and additional violation.

35 **Sec. 7043.** RCW 90.46.270 and 2009 c 456 s 14 are each amended to
36 read as follows:

1 (1) Except as provided in RCW 43.05.060 through 43.05.080,
2 43.05.100, 43.05.110, and 43.05.150, any person who:

3 (a) Generates any reclaimed water for a use regulated under this
4 chapter and distributes or uses that water without a permit;

5 (b) Violates the terms or conditions of a permit issued under this
6 chapter; or

7 (c) Violates rules or orders adopted or issued pursuant to this
8 chapter,

9 shall incur, in addition to any other penalty as provided by law, a
10 penalty in an amount of up to ten thousand dollars per day for every
11 violation. Each violation shall be a separate and distinct offense,
12 and in case of a continuing violation, every day's continuance shall be
13 a separate and distinct violation. Every act of commission or omission
14 which procures, aids, or abets in the violation shall be considered a
15 violation under the provisions of this section and subject to the
16 penalty herein provided for. The penalty amount shall be set in
17 consideration of the previous history of the violator and the severity
18 of the violation's impact on public health, the environment, or both,
19 in addition to other relevant factors.

20 (2) A penalty imposed by a final administrative order is due upon
21 service of the final administrative order. A person who fails to pay
22 a penalty assessed by a final administrative order within thirty days
23 of service of the final administrative order shall pay, in addition to
24 the amount of the penalty, interest at the rate of one percent of the
25 unpaid balance of the assessed penalty for each month or part of a
26 month that the penalty remains unpaid, commencing within the month in
27 which the notice of penalty was served, and reasonable attorneys' fees
28 as are incurred if civil enforcement of the final administrative order
29 is required to collect penalty.

30 (3) A person who institutes proceedings for judicial review of a
31 final administrative order assessing a civil penalty under this chapter
32 shall place the full amount of the penalty in an interest bearing
33 account in the registry of the reviewing court. At the conclusion of
34 the proceeding the court shall, as appropriate, enter a judgment on
35 behalf of the ((~~lead agency~~)) department and order that the judgment be
36 satisfied to the extent possible from moneys paid into the registry of
37 the court or shall enter a judgment in favor of the person appealing
38 the penalty assessment and order return of the moneys paid into the

1 registry of the court together with accrued interest to the person
2 appealing. The judgment may award reasonable attorneys' fees for the
3 cost of the attorney general's office in representing the ((lead
4 agency)) department.

5 (4) If no appeal is taken from a final administrative order
6 assessing a civil penalty under this chapter, the ((lead-agency))
7 department may file a certified copy of the final administrative order
8 with the clerk of the superior court in which the person resides, or in
9 Thurston county, and the clerk shall enter judgment in the name of the
10 ((lead-agency)) department and in the amount of the penalty assessed in
11 the final administrative order.

12 (5) ~~((When the penalty herein provided for is imposed by the
13 department of ecology, it))~~ The penalty shall be imposed pursuant to
14 the procedures set forth in RCW 43.21B.300. All penalties imposed by
15 the department ((of ecology)) pursuant to RCW 43.21B.300 shall be
16 deposited into the state treasury and credited to the general fund.

17 ~~((6) When the penalty is imposed by the department of health, it
18 shall be imposed pursuant to the procedures set forth in RCW 43.70.095.
19 All receipts from penalties shall be deposited into the health
20 reclaimed water account. The department of health shall use revenue
21 derived from penalties only to provide training and technical
22 assistance to reclaimed water system owners and operators.))~~

23 NEW SECTION. Sec. 7044. A new section is added to chapter 90.46
24 RCW to read as follows:

25 (1) The reclaimed water program is transferred from the department
26 of health to the department of ecology.

27 (2)(a) All reports, documents, surveys, books, records, files,
28 papers, or written material in the possession of the department of
29 health water reclaimed program shall be delivered to the custody of the
30 department of ecology. All cabinets, furniture, office equipment,
31 motor vehicles, and other tangible property employed by the department
32 of health water reclaimed program shall be transferred to the
33 department of ecology. All funds, credits, or other assets held by the
34 department of health water reclaimed program shall be assigned to the
35 department of ecology.

36 (b) Any appropriations made to the department of health for the

1 water reclaimed program shall be transferred and credited to the
2 department of ecology.

3 (c) If any question arises as to the transfer of any personnel,
4 funds, books, documents, records, papers, files, equipment, or other
5 tangible property used or held in the exercise of the powers and the
6 performance of the duties and functions transferred, the director of
7 financial management shall make a determination as to the proper
8 allocation and certify the same to the state agencies concerned.

9 (3) All employees of the department of health water reclaimed
10 program are transferred to the jurisdiction of the department of
11 ecology. All employees classified under chapter 41.06 RCW, the state
12 civil service law, are assigned to the department of ecology to perform
13 their usual duties upon the same terms as formerly, without any loss of
14 rights, subject to any action that may be appropriate thereafter in
15 accordance with the laws and rules governing state civil service.

16 (4) All rules and all pending business before the department of
17 health water reclaimed program shall be continued and acted upon by the
18 department of ecology. All existing contracts and obligations shall
19 remain in full force and shall be performed by the department of
20 ecology.

21 (5) The transfer of the powers, duties, functions, and personnel of
22 the department of health water reclaimed program to the department of
23 ecology under this act shall not affect the validity of any activity
24 performed before the effective date of this section or the effective
25 date of the consolidation.

26 (6) If apportionments of budgeted funds are required because of the
27 consolidation directed by this section, the director of financial
28 management shall certify the apportionments to the affected agencies,
29 the state auditor, and the state treasurer. Each of these shall make
30 the appropriate transfer and adjustments in funds and appropriation
31 accounts and equipment records in accordance with the certification.

32 (7) All classified employees of the department of health water
33 reclaimed program assigned to the department of ecology under this act
34 whose positions are within an existing bargaining unit description at
35 the department of ecology shall become a part of the existing
36 bargaining unit at the department of ecology and shall be considered an
37 appropriate inclusion or modification of the existing bargaining unit
38 under the provisions of chapter 41.80 RCW.

1 (2) "Low-level radioactive waste" means waste material that
2 contains radioactive nuclides emitting primarily beta or gamma
3 radiation, or both, in concentrations or quantities that exceed
4 applicable federal or state standards for unrestricted release. Low-
5 level waste does not include waste containing more than one hundred
6 nanocuries of transuranic contaminants per gram of material, nor spent
7 nuclear fuel, nor material classified as either high-level radioactive
8 waste or waste that is unsuited for disposal by near-surface burial
9 under any applicable federal regulations.

10 (3) "Radioactive waste" means both high-level and low-level
11 radioactive waste.

12 (4) "Spent nuclear fuel" means spent nuclear fuel as the term is
13 defined in 42 U.S.C. Sec. 10101.

14 (5) "Department" means the department of ecology.

15 (6) "Commercial low-level radioactive waste disposal facility" has
16 the same meaning as "facility" as defined in RCW 43.145.010.

17 **Sec. 7048.** RCW 43.200.080 and 2003 1st sp.s. c 21 s 1 are each
18 amended to read as follows:

19 The director of ecology shall, in addition to the powers and duties
20 otherwise imposed by law, have the following special powers and duties:

21 (1) To fulfill the responsibilities of the state under the lease
22 between the state of Washington and the federal government executed
23 September 10, 1964, as amended, covering approximately one (~~thousand~~)
24 hundred fifteen acres of land lying within the Hanford reservation near
25 Richland, Washington. The department of ecology may sublease to
26 private or public entities all or a portion of the land for specific
27 purposes or activities which are determined, after public hearing, to
28 be in agreement with the terms of the lease and in the best interests
29 of the citizens of the state consistent with any criteria that may be
30 developed as a requirement by the legislature;

31 (2) To assume the responsibilities of the state under the perpetual
32 care agreement between the state of Washington and the federal
33 government executed July 29, 1965, and the sublease between the state
34 of Washington and the site operator of the (~~Hanford~~) commercial low-
35 level radioactive waste disposal facility. In order to finance
36 perpetual surveillance and maintenance under the agreement and ensure
37 site closure under the sublease, the department of ecology shall impose

1 and collect fees from parties holding radioactive materials for waste
2 management purposes. The fees shall be established by rule adopted
3 under chapter 34.05 RCW and shall be an amount determined by the
4 department of ecology to be necessary to defray the estimated liability
5 of the state. Such fees shall reflect equity between the disposal
6 facilities of this and other states. A site closure account and a
7 perpetual surveillance and maintenance account ~~((is))~~ are hereby
8 created in the state treasury. Site use permit fees collected by the
9 department of health under RCW 70.98.085(3) must be deposited in the
10 site closure account and must be used as specified in RCW 70.98.085(3).
11 Funds in the site closure account other than site use permit fee funds
12 shall be exclusively available to reimburse, to the extent that moneys
13 are available in the account, the site operator for its costs plus a
14 reasonable profit as agreed by the operator and the state, or to
15 reimburse the state licensing agency and any agencies under contract to
16 the state licensing agency for their costs in final closure and
17 decommissioning of the ~~((Hanford))~~ commercial low-level radioactive
18 waste disposal facility. If a balance remains in the account after
19 satisfactory performance of closure and decommissioning, this balance
20 shall be transferred to the perpetual surveillance and maintenance
21 account. The perpetual surveillance and maintenance account shall be
22 used exclusively by the state to meet post-closure surveillance and
23 maintenance costs, or for otherwise satisfying surveillance and
24 maintenance obligations. Appropriations are required to permit
25 expenditures and payment of obligations from the site closure account
26 and the perpetual surveillance and maintenance account. ~~((All moneys,~~
27 ~~including earnings from the investment of balances in the site closure~~
28 ~~and the perpetual surveillance and maintenance account, less the~~
29 ~~allocation to the state treasurer's service fund, pursuant to RCW~~
30 ~~43.08.190 accruing under the authority of this section shall be~~
31 ~~directed to the site closure account until December 31, 1992.~~
32 ~~Thereafter receipts including earnings from the investment of balances~~
33 ~~in the site closure and the perpetual surveillance and maintenance~~
34 ~~account, less the allocation to the state treasurer's service fund,~~
35 ~~pursuant to RCW 43.08.190))~~ Receipts shall be directed to the site
36 closure account and the perpetual surveillance and maintenance account
37 as specified by the department. Additional moneys specifically
38 appropriated by the legislature or received from any public or private

1 source may be placed in the site closure account and the perpetual
2 surveillance and maintenance account. During the 2003-2005 fiscal
3 biennium, the legislature may transfer up to thirteen million eight
4 hundred thousand dollars from the site closure account to the general
5 fund;

6 (3)(a) Subject to the conditions in (b) of this subsection, on July
7 1, 2008, and each July 1st thereafter, the treasurer shall transfer
8 from the perpetual surveillance and maintenance account to the site
9 closure account the sum of nine hundred sixty-six thousand dollars.
10 The nine hundred sixty-six thousand dollars transferred on July 1,
11 2009, and thereafter shall be adjusted to a level equal to the
12 percentage increase in the United States implicit price deflator for
13 personal consumption. The last transfer under this section shall occur
14 on July 1, 2033.

15 (b) The transfer in (a) of this subsection shall occur only if
16 written agreement is reached between the state department of ecology
17 and the United States department of energy pursuant to section 6 of the
18 perpetual care agreement dated July 29, 1965, between the United States
19 atomic energy commission and the state of Washington. If agreement
20 cannot be reached between the state department of ecology and the
21 United States department of energy by June 1, 2008, the treasurer shall
22 transfer the funds from the general fund to the site closure account
23 according to the schedule in (a) of this subsection.

24 (c) If for any reason the ((Hanford)) commercial low-level
25 radioactive waste disposal facility is closed to further disposal
26 operations during or after the 2003-2005 biennium and before 2033, then
27 the amount remaining to be repaid from the 2003-2005 transfer of
28 thirteen million eight hundred thousand dollars from the site closure
29 account shall be transferred by the treasurer from the general fund to
30 the site closure account to fund the closure and decommissioning of the
31 facility. The treasurer shall transfer to the site closure account in
32 full the amount remaining to be repaid upon written notice from the
33 secretary of health that the department of health has authorized
34 closure or that disposal operations have ceased. The treasurer shall
35 complete the transfer within sixty days of written notice from the
36 secretary of health.

37 (d) To the extent that money in the site closure account together
38 with the amount of money identified for repayment to the site closure

1 account, pursuant to (a) through (c) of this subsection, equals or
2 exceeds the cost estimate approved by the department of health for
3 closure and decommissioning of the facility, the money in the site
4 closure account together with the amount of money identified for
5 repayment to the site closure account shall constitute adequate
6 financial assurance for purposes of the department of health financial
7 assurance requirements;

8 (4) To assure maintenance of such insurance coverage by state
9 licensees, lessees, or sublessees as will adequately, in the opinion of
10 the director, protect the citizens of the state against nuclear
11 accidents or incidents that may occur on privately or state-controlled
12 nuclear facilities;

13 ~~(5) ((To institute a user permit system and issue site use permits,~~
14 ~~consistent with regulatory practices, for generators, packagers, or~~
15 ~~brokers using the Hanford low level radioactive waste disposal~~
16 ~~facility. The costs of administering the user permit system shall be~~
17 ~~borne by the applicants for site use permits. The site use permit fee~~
18 ~~shall be set at a level that is sufficient to fund completely the~~
19 ~~executive and legislative participation in activities related to the~~
20 ~~Northwest Interstate Compact on Low Level Radioactive Waste Management;~~

21 ~~(6))~~ To make application for or otherwise pursue any federal funds
22 to which the state may be eligible, through the federal resource
23 conservation and recovery act or any other federal programs, for the
24 management, treatment or disposal, and any remedial actions, of wastes
25 that are both radioactive and hazardous at all ((Hanford)) commercial
26 low-level radioactive waste disposal facilities; and

27 ((+7)) (6) To develop contingency plans for duties and options for
28 the department and other state agencies related to the ((Hanford))
29 commercial low-level radioactive waste disposal facility based on
30 various projections of annual levels of waste disposal. These plans
31 shall include an analysis of expected revenue to the state in various
32 taxes and funds related to low-level radioactive waste disposal and the
33 resulting implications that any increase or decrease in revenue may
34 have on state agency duties or responsibilities. The plans shall be
35 updated annually.

36 **Sec. 7049.** RCW 43.200.170 and 1990 c 21 s 3 are each amended to
37 read as follows:

1 The governor may assess surcharges and penalty surcharges on the
2 disposal of waste at the ((Hanford)) commercial low-level radioactive
3 waste disposal facility. The surcharges may be imposed up to the
4 maximum extent permitted by federal law. Ten dollars per cubic foot of
5 the moneys received under this section shall be transmitted monthly to
6 the site closure account established under RCW 43.200.080. The rest of
7 the moneys received under this section shall be deposited in the
8 general fund.

9 **Sec. 7050.** RCW 43.200.180 and 1998 c 245 s 81 are each amended to
10 read as follows:

11 Except as provided in chapter 70.98 RCW, the department of ecology
12 shall be the state agency responsible for implementation of the federal
13 low-level radioactive waste policy amendments act of 1985, including:

14 (1) Collecting and administering the surcharge assessed by the
15 governor under RCW 43.200.170;

16 (2) Collecting low-level radioactive waste data from disposal
17 facility operators, generators, intermediate handlers, and the federal
18 department of energy;

19 (3) Developing and operating a computerized information system to
20 manage low-level radioactive waste data;

21 (4) Denying and reinstating access to the ((Hanford)) commercial
22 low-level radioactive waste disposal facility pursuant to the authority
23 granted under federal law;

24 (5) Administering and/or monitoring (a) the maximum waste volume
25 levels for the ((Hanford)) commercial low-level radioactive waste
26 disposal facility, (b) reactor waste allocations, (c) priority
27 allocations under the Northwest Interstate Compact on Low-Level
28 Radioactive Waste Management, and (d) adherence by other states and
29 compact regions to federal statutory deadlines; and

30 (6) Coordinating the state's low-level radioactive waste disposal
31 program with similar programs in other states.

32 **Sec. 7051.** RCW 43.200.190 and 1998 c 245 s 82 are each amended to
33 read as follows:

34 The department of ecology shall perform studies, by contract or
35 otherwise, to define site closure and perpetual care and maintenance
36 requirements for the ((Hanford)) commercial low-level radioactive waste

1 disposal facility and to assess the adequacy of insurance coverage for
2 general liability, radiological liability, and transportation liability
3 for the facility.

4 **Sec. 7052.** RCW 43.200.200 and 1998 c 245 s 83 are each amended to
5 read as follows:

6 (1) The director of the department of ecology (~~shall~~) may
7 periodically review the potential for bodily injury and property damage
8 arising from the transportation and disposal of commercial low-level
9 radioactive waste under permits issued by the state.

10 ~~(2) ((The director may require permit holders to demonstrate
11 financial assurance in an amount that is adequate to protect the state
12 and its citizens from all claims, suits, losses, damages, or expenses
13 on account of injuries to persons and property damage arising or
14 growing out of the transportation or disposal of commercial low-level
15 radioactive waste. The financial assurance may be in the form of
16 insurance, cash deposits, surety bonds, corporate guarantees, and other
17 acceptable instruments or guarantees determined by the director to be
18 acceptable evidence of financial assurance.~~

19 ~~(3))~~ In making the determination of the appropriate level of
20 financial assurance, the director shall consider:

21 (a) The nature and purpose of the activity and its potential for
22 injury and damages to or claims against the state and its citizens;

23 (b) The current and cumulative manifested volume and radioactivity
24 of waste being packaged, transported, buried, or otherwise handled;

25 (c) The location where the waste is being packaged, transported,
26 buried, or otherwise handled, including the proximity to the general
27 public and geographic features such as geology and hydrology, if
28 relevant; and

29 (d) The legal defense cost, if any, that will be paid from the
30 required financial assurance amount.

31 ~~((4) The director may establish different levels of required
32 financial assurance for various classes of permit holders.~~

33 ~~(5) The director shall establish by rule the instruments or
34 mechanisms by which a permit applicant or holder may demonstrate
35 financial assurance as required by RCW 43.200.210.)~~

1 **Sec. 7053.** RCW 43.200.230 and 1991 c 272 s 16 are each amended to
2 read as follows:

3 The director of the department of ecology shall require that
4 generators of waste pay a fee for each cubic foot of waste disposed at
5 any facility in the state equal to six dollars and fifty cents. The
6 fee shall be imposed specifically on the generator of the waste and
7 shall not be considered to apply in any way to the low-level site
8 operator's disposal activities. The fee shall be allocated in
9 accordance with RCW 43.200.233 and 43.200.235. (~~This subsection shall~~
10 ~~be invalidated and the authorization to collect a surcharge removed if~~
11 ~~the legislature or any administrative agency of the state of Washington~~
12 ~~prior to January 1, 1993, (1) imposes fees, assessments, or charges~~
13 ~~other than perpetual care and maintenance, site surveillance, and site~~
14 ~~closing fees currently applicable to the Hanford commercial low-level~~
15 ~~waste site operator's activities, (2) imposes any additional fees,~~
16 ~~assessments, or charges on generators using the Hanford commercial low-~~
17 ~~level waste site, or (3) increases any existing fees, assessments, or~~
18 ~~charges.)) Failure to comply with this section may result in denial or
19 suspension of the generator's site use permit pursuant to RCW
20 70.98.085.~~

21 **Sec. 7054.** RCW 70.98.030 and 1991 c 3 s 355 are each amended to
22 read as follows:

23 (1) "By-product material" means any radioactive material (except
24 special nuclear material) yielded in or made radioactive by exposure to
25 the radiation incident to the process of producing or utilizing special
26 nuclear material.

27 (2) "Ionizing radiation" means gamma rays and x-rays, alpha and
28 beta particles, high-speed electrons, neutrons, protons, and other
29 atomic or subatomic particles; but not sound or radio waves, or
30 visible, infrared, or ultraviolet light.

31 (3)(a) "General license" means a license effective pursuant to
32 rules promulgated by the state radiation control agency, without the
33 filing of an application, to transfer, acquire, own, possess, or use
34 quantities of, or devices or equipment utilizing, by-product, source,
35 special nuclear materials, or other radioactive material occurring
36 naturally or produced artificially.

1 (b) "Specific license" means a license, issued after application to
2 use, manufacture, produce, transfer, receive, acquire, own, or possess
3 quantities of, or devices or equipment utilizing by-product, source,
4 special nuclear materials, or other radioactive materials occurring
5 naturally or produced artificially.

6 (4) "Person" means any individual, corporation, partnership, firm,
7 association, trust, estate, public or private institution, group,
8 agency, political subdivision of this state, any other state or
9 political subdivision or agency thereof, and any legal successor,
10 representative, agent, or agency of the foregoing, other than the
11 United States Atomic Energy Commission, or any successor thereto, and
12 other than federal government agencies licensed by the United States
13 Atomic Energy Commission, or any successor thereto.

14 (5) "Source material" means (a) uranium, thorium, or any other
15 material which is determined by the United States Nuclear Regulatory
16 Commission or its successor pursuant to the provisions of section 61 of
17 the United States Atomic Energy Act of 1954, as amended (42 U.S.C. Sec.
18 209) to be source material; or (b) ores containing one or more of the
19 foregoing materials, in such concentration as the commission may by
20 regulation determine from time to time.

21 (6) "Special nuclear material" means (a) plutonium, uranium
22 enriched in the isotope 233 or in the isotope 235, and any other
23 material which the United States Nuclear Regulatory Commission or its
24 successor, pursuant to the provisions of section 51 of the United
25 States Atomic Energy Act of 1954, as amended (42 U.S.C. Sec. 2071),
26 determines to be special nuclear material, but does not include source
27 material; or (b) any material artificially enriched by any of the
28 foregoing, but does not include source material.

29 (7) "Registration" means registration with the state department of
30 health by any person possessing a source of ionizing radiation in
31 accordance with rules adopted by the department of health.

32 (8) "Radiation source" means any type of device or substance which
33 is capable of producing or emitting ionizing radiation.

34 (9) "Site use permit" means a permit, issued after application, to
35 use the commercial low-level radioactive waste disposal facility.

36 **Sec. 7055.** RCW 70.98.085 and 1990 c 21 s 7 are each amended to
37 read as follows:

1 (1) The agency is empowered to administer a user permit system and
2 issue site use permits for generators, packagers, or brokers to use the
3 commercial low-level radioactive waste disposal facility. The agency
4 may issue a site use permit consistent with the requirements of this
5 chapter and the rules adopted under it and the requirements of the
6 Northwest Interstate Compact on Low-Level Radioactive Waste Management
7 under chapter 43.145 RCW. The agency may deny an application for a
8 site use permit or modify, suspend ((and reinstate)), or revoke a site
9 use permit((s consistent with current regulatory practices and in
10 coordination with the department of ecology, for generators, packagers,
11 or brokers using the Hanford low-level radioactive waste disposal
12 facility)) in any case in which it finds that the permit was obtained
13 by fraud or there is or has been a failure, refusal, or inability to
14 comply with the requirements of this chapter or rules adopted under
15 this chapter or the requirements of the Northwest Interstate Compact on
16 Low-Level Radioactive Waste Management under chapter 43.145 RCW. The
17 agency may also deny or suspend a site use permit for failure to comply
18 with RCW 43.200.230.

19 (2) Any permit issued by the department of ecology for a site use
20 permit pursuant to chapter 43.200 RCW is valid until the first
21 expiration date that occurs after July 1, 2012.

22 (3) The agency shall collect a fee from the applicants for site use
23 permits that is sufficient to fund the costs to the agency to
24 administer the user permit system. The site use permit fee must be set
25 at a level that is also sufficient to fund state participation in
26 activities related to the Northwest Interstate Compact on Low-Level
27 Radioactive Waste Management under chapter 43.145 RCW. The site use
28 permit fees must be deposited in the site closure account established
29 in RCW 43.200.080(2). Appropriations to the department of health or
30 the department of ecology are required to permit expenditures using
31 site use permit fee funds from the site closure account.

32 (4) The agency shall collect a surveillance fee as an added charge
33 on each cubic foot of low-level radioactive waste disposed of at the
34 commercial low-level radioactive waste disposal site in this state
35 which shall be set at a level that is sufficient to fund completely the
36 radiation control activities of the agency directly related to the
37 disposal site, including but not limited to the management, licensing,
38 monitoring, and regulation of the site. ((The surveillance fee shall

1 ~~not exceed five percent in 1990, six percent in 1991, and seven percent~~
2 ~~in 1992 of the basic minimum fee charged by an operator of a low-level~~
3 ~~radioactive waste disposal site in this state. The basic minimum fee~~
4 ~~consists of the disposal fee for the site operator, the fee for the~~
5 ~~perpetual care and maintenance fund administered by the state, the fee~~
6 ~~for the state closure fund, and the tax collected pursuant to chapter~~
7 ~~82.04 RCW. Site use permit fees and surcharges collected under chapter~~
8 ~~43.200 RCW are not part of the basic minimum fee.))~~ The fee shall also
9 provide funds to the Washington state patrol for costs incurred from
10 inspection of low-level radioactive waste shipments entering this
11 state. Disbursements for this purpose shall be by authorization of the
12 secretary of the department of health or the secretary's designee.

13 (5) The agency shall require that any person who holds or applies
14 for a permit under this chapter indemnify and hold harmless the state
15 from claims, suits, damages, or expenses on account of injuries to or
16 death of persons and property damage, arising or growing out of any
17 operations and activities for which the person holds the permit, and
18 any necessary or incidental operations.

19 (6) The agency may adopt such rules as are necessary to carry out
20 its responsibilities under this section.

21 **Sec. 7056.** RCW 70.98.095 and 1992 c 61 s 3 are each amended to
22 read as follows:

23 (1) The radiation control agency may require any person who
24 applies for, or holds, a license under this chapter to demonstrate that
25 the person has financial assurance sufficient to assure that liability
26 incurred as a result of licensed operations and activities can be fully
27 satisfied. Financial assurance may be in the form of insurance, cash
28 deposits, surety bonds, corporate guarantees, letters of credit, or
29 other financial instruments or guarantees determined by the agency to
30 be acceptable financial assurance. The agency may require financial
31 assurance in an amount determined by the secretary pursuant to RCW
32 70.98.098.

33 (2) The radiation control agency may require site use permit
34 holders to demonstrate financial assurance in an amount that is
35 adequate to protect the state and its citizens from all claims, suits,
36 losses, damages, or expenses on account of injuries to persons and
37 property damage arising or growing out of the transportation or

1 disposal of commercial low-level radioactive waste. The financial
2 assurance may be in the form of insurance, cash deposits, surety bonds,
3 corporate guarantees, and other acceptable instruments or guarantees
4 determined by the director to be acceptable evidence of financial
5 assurance. The agency may require financial assurance in an amount
6 determined by the secretary pursuant to RCW 70.98.098.

7 (3) The radiation control agency shall refuse to issue a license or
8 permit or suspend the license or permit of any person required by this
9 section to demonstrate financial assurance who fails to demonstrate
10 compliance with this section. The license or permit shall not be
11 issued or reinstated until the person demonstrates compliance with this
12 section.

13 ((+3)) (4) The radiation control agency shall require (a) that any
14 person required to demonstrate financial assurance, maintain with the
15 agency current copies of any insurance policies, certificates of
16 insurance, letters of credit, surety bonds, or any other documents used
17 to comply with this section, (b) that the agency be notified of any
18 changes in the financial assurance or financial condition of the
19 person, and (c) that the state be named as an insured party on any
20 insurance policy used to comply with this section.

21 **Sec. 7057.** RCW 70.98.098 and 2003 1st sp.s. c 21 s 2 are each
22 amended to read as follows:

23 (1) In making the determination of the appropriate level of
24 financial assurance, the secretary shall consider: (a) ((The)) Any
25 report prepared by the department of ecology pursuant to RCW
26 43.200.200; (b) the potential cost of decontamination, treatment,
27 disposal, decommissioning, and cleanup of facilities or equipment; (c)
28 federal cleanup and decommissioning requirements; and (d) the legal
29 defense cost, if any, that might be paid from the required financial
30 assurance.

31 (2) The secretary may establish different levels of required
32 financial assurance for various classes of permit or license holders.

33 (3) The secretary shall establish by rule the instruments or
34 mechanisms by which a person may demonstrate financial assurance as
35 required by RCW 70.98.095.

36 (4) To the extent that money in the site closure account together
37 with the amount of money identified for repayment to the site closure

1 account pursuant to RCW 43.200.080 equals or exceeds the cost estimate
2 approved by the department of health for closure and decommissioning of
3 the ((Hanford)) commercial low-level radioactive waste disposal
4 facility, the money in the site closure account together with the
5 amount of money identified for repayment to the site closure account
6 shall constitute adequate financial assurance for purposes of the
7 department of health financial assurance requirements under RCW
8 70.98.095.

9 **Sec. 7058.** RCW 70.98.130 and 1989 c 175 s 133 are each amended to
10 read as follows:

11 (1) In any proceeding under this chapter for the issuance or
12 modification or repeal of rules relating to control of sources of
13 ionizing radiation, the agency shall comply with the requirements of
14 chapter 34.05 RCW, the administrative procedure act.

15 (2) Notwithstanding any other provision of this chapter, whenever
16 the agency finds that an emergency exists requiring immediate action to
17 protect the public health, safety, or general welfare, the agency may,
18 in accordance with RCW 34.05.350 without notice or hearing, adopt a
19 rule reciting the existence of such emergency and require that such
20 action be taken as is necessary to meet the emergency. As specified in
21 RCW 34.05.350, such rules are effective immediately.

22 (3) In any case in which the department denies, modifies, suspends,
23 or revokes a license or permit, RCW 43.70.115 governs notice of the
24 action and provides the right to an adjudicative proceeding to the
25 applicant or licensee or permittee. Such an adjudicative proceeding is
26 governed by chapter 34.05 RCW.

27 NEW SECTION. Sec. 7059. A new section is added to chapter 70.98
28 RCW to read as follows:

29 The agency shall adopt rules for administering a site use permit
30 program under RCW 70.98.085.

31 NEW SECTION. Sec. 7060. A new section is added to chapter 43.200
32 RCW to read as follows:

33 (1) The site use permit program is transferred from the department
34 of ecology to the department of health.

1 (2)(a) All reports, documents, surveys, books, records, files,
2 papers, or written material in the possession of the department of
3 ecology site use permit program shall be delivered to the custody of
4 the department of health. All cabinets, furniture, office equipment,
5 motor vehicles, and other tangible property employed by the department
6 of ecology site use permit program shall be transferred to the
7 department of health. All funds, credits, or other assets held by the
8 department of ecology site use permit program shall be assigned to the
9 department of health.

10 (b) Any appropriations made to the department of ecology for the
11 site use permit program shall be transferred and credited to the
12 department of health.

13 (c) If any question arises as to the transfer of any personnel,
14 funds, books, documents, records, papers, files, equipment, or other
15 tangible property used or held in the exercise of the powers and the
16 performance of the duties and functions transferred, the director of
17 financial management shall make a determination as to the proper
18 allocation and certify the same to the state agencies concerned.

19 (3) All employees of the department of ecology site use permit
20 program are transferred to the jurisdiction of the department of
21 health. All employees classified under chapter 41.06 RCW, the state
22 civil service law, are assigned to the department of health to perform
23 their usual duties upon the same terms as formerly, without any loss of
24 rights, subject to any action that may be appropriate thereafter in
25 accordance with the laws and rules governing state civil service.

26 (4) All rules and all pending business before the department of
27 ecology site use permit program shall be continued and acted upon by
28 the department of health. All existing contracts and obligations shall
29 remain in full force and shall be performed by the department of
30 health.

31 (5) The transfer of the powers, duties, functions, and personnel of
32 the department of ecology site use permit program to the department of
33 health under this act shall not affect the validity of any activity
34 performed before the effective date of this section or the effective
35 date of the consolidation.

36 (6) If apportionments of budgeted funds are required because of the
37 consolidation directed by this section, the director of financial
38 management shall certify the apportionments to the affected agencies,

1 the state auditor, and the state treasurer. Each of these shall make
2 the appropriate transfer and adjustments in funds and appropriation
3 accounts and equipment records in accordance with the certification.

4 (7) All classified employees of the department of ecology site use
5 permit program assigned to the department of health under this act
6 whose positions are within an existing bargaining unit description at
7 the department of health shall become a part of the existing bargaining
8 unit at the department of health and shall be considered an appropriate
9 inclusion or modification of the existing bargaining unit under the
10 provisions of chapter 41.80 RCW.

11 NEW SECTION. **Sec. 7061.** RCW 43.200.210 (Immunity of state--
12 Demonstration of financial assurance--Suspension of permit) and 1992 c
13 61 s 2, 1990 c 82 s 2, & 1986 c 191 s 2 are each repealed.

14 **SUBPART E**
15 **ADMINISTRATIVE PROVISIONS**

16 NEW SECTION. **Sec. 7062.** (1) On the effective date of this
17 section, the secretary of health and the directors of the department of
18 ecology, the pollution liability insurance agency, and the Columbia
19 river gorge commission must each designate one executive-level
20 representative to serve on a consolidation transition team. This team
21 must, with the assistance of their agencies, develop the following work
22 products:

23 (a) A consolidation transition team report, to be submitted to the
24 office of financial management and the legislature by August 1, 2011.
25 This report must, at a minimum, detail all legislative and fiscal
26 changes necessary for the successful implementation of this
27 consolidation and identify expected costs and savings associated with
28 the consolidation.

29 (b) A supplemental budget request, if necessary, for consideration
30 during the 2012 legislative session. This request must encompass any
31 necessary budgetary and legislative changes for the agencies affected
32 by this consolidation, and be submitted to the office of financial
33 management by September 1, 2011.

34 (c) A second consolidation transition team report, to be submitted
35 to the director of ecology by July 1, 2012. This report must, at a

1 minimum, detail all additional legislative and fiscal changes necessary
2 for the successful implementation of this agency consolidation and
3 identify expected costs and savings associated with the consolidation.

4 (2) This section applies to the consolidation directed pursuant to
5 sections 7001 through 7061 of this act.

6 NEW SECTION. **Sec. 7063.** The consolidation directed pursuant to
7 sections 7001 through 7062 of this act takes effect July 1, 2012.

1 PART 8

2 MERGING THE DEPARTMENT OF ARCHAEOLOGY AND HISTORIC
3 PRESERVATION INTO THE DEPARTMENT OF NATURAL RESOURCES

4 Sec. 8001. RCW 43.334.010 and 2005 c 333 s 1 are each amended to
5 read as follows:

6 (1) There is created (~~(a department of state government)~~) an office
7 within the department of natural resources to be known as the
8 (~~department~~) office of archaeology and historic preservation. The
9 (~~department~~) office is vested with all powers and duties transferred
10 to it under this chapter and such other powers and duties as may be
11 authorized by law.

12 (2) Unless the context clearly requires otherwise, the definitions
13 in this section apply throughout this chapter.

14 (a) "Commissioner" means the commissioner of public lands, who is
15 the administrator of the department of natural resources.

16 (b) "Department" means the department of (~~archaeology and historic~~
17 ~~preservation~~) natural resources.

18 (~~((b) "Director" means the director of the department of~~
19 ~~archaeology and historic preservation.))~~)

20 (c) "Office" means the office of archaeology and historic
21 preservation.

22 (d) "Preservation officer" means the state historic preservation
23 officer as provided for in RCW 43.334.020.

24 (e) "Supervisor" means the supervisor of the department of natural
25 resources, appointed by the administrator with the advice and consent
26 of the board of natural resources.

27 Sec. 8002. RCW 43.334.020 and 2005 c 333 s 2 are each amended to
28 read as follows:

29 (~~(The executive head and appointing authority of the department is~~
30 ~~the director.))~~) The (~~director~~) governor shall (~~(serve as)~~) appoint
31 the state historic preservation officer(~~(, and)~~) subject to the
32 approval of the commissioner. The commissioner shall provide the
33 governor with a list of candidates for consideration as the state
34 historic preservation officer. The preservation officer shall report
35 directly to the commissioner. The preservation officer shall have a

1 background in program administration, an active involvement in historic
2 preservation, and a knowledge of the national, state, and local
3 preservation programs as they affect the state of Washington. ((The
4 director shall be appointed by the governor, with the consent of the
5 senate, and serves at the pleasure of the governor. The director shall
6 be paid a salary to be fixed by the governor in accordance with RCW
7 43.03.040. If a vacancy occurs in the position while the senate is not
8 in session, the governor shall make a temporary appointment until the
9 next meeting of the senate.))

10 **Sec. 8003.** RCW 43.334.060 and 2005 c 333 s 6 are each amended to
11 read as follows:

12 (1) The preservation officer shall supervise the operations of the
13 office of archaeology and historic preservation.

14 (2) Any power or duty vested in or transferred to the ((director))
15 preservation officer by law or executive order may be delegated by the
16 ((director to the deputy director or)) preservation officer to any
17 other assistant or subordinate; but the ((director)) preservation
18 officer is responsible for the official acts of the officers and
19 employees of the ((department)) office.

20 **Sec. 8004.** RCW 43.334.070 and 2005 c 333 s 7 are each amended to
21 read as follows:

22 The ((director)) commissioner may appoint advisory committees or
23 councils as required by any federal legislation as a condition to the
24 receipt of federal funds by the ((department)) office based on
25 nominations by the preservation officer. The ((director)) commissioner
26 may also appoint statewide committees or councils on those subject
27 matters as are or come within the ((department's)) office's
28 responsibilities based on nominations by the preservation officer. The
29 statewide committees and councils shall have representation from both
30 major political parties and shall have substantial consumer
31 representation. The committees or councils shall be constituted as
32 required by federal law or as the ((director)) commissioner may
33 determine. The members of the committees or councils shall hold office
34 as follows: One-third to serve one year; one-third to serve two years;
35 and one-third to serve three years. Upon expiration of the original
36 terms, subsequent appointments shall be for three years except in the

1 case of a vacancy, in which event appointment shall be only for the
2 remainder of the unexpired term for which the vacancy occurs. No
3 member may serve more than two consecutive terms.

4 Members of such state advisory committees or councils may be paid
5 their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

6 **Sec. 8005.** RCW 43.334.075 and 2008 c 275 s 4 are each amended to
7 read as follows:

8 (1) The ((~~director~~)) preservation officer shall appoint a state
9 physical anthropologist. At a minimum, the state physical
10 anthropologist must have a doctorate in either archaeology or
11 anthropology and have experience in forensic osteology or other
12 relevant aspects of physical anthropology and must have at least one
13 year of experience in laboratory reconstruction and analysis. A
14 medical degree with archaeological experience in addition to the
15 experience required may substitute for a doctorate in archaeology or
16 anthropology.

17 (2) The state physical anthropologist has the primary
18 responsibility of investigating, preserving, and, when necessary,
19 removing and reintering discoveries of nonforensic skeletal human
20 remains. The state physical anthropologist is available to any local
21 governments or any federally recognized tribal government within the
22 boundaries of Washington to assist in determining whether discovered
23 skeletal human remains are forensic or nonforensic.

24 (3) The ((~~director~~)) preservation officer shall hire staff as
25 necessary to support the state physical anthropologist to meet the
26 objectives of this section.

27 (4) For the purposes of this section, "forensic remains" are those
28 that come under the jurisdiction of the coroner pursuant to RCW
29 68.50.010.

30 **Sec. 8006.** RCW 43.334.077 and 2008 c 275 s 7 are each amended to
31 read as follows:

32 The skeletal human remains assistance account is created in the
33 custody of the state treasurer. All appropriations provided by the
34 legislature for this purpose as well as any reimbursement for services
35 provided pursuant to chapter 275, Laws of 2008 must be deposited in the
36 account. Expenditures from the account may be used only for

1 archaeological determinations and excavations of inadvertently
2 discovered skeletal human remains, and removal and reinterment of such
3 remains when necessary. Only the ~~((director or the director's))~~
4 commissioner, preservation officer, or preservation officer's designee
5 may authorize expenditures from the account. The account is subject to
6 the allotment procedures under chapter 43.88 RCW, but an appropriation
7 is not required for expenditures.

8 **Sec. 8007.** RCW 43.334.080 and 2005 c 333 s 8 are each amended to
9 read as follows:

10 In furtherance of the policy of the state to cooperate with the
11 federal government in all of the programs under the jurisdiction of the
12 ~~((department))~~ office, rules as may become necessary to entitle the
13 state to participate in federal funds may be adopted, unless expressly
14 prohibited by law. Any internal reorganization carried out under the
15 terms of this chapter shall meet federal requirements that are a
16 necessary condition to state receipt of federal funds. Any section or
17 provision of law dealing with the ~~((department))~~ office that may be
18 susceptible to more than one construction shall be interpreted in favor
19 of the construction most likely to comply with federal laws entitling
20 this state to receive federal funds for the various programs of the
21 ~~((department))~~ office. If any law dealing with the ~~((department))~~
22 office is ruled to be in conflict with federal requirements that are a
23 prescribed condition of the allocation of federal funds to the state,
24 or to any departments or agencies thereof, the conflicting part is
25 declared to be inoperative solely to the extent of the conflict.

26 **Sec. 8008.** RCW 27.34.020 and 2007 c 333 s 5 are each amended to
27 read as follows:

28 Unless the context clearly requires otherwise, the definitions in
29 this section apply throughout this chapter:

30 (1) "Advisory council" means the advisory council on historic
31 preservation.

32 (2) ~~(("Department"))~~ "Office" means the ~~((department))~~ office of
33 archaeology and historic preservation.

34 (3) ~~(("Director"))~~ "Commissioner" means the ~~((director of the
35 department of archaeology and historic preservation))~~ commissioner of
36 public lands.

1 (4) "Federal act" means the national historic preservation act of
2 1966 (Public Law 89-655; 80 Stat. 915).

3 (5) "Heritage barn" means any large agricultural outbuilding used
4 to house animals, crops, or farm equipment, that is over fifty years
5 old and has been determined by the department to: (a) Be eligible for
6 listing on the Washington heritage register or the national register of
7 historic places; or (b) have been listed on a local historic register
8 and approved by the advisory council. In addition to barns, "heritage
9 barn" includes agricultural resources such as milk houses, sheds,
10 silos, or other outbuildings, that are historically associated with the
11 working life of the farm or ranch, if these outbuildings are on the
12 same property as a heritage barn.

13 (~~(6) ("Heritage council" means the Washington state heritage~~
14 ~~council.~~

15 ~~(7))~~ "Historic preservation" includes the protection,
16 rehabilitation, restoration, identification, scientific excavation, and
17 reconstruction of districts, sites, buildings, structures, and objects
18 significant in American and Washington state history, architecture,
19 archaeology, or culture.

20 ~~((8))~~ (7) "Preservation officer" means the state historic
21 preservation officer as provided for in RCW 43.334.020.

22 ~~((9))~~ (8) "Project" means programs leading to the preservation
23 for public benefit of historical properties, whether by state and local
24 governments or other public bodies, or private organizations or
25 individuals, including the acquisition of title or interests in, and
26 the development of, any district, site, building, structure, or object
27 that is significant in American and Washington state history,
28 architecture, archaeology, or culture, and property used in connection
29 therewith, or for its development.

30 ~~((10))~~ (9) "State historical agencies" means the state historical
31 societies and the ~~((department))~~ office.

32 ~~((11))~~ (10) "State historical societies" means the Washington
33 state historical society and the eastern Washington state historical
34 society.

35 ~~((12))~~ (11) "Cultural resource management plan" means a
36 comprehensive plan which identifies and organizes information on the
37 state of Washington's historic, archaeological, and architectural

1 resources into a set of management criteria, and which is to be used
2 for producing reliable decisions, recommendations, and advice relative
3 to the identification, evaluation, and protection of these resources.

4 **Sec. 8009.** RCW 27.34.220 and 1997 c 145 s 1 are each amended to
5 read as follows:

6 The (~~director or the director's~~) preservation officer or
7 preservation officer's designee is authorized:

8 (1) To promulgate and maintain the Washington heritage register of
9 districts, sites, buildings, structures, and objects significant in
10 American or Washington state history, architecture, archaeology, and
11 culture, and to prepare comprehensive statewide historic surveys and
12 plans and research and evaluation of surveyed resources for the
13 preparation of nominations to the Washington heritage register and the
14 national register of historic places, in accordance with criteria
15 approved by the advisory council established under RCW 27.34.250.
16 Nominations to the national register of historic places shall comply
17 with any standards and regulations promulgated by the United States
18 secretary of the interior for the preservation, acquisition, and
19 development of such properties. Nominations to the Washington heritage
20 register shall comply with rules adopted under this chapter.

21 (2) To establish a program of matching grants-in-aid to public
22 agencies, public or private organizations, or individuals for projects
23 having as their purpose the preservation for public benefit of
24 properties that are significant in American or Washington state
25 history, architecture, archaeology, and culture.

26 (3) To promote historic preservation efforts throughout the state,
27 including private efforts and those of city, county, and state
28 agencies.

29 (4) To enhance the effectiveness of the state preservation program
30 through the initiation of legislation, the use of varied funding
31 sources, the creation of special purpose programs, and contact with
32 state, county, and city officials, civic groups, and professionals.

33 (5) To spend funds, subject to legislative appropriation and the
34 availability of funds, where necessary to assist the Indian tribes of
35 Washington state in removing prehistoric human remains for scientific
36 examination and reburial, if the human remains have been unearthed

1 inadvertently or through vandalism and if no other public agency is
2 legally responsible for their preservation.

3 (6) To consult with the governor and the legislature on issues
4 relating to the conservation of the man-made environment and their
5 impact on the well-being of the state and its citizens.

6 (7) To charge fees for professional and clerical services provided
7 by the office.

8 (8) To adopt such rules, in accordance with chapter 34.05 RCW, as
9 are necessary to carry out RCW 27.34.200 through 27.34.280.

10 **Sec. 8010.** RCW 27.34.230 and 2005 c 333 s 15 are each amended to
11 read as follows:

12 The (~~director or the director's~~) commissioner or commissioner's
13 designee shall:

14 (1) Receive, administer, and disburse such gifts, grants, and
15 endowments from private sources as may be made in trust or otherwise
16 for the purposes of RCW 27.34.200 (~~through~~) and 27.34.220 or the
17 federal act; and

18 (2) Develop and implement a cultural resource management plan.

19 **Sec. 8011.** RCW 27.34.240 and 1986 c 266 s 13 are each amended to
20 read as follows:

21 The amounts made available for grants to the public agencies,
22 public or private organizations, or individuals for projects for each
23 fiscal year shall be apportioned among program applicants by the
24 (~~director or the director's~~) preservation officer or preservation
25 officer's designee, with the advice of the preservation officer, in
26 accordance with needs as contained in statewide archaeology and
27 historic preservation plans developed by the (~~department~~) office.

28 **Sec. 8012.** RCW 27.34.270 and 1997 c 145 s 2 are each amended to
29 read as follows:

30 The advisory council shall:

31 (1) Advise the governor and the (~~department~~) office on matters
32 relating to historic preservation; recommend measures to coordinate
33 activities of state and local agencies, private institutions, and
34 individuals relating to historic preservation; and advise on the
35 dissemination of information pertaining to such activities; and

1 (2) Review and recommend nominations for the national register of
2 historic places to the preservation officer (~~and the director~~).

3 **Sec. 8013.** RCW 27.34.280 and 1986 c 266 s 15 are each amended to
4 read as follows:

5 The (~~department~~) office shall provide administrative and
6 financial services to the advisory council on historic preservation
7 (~~and to the Washington state heritage council~~).

8 **Sec. 8014.** RCW 27.34.330 and 2006 c 371 s 232 are each amended to
9 read as follows:

10 The Washington state historical society shall establish a
11 competitive process to solicit proposals for and prioritize heritage
12 capital projects for potential funding in the state capital budget.
13 The society shall adopt rules governing project eligibility and
14 evaluation criteria. Application for funding of specific projects may
15 be made to the society by local governments, public development
16 authorities, nonprofit corporations, tribal governments, and other
17 entities, as determined by the society. The society, with the advice
18 of leaders in the heritage field, including but not limited to
19 representatives from the office of the secretary of state, the eastern
20 Washington state historical society, and the (~~department~~) office of
21 archaeology and historic preservation, shall establish and submit a
22 prioritized list of heritage capital projects to the governor and the
23 legislature in the society's biennial capital budget request. The list
24 shall include a description of each project, the amount of recommended
25 state funding, and documentation of nonstate funds to be used for the
26 project. The total amount of recommended state funding for projects on
27 a biennial project list shall not exceed ten million dollars. The
28 prioritized list shall be developed through open and public meetings
29 and the amount of state funding shall not exceed thirty-three percent
30 of the total cost of the project. The nonstate portion of the total
31 project cost may include cash, the value of real property when acquired
32 solely for the purpose of the project, and in-kind contributions. The
33 (~~department~~) society shall not sign contracts or otherwise
34 financially obligate funds under this section until the legislature has
35 approved a specific list of projects. In contracts for grants
36 authorized under this section, the society shall include provisions

1 requiring that capital improvements be held by the grantee for a
2 specified period of time appropriate to the amount of the grant and
3 that facilities be used for the express purpose of the grant. If the
4 grantee is found to be out of compliance with provisions of the
5 contract, the grantee shall repay to the state general fund the
6 principal amount of the grant plus interest calculated at the rate of
7 interest on state of Washington general obligation bonds issued most
8 closely to the date of authorization of the grant.

9 **Sec. 8015.** RCW 27.34.415 and 2008 c 275 s 6 are each amended to
10 read as follows:

11 The (~~department~~) office of archaeology and historic preservation
12 shall develop and maintain a centralized database and geographic
13 information systems spatial layer of all known cemeteries and known
14 sites of burials of human remains in Washington state. The information
15 in the database is subject to public disclosure, except as provided in
16 RCW 42.56.300; exempt information is available by confidentiality
17 agreement to federal, state, and local agencies for purposes of
18 environmental review, and to tribes in order to participate in
19 environmental review, protect their ancestors, and perpetuate their
20 cultures.

21 Information provided to state and local agencies under this section
22 is subject to public disclosure, except as provided in RCW 42.56.300.

23 **Sec. 8016.** RCW 27.44.055 and 2008 c 275 s 2 are each amended to
24 read as follows:

25 (1) Any person who discovers skeletal human remains must notify the
26 coroner and local law enforcement in the most expeditious manner
27 possible. Any person knowing of the existence of human remains and not
28 having good reason to believe that the coroner and local law
29 enforcement has notice thereof and who fails to give notice thereof is
30 guilty of a misdemeanor.

31 (2) Any person engaged in ground disturbing activity and who
32 encounters or discovers skeletal human remains in or on the ground
33 shall:

34 (a) Immediately cease any activity which may cause further
35 disturbance;

1 (b) Make a reasonable effort to protect the area from further
2 disturbance;

3 (c) Report the presence and location of the remains to the coroner
4 and local law enforcement in the most expeditious manner possible; and

5 (d) Be held harmless from criminal and civil liability arising
6 under the provisions of this section provided the following criteria
7 are met:

8 (i) The finding of the remains was based on inadvertent discovery;

9 (ii) The requirements of the subsection are otherwise met; and

10 (iii) The person is otherwise in compliance with applicable law.

11 (3) The coroner must make a determination whether the skeletal
12 human remains are forensic or nonforensic within five business days of
13 receiving notification of a finding of such remains provided that there
14 is sufficient evidence to make such a determination within that time
15 period. The coroner will retain jurisdiction over forensic remains.

16 (a) Upon determination that the remains are nonforensic, the
17 coroner must notify the ((department)) office of archaeology and
18 historic preservation within two business days. The ((department))
19 office will have jurisdiction over such remains until provenance of the
20 remains is established. A determination that remains are nonforensic
21 does not create a presumption of removal or nonremoval.

22 (b) Upon receiving notice from a coroner of a finding of
23 nonforensic skeletal human remains, the ((department)) office must
24 notify the appropriate local cemeteries, and all affected Indian tribes
25 via certified mail to the head of the appropriate tribal government,
26 and contact the appropriate tribal cultural resources staff within two
27 business days of the finding. The determination of what are
28 appropriate local cemeteries to be notified is at the discretion of the
29 ((department)) office. A notification to tribes of a finding of
30 nonforensic skeletal human remains does not create a presumption that
31 the remains are Indian.

32 (c) The state physical anthropologist must make an initial
33 determination of whether nonforensic skeletal human remains are Indian
34 or non-Indian to the extent possible based on the remains within two
35 business days of notification of a finding of such nonforensic remains.
36 If the remains are determined to be Indian, the ((department)) office
37 must notify all affected Indian tribes via certified mail to the head

1 of the appropriate tribal government within two business days and
2 contact the appropriate tribal cultural resources staff.

3 (d) The affected tribes have five business days to respond via
4 telephone or writing to the ((~~department~~)) office as to their interest
5 in the remains.

6 (4) For the purposes of this section:

7 (a) "Affected tribes" are:

8 (i) Those federally recognized tribes with usual and accustomed
9 areas in the jurisdiction where the remains were found;

10 (ii) Those federally recognized tribes that submit to the
11 ((~~department~~)) office maps that reflect the tribe's geographical area
12 of cultural affiliation; and

13 (iii) Other tribes with historical and cultural affiliation in the
14 jurisdiction where the remains were found.

15 (b) "Forensic remains" are those that come under the jurisdiction
16 of the coroner pursuant to RCW 68.50.010.

17 (c) "Inadvertent discovery" has the same meaning as used in RCW
18 27.44.040.

19 (5) Nothing in this section constitutes, advocates, or otherwise
20 grants, confers, or implies federal or state recognition of those
21 tribes that are not federally recognized pursuant to 25 C.F.R. part 83,
22 procedures for establishing that an American Indian group exists as an
23 Indian tribe.

24 **Sec. 8017.** RCW 27.53.020 and 2005 c 333 s 19 are each amended to
25 read as follows:

26 The discovery, identification, excavation, and study of the state's
27 archaeological resources, the providing of information on
28 archaeological sites for their nomination to the state and national
29 registers of historic places, the maintaining of a complete inventory
30 of archaeological sites and collections, and the providing of
31 information to state, federal, and private construction agencies
32 regarding the possible impact of construction activities on the state's
33 archaeological resources, are proper public functions; and the
34 ((~~department~~)) office of archaeology and historic preservation, created
35 under the authority of chapter 43.334 RCW, is hereby designated as an
36 appropriate agency to carry out these functions. The ((~~director~~))
37 preservation officer shall provide guidelines for the selection of

1 depositories designated by the state for archaeological resources. The
2 legislature directs that there shall be full cooperation amongst the
3 (~~department~~) office and other agencies of the state.

4 **Sec. 8018.** RCW 27.53.030 and 2008 c 275 s 5 are each amended to
5 read as follows:

6 The definitions in this section apply throughout this chapter
7 unless the context clearly requires otherwise.

8 (1) "Archaeology" means the systematic(~~(, scientific study of man's~~
9 ~~past through material)~~) study of past human life and environments
10 through the recovery and examination of cultural material and remains.

11 (2) "Archaeological object" means an object that comprises the
12 physical evidence of an indigenous and subsequent culture including
13 material remains of past human life including monuments, symbols,
14 tools, facilities, and technological by-products.

15 (3) "Archaeological site" means a geographic locality in
16 Washington, including but not limited to, submerged and submersible
17 lands and the bed of the sea within the state's jurisdiction, that
18 contains archaeological objects.

19 (4) "Department" means the department of (~~(archaeology and historic~~
20 ~~preservation, created in chapter 43.334 RCW)~~) natural resources.

21 (5) (~~("Director" means the director of the department of~~
22 ~~archaeology and historic preservation, created in chapter 43.334 RCW.~~

23 ~~(6))~~) "Historic" means peoples and cultures who are known through
24 written documents in their own or other languages. As applied to
25 underwater archaeological resources, the term historic shall include
26 only those properties which are listed in or eligible for listing in
27 the Washington State Register of Historic Places (RCW 27.34.220) or the
28 National Register of Historic Places as defined in the National
29 Historic Preservation Act of 1966 (Title 1, Sec. 101, Public Law 89-
30 665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended.

31 (6) "Office" means the office of archaeology and historic
32 preservation.

33 (7) "Prehistoric" means peoples and cultures who are unknown
34 through contemporaneous written documents in any language.

35 (8) "Preservation officer" means the state historic preservation
36 officer as provided for in RCW 43.334.020.

1 issuance of the permit. The property owner or agency responsible for
2 the management of such land may condition its consent on the execution
3 of a separate agreement, lease, or other real property conveyance with
4 the applicant as may be necessary to carry out the legal rights or
5 duties of the public property landowner or agency.

6 (3) The (~~director~~) preservation officer, in consultation with the
7 affected tribes, shall develop guidelines for the issuance and
8 processing of permits.

9 (4) Such written permit and any agreement or lease or other
10 conveyance required by any public property owner or agency responsible
11 for management of such land shall be physically present while any such
12 activity is being conducted.

13 (5) The provisions of this section shall not apply to the removal
14 of artifacts found exposed on the surface of the ground which are not
15 historic archaeological resources or sites.

16 (6) When determining whether to grant or condition a permit, the
17 (~~director~~) preservation officer or preservation officer's designee
18 may give great weight to the final record of previous civil or criminal
19 penalties against either the applicant, the parties responsible for
20 conducting the work, or the parties responsible for carrying out the
21 terms and conditions of the permit, either under this chapter or under
22 comparable federal laws. If the (~~director~~) preservation officer
23 denies a permit, the applicant may request a hearing as provided for in
24 chapter 34.05 RCW. When the holder of a permit issued by the
25 department requests a hearing under this subsection, an administrative
26 law judge assigned by the office of administrative hearings shall
27 conduct the hearing. The decision of the administrative law judge is
28 a final agency order.

29 **Sec. 8020.** RCW 27.53.070 and 2005 c 333 s 21 and 2005 c 274 s 243
30 are each reenacted and amended to read as follows:

31 It is the declared intention of the legislature that field
32 investigations on privately owned lands should be discouraged except in
33 accordance with both the provisions and spirit of this chapter and
34 persons having knowledge of the location of archaeological sites or
35 resources are encouraged to communicate such information to the
36 (~~department~~) office. Such information shall not constitute a public

1 record which requires disclosure pursuant to the exception authorized
2 in chapter 42.56 RCW to avoid site depredation.

3 **Sec. 8021.** RCW 27.53.080 and 2005 c 333 s 22 are each amended to
4 read as follows:

5 (1) Qualified or professional archaeologists, in performance of
6 their duties, may enter upon public lands of the state of Washington
7 and its political subdivisions after first notifying the entity
8 responsible for managing those public lands, at such times and in such
9 manner as not to interfere with the normal management thereof, for the
10 purposes of doing archaeological resource location and evaluation
11 studies, including site sampling activities. The results of such
12 studies shall be provided to the state agency or political subdivision
13 responsible for such lands and the ((~~department~~)) office and are
14 confidential unless the ((~~director~~)) preservation officer, in writing,
15 declares otherwise. Scientific excavations are to be carried out only
16 after appropriate agreement has been made between a professional
17 archaeologist or an institution of higher education and the agency or
18 political subdivision responsible for such lands. A copy of such
19 agreement shall be filed with the ((~~department~~)) office.

20 (2) Amateur societies may engage in such activities by submitting
21 and having approved by the responsible agency or political subdivision
22 a written proposal detailing the scope and duration of the activity.
23 Before approval, a proposal from an amateur society shall be submitted
24 to the ((~~department~~)) office for review and recommendation. The
25 approving agency or political subdivision shall impose conditions on
26 the scope and duration of the proposed activity necessary to protect
27 the archaeological resources and ensure compliance with applicable
28 federal, state, and local laws. The findings and results of activities
29 authorized under this section shall be made known to the approving
30 agency or political subdivision approving the activities and to the
31 ((~~department~~)) office.

32 **Sec. 8022.** RCW 27.53.090 and 1986 c 266 s 20 are each amended to
33 read as follows:

34 Any person, firm, or corporation violating any of the provisions of
35 this chapter shall be guilty of a misdemeanor. Each day of continued

1 violation of any provision of this chapter shall constitute a distinct
2 and separate offense. Offenses shall be reported to the appropriate
3 law enforcement agency or to the ((director)) office.

4 **Sec. 8023.** RCW 27.53.095 and 2005 c 333 s 23 are each amended to
5 read as follows:

6 (1) Persons found to have violated this chapter, either by a
7 knowing and willful failure to obtain a permit where required under RCW
8 27.53.060 or by a knowing and willful failure to comply with the
9 provisions of a permit issued by the ((director)) preservation officer
10 where required under RCW 27.53.060, in addition to other remedies as
11 provided for by law, may be subject to one or more of the following:

12 (a) Reasonable investigative costs incurred by a mutually agreed
13 upon independent professional archaeologist investigating the alleged
14 violation;

15 (b) Reasonable site restoration costs; and

16 (c) Civil penalties, as determined by the ((director)) preservation
17 officer, in an amount of not more than five thousand dollars per
18 violation.

19 (2) Any person incurring the penalty may file an application for an
20 adjudicative proceeding and may pursue subsequent review as provided in
21 chapter 34.05 RCW and applicable rules of the department. When the
22 department or a person incurring penalties arising out of activities
23 permitted by the department requests a hearing under this subsection,
24 an administrative law judge assigned by the office of administrative
25 hearings shall conduct the hearing. The decision of the administrative
26 law judge is a final agency order.

27 (3) Any penalty imposed by final order following an adjudicative
28 proceeding becomes due and payable upon service of the final order.

29 (4) The attorney general may bring an action in the name of the
30 department in the superior court of Thurston county or of any county in
31 which the violator may do business to collect any penalty imposed under
32 this chapter and to enforce subsection (5) of this section.

33 (5) Any and all artifacts in possession of a violator shall become
34 the property of the state until proper identification of artifact
35 ownership may be determined by the ((director)) preservation officer or
36 preservation officer's designee.

1 (6) Penalties overturned on appeal entitle the appealing party to
2 fees and other expenses, including reasonable attorneys' fees, as
3 provided in RCW 4.84.350.

4 **Sec. 8024.** RCW 27.53.100 and 1988 c 124 s 5 are each amended to
5 read as follows:

6 Persons, firms, corporations, institutions, or agencies which
7 discover a previously unreported historic archaeological resource on
8 state-owned aquatic lands and report the site or location of such
9 resource to the ((~~department~~)) office shall have a right of first
10 refusal to future salvage permits granted for the recovery of that
11 resource, subject to the provisions of RCW 27.53.110. Such right of
12 first refusal shall exist for five years from the date of the report.
13 Should another person, firm, corporation, institution, or agency apply
14 for a permit to salvage that resource, the reporting entity shall have
15 sixty days to submit its own permit application and exercise its first
16 refusal right, or the right shall be extinguished.

17 **Sec. 8025.** RCW 27.53.110 and 1988 c 124 s 6 are each amended to
18 read as follows:

19 The ((~~director~~)) department is hereby authorized to enter into
20 contracts with ((~~other~~)) state agencies or institutions and with
21 qualified private institutions, persons, firms, or corporations for the
22 discovery and salvage of state-owned historic archaeological resources.
23 Such contracts shall include but are not limited to the following terms
24 and conditions:

25 (1) Historic shipwrecks:

26 (a) The contract shall provide for fair compensation to a salvor.
27 "Fair compensation" means an amount not less than ninety percent of the
28 appraised value of the objects recovered following successful
29 completion of the contract.

30 (b) The salvor may retain objects with a value of up to ninety
31 percent of the appraised value of the total objects recovered, or cash,
32 or a combination of objects and cash. In no event may the total of
33 objects and cash exceed ninety percent of the total appraised value of
34 the objects recovered. A salvor shall not be entitled to further
35 compensation from any state sources.

1 (c) The contract shall provide that the state will be given first
2 choice of which objects it may wish to retain for display purposes for
3 the people of the state from among all the objects recovered. The
4 state may retain objects with a value of up to ten percent of the
5 appraised value of the total objects recovered. If the state chooses
6 not to retain recovered objects with a value of up to ten percent of
7 the appraised value, the state shall be entitled to receive its share
8 in cash or a combination of recovered objects and cash so long as the
9 state's total share does not exceed ten percent of the appraised value
10 of the objects recovered.

11 (d) The contract shall provide that both the state and the salvor
12 shall have the right to select a single appraiser or joint appraisers.

13 (e) The contract shall also provide that title to the objects shall
14 pass to the salvor when the permit is issued. However, should the
15 salvor fail to fully perform under the terms of the contract, title to
16 all objects recovered shall revert to the state.

17 (2) Historic aircraft:

18 (a) The contract shall provide that historic aircraft belonging to
19 the state of Washington may only be recovered if the purpose of that
20 salvage operation is to recover the aircraft for a museum, historical
21 society, nonprofit organization, or governmental entity.

22 (b) Title to the aircraft may only be passed by the state to one of
23 the entities listed in (a) of this subsection.

24 (c) Compensation to the salvor shall only be derived from the sale
25 or exchange of the aircraft to one of the entities listed in (a) of
26 this subsection or such other compensation as one of the entities
27 listed in (a) of this subsection and the salvor may arrange. The
28 salvor shall not have a claim to compensation from state funds.

29 (3) Other historic archaeological resources: The ((~~director~~))
30 preservation officer, in his or her discretion, may negotiate the terms
31 of such contracts.

32 **Sec. 8026.** RCW 27.53.120 and 1988 c 124 s 7 are each amended to
33 read as follows:

34 The salvor shall agree to mitigate any archaeological damage which
35 occurs during the salvage operation. The ((~~department~~)) office shall
36 have access to all property recovered from historic archaeological
37 sites for purposes of scholarly research and photographic documentation

1 for a period to be agreed upon by the parties following completion of
2 the salvage operation. The (~~department~~) office shall also have the
3 right to publish scientific papers concerning the results of all
4 research conducted as project mitigation.

5 The (~~director~~) preservation officer has the right to refuse to
6 issue a permit for salvaging an historic archaeological resource if
7 that resource would be destroyed beyond mitigation by the proposed
8 salvage operation. Any agency, institution, person, firm, or
9 corporation which has been denied a permit because the resource would
10 be destroyed beyond mitigation by their method of salvage shall have a
11 right of first refusal for that permit at a future date should
12 technology be found which would make salvage possible without
13 destroying the resource. Such right of first refusal shall be in
14 effect for sixty days after the (~~director~~) preservation officer has
15 determined that salvage can be accomplished by a subsequent applicant
16 without destroying the resource.

17 No person, firm, or corporation may conduct such salvage or
18 recovery operation herein described without first obtaining such
19 contract.

20 **Sec. 8027.** RCW 27.53.130 and 1995 c 399 s 17 are each amended to
21 read as follows:

22 The department, in consultation with the preservation officer,
23 shall publish annually and update as necessary a list of those areas
24 where permits are required to protect historic archaeological sites on
25 aquatic lands.

26 **Sec. 8028.** RCW 27.53.140 and 1995 c 399 s 18 are each amended to
27 read as follows:

28 The (~~department~~) office shall have such rule-making authority as
29 is necessary to carry out the provisions of this chapter.

30 **Sec. 8029.** RCW 35.100.020 and 2010 c 30 s 2 are each reenacted and
31 amended to read as follows:

32 The definitions in this section apply throughout this chapter
33 unless the context clearly requires otherwise.

34 (1) "Community revitalization project" means:

1 (a) Health and safety improvements authorized to be publicly
2 financed under chapter 35.80 or 35.81 RCW;

3 (b) Publicly owned or leased facilities within the jurisdiction of
4 a local government which the sponsor has authority to provide; and

5 (c) Expenditure for any of the following purposes:

6 (i) Providing environmental analysis, professional management,
7 planning, and promotion within a downtown or neighborhood commercial
8 district including the management and promotion of retail trade
9 activities in the district;

10 (ii) Providing maintenance and security for common or public areas
11 in the downtown or neighborhood commercial district;

12 (iii) Historic preservation activities authorized under RCW
13 35.21.395; or

14 (iv) Project design and planning, land acquisition, site
15 preparation, construction, reconstruction, rehabilitation, improvement,
16 operation, and installation of a public facility; the costs of
17 financing, including interest during construction, legal and other
18 professional services, taxes, and insurance; the costs of complying
19 with this chapter and other applicable law; and the administrative
20 costs reasonably necessary and related to these costs.

21 (2) "Downtown or neighborhood commercial district" means (a) an
22 area or areas designated by the legislative authority of a city or town
23 with a population over one hundred thousand and that are typically
24 limited to the pedestrian core area or the central commercial district
25 and compact business districts that serve specific neighborhoods within
26 the city or town; or (b) commercial areas designated as main street
27 areas by the (~~department~~) office of archaeology and historic
28 preservation.

29 (3) "Local retail sales and use tax" means the tax levied by a city
30 or town under RCW 82.14.030, excluding that portion which a county is
31 entitled to receive under RCW 82.14.030.

32 (4) "Local retail sales and use tax increment revenue" means that
33 portion of the local retail sales and use tax collected in each year
34 upon any retail sale or any use of an article of tangible personal
35 property within a downtown or neighborhood commercial district that is
36 in excess of the amount of local retail sales and use tax collected on
37 sales or uses within the downtown or neighborhood commercial district
38 in the year preceding.

1 **Sec. 8030.** RCW 41.06.095 and 2005 c 333 s 9 are each amended to
2 read as follows:

3 In addition to the exemptions under RCW 41.06.070, this chapter
4 does not apply in the ((department)) office of archaeology and historic
5 preservation to the ((director, the director's personal secretary, the
6 deputy director, all division directors and assistant directors,))
7 preservation officer and one confidential secretary for each of these
8 officers.

9 **Sec. 8031.** RCW 43.17.010 and 2009 c 565 s 25 are each amended to
10 read as follows:

11 There shall be departments of the state government which shall be
12 known as (1) the department of social and health services, (2) the
13 department of ecology, (3) the department of labor and industries, (4)
14 the department of agriculture, (5) the department of fish and wildlife,
15 (6) the department of transportation, (7) the department of licensing,
16 (8) the department of general administration, (9) the department of
17 commerce, (10) the department of veterans affairs, (11) the department
18 of revenue, (12) the department of retirement systems, (13) the
19 department of corrections, (14) the department of health, (15) the
20 department of financial institutions, (16) ((the department of
21 archaeology and historic preservation, (17))) the department of early
22 learning, and ((+18)) (17) the Puget Sound partnership, which shall be
23 charged with the execution, enforcement, and administration of such
24 laws, and invested with such powers and required to perform such
25 duties, as the legislature may provide.

26 **Sec. 8032.** RCW 43.17.020 and 2009 c 565 s 26 are each amended to
27 read as follows:

28 There shall be a chief executive officer of each department to be
29 known as: (1) The secretary of social and health services, (2) the
30 director of ecology, (3) the director of labor and industries, (4) the
31 director of agriculture, (5) the director of fish and wildlife, (6) the
32 secretary of transportation, (7) the director of licensing, (8) the
33 director of general administration, (9) the director of commerce, (10)
34 the director of veterans affairs, (11) the director of revenue, (12)
35 the director of retirement systems, (13) the secretary of corrections,
36 (14) the secretary of health, (15) the director of financial

1 institutions, (16) (~~the director of the department of archaeology and~~
2 ~~historic preservation, (17)~~) the director of early learning, and
3 (~~(18)~~) (17) the executive director of the Puget Sound partnership.

4 Such officers, except the director of fish and wildlife, shall be
5 appointed by the governor, with the consent of the senate, and hold
6 office at the pleasure of the governor. The director of fish and
7 wildlife shall be appointed by the fish and wildlife commission as
8 prescribed by RCW 77.04.055.

9 **Sec. 8033.** RCW 43.360.010 and 2010 c 30 s 3 are each amended to
10 read as follows:

11 The definitions in this section apply throughout this chapter
12 unless the context clearly requires otherwise.

13 (1) "Area" means a geographic area within a local government that
14 is described by a closed perimeter boundary.

15 (2) (~~("Department")~~) "Office" means the (~~(department)~~) office of
16 archaeology and historic preservation.

17 (3) (~~("Director" means the director of the department.~~

18 ~~(4)~~) "Local government" means a city, code city, or town.

19 (4) "Preservation officer" means the state historic preservation
20 officer of the office.

21 (5) "Qualified levels of participation" means a local downtown or
22 neighborhood commercial district revitalization program that has been
23 designated by the (~~(department)~~) office.

24 **Sec. 8034.** RCW 43.360.020 and 2005 c 514 s 909 are each amended to
25 read as follows:

26 The Washington main street program is created within the
27 (~~(department)~~) office. In order to implement the Washington main
28 street program, the (~~(department)~~) office shall:

29 (1) Provide technical assistance to businesses, property owners,
30 organizations, and local governments undertaking a comprehensive
31 downtown or neighborhood commercial district revitalization initiative
32 and management strategy. Technical assistance may include, but is not
33 limited to, initial site evaluations and assessments, training for
34 local programs, training for local program staff, site visits and
35 assessments by technical specialists, local program design assistance
36 and evaluation, and continued local program on-site assistance;

1 (2) To the extent funds are made available, provide financial
2 assistance to local governments or local organizations to assist in
3 initial downtown or neighborhood commercial district revitalization
4 program start-up costs, specialized training, specific project
5 feasibility studies, market studies, and design assistance;

6 (3) Develop objective criteria for selecting recipients of
7 assistance under subsections (1) and (2) of this section, which shall
8 include priority for downtown or neighborhood commercial district
9 revitalization programs located in a rural county as defined in RCW
10 43.160.020(~~((+12+))~~) (5), and provide for designation of local programs
11 under RCW 43.360.030;

12 (4) Operate the Washington main street program in accordance with
13 the plan developed by the (~~(department, in consultation with the~~
14 ~~Washington main street advisory committee created under RCW~~
15 ~~43.360.040)~~) office; and

16 (5) Consider other factors the department deems necessary for the
17 implementation of this chapter.

18 **Sec. 8035.** RCW 43.360.030 and 2005 c 514 s 910 are each amended to
19 read as follows:

20 (1) The (~~(department)~~) office shall adopt criteria for the
21 designation of local downtown or neighborhood commercial district
22 revitalization programs and official local main street programs. In
23 establishing the criteria, the (~~(department)~~) office shall consider:

24 (a) The degree of interest and commitment to comprehensive downtown
25 or neighborhood commercial district revitalization and, where
26 applicable, historic preservation by both the public and private
27 sectors;

28 (b) The evidence of potential private sector investment in the
29 downtown or neighborhood commercial district;

30 (c) Where applicable, a downtown or neighborhood commercial
31 district with sufficient historic fabric to become a foundation for an
32 enhanced community image;

33 (d) The capacity of the organization to undertake a comprehensive
34 program and the financial commitment to implement a long-term downtown
35 or neighborhood commercial district revitalization program that
36 includes a commitment to employ a professional program manager and
37 maintain a sufficient operating budget;

1 (e) The (~~department's~~) office's existing downtown revitalization
2 program's tier system;

3 (f) The national main street center's criteria for designating
4 official main street cities; and

5 (g) Other factors the (~~department~~) office deems necessary for the
6 designation of a local program.

7 (2) The (~~department~~) office shall designate local downtown or
8 neighborhood commercial district revitalization programs and official
9 local main street programs. The programs shall be limited to three
10 categories of designation, one of which shall be the main street level.

11 (3) RCW (~~82.73.010~~) 43.360.020 does not apply to any local
12 downtown or neighborhood commercial district revitalization program
13 unless the boundaries of the program have been identified and approved
14 by the (~~department~~) office. The boundaries of a local downtown or
15 neighborhood commercial district revitalization program are typically
16 defined using the pedestrian core of a traditional commercial district.

17 (4) The (~~department~~) office may not designate a local downtown or
18 neighborhood commercial district revitalization program or official
19 local main street program if the program is undertaken by a local
20 government with a population of one hundred ninety thousand persons or
21 more.

22 **Sec. 8036.** RCW 68.24.090 and 2009 c 102 s 13 are each amended to
23 read as follows:

24 Property dedicated to cemetery purposes shall be held and used
25 exclusively for cemetery purposes, unless and until the dedication is
26 removed from all or any part of it by an order and decree of the
27 superior court of the county in which the property is situated, in a
28 proceeding brought by the cemetery authority for that purpose and upon
29 notice of hearing and proof satisfactory to the court:

30 (1) That no placements of human remains were made in or that all
31 placements of human remains have been removed from that portion of the
32 property from which dedication is sought to be removed.

33 (2) That the portion of the property from which dedication is
34 sought to be removed is not being used for placement of human remains.

35 (3) That notice of the proposed removal of dedication has been
36 given in writing to both the funeral and cemetery board and the
37 (~~department~~) office of archaeology and historic preservation. This

1 notice must be given at least sixty days before filing the proceedings
2 in superior court. The notice of the proposed removal of dedication
3 shall be recorded with the auditor or recording officer of the county
4 where the cemetery is located at least sixty days before filing the
5 proceedings in superior court.

6 **Sec. 8037.** RCW 68.50.645 and 2008 c 275 s 1 are each amended to
7 read as follows:

8 (1) It is the duty of every person who knows of the existence and
9 location of skeletal human remains to notify the coroner and local law
10 enforcement in the most expeditious manner possible, unless such person
11 has good reason to believe that such notice has already been given.
12 Any person knowing of the existence of skeletal human remains and not
13 having good reason to believe that the coroner and local law
14 enforcement has notice thereof and who fails to give notice to the
15 coroner and local law enforcement, is guilty of a misdemeanor.

16 (2) Any person engaged in ground disturbing activity and who
17 encounters or discovers skeletal human remains in or on the ground
18 shall:

19 (a) Immediately cease any activity which may cause further
20 disturbance;

21 (b) Make a reasonable effort to protect the area from further
22 disturbance;

23 (c) Report the presence and location of the remains to the coroner
24 and local law enforcement in the most expeditious manner possible; and

25 (d) Be held harmless from criminal and civil liability arising
26 under the provisions of this section provided the following criteria
27 are met:

28 (i) The finding of the remains was based on inadvertent discovery;

29 (ii) The requirements of the subsection are otherwise met; and

30 (iii) The person is otherwise in compliance with applicable law.

31 (3) The coroner must make a determination of whether the skeletal
32 human remains are forensic or nonforensic within five business days of
33 receiving notification of a finding of such human remains provided that
34 there is sufficient evidence to make such a determination within that
35 time period. The coroner will retain jurisdiction over forensic
36 remains.

1 (a) Upon determination that the remains are nonforensic, the
2 coroner must notify the ((department)) office of archaeology and
3 historic preservation within two business days. The ((department))
4 office will have jurisdiction over such remains until provenance of the
5 remains is established. A determination that remains are nonforensic
6 does not create a presumption of removal or nonremoval.

7 (b) Upon receiving notice from a coroner of a finding of
8 nonforensic skeletal human remains, the ((department)) office must
9 notify the appropriate local cemeteries, and all affected Indian tribes
10 via certified mail to the head of the appropriate tribal government,
11 and contact the appropriate tribal cultural resources staff within two
12 business days of the finding. The determination of what are
13 appropriate local cemeteries to be notified is at the discretion of the
14 ((department)) office. A notification to tribes of a finding of such
15 nonforensic skeletal human remains does not create a presumption that
16 the remains are Indian.

17 (c) The state physical anthropologist must make an initial
18 determination of whether nonforensic skeletal human remains are Indian
19 or non-Indian to the extent possible based on the remains within two
20 business days of notification of a finding of nonforensic remains. If
21 the remains are determined to be Indian, the ((department)) office must
22 notify all affected Indian tribes via certified mail to the head of the
23 appropriate tribal government within two business days and contact the
24 appropriate tribal cultural resources staff.

25 (d) The affected tribes have five business days to respond via
26 telephone or writing to the ((department)) office as to their interest
27 in the remains.

28 (4) For the purposes of this section:

29 (a) "Affected tribes" are:

30 (i) Those federally recognized tribes with usual and accustomed
31 areas in the jurisdiction where the remains were found;

32 (ii) Those federally recognized tribes that submit to the
33 ((department)) office maps that reflect the tribe's geographical area
34 of cultural affiliation; and

35 (iii) Other tribes with historical and cultural affiliation in the
36 jurisdiction where the remains were found.

37 (b) "Forensic remains" are those that come under the jurisdiction
38 of the coroner pursuant to RCW 68.50.010.

1 (c) "Inadvertent discovery" has the same meaning as used in RCW
2 27.44.040.

3 (5) Nothing in this section constitutes, advocates, or otherwise
4 grants, confers, or implies federal or state recognition of those
5 tribes that are not federally recognized pursuant to 25 C.F.R. part 83,
6 procedures for establishing that an American Indian group exists as an
7 Indian tribe.

8 **Sec. 8038.** RCW 68.60.030 and 2009 c 102 s 21 are each amended to
9 read as follows:

10 (1)(a) The (~~department~~) office of archaeology and historic
11 preservation may grant by nontransferable certificate authority to
12 maintain and protect an abandoned cemetery upon application made by a
13 preservation organization which has been incorporated for the purpose
14 of restoring, maintaining, and protecting an abandoned cemetery. Such
15 authority shall be limited to the care, maintenance, restoration,
16 protection, and historical preservation of the abandoned cemetery, and
17 shall not include authority to make burials. In order to activate a
18 historical cemetery for burials, an applicant must apply for a
19 certificate of authority to operate a cemetery from the funeral and
20 cemetery board.

21 (b) Those preservation and maintenance corporations that are
22 granted authority to maintain and protect an abandoned cemetery shall
23 be entitled to hold and possess burial records, maps, and other
24 historical documents as may exist. Maintenance and preservation
25 corporations that are granted authority to maintain and protect an
26 abandoned cemetery shall not be liable to those claiming burial rights,
27 ancestral ownership, or to any other person or organization alleging to
28 have control by any form of conveyance not previously recorded at the
29 county auditor's office within the county in which the abandoned
30 cemetery exists. Such organizations shall not be liable for any
31 reasonable alterations made during restoration work on memorials,
32 roadways, walkways, features, plantings, or any other detail of the
33 abandoned cemetery.

34 (c) Should the maintenance and preservation corporation be
35 dissolved, the (~~department~~) office of archaeology and historic
36 preservation shall revoke the certificate of authority.

1 (d) Maintenance and preservation corporations that are granted
2 authority to maintain and protect an abandoned cemetery may establish
3 care funds.

4 (2) Except as provided in subsection (1) of this section, the
5 (~~department~~) office of archaeology and historic preservation may, in
6 its sole discretion, authorize any Washington nonprofit corporation
7 that is not expressly incorporated for the purpose of restoring,
8 maintaining, and protecting an abandoned cemetery, to restore,
9 maintain, and protect one or more abandoned cemeteries. The
10 authorization may include the right of access to any burial records,
11 maps, and other historical documents, but shall not include the right
12 to be the permanent custodian of original records, maps, or documents.
13 This authorization shall be granted by a nontransferable certificate of
14 authority. Any nonprofit corporation authorized and acting under this
15 subsection is immune from liability to the same extent as if it were a
16 preservation organization holding a certificate of authority under
17 subsection (1) of this section.

18 (3) The (~~department~~) office of archaeology and historic
19 preservation shall establish standards and guidelines for granting
20 certificates of authority under subsections (1) and (2) of this section
21 to assure that any restoration, maintenance, and protection activities
22 authorized under this subsection are conducted and supervised in an
23 appropriate manner.

24 **Sec. 8039.** RCW 68.60.050 and 2009 c 102 s 22 are each amended to
25 read as follows:

26 (1) Any person who knowingly removes, mutilates, defaces, injures,
27 or destroys any historic grave shall be guilty of a class C felony
28 punishable under chapter 9A.20 RCW. Persons disturbing historic graves
29 through inadvertence, including disturbance through construction, shall
30 reinter the human remains under the supervision of the (~~department~~)
31 office of archaeology and historic preservation. Expenses to reinter
32 such human remains are to be provided by the (~~department~~) office of
33 archaeology and historic preservation to the extent that funds for this
34 purpose are appropriated by the legislature.

35 (2) This section does not apply to actions taken in the performance
36 of official law enforcement duties.

1 (3) It shall be a complete defense in a prosecution under
2 subsection (1) of this section if the defendant can prove by a
3 preponderance of evidence that the alleged acts were accidental or
4 inadvertent and that reasonable efforts were made to preserve the
5 remains accidentally disturbed or discovered, and that the accidental
6 discovery or disturbance was properly reported.

7 **Sec. 8040.** RCW 68.60.055 and 2008 c 275 s 3 are each amended to
8 read as follows:

9 (1) Any person who discovers skeletal human remains shall notify
10 the coroner and local law enforcement in the most expeditious manner
11 possible. Any person knowing of the existence of skeletal human
12 remains and not having good reason to believe that the coroner and
13 local law enforcement has notice thereof and who fails to give notice
14 thereof is guilty of a misdemeanor.

15 (2) Any person engaged in ground disturbing activity and who
16 encounters or discovers skeletal human remains in or on the ground
17 shall:

18 (a) Immediately cease any activity which may cause further
19 disturbance;

20 (b) Make a reasonable effort to protect the area from further
21 disturbance;

22 (c) Report the presence and location of the remains to the coroner
23 and local law enforcement in the most expeditious manner possible; and

24 (d) Be held harmless from criminal and civil liability arising
25 under the provisions of this section provided the following criteria
26 are met:

- 27 (i) The finding of the remains was based on inadvertent discovery;
- 28 (ii) The requirements of the subsection are otherwise met; and
- 29 (iii) The person is otherwise in compliance with applicable law.

30 (3) The coroner must make a determination whether the skeletal
31 human remains are forensic or nonforensic within five business days of
32 receiving notification of a finding of such remains provided that there
33 is sufficient evidence to make such a determination within that time
34 period. The coroner will retain jurisdiction over forensic remains.

35 (a) Upon determination that the remains are nonforensic, the
36 coroner must notify the ((department)) office of archaeology and
37 historic preservation within two business days. The ((department))

1 office will have jurisdiction over such remains until provenance of the
2 remains is established. A determination that remains are nonforensic
3 does not create a presumption of removal or nonremoval.

4 (b) Upon receiving notice from a coroner of a finding of
5 nonforensic skeletal human remains, the ((~~department~~)) office must
6 notify the appropriate local cemeteries, and all affected Indian tribes
7 via certified mail to the head of the appropriate tribal government,
8 and contact the appropriate tribal cultural resources staff within two
9 business days of the finding. The determination of what are
10 appropriate local cemeteries to be notified is at the discretion of the
11 ((~~department~~)) office. A notification to tribes of a finding of such
12 nonforensic skeletal human remains does not create a presumption that
13 the remains are Indian.

14 (c) The state physical anthropologist must make an initial
15 determination of whether nonforensic skeletal human remains are Indian
16 or non-Indian to the extent possible based on the remains within two
17 business days of notification of a finding of such nonforensic remains.
18 If the remains are determined to be Indian, the ((~~department~~)) office
19 must notify all affected Indian tribes via certified mail to the head
20 of the appropriate tribal government within two business days and
21 contact the appropriate tribal cultural resources staff.

22 (d) The affected tribes have five business days to respond via
23 telephone or writing to the ((~~department~~)) office as to their interest
24 in the remains.

25 (4) For the purposes of this section:

26 (a) "Affected tribes" are:

27 (i) Those federally recognized tribes with usual and accustomed
28 areas in the jurisdiction where the remains were found;

29 (ii) Those federally recognized tribes that submit to the
30 ((~~department~~)) office maps that reflect the tribe's geographical area
31 of cultural affiliation; and

32 (iii) Other tribes with historical and cultural affiliation in the
33 jurisdiction where the remains were found.

34 (b) "Forensic remains" are those that come under the jurisdiction
35 of the coroner pursuant to RCW 68.50.010.

36 (c) "Inadvertent discovery" has the same meaning as used in RCW
37 27.44.040.

1 (5) Nothing in this section constitutes, advocates, or otherwise
2 grants, confers, or implies federal or state recognition of those
3 tribes that are not federally recognized pursuant to 25 C.F.R. part 83,
4 procedures for establishing that an American Indian group exists as an
5 Indian tribe.

6 **Sec. 8041.** RCW 68.60.060 and 2009 c 102 s 23 are each amended to
7 read as follows:

8 Any person who violates any provision of this chapter is liable in
9 a civil action by and in the name of the ((department)) office of
10 archaeology and historic preservation to pay all damages occasioned by
11 their unlawful acts. The sum recovered shall be applied in payment for
12 the repair and restoration of the property injured or destroyed and to
13 the care fund if one is established.

14 **Sec. 8042.** RCW 82.73.010 and 2010 c 30 s 4 are each amended to
15 read as follows:

16 Unless the context clearly requires otherwise, the definitions in
17 this section apply throughout this chapter.

18 (1) "Applicant" means a person applying for a tax credit under this
19 chapter.

20 (2) "Contribution" means cash contributions.

21 (3) "Department" means the department of revenue.

22 (4) "Main street trust fund" means the Washington main street trust
23 fund account under RCW 43.360.050.

24 (5) "Person" has the meaning given in RCW 82.04.030.

25 (6) "Program" means a nonprofit organization under internal revenue
26 code sections 501(c)(3) or 501(c)(6), with the sole mission of
27 revitalizing a downtown or neighborhood commercial district area, that
28 is designated by the ((department)) office of archaeology and historic
29 preservation as described in RCW 43.360.010 through 43.360.050.

30 **Sec. 8043.** RCW 82.73.050 and 2010 c 30 s 5 are each amended to
31 read as follows:

32 The ((department)) office of archaeology and historic preservation
33 shall provide information to the department to administer this chapter,
34 including a list of designated programs that shall be updated as
35 necessary.

1 **Sec. 8044.** RCW 88.02.660 and 2010 c 161 s 1031 are each amended to
2 read as follows:

3 (1) The maritime historic restoration and preservation account is
4 created in the custody of the state treasurer. All receipts from the
5 voluntary donations made simultaneously with the registration of
6 vessels under this chapter must be deposited into this account. These
7 deposits are not public funds and are not subject to allotment
8 procedures under chapter 43.88 RCW.

9 (2) At the end of each fiscal year, the state treasurer shall pay
10 from this account to the department of natural resources an amount
11 equal to the reasonable administrative expenses of (~~that agency~~) the
12 office of archaeology and historic preservation for that fiscal year
13 for collecting the voluntary donations and transmitting them to the
14 state treasurer and shall pay to the state treasurer an amount equal to
15 the reasonable administrative expenses of that agency for that fiscal
16 year for maintaining the account and disbursing funds from the account.

17 (3) At the end of each fiscal year, the state treasurer shall pay
18 one-half of the balance of the funds in the account after payment of
19 the administrative costs provided in subsection (2) of this section, to
20 the Grays Harbor historical seaport or its corporate successor and the
21 remainder to the Steamer Virginia V foundation or its corporate
22 successor.

23 (4) If either the Grays Harbor historical seaport and its corporate
24 successors or the Steamer Virginia V foundation and its corporate
25 successors legally ceases to exist, the state treasurer shall, at the
26 end of each fiscal year, pay the balance of the funds in the account to
27 the remaining organization.

28 (5) If both the Grays Harbor historical seaport and its corporate
29 successors and the Steamer Virginia V foundation and its corporate
30 successors legally cease to exist, the (~~department~~) office of
31 archaeology and historic preservation shall discontinue the collection
32 of the voluntary donations in conjunction with the registration of
33 vessels under RCW 88.02.580, and the balance of the funds in the
34 account escheat to the state. If funds in the account escheat to the
35 state, one-half of the fund balance must be provided to the
36 (~~department~~) office of archaeology and historic preservation, and the
37 remainder must be deposited into the parks renewal and stewardship
38 account.

1 (6) The secretary of state, the directors of the state historical
2 societies, the ((director)) preservation officer of the ((department))
3 office of archaeology and historic preservation within the department
4 of ((commerce)) natural resources, and two members representing the
5 recreational boating community appointed by the secretary of state((7))
6 shall review the success of the voluntary donation program for maritime
7 historic restoration and preservation established under RCW 88.02.580.

8 **Sec. 8045.** RCW 90.48.366 and 2007 c 347 s 1 are each amended to
9 read as follows:

10 The department, in consultation with the departments of fish and
11 wildlife and natural resources, and the parks and recreation
12 commission, shall adopt rules establishing a compensation schedule for
13 the discharge of oil in violation of this chapter and chapter 90.56
14 RCW. The amount of compensation assessed under this schedule shall be
15 no less than one dollar per gallon of oil spilled and no greater than
16 one hundred dollars per gallon of oil spilled. The compensation
17 schedule shall reflect adequate compensation for unquantifiable damages
18 or for damages not quantifiable at reasonable cost for any adverse
19 environmental, recreational, aesthetic, or other effects caused by the
20 spill and shall take into account:

21 (1) Characteristics of any oil spilled, such as toxicity,
22 dispersibility, solubility, and persistence, that may affect the
23 severity of the effects on the receiving environment, living organisms,
24 and recreational and aesthetic resources;

25 (2) The sensitivity of the affected area as determined by such
26 factors as: (a) The location of the spill; (b) habitat and living
27 resource sensitivity; (c) seasonal distribution or sensitivity of
28 living resources; (d) areas of recreational use or aesthetic
29 importance; (e) the proximity of the spill to important habitats for
30 birds, aquatic mammals, fish, or to species listed as threatened or
31 endangered under state or federal law; (f) significant archaeological
32 resources as determined by the ((department)) office of archaeology and
33 historic preservation; and (g) other areas of special ecological or
34 recreational importance, as determined by the department; and

35 (3) Actions taken by the party who spilled oil or any party liable
36 for the spill that: (a) Demonstrate a recognition and affirmative
37 acceptance of responsibility for the spill, such as the immediate

1 removal of oil and the amount of oil removed from the environment; or
2 (b) enhance or impede the detection of the spill, the determination of
3 the quantity of oil spilled, or the extent of damage, including the
4 unauthorized removal of evidence such as injured fish or wildlife.

5 NEW SECTION. **Sec. 8046.** (1) The department of archaeology and
6 historic preservation is hereby abolished and its powers, duties, and
7 functions are hereby transferred to the office of archaeology and
8 historic preservation within the department of natural resources. All
9 references to the director or the department of archaeology and
10 historic preservation in the Revised Code of Washington shall be
11 construed to mean the director or the department of natural resources.

12 (2)(a) All reports, documents, surveys, books, records, files,
13 papers, or written material in the possession of the department of
14 archaeology and historic preservation shall be delivered to the custody
15 of the department of natural resources. All cabinets, furniture,
16 office equipment, motor vehicles, and other tangible property employed
17 by the department of archaeology and historic preservation shall be
18 made available to the department of natural resources. All funds,
19 credits, or other assets held by the department of archaeology and
20 historic preservation shall be assigned to the department of natural
21 resources for use by the office of archaeology and historic
22 preservation.

23 (b) Any appropriations made to the department of archaeology and
24 historic preservation shall, on the effective date of this section, be
25 transferred and credited to the department of natural resources.

26 (c) If any question arises as to the transfer of any personnel,
27 funds, books, documents, records, papers, files, equipment, or other
28 tangible property used or held in the exercise of the powers and the
29 performance of the duties and functions transferred, the director of
30 financial management shall make a determination as to the proper
31 allocation and certify the same to the state agencies concerned.

32 (3) All employees of the department of archaeology and historic
33 preservation are transferred to the jurisdiction of the department of
34 natural resources. All employees classified under chapter 41.06 RCW,
35 the state civil service law, are assigned to the department of natural
36 resources to perform their usual duties upon the same terms as

1 formerly, without any loss of rights, subject to any action that may be
2 appropriate thereafter in accordance with the laws and rules governing
3 state civil service.

4 (4) All rules and all pending business before the department of
5 archaeology and historic preservation shall be continued and acted upon
6 by the department of natural resources. All existing contracts and
7 obligations shall remain in full force and shall be performed by the
8 department of natural resources.

9 (5) The transfer of the powers, duties, functions, and personnel of
10 the department of archaeology and historic preservation shall not
11 affect the validity of any act performed before the effective date of
12 this section.

13 (6) If apportionments of budgeted funds are required because of the
14 transfers directed by this section, the director of financial
15 management shall certify the apportionments to the agencies affected,
16 the state auditor, and the state treasurer. Each of these shall make
17 the appropriate transfer and adjustments in funds and appropriation
18 accounts and equipment records in accordance with the certification.

19 (7) All classified employees of the department of archaeology and
20 historic preservation assigned to the department of natural resources
21 under this section whose positions are within an existing bargaining
22 unit description at the department of natural resources shall become a
23 part of the existing bargaining unit at the department of natural
24 resources and shall be considered an appropriate inclusion or
25 modification of the existing bargaining unit under the provisions.

26 NEW SECTION. **Sec. 8047.** The following acts or parts of acts are
27 each repealed:

- 28 (1) RCW 43.334.030 (Director powers and duties) and 2005 c 333 s 3;
- 29 (2) RCW 43.334.040 (Departmental divisions) and 2005 c 333 s 4;
- 30 (3) RCW 43.334.050 (Deputy director--Department personnel
31 director--Assistant directors) and 2005 c 333 s 5; and
- 32 (4) RCW 43.334.900 (Transfer of powers, duties, and functions) and
33 2005 c 333 s 12.

34 NEW SECTION. **Sec. 8048.** On the effective date of this section,
35 the commissioner of public lands and the director of the department of
36 archaeology and historic preservation must each designate one

1 executive-level representative to serve on a consolidation transition
2 team. This team must, with the assistance of their agencies, develop
3 the following work products:

4 (1) A consolidation transition team report, to be submitted to the
5 office of financial management and the legislature by August 1, 2011.
6 This report must, at a minimum, detail all legislative and fiscal
7 changes necessary for the successful implementation of this
8 consolidation and identify expected costs and savings associated with
9 the consolidation.

10 (2) A supplemental budget request, if necessary, for consideration
11 during the 2012 legislative session. This request must encompass any
12 necessary budgetary and legislative changes for the agencies affected
13 by this consolidation, and be submitted to the office of financial
14 management by September 1, 2011.

15 (3) A second consolidation transition team report, to be submitted
16 to the commissioner of public lands by July 1, 2012. This report must,
17 at a minimum, detail all additional legislative and fiscal changes
18 necessary for the successful implementation of this agency
19 consolidation and identify expected costs and savings associated with
20 the consolidation.

21 NEW SECTION. **Sec. 8049.** The consolidation directed pursuant to
22 sections 8001 through 8048 of this act takes effect July 1, 2012.

23 NEW SECTION. **Sec. 8050.** This act is necessary for the immediate
24 preservation of the public peace, health, or safety, or support of the
25 state government and its existing public institutions, and takes effect
26 July 1, 2011.

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