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ENGROSSED SUBSTITUTE HOUSE BILL 2031

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State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Energy & Utilities (originally sponsored by Representatives Grant, Neher, Bray and Ludwig; by request of Utilities & Transportation Commission). Read first time March 6, 1991.

1 AN ACT Relating to low-level waste sites; amending RCW 81.04.010,  
2 82.16.010, 82.04.260, and 43.200.080; adding a new section to chapter  
3 43.200 RCW; adding a new chapter to Title 81 RCW; and declaring an  
4 emergency.

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

6 NEW SECTION. **Sec. 1.** State and national policy directs that  
7 the management of low-level radioactive waste be accomplished by a  
8 system of interstate compacts and the development of regional disposal  
9 sites. The Northwest regional compact, comprised of the states of  
10 Alaska, Hawaii, Idaho, Montana, Oregon, Utah, and Washington, has as  
11 its disposal facility the low-level radioactive waste disposal site  
12 located near Richland, Washington. This site is expected to be the  
13 sole site for disposal of low-level radioactive waste for compact  
14 members effective January 1, 1993. Future closure of this site will  
15 require significant financial resources.

1 Low-level radioactive waste is generated by essential activities  
2 and services that benefit the citizens of the state. Washington  
3 state's low-level radioactive waste disposal site has been used by the  
4 nation and the Northwest compact as a disposal site since 1965. The  
5 public has come to rely on access to this site for disposal of low-  
6 level radioactive waste, which requires separate handling from other  
7 solid and hazardous wastes. The price of disposing of low-level  
8 radioactive waste at the Washington state low-level radioactive waste  
9 disposal site is anticipated to increase when the federal low-level  
10 radioactive waste policy amendments act of 1985 is implemented and  
11 waste generated outside the Northwest compact states is excluded.

12 When these events occur, to protect Washington and other Northwest  
13 compact states' businesses and services, such as electrical production,  
14 medical and university research, and private industries, upon which the  
15 public relies, there will be a need to regulate the rates charged by  
16 the operator of Washington's low-level radioactive waste disposal site.  
17 This chapter is adopted pursuant to section 8, chapter 21, Laws of  
18 1990.

19 NEW SECTION. **Sec. 2.** Definitions in this section apply  
20 throughout this chapter unless the context clearly requires otherwise.

21 (1) "Commission" means the Washington utilities and transportation  
22 commission.

23 (2) "Effective rate" means the highest permissible rate, calculated  
24 as the lowest contract rate plus an administrative fee, if applicable,  
25 determined pursuant to section 5 of this act.

26 (3) "Extraordinary volume" means volumes of low-level radioactive  
27 waste delivered to a site caused by nonrecurring events, outside normal  
28 operations of a generator, which are in excess of twenty thousand cubic

1 feet or twenty percent of the preceding year's total volume at such  
2 site, whichever is less.

3 (4) "Extraordinary volume adjustment" means a mechanism that  
4 allocates the potential rate reduction benefits of an extraordinary  
5 volume between all generators and the generator responsible for such  
6 extraordinary volume as described in section 8 of this act.

7 (5) "Generator" means a person, partnership, association,  
8 corporation, or any other entity whatsoever that, as a part of its  
9 activities, produces low-level radioactive waste.

10 (6) "Inflation adjustment" means a mechanism that adjusts the  
11 maximum disposal rate by a percentage equal to the change in price  
12 levels in the preceding period, as measured by a common, verifiable  
13 price index as determined in section 5 of this act.

14 (7) "Initial rate proceeding" means the proceeding described in  
15 section 5 of this act.

16 (8) "Maximum disposal rate" means the rate described in section 6  
17 of this act.

18 (9) "Site" means a location, structure, or property used or to be  
19 used for the storage, treatment, or disposal of low-level radioactive  
20 waste for compensation within the state of Washington.

21 (10) "Site operator" means a low-level radioactive waste site  
22 operating company as defined in RCW 81.04.010.

23 (11) "Volume adjustment" means a mechanism which adjusts the  
24 maximum disposal rate in response to material changes in volumes of  
25 waste deposited at the site during the preceding period so as to  
26 provide a level of total revenues sufficient to recover the costs to  
27 operate and maintain the site.

28 **Sec. 3.** RCW 81.04.010 and 1981 c 13 s 2 are each amended to read  
29 as follows:

1 As used in this title, unless specially defined otherwise or unless  
2 the context indicates otherwise:

3 "Commission" means the utilities and transportation commission.

4 "Commissioner" means one of the members of such commission.

5 "Corporation" includes a corporation, company, association or joint  
6 stock association.

7 "Low-level radioactive waste site operating company" includes every  
8 corporation, company, association, joint stock association,  
9 partnership, and person, their lessees, trustees, or receivers  
10 appointed by any court whatsoever, owning, operating, controlling, or  
11 managing a low-level radioactive waste disposal site or sites located  
12 within the state of Washington.

13 "Low-level radioactive waste" means low-level waste as defined by  
14 RCW 43.145.010.

15 "Person" includes an individual, a firm or copartnership.

16 "Street railroad" includes every railroad by whatsoever power  
17 operated, or any extension or extensions, branch or branches thereof,  
18 for public use in the conveyance of persons or property for hire, being  
19 mainly upon, along, above or below any street, avenue, road, highway,  
20 bridge or public place within any one city or town, and includes all  
21 equipment, switches, spurs, tracks, bridges, right of trackage,  
22 subways, tunnels, stations, terminals and terminal facilities of every  
23 kind used, operated, controlled or owned by or in connection with any  
24 such street railroad, within this state.

25 "Street railroad company" includes every corporation, company,  
26 association, joint stock association, partnership and person, their  
27 lessees, trustees or receivers appointed by any court whatsoever, and  
28 every city or town, owning, controlling, operating or managing any  
29 street railroad or any cars or other equipment used thereon or in  
30 connection therewith within this state.

1 "Railroad" includes every railroad, other than street railroad, by  
2 whatsoever power operated for public use in the conveyance of persons  
3 or property for hire, with all bridges, ferries, tunnels, equipment,  
4 switches, spurs, tracks, stations and terminal facilities of every kind  
5 used, operated, controlled or owned by or in connection with any such  
6 railroad.

7 "Railroad company" includes every corporation, company,  
8 association, joint stock association, partnership or person, their  
9 lessees, trustees or receivers appointed by any court whatsoever,  
10 owning, operating, controlling or managing any railroad or any cars or  
11 other equipment used thereon or in connection therewith within this  
12 state.

13 "Express company" includes every corporation, company, association,  
14 joint stock association, partnership and person, their lessees,  
15 trustees or receivers appointed by any court whatsoever, who shall  
16 engage in or transact the business of carrying any freight, merchandise  
17 or property for hire on the line of any common carrier operated in this  
18 state.

19 "Common carrier" includes all railroads, railroad companies, street  
20 railroads, street railroad companies, steamboat companies, express  
21 companies, car companies, sleeping car companies, freight companies,  
22 freight line companies, and every corporation, company, association,  
23 joint stock association, partnership and person, their lessees,  
24 trustees or receivers appointed by any court whatsoever, and every city  
25 or town, owning, operating, managing or controlling any such agency for  
26 public use in the conveyance of persons or property for hire within  
27 this state.

28 "Vessel" includes every species of watercraft, by whatsoever power  
29 operated, for public use in the conveyance of persons or property for  
30 hire over and upon the waters within this state, excepting all

1 towboats, tugs, scows, barges, and lighters, and excepting rowboats and  
2 sailing boats under twenty gross tons burden, open steam launches of  
3 five tons gross and under, and vessels under five tons gross propelled  
4 by gas, fluid, naphtha or electric motors.

5 "Steamboat company" includes every corporation, company,  
6 association, joint stock association, partnership and person, their  
7 lessees, trustees or receivers, appointed by any court whatsoever,  
8 owning, controlling, leasing, operating or managing any vessel over and  
9 upon the waters of this state.

10 "Transportation of property" includes any service in connection  
11 with the receiving, delivery, elevation, transfer in transit,  
12 ventilation, refrigeration, icing, storage and handling of the property  
13 transported, and the transmission of credit.

14 "Transportation of persons" includes any service in connection with  
15 the receiving, carriage and delivery of the person transported and his  
16 baggage and all facilities used, or necessary to be used in connection  
17 with the safety, comfort and convenience of the person transported.

18 "Public service company" includes every common carrier.

19 The term "service" is used in this title in its broadest and most  
20 inclusive sense.

21 NEW SECTION. **Sec. 4.** (1) The commission shall have  
22 jurisdiction over the sites and site operators as set forth in this  
23 chapter.

24 (2)(a) The commission shall establish rates to be charged by site  
25 operators. In establishing the rates, the commission shall assure that  
26 they are fair, just, reasonable, and sufficient considering the value  
27 of the site operator's leasehold and license interests, the unique  
28 nature of its business operations, the site operator's liability  
29 associated with the site, its investment incurred over the term of its

1 operations, and the rate of return equivalent to that earned by  
2 comparable enterprises. Such rates shall only take effect following a  
3 finding that the site operator is a monopoly pursuant to section 11 of  
4 this act.

5 (b) In exercising the power in this subsection the commission may  
6 use any standard, formula, method, or theory of valuation reasonably  
7 calculated to arrive at the objective of prescribing and authorizing  
8 fair, just, reasonable, and sufficient rates. The relation of site  
9 operator expenses to site operator revenues may be deemed the proper  
10 test of a reasonable return.

11 (3) In all respects in which the commission has power and authority  
12 under this chapter, applications and complaints may be made and filed  
13 with it, process issued, hearings held, opinions, orders, and decisions  
14 made and filed, petitions for rehearing filed and acted upon, and  
15 petitions for review to the superior court filed therewith, appeals  
16 filed with the appellate courts of this state, considered and disposed  
17 of by said courts in the manner, under the conditions, and subject to  
18 the limitations, and with the effect specified in this title for public  
19 service companies generally.

20 (4) At any time after January 1, 1992, the commission may: (a)  
21 Prescribe a system of accounts for site operators using as a starting  
22 point the existing system used by site operators; (b) audit the books  
23 of site operators; (c) obtain books and records from site operators;  
24 (d) assess penalties; and (e) require semiannual reports regarding the  
25 results of operations for the site.

26 (5) The commission may adopt rules necessary to carry out its  
27 functions under this chapter.

28 NEW SECTION. **Sec. 5.** (1) On or before March 1, 1992, site  
29 operators shall file a request with the commission to establish an

1 initial maximum disposal rate. The filing shall include at a minimum  
2 testimony, exhibits, workpapers, summaries, annual reports, cost  
3 studies, proposed tariffs, and other documents as required by the  
4 commission in rate cases generally under its jurisdiction.

5 (2) After receipt of a request, the commission shall set the  
6 request for a hearing and require the site operator to provide for  
7 notice to all known customers that ship or deliver waste to the site.  
8 The proceedings before the commission shall be conducted in accordance  
9 with chapter 34.05 RCW and rules of procedure established by the  
10 commission.

11 (3) No later than January 1, 1993, the commission shall establish  
12 the initial maximum disposal rates that may be charged by site  
13 operators.

14 (4) In the initial rate proceeding the commission also shall  
15 determine the factors necessary to calculate the inflation, volume, and  
16 extraordinary volume adjustments.

17 (5) The commission also shall determine the administrative fee,  
18 which shall be a percentage or an amount that represents increased  
19 administrative costs associated with acceptance of small volumes of  
20 waste by a site operator. The administrative fee may be revised by the  
21 commission from time to time upon its own motion or upon the petition  
22 of an interested person.

23 (6) The rates specified in this section shall only take effect  
24 following a finding that the site operator is a monopoly pursuant to  
25 section 11 of this act.

26 NEW SECTION. **Sec. 6.** (1) The maximum disposal rates that a  
27 site operator may charge generators shall be determined in accordance  
28 with this section. The rates shall include all charges for disposal  
29 services at the site.

1 (2) Initially, the maximum disposal rates shall be the initial  
2 rates established pursuant to section 5 of this act.

3 (3) Subsequently, the maximum disposal rates shall be adjusted  
4 semiannually in January and July of each year to incorporate inflation  
5 and volume adjustments. Such adjustments shall take effect thirty days  
6 after filing with the commission unless the commission authorizes that  
7 the adjustments take effect earlier, or the commission contests the  
8 calculation of the adjustments, in which case the commission may  
9 suspend the filing. A site operator shall provide notice to its  
10 customers concurrent with the filing.

11 (4)(a) Subsequently, a site operator may also file for revisions to  
12 the maximum disposal rates due to:

13 (i) Changes in any governmentally imposed fee, surcharge, or tax  
14 assessed on a volume or a gross revenue basis against or collected by  
15 the site operator, including site closure fees, perpetual care and  
16 maintenance fees, business and occupation taxes, site surveillance  
17 fees, leasehold excise taxes, commission regulatory fees, municipal  
18 taxes, and a tax or payment in lieu of taxes authorized by the state to  
19 compensate the county in which a site is located for that county's  
20 legitimate costs arising out of the presence of that site within that  
21 county; or

22 (ii) Factors outside the control of the site operator such as a  
23 material change in regulatory requirements regarding the physical  
24 operation of the site.

25 (b) Revisions to the maximum disposal rate shall take effect thirty  
26 days after filing with the commission unless the commission suspends  
27 the filing or authorizes the proposed adjustments to take effect  
28 earlier.

29 (5) Upon establishment of a contract rate pursuant to section 7 of  
30 this act for a disposal fee, the site operator may not collect a

1 disposal fee that is greater than the effective rate. The effective  
2 rate shall be in effect so long as such contract rate remains in  
3 effect. Adjustments to the maximum disposal rates may be made during  
4 the time an effective rate is in place. Contracts for disposal of  
5 extraordinary volumes pursuant to section 8 of this act shall not be  
6 considered in determining the effective rate.

7 (6) The site operator may petition the commission for new maximum  
8 disposal rates at any time. Upon receipt of such a petition, the  
9 commission shall set the matter for hearing and shall issue an order  
10 within seven months of the filing of the petition. The petition shall  
11 be accompanied by the documents required to accompany the filing for  
12 initial rates. The hearing on the petition shall be conducted in  
13 accordance with the commission's rules of practice and procedure.

14 (7) This section shall only take effect following a finding that  
15 the site operator is a monopoly pursuant to section 11 of this act.

16 NEW SECTION. **Sec. 7.** (1) At any time, a site operator may  
17 contract with any person to provide a contract disposal rate lower than  
18 the maximum disposal rate.

19 (2) A contract or contract amendment shall be submitted to the  
20 commission for approval at least thirty days before its effective date.  
21 The commission may approve the contract or suspend the contract and set  
22 it for hearing. If the commission takes no action within thirty days  
23 of filing, the contract or amendment shall go into effect according to  
24 its terms. Each contract filing shall be accompanied with  
25 documentation to show that the contract does not result in  
26 discrimination between generators receiving like and contemporaneous  
27 service under substantially similar circumstances and provides for the  
28 recovery of all costs associated with the provision of the service.

1 (3) This section shall only take effect following a finding that  
2 the site operator is a monopoly pursuant to section 11 of this act.

3 NEW SECTION. **Sec. 8.** (1) In establishing the extraordinary  
4 volume adjustment, unless the site operator and generator of the  
5 extraordinary volume agree to a contract disposal rate, one-half of the  
6 extraordinary volume delivery shall be priced at the maximum disposal  
7 rate and one-half shall be priced at the site operator's incremental  
8 cost to receive the delivery. Such incremental cost shall be  
9 determined in the initial rate proceeding.

10 (2) For purposes of the subsequent calculation of the volume  
11 adjustment, one-half of the total extraordinary volume shall be  
12 included in the calculation.

13 (3) This section shall only take effect following a finding that  
14 the site operator is a monopoly pursuant to section 11 of this act.

15 NEW SECTION. **Sec. 9.** (1) At any time, the commission or an  
16 interested person may file a complaint against a site operator alleging  
17 that the rates established pursuant to section 5 or 6 of this act are  
18 not in conformity with the standards set forth in section 4 of this act  
19 or that the site operator is otherwise not acting in conformity with  
20 the requirements of this chapter. Upon filing of the complaint, the  
21 commission shall cause a copy thereof to be served upon the site  
22 operator. The complaining party shall have the burden of proving that  
23 the maximum disposal rates determined pursuant to section 6 of this act  
24 are not just, fair, reasonable, or sufficient. The hearing shall  
25 conform to the rules of practice and procedure of the commission for  
26 other complaint cases.

1 (2) The commission shall encourage alternate forms of dispute  
2 resolution to resolve disputes between a site operator and any other  
3 person regarding matters covered by this chapter.

4 NEW SECTION. **Sec. 10.** (1) A site operator shall, on or before  
5 May 1, 1992, and each year thereafter, file with the commission a  
6 statement showing its gross operating revenue from intrastate  
7 operations for the preceding calendar year, or portion thereof, and pay  
8 to the commission a fee equal to one percent of the amount of the gross  
9 operating revenue, exclusive of site surveillance fees, perpetual care  
10 and maintenance fees, site closure fees, and state or federally imposed  
11 out-of-region surcharges.

12 (2) Fees collected under this chapter shall reasonably approximate  
13 the cost of supervising and regulating site operators. The commission  
14 may order a decrease in fees by March 1st of any year in which it  
15 determines that the moneys then in the radioactive waste disposal  
16 companies account of the public service revolving fund and the fees  
17 currently to be paid will exceed the reasonable cost of supervising and  
18 regulating site operators.

19 (3) Fees collected under this section or under any other provision  
20 of this chapter shall be paid to the commission and shall be  
21 transmitted to the state treasurer within thirty days to be deposited  
22 to the credit of the public service revolving fund.

23 NEW SECTION. **Sec. 11.** (1) A low-level waste disposal site  
24 operator is exempt as specified in sections 4(2)(a), 5(6), 6(7), 7(3),  
25 and 8(3) of this act unless a monopoly situation exists with respect to  
26 the site operated by such site operator. A monopoly situation exists  
27 if either of the following is present:

1 (a) No disposal facility is available to Northwest compact  
2 generators of low-level radioactive waste other than the site or sites  
3 operated by such site operator or its affiliates; or

4 (b) Disposal rates at other sites are not reasonable alternatives  
5 for Northwest compact generators, considering: Disposal rates at other  
6 facilities; current disposal rates charged by the site operator;  
7 historic relationships between the site operator's rates and rates at  
8 other facilities; and changes in the operator's rates considering  
9 changes in waste volumes, taxes, and fees; provided, however, that a  
10 monopoly situation does not exist if either of the following facilities  
11 operates or is projected to operate after December 31, 1992:

12 (i) Any existing low-level radioactive waste disposal site outside  
13 the state of Washington, other than facilities operated by affiliates  
14 of a site operator, provided that such site or sites do not charge  
15 disposal rates that discriminate against Northwest compact generators  
16 except to the extent, through December 31, 1994, such discrimination is  
17 authorized by amendment of current federal law; or

18 (ii) An existing facility within the Northwest compact not  
19 receiving low-level radioactive waste receives or offers to receive  
20 such waste under substantially similar terms and conditions.

21 (2) Such exemption shall be in effect until such time as the  
22 commission finds, after notice and hearing, upon motion by the  
23 commission or upon petition by any interested party, that a monopoly  
24 situation exists or will exist as of January 1, 1993. Such finding  
25 shall be based upon application of the criteria set forth in this  
26 section. The commission may assess a site operator for all of the  
27 commission's costs of supervision and regulation prior to and relative  
28 to determining whether such exemption applies to the site operator. If  
29 the commission determines that a site operator is not subject to such

1 exemption, it shall collect its costs of supervision and regulation  
2 under section 10 of this act.

3 (3) When such an exemption is in effect, any increase in rates  
4 charged by the operator effective January 1, 1993, for services other  
5 than the base rate for disposal of solid material in packages of twelve  
6 cubic feet or less shall be no more than the percentage increase in  
7 said base rate in effect on January 1, 1993.

8 NEW SECTION. **Sec. 12.** (1) At any time after this chapter has  
9 been implemented with respect to a site operator, such site operator  
10 may petition the commission to be classified as competitive. The  
11 commission may initiate classification proceedings on its own motion.  
12 The commission shall enter its final order with respect to  
13 classification within seven months from the date of filing of a  
14 company's petition or the commission's motion.

15 (2) The commission shall classify a site operator as a competitive  
16 company if the commission finds, after notice and hearing, that the  
17 disposal services offered are subject to competition because the  
18 company's customers have reasonably available alternatives. In  
19 determining whether a company is competitive, the commission's  
20 consideration shall include, but not be limited to:

21 (a) Whether the system of interstate compacts and regional disposal  
22 sites established by federal law has been implemented so that the  
23 Northwest compact site located near Richland, Washington is the  
24 exclusive site option for disposal by customers within the Northwest  
25 compact states;

26 (b) Whether waste generated outside the Northwest compact states is  
27 excluded; and

1 (c) The ability of alternative disposal sites to make functionally  
2 equivalent services readily available at competitive rates, terms, and  
3 conditions.

4 (3) The commission may reclassify a competitive site operator if  
5 reclassification would protect the public interest as set forth in this  
6 section.

7 (4) Competitive low-level radioactive waste disposal companies  
8 shall be exempt from commission regulation and fees during the time  
9 they are so classified.

10 NEW SECTION. **Sec. 13.** Nothing in this chapter shall be  
11 construed to affect the jurisdiction of another state agency.

12 **Sec. 14.** RCW 82.16.010 and 1989 c 302 s 203 are each amended to  
13 read as follows:

14 For the purposes of this chapter, unless otherwise required by the  
15 context:

16 (1) "Railroad business" means the business of operating any  
17 railroad, by whatever power operated, for public use in the conveyance  
18 of persons or property for hire. It shall not, however, include any  
19 business herein defined as an urban transportation business.

20 (2) "Express business" means the business of carrying property for  
21 public hire on the line of any common carrier operated in this state,  
22 when such common carrier is not owned or leased by the person engaging  
23 in such business.

24 (3) "Railroad car business" means the business of renting, leasing  
25 or operating stock cars, furniture cars, refrigerator cars, fruit cars,  
26 poultry cars, tank cars, sleeping cars, parlor cars, buffet cars,  
27 tourist cars, or any other kinds of cars used for transportation of  
28 property or persons upon the line of any railroad operated in this

1 state when such railroad is not owned or leased by the person engaging  
2 in such business.

3 (4) "Water distribution business" means the business of operating  
4 a plant or system for the distribution of water for hire or sale.

5 (5) "Light and power business" means the business of operating a  
6 plant or system for the generation, production or distribution of  
7 electrical energy for hire or sale and/or for the wheeling of  
8 electricity for others.

9 (6) "Telegraph business" means the business of affording  
10 telegraphic communication for hire.

11 (7) "Gas distribution business" means the business of operating a  
12 plant or system for the production or distribution for hire or sale of  
13 gas, whether manufactured or natural.

14 (8) "Motor transportation business" means the business (except  
15 urban transportation business) of operating any motor propelled vehicle  
16 by which persons or property of others are conveyed for hire, and  
17 includes, but is not limited to, the operation of any motor propelled  
18 vehicle as an auto transportation company (except urban transportation  
19 business), common carrier or contract carrier as defined by RCW  
20 81.68.010 and 81.80.010: PROVIDED, That "motor transportation  
21 business" shall not mean or include the transportation of logs or other  
22 forest products exclusively upon private roads or private highways.

23 (9) "Urban transportation business" means the business of operating  
24 any vehicle for public use in the conveyance of persons or property for  
25 hire, insofar as (a) operating entirely within the corporate limits of  
26 any city or town, or within five miles of the corporate limits thereof,  
27 or (b) operating entirely within and between cities and towns whose  
28 corporate limits are not more than five miles apart or within five  
29 miles of the corporate limits of either thereof. Included herein, but  
30 without limiting the scope hereof, is the business of operating

1 passenger vehicles of every type and also the business of operating  
2 cartage, pickup, or delivery services, including in such services the  
3 collection and distribution of property arriving from or destined to a  
4 point within or without the state, whether or not such collection or  
5 distribution be made by the person performing a local or interstate  
6 line-haul of such property.

7 (10) "Public service business" means any of the businesses defined  
8 in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), and (9) or any  
9 business subject to control by the state, or having the powers of  
10 eminent domain and the duties incident thereto, or any business  
11 hereafter declared by the legislature to be of a public service nature,  
12 except telephone business as defined in RCW 82.04.065 and low-level  
13 radioactive waste site operating companies as defined in RCW 81.04.010.  
14 It includes, among others, without limiting the scope hereof: Airplane  
15 transportation, boom, dock, ferry, log patrol, pipe line, toll bridge,  
16 toll logging road, water transportation and wharf businesses.

17 (11) "Tugboat business" means the business of operating tugboats,  
18 towboats, wharf boats or similar vessels in the towing or pushing of  
19 vessels, barges or rafts for hire.

20 (12) "Gross income" means the value proceeding or accruing from the  
21 performance of the particular public service or transportation business  
22 involved, including operations incidental thereto, but without any  
23 deduction on account of the cost of the commodity furnished or sold,  
24 the cost of materials used, labor costs, interest, discount, delivery  
25 costs, taxes, or any other expense whatsoever paid or accrued and  
26 without any deduction on account of losses.

27 (13) The meaning attributed, in chapter 82.04 RCW, to the term "tax  
28 year," "person," "value proceeding or accruing," "business," "engaging  
29 in business," "in this state," "within this state," "cash discount" and  
30 "successor" shall apply equally in the provisions of this chapter.

1       **Sec. 15.** RCW 82.04.260 and 1990 c 21 s 2 are each amended to read  
2 as follows:

3       (1) Upon every person engaging within this state in the business of  
4 buying wheat, oats, dry peas, dry beans, lentils, triticale, corn, rye  
5 and barley, but not including any manufactured or processed products  
6 thereof, and selling the same at wholesale; the tax imposed shall be  
7 equal to the gross proceeds derived from such sales multiplied by the  
8 rate of one-hundredth of one percent.

9       (2) Upon every person engaging within this state in the business of  
10 manufacturing wheat into flour, barley into pearl barley, soybeans into  
11 soybean oil, or sunflower seeds into sunflower oil; as to such persons  
12 the amount of tax with respect to such business shall be equal to the  
13 value of the flour, pearl barley, or oil manufactured, multiplied by  
14 the rate of one-eighth of one percent.

15       (3) Upon every person engaging within this state in the business of  
16 splitting or processing dried peas; as to such persons the amount of  
17 tax with respect to such business shall be equal to the value of the  
18 peas split or processed, multiplied by the rate of one-quarter of one  
19 percent.

20       (4) Upon every person engaging within this state in the business of  
21 manufacturing seafood products which remain in a raw, raw frozen, or  
22 raw salted state at the completion of the manufacturing by that person;  
23 as to such persons the amount of tax with respect to such business  
24 shall be equal to the value of the products manufactured, multiplied by  
25 the rate of one-eighth of one percent.

26       (5) Upon every person engaging within this state in the business of  
27 manufacturing by canning, preserving, freezing or dehydrating fresh  
28 fruits and vegetables; as to such persons the amount of tax with  
29 respect to such business shall be equal to the value of the products

1 canned, preserved, frozen or dehydrated multiplied by the rate of  
2 three-tenths of one percent.

3 (6) Upon every nonprofit corporation and nonprofit association  
4 engaging within this state in research and development, as to such  
5 corporations and associations, the amount of tax with respect to such  
6 activities shall be equal to the gross income derived from such  
7 activities multiplied by the rate of forty-four one-hundredths of one  
8 percent.

9 (7) Upon every person engaging within this state in the business  
10 of slaughtering, breaking and/or processing perishable meat products  
11 and/or selling the same at wholesale only and not at retail; as to such  
12 persons the tax imposed shall be equal to the gross proceeds derived  
13 from such sales multiplied by the rate of twenty-five one-hundredths of  
14 one percent through June 30, 1986, and one-eighth of one percent  
15 thereafter.

16 (8) Upon every person engaging within this state in the business  
17 of making sales, at retail or wholesale, of nuclear fuel assemblies  
18 manufactured by that person, as to such persons the amount of tax with  
19 respect to such business shall be equal to the gross proceeds of sales  
20 of the assemblies multiplied by the rate of twenty-five one-hundredths  
21 of one percent.

22 (9) Upon every person engaging within this state in the business  
23 of manufacturing nuclear fuel assemblies, as to such persons the amount  
24 of tax with respect to such business shall be equal to the value of the  
25 products manufactured multiplied by the rate of twenty-five one-  
26 hundredths of one percent.

27 (10) Upon every person engaging within this state in the business  
28 of acting as a travel agent; as to such persons the amount of the tax  
29 with respect to such activities shall be equal to the gross income

1 derived from such activities multiplied by the rate of twenty-five one-  
2 hundredths of one percent.

3 (11) Upon every person engaging within this state in business as  
4 an international steamship agent, international customs house broker,  
5 international freight forwarder, vessel and/or cargo charter broker in  
6 foreign commerce, and/or international air cargo agent; as to such  
7 persons the amount of the tax with respect to only international  
8 activities shall be equal to the gross income derived from such  
9 activities multiplied by the rate of thirty-three one-hundredths of one  
10 percent.

11 (12) Upon every person engaging within this state in the business  
12 of stevedoring and associated activities pertinent to the movement of  
13 goods and commodities in waterborne interstate or foreign commerce; as  
14 to such persons the amount of tax with respect to such business shall  
15 be equal to the gross proceeds derived from such activities multiplied  
16 by the rate of thirty-three one hundredths of one percent. Persons  
17 subject to taxation under this subsection shall be exempt from payment  
18 of taxes imposed by chapter 82.16 RCW for that portion of their  
19 business subject to taxation under this subsection. Stevedoring and  
20 associated activities pertinent to the conduct of goods and commodities  
21 in waterborne interstate or foreign commerce are defined as all  
22 activities of a labor, service or transportation nature whereby cargo  
23 may be loaded or unloaded to or from vessels or barges, passing over,  
24 onto or under a wharf, pier, or similar structure; cargo may be moved  
25 to a warehouse or similar holding or storage yard or area to await  
26 further movement in import or export or may move to a consolidation  
27 freight station and be stuffed, unstuffed, containerized, separated or  
28 otherwise segregated or aggregated for delivery or loaded on any mode  
29 of transportation for delivery to its consignee. Specific activities  
30 included in this definition are: Wharfage, handling, loading,

1 unloading, moving of cargo to a convenient place of delivery to the  
2 consignee or a convenient place for further movement to export mode;  
3 documentation services in connection with the receipt, delivery,  
4 checking, care, custody and control of cargo required in the transfer  
5 of cargo; imported automobile handling prior to delivery to consignee;  
6 terminal stevedoring and incidental vessel services, including but not  
7 limited to plugging and unplugging refrigerator service to containers,  
8 trailers, and other refrigerated cargo receptacles, and securing ship  
9 hatch covers.

10 (13) Upon every person engaging within this state in the business  
11 of disposing of low-level waste, as defined in RCW 43.145.010; as to  
12 such persons the amount of the tax with respect to such business shall  
13 be equal to the gross income of the business, excluding any fees  
14 imposed under chapter 43.200 RCW, multiplied by the rate of fifteen  
15 percent.

16 (a) The rate specified in this subsection shall be reduced to ten  
17 percent (~~((upon the effective date of legislation adopted pursuant to  
18 RCW 81.04.520 governing regulation of the business of low level  
19 radioactive waste disposal))~~ on the effective date of this act.

20 (b) The rate specified in this subsection shall be further reduced  
21 to five percent on January 1, 1992(~~(, if (a) of this subsection has  
22 taken effect))~~).

23 If the gross income of the taxpayer is attributable to activities  
24 both within and without this state, the gross income attributable to  
25 this state shall be determined in accordance with the methods of  
26 apportionment required under RCW 82.04.460.

27 (14) Upon every person engaging within this state as an insurance  
28 agent, insurance broker, or insurance solicitor licensed under chapter  
29 48.17 RCW; as to such persons, the amount of the tax with respect to

1 such licensed activities shall be equal to the gross income of such  
2 business multiplied by the rate of one percent.

3 **Sec. 16.** RCW 43.200.080 and 1990 c 21 s 6 are each amended to read  
4 as follows:

5 The director of ecology shall, in addition to the powers and duties  
6 otherwise imposed by law, have the following special powers and duties:

7 (1) To fulfill the responsibilities of the state under the lease  
8 between the state of Washington and the federal government executed  
9 September 10, 1964, covering one thousand acres of land lying within  
10 the Hanford reservation near Richland, Washington. The department of  
11 ecology may sublease to private or public entities all or a portion of  
12 the land for specific purposes or activities which are determined,  
13 after public hearing, to be in agreement with the terms of the lease  
14 and in the best interests of the citizens of the state consistent with  
15 any criteria that may be developed as a requirement by the legislature;

16 (2) To assume the responsibilities of the state under the perpetual  
17 care agreement between the state of Washington and the federal  
18 government executed July 29, 1965 and the sublease between the state of  
19 Washington and the site operator of the Hanford low-level radioactive  
20 waste disposal facility. In order to finance perpetual surveillance  
21 and maintenance under the agreement and ensure site closure under the  
22 sublease, the department of ecology shall impose and collect fees from  
23 parties holding radioactive materials for waste management purposes.  
24 The fees shall be established by rule adopted under chapter 34.05 RCW  
25 and shall be an amount determined by the department of ecology to be  
26 necessary to defray the estimated liability of the state. Such fees  
27 shall reflect equity between the disposal facilities of this and other  
28 states. All such fees, when received by the department of ecology,  
29 shall be transmitted to the state treasurer, who shall act as

1 custodian. The perpetual maintenance fund is created in the state  
2 treasury. The treasurer shall place the money in a special fund which  
3 may be designated the "perpetual maintenance fund." The perpetual  
4 maintenance fund shall be comprised of a site closure account and a  
5 perpetual surveillance and maintenance account. The site closure  
6 account shall be exclusively available to reimburse, to the extent that  
7 moneys are available in the account, the site operator for its costs  
8 plus a reasonable profit as agreed by the operator and the state, or to  
9 reimburse the state licensing agency and any agencies under contract to  
10 the state licensing agency for their costs in final closure and  
11 decommissioning of the Hanford low-level radioactive waste disposal  
12 facility. If a balance remains in the account after satisfactory  
13 performance of closure and decommissioning, this balance shall be  
14 transferred to the perpetual surveillance and maintenance account. The  
15 perpetual surveillance and maintenance account shall be used  
16 exclusively by the state to meet post-closure surveillance and  
17 maintenance costs, or for otherwise satisfying surveillance and  
18 maintenance obligations. Appropriations are required to permit  
19 expenditures and payment of obligations from the site closure account  
20 and the perpetual surveillance and maintenance account. Moneys which  
21 on July 23, 1989, are in the perpetual maintenance account shall be  
22 transferred to the perpetual surveillance and maintenance account. All  
23 moneys currently administered by the department of ecology for closure  
24 of the Hanford low-level radioactive waste disposal facility shall be  
25 transferred to the site closure account within the perpetual  
26 maintenance fund. All future moneys, including interest, contributed  
27 to the perpetual maintenance fund shall be directed to the site closure  
28 account until December 31, 1992. Thereafter receipts shall be directed  
29 to the perpetual maintenance fund as specified by the department.  
30 Moneys in the perpetual maintenance fund shall be invested by the state

1 investment board in the same manner as other state moneys. Any  
2 interest accruing as a result of investment shall accrue to the  
3 perpetual maintenance fund. Additional moneys specifically  
4 appropriated by the legislature or received from any public or private  
5 source may be placed in the perpetual maintenance fund;

6 (3) To collect after January 1, 1993, as an added charge on each  
7 cubic foot of waste disposed at any facility in the state a surcharge  
8 of seven dollars. The surcharge shall be made specifically on the  
9 generator of the waste and shall not be considered applicable in any  
10 way to the low-level site operator's disposal activities. Five dollars  
11 of the surcharge shall be deposited in the fund created in section 17  
12 of this act and two dollars of the surcharge shall be remitted monthly  
13 to a county in which a low-level radioactive waste disposal facility is  
14 located;

15 (4) To assure maintenance of such insurance coverage by state  
16 licensees, lessees, or sublessees as will adequately, in the opinion of  
17 the director, protect the citizens of the state against nuclear  
18 accidents or incidents that may occur on privately or state-controlled  
19 nuclear facilities;

20 ~~((4))~~ (5) To institute a user permit system and issue site use  
21 permits, consistent with regulatory practices, for generators,  
22 packagers, or brokers using the Hanford low-level radioactive waste  
23 disposal facility. The costs of administering the user permit system  
24 shall be borne by the applicants for site use permits. The site use  
25 permit fee shall be set at a level that is sufficient to fund  
26 completely the executive and legislative participation in activities  
27 related to the Northwest Interstate Compact on Low-Level Radioactive  
28 Waste Management; and

29 ~~((5))~~ (6) To make application for or otherwise pursue any federal  
30 funds to which the state may be eligible, through the federal resource

1 conservation and recovery act or any other federal programs, for the  
2 management, treatment or disposal, and any remedial actions, of wastes  
3 that are both radioactive and hazardous at all Hanford low-level  
4 radioactive waste disposal facilities; and

5 ~~((6))~~ (7) To develop contingency plans for duties and options for  
6 the department and other state agencies related to the Hanford low-  
7 level radioactive waste disposal facility based on various projections  
8 of annual levels of waste disposal. These plans shall include an  
9 analysis of expected revenue to the state in various taxes and funds  
10 related to low-level radioactive waste disposal and the resulting  
11 implications that any increase or decrease in revenue may have on state  
12 agency duties or responsibilities. The initial set of plans shall be  
13 completed by October 1, 1989, and shall be updated annually. The  
14 department shall report annually on the plans and on the balances in  
15 the site closure and perpetual surveillance accounts to the energy and  
16 utilities committees of the senate and the house of representatives.

17 NEW SECTION. **Sec. 17.** A new section is added to chapter 43.200  
18 RCW to read as follows:

19 There is established the radioactive waste disposal host area  
20 economic development account in the state treasury. All payments  
21 received under RCW 43.200.080 shall be deposited in the account.  
22 Moneys in the account shall be transferred monthly to the regional  
23 revolving loan fund of an economic development district that is a  
24 component of any local governmental conference authorized by RCW  
25 36.64.080 that includes the county or city in which a low-level  
26 radioactive waste disposal area is located. Moneys in the account may  
27 be spent without legislative appropriation. Expenditures of these  
28 moneys shall conform to applicable federal law.

1        NEW SECTION.    **Sec. 18.**        Sections 1, 2, and 4 through 13 of this  
2 act shall constitute a new chapter in Title 81 RCW.

3        NEW SECTION.    **Sec. 19.**        This act is necessary for the immediate  
4 preservation of the public peace, health, or safety, or support of the  
5 state government and its existing public institutions, and shall take  
6 effect immediately.