

1 5756-S.E AMH EN H2688.1

2 **ESSB 5756** - H COMM AMD **FAILED 4-19-91**
3 By Committee on Energy & Utilities

4

5 Strike everything after the enacting clause and insert the
6 following:

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

17 Low-level radioactive waste is generated by essential activities
18 and services that benefit the citizens of the state. Washington
19 state's low-level radioactive waste disposal site has been used by the
20 nation and the Northwest compact as a disposal site since 1965. The
21 public has come to rely on access to this site for disposal of low-
22 level radioactive waste, which requires separate handling from other
23 solid and hazardous wastes. The price of disposing of low-level
24 radioactive waste at the Washington state low-level radioactive waste
25 disposal site is anticipated to increase when the federal low-level
26 radioactive waste policy amendments act of 1985 is implemented and
27 waste generated outside the Northwest compact states is excluded.

1 When these events occur, to protect Washington and other Northwest
2 compact states' businesses and services, such as electrical production,
3 medical and university research, and private industries, upon which the
4 public relies, there will be a need to regulate the rates charged by
5 the operator of Washington's low-level radioactive waste disposal site.
6 This chapter is adopted pursuant to section 8, chapter 21, Laws of
7 1990."

8 "NEW SECTION. **Sec. 2.** Definitions in this section apply
9 throughout this chapter unless the context clearly requires otherwise.

10 (1) "Commission" means the Washington utilities and transportation
11 commission.

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

15 (3) "Extraordinary volume" means volumes of low-level radioactive
16 waste delivered to a site caused by nonrecurring events, outside normal
17 operations of a generator, that are in excess of twenty thousand cubic
18 feet or twenty percent of the preceding year's total volume at such
19 site, whichever is less.

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

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

27 (6) "Inflation adjustment" means a mechanism that adjusts the
28 maximum disposal rate by a percentage equal to the change in price

1 levels in the preceding period, as measured by a common, verifiable
2 price index as determined in section 5 of this act.

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

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

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

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

12 (11) "Volume adjustment" means a mechanism that adjusts the maximum
13 disposal rate in response to material changes in volumes of waste
14 deposited at the site during the preceding period so as to provide a
15 level of total revenues sufficient to recover the costs to operate and
16 maintain the site."

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

19 As used in this title, unless specially defined otherwise or unless
20 the context indicates otherwise:

21 "Commission" means the utilities and transportation commission.

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

23 "Corporation" includes a corporation, company, association or joint
24 stock association.

25 "Low-level radioactive waste site operating company" includes every
26 corporation, company, association, joint stock association,
27 partnership, and person, their lessees, trustees, or receivers
28 appointed by any court whatsoever, owning, operating, controlling, or

1 managing a low-level radioactive waste disposal site or sites located
2 within the state of Washington.

3 "Low-level radioactive waste" means low-level waste as defined by
4 RCW 43.145.010.

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

6 "Street railroad" includes every railroad by whatsoever power
7 operated, or any extension or extensions, branch or branches thereof,
8 for public use in the conveyance of persons or property for hire, being
9 mainly upon, along, above or below any street, avenue, road, highway,
10 bridge or public place within any one city or town, and includes all
11 equipment, switches, spurs, tracks, bridges, right of trackage,
12 subways, tunnels, stations, terminals and terminal facilities of every
13 kind used, operated, controlled or owned by or in connection with any
14 such street railroad, within this state.

15 "Street railroad company" includes every corporation, company,
16 association, joint stock association, partnership and person, their
17 lessees, trustees or receivers appointed by any court whatsoever, and
18 every city or town, owning, controlling, operating or managing any
19 street railroad or any cars or other equipment used thereon or in
20 connection therewith within this state.

21 "Railroad" includes every railroad, other than street railroad, by
22 whatsoever power operated for public use in the conveyance of persons
23 or property for hire, with all bridges, ferries, tunnels, equipment,
24 switches, spurs, tracks, stations and terminal facilities of every kind
25 used, operated, controlled or owned by or in connection with any such
26 railroad.

27 "Railroad company" includes every corporation, company,
28 association, joint stock association, partnership or person, their
29 lessees, trustees or receivers appointed by any court whatsoever,
30 owning, operating, controlling or managing any railroad or any cars or

1 other equipment used thereon or in connection therewith within this
2 state.

3 "Express company" includes every corporation, company, association,
4 joint stock association, partnership and person, their lessees,
5 trustees or receivers appointed by any court whatsoever, who shall
6 engage in or transact the business of carrying any freight, merchandise
7 or property for hire on the line of any common carrier operated in this
8 state.

9 "Common carrier" includes all railroads, railroad companies, street
10 railroads, street railroad companies, steamboat companies, express
11 companies, car companies, sleeping car companies, freight companies,
12 freight line companies, and every corporation, company, association,
13 joint stock association, partnership and person, their lessees,
14 trustees or receivers appointed by any court whatsoever, and every city
15 or town, owning, operating, managing or controlling any such agency for
16 public use in the conveyance of persons or property for hire within
17 this state.

18 "Vessel" includes every species of watercraft, by whatsoever power
19 operated, for public use in the conveyance of persons or property for
20 hire over and upon the waters within this state, excepting all
21 towboats, tugs, scows, barges, and lighters, and excepting rowboats and
22 sailing boats under twenty gross tons burden, open steam launches of
23 five tons gross and under, and vessels under five tons gross propelled
24 by gas, fluid, naphtha or electric motors.

25 "Steamboat company" includes every corporation, company,
26 association, joint stock association, partnership and person, their
27 lessees, trustees or receivers, appointed by any court whatsoever,
28 owning, controlling, leasing, operating or managing any vessel over and
29 upon the waters of this state.

1 "Transportation of property" includes any service in connection
2 with the receiving, delivery, elevation, transfer in transit,
3 ventilation, refrigeration, icing, storage and handling of the property
4 transported, and the transmission of credit.

5 "Transportation of persons" includes any service in connection with
6 the receiving, carriage and delivery of the person transported and his
7 baggage and all facilities used, or necessary to be used in connection
8 with the safety, comfort and convenience of the person transported.

9 "Public service company" includes every common carrier.

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

12 NEW SECTION. Sec. 4. (1) The commission shall have
13 jurisdiction over the sites and site operators as set forth in this
14 chapter.

15 (2)(a) The commission shall establish rates to be charged by site
16 operators. In establishing the rates, the commission shall assure that
17 they are fair, just, reasonable, and sufficient considering the value
18 of the site operator's leasehold and license interests, the unique
19 nature of its business operations, the site operator's liability
20 associated with the site, its investment incurred over the term of its
21 operations, and the rate of return equivalent to that earned by
22 comparable enterprises. Such rates shall only take effect following a
23 finding that the site operator is a monopoly pursuant to section 11 of
24 this act.

25 (b) In exercising the power in this subsection the commission may
26 use any standard, formula, method, or theory of valuation reasonably
27 calculated to arrive at the objective of prescribing and authorizing
28 fair, just, reasonable, and sufficient rates. The relation of site

1 operator expenses to site operator revenues may be deemed the proper
2 test of a reasonable return.

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

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

18 (5) The commission may adopt rules necessary to carry out its
19 functions under this chapter."

20 "NEW SECTION. Sec. 5. (1) On or before March 1, 1992, site
21 operators shall file a request with the commission to establish an
22 initial maximum disposal rate. The filing shall include, at a minimum,
23 testimony, exhibits, workpapers, summaries, annual reports, cost
24 studies, proposed tariffs, and other documents as required by the
25 commission in rate cases generally under its jurisdiction.

26 (2) After receipt of a request, the commission shall set the
27 request for a hearing and require the site operator to provide for
28 notice to all known customers that ship or deliver waste to the site.
29 The proceedings before the commission shall be conducted in accordance

1 with chapter 34.05 RCW and rules of procedure established by the
2 commission.

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

6 (4) In the initial rate proceeding the commission also shall
7 determine the factors necessary to calculate the inflation, volume, and
8 extraordinary volume adjustments.

9 (5) The commission also shall determine the administrative fee,
10 which shall be a percentage or an amount that represents increased
11 administrative costs associated with acceptance of small volumes of
12 waste by a site operator. The administrative fee may be revised by the
13 commission from time to time upon its own motion or upon the petition
14 of an interested person.

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

18 "NEW SECTION. Sec. 6. (1) The maximum disposal rates that a
19 site operator may charge generators shall be determined in accordance
20 with this section. The rates shall include all charges for disposal
21 services at the site.

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

24 (3) Subsequently, the maximum disposal rates shall be adjusted
25 semiannually in January and July of each year to incorporate inflation
26 and volume adjustments. Such adjustments shall take effect thirty days
27 after filing with the commission unless the commission authorizes that
28 the adjustments take effect earlier, or the commission contests the
29 calculation of the adjustments, in which case the commission may

1 suspend the filing. A site operator shall provide notice to its
2 customers concurrent with the filing.

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

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

14 (ii) Factors outside the control of the site operator such as a
15 material change in regulatory requirements regarding the physical
16 operation of the site.

17 (b) Revisions to the maximum disposal rate shall take effect thirty
18 days after filing with the commission unless the commission suspends
19 the filing or authorizes the proposed adjustments to take effect
20 earlier.

21 (5) Upon establishment of a contract rate pursuant to section 7 of
22 this act for a disposal fee, the site operator may not collect a
23 disposal fee that is greater than the effective rate. The effective
24 rate shall be in effect so long as such contract rate remains in
25 effect. Adjustments to the maximum disposal rates may be made during
26 the time an effective rate is in place. Contracts for disposal of
27 extraordinary volumes pursuant to section 8 of this act shall not be
28 considered in determining the effective rate.

29 (6) The site operator may petition the commission for new maximum
30 disposal rates at any time. Upon receipt of such a petition, the

1 commission shall set the matter for hearing and shall issue an order
2 within seven months of the filing of the petition. The petition shall
3 be accompanied by the documents required to accompany the filing for
4 initial rates. The hearing on the petition shall be conducted in
5 accordance with the commission's rules of practice and procedure.

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

8 "NEW SECTION. Sec. 7. (1) At any time, a site operator may
9 contract with any person to provide a contract disposal rate lower than
10 the maximum disposal rate.

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

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

23 "NEW SECTION. Sec. 8. (1) In establishing the extraordinary
24 volume adjustment, unless the site operator and generator of the
25 extraordinary volume agree to a contract disposal rate, one-half of the
26 extraordinary volume delivery shall be priced at the maximum disposal
27 rate and one-half shall be priced at the site operator's incremental

1 cost to receive the delivery. Such incremental cost shall be
2 determined in the initial rate proceeding.

3 (2) For purposes of the subsequent calculation of the volume
4 adjustment, one-half of the total extraordinary volume shall be
5 included in the calculation.

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

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

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

23 "NEW SECTION. Sec. 10. (1) A site operator shall, on or before
24 May 1, 1992, and each year thereafter, file with the commission a
25 statement showing its gross operating revenue from intrastate
26 operations for the preceding calendar year, or portion thereof, and pay
27 to the commission a fee equal to one percent of the amount of the gross
28 operating revenue, exclusive of site surveillance fees, perpetual care

1 and maintenance fees, site closure fees, and state or federally imposed
2 out-of-region surcharges.

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

10 (3) Fees collected under this section or under any other provision
11 of this chapter shall be paid to the commission and shall be
12 transmitted to the state treasurer within thirty days to be deposited
13 to the credit of the public service revolving fund."

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

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

22 (b) Disposal rates at other sites are not reasonable alternatives
23 for Northwest compact generators, considering: Disposal rates at other
24 facilities; current disposal rates charged by the site operator;
25 historic relationships between the site operator's rates and rates at
26 other facilities; and changes in the operator's rates considering
27 changes in waste volumes, taxes, and fees; provided, however, that a
28 monopoly situation does not exist if either of the following facilities
29 operates or is projected to operate after December 31, 1992:

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

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

10 (2) Such exemption shall be in effect until such time as the
11 commission finds, after notice and hearing, upon motion by the
12 commission or upon petition by any interested party, that a monopoly
13 situation exists or will exist as of January 1, 1993. Such finding
14 shall be based upon application of the criteria set forth in this
15 section. The commission may assess a site operator for all of the
16 commission's costs of supervision and regulation prior to and relative
17 to determining whether such exemption applies to the site operator. If
18 the commission determines that a site operator is not subject to such
19 exemption, it shall collect its costs of supervision and regulation
20 under section 10 of this act.

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

26 "NEW SECTION. Sec. 12. (1) At any time after this chapter has
27 been implemented with respect to a site operator, such site operator
28 may petition the commission to be classified as competitive. The
29 commission may initiate classification proceedings on its own motion.

1 The commission shall enter its final order with respect to
2 classification within seven months from the date of filing of a
3 company's petition or the commission's motion.

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

10 (a) Whether the system of interstate compacts and regional disposal
11 sites established by federal law has been implemented so that the
12 Northwest compact site located near Richland, Washington is the
13 exclusive site option for disposal by customers within the Northwest
14 compact states;

15 (b) Whether waste generated outside the Northwest compact states is
16 excluded; and

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

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

23 (4) Competitive low-level radioactive waste disposal companies
24 shall be exempt from commission regulation and fees during the time
25 they are so classified."

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

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

3 For the purposes of this chapter, unless otherwise required by the
4 context:

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

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

13 (3) "Railroad car business" means the business of renting, leasing
14 or operating stock cars, furniture cars, refrigerator cars, fruit cars,
15 poultry cars, tank cars, sleeping cars, parlor cars, buffet cars,
16 tourist cars, or any other kinds of cars used for transportation of
17 property or persons upon the line of any railroad operated in this
18 state when such railroad is not owned or leased by the person engaging
19 in such business.

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

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

26 (6) "Telegraph business" means the business of affording
27 telegraphic communication for hire.

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

1 (8) "Motor transportation business" means the business (except
2 urban transportation business) of operating any motor propelled vehicle
3 by which persons or property of others are conveyed for hire, and
4 includes, but is not limited to, the operation of any motor propelled
5 vehicle as an auto transportation company (except urban transportation
6 business), common carrier or contract carrier as defined by RCW
7 81.68.010 and 81.80.010: PROVIDED, That "motor transportation
8 business" shall not mean or include the transportation of logs or other
9 forest products exclusively upon private roads or private highways.

10 (9) "Urban transportation business" means the business of operating
11 any vehicle for public use in the conveyance of persons or property for
12 hire, insofar as (a) operating entirely within the corporate limits of
13 any city or town, or within five miles of the corporate limits thereof,
14 or (b) operating entirely within and between cities and towns whose
15 corporate limits are not more than five miles apart or within five
16 miles of the corporate limits of either thereof. Included herein, but
17 without limiting the scope hereof, is the business of operating
18 passenger vehicles of every type and also the business of operating
19 cartage, pickup, or delivery services, including in such services the
20 collection and distribution of property arriving from or destined to a
21 point within or without the state, whether or not such collection or
22 distribution be made by the person performing a local or interstate
23 line-haul of such property.

24 (10) "Public service business" means any of the businesses defined
25 in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), and (9) or any
26 business subject to control by the state, or having the powers of
27 eminent domain and the duties incident thereto, or any business
28 hereafter declared by the legislature to be of a public service nature,
29 except telephone business as defined in RCW 82.04.065 and low-level
30 radioactive waste site operating companies as defined in RCW 81.04.010.

1 It includes, among others, without limiting the scope hereof: Airplane
2 transportation, boom, dock, ferry, log patrol, pipe line, toll bridge,
3 toll logging road, water transportation and wharf businesses.

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

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

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

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

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

26 (2) Upon every person engaging within this state in the business of
27 manufacturing wheat into flour, barley into pearl barley, soybeans into
28 soybean oil, or sunflower seeds into sunflower oil; as to such persons
29 the amount of tax with respect to such business shall be equal to the

1 value of the flour, pearl barley, or oil manufactured, multiplied by
2 the rate of one-eighth of one percent.

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

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

14 (5) Upon every person engaging within this state in the business of
15 manufacturing by canning, preserving, freezing or dehydrating fresh
16 fruits and vegetables; as to such persons the amount of tax with
17 respect to such business shall be equal to the value of the products
18 canned, preserved, frozen or dehydrated multiplied by the rate of
19 three-tenths of one percent.

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

26 (7) Upon every person engaging within this state in the business
27 of slaughtering, breaking and/or processing perishable meat products
28 and/or selling the same at wholesale only and not at retail; as to such
29 persons the tax imposed shall be equal to the gross proceeds derived
30 from such sales multiplied by the rate of twenty-five one-hundredths of

1 one percent through June 30, 1986, and one-eighth of one percent
2 thereafter.

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

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

14 (10) Upon every person engaging within this state in the business
15 of acting as a travel agent; as to such persons the amount of the tax
16 with respect to such activities shall be equal to the gross income
17 derived from such activities multiplied by the rate of twenty-five one-
18 hundredths of one percent.

19 (11) Upon every person engaging within this state in business as
20 an international steamship agent, international customs house broker,
21 international freight forwarder, vessel and/or cargo charter broker in
22 foreign commerce, and/or international air cargo agent; as to such
23 persons the amount of the tax with respect to only international
24 activities shall be equal to the gross income derived from such
25 activities multiplied by the rate of thirty-three one-hundredths of one
26 percent.

27 (12) Upon every person engaging within this state in the business
28 of stevedoring and associated activities pertinent to the movement of
29 goods and commodities in waterborne interstate or foreign commerce; as
30 to such persons the amount of tax with respect to such business shall

1 be equal to the gross proceeds derived from such activities multiplied
2 by the rate of thirty-three one hundredths of one percent. Persons
3 subject to taxation under this subsection shall be exempt from payment
4 of taxes imposed by chapter 82.16 RCW for that portion of their
5 business subject to taxation under this subsection. Stevedoring and
6 associated activities pertinent to the conduct of goods and commodities
7 in waterborne interstate or foreign commerce are defined as all
8 activities of a labor, service or transportation nature whereby cargo
9 may be loaded or unloaded to or from vessels or barges, passing over,
10 onto or under a wharf, pier, or similar structure; cargo may be moved
11 to a warehouse or similar holding or storage yard or area to await
12 further movement in import or export or may move to a consolidation
13 freight station and be stuffed, unstuffed, containerized, separated or
14 otherwise segregated or aggregated for delivery or loaded on any mode
15 of transportation for delivery to its consignee. Specific activities
16 included in this definition are: Wharfage, handling, loading,
17 unloading, moving of cargo to a convenient place of delivery to the
18 consignee or a convenient place for further movement to export mode;
19 documentation services in connection with the receipt, delivery,
20 checking, care, custody and control of cargo required in the transfer
21 of cargo; imported automobile handling prior to delivery to consignee;
22 terminal stevedoring and incidental vessel services, including but not
23 limited to plugging and unplugging refrigerator service to containers,
24 trailers, and other refrigerated cargo receptacles, and securing ship
25 hatch covers.

26 (13) Upon every person engaging within this state in the business
27 of disposing of low-level waste, as defined in RCW 43.145.010; as to
28 such persons the amount of the tax with respect to such business shall
29 be equal to the gross income of the business, excluding any fees

1 imposed under chapter 43.200 RCW, multiplied by the rate of fifteen
2 percent.

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

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

10 If the gross income of the taxpayer is attributable to activities
11 both within and without this state, the gross income attributable to
12 this state shall be determined in accordance with the methods of
13 apportionment required under RCW 82.04.460.

14 (14) Upon every person engaging within this state as an insurance
15 agent, insurance broker, or insurance solicitor licensed under chapter
16 48.17 RCW; as to such persons, the amount of the tax with respect to
17 such licensed activities shall be equal to the gross income of such
18 business multiplied by the rate of one percent."

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

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

23 (1) To fulfill the responsibilities of the state under the lease
24 between the state of Washington and the federal government executed
25 September 10, 1964, covering one thousand acres of land lying within
26 the Hanford reservation near Richland, Washington. The department of
27 ecology may sublease to private or public entities all or a portion of
28 the land for specific purposes or activities which are determined,
29 after public hearing, to be in agreement with the terms of the lease

1 and in the best interests of the citizens of the state consistent with
2 any criteria that may be developed as a requirement by the legislature;

3 (2) To assume the responsibilities of the state under the perpetual
4 care agreement between the state of Washington and the federal
5 government executed July 29, 1965 and the sublease between the state of
6 Washington and the site operator of the Hanford low-level radioactive
7 waste disposal facility. In order to finance perpetual surveillance
8 and maintenance under the agreement and ensure site closure under the
9 sublease, the department of ecology shall impose and collect fees from
10 parties holding radioactive materials for waste management purposes.
11 The fees shall be established by rule adopted under chapter 34.05 RCW
12 and shall be an amount determined by the department of ecology to be
13 necessary to defray the estimated liability of the state. Such fees
14 shall reflect equity between the disposal facilities of this and other
15 states. All such fees, when received by the department of ecology,
16 shall be transmitted to the state treasurer, who shall act as
17 custodian. The perpetual maintenance fund is created in the state
18 treasury. The treasurer shall place the money in a special fund which
19 may be designated the "perpetual maintenance fund." The perpetual
20 maintenance fund shall be comprised of a site closure account and a
21 perpetual surveillance and maintenance account. The site closure
22 account shall be exclusively available to reimburse, to the extent that
23 moneys are available in the account, the site operator for its costs
24 plus a reasonable profit as agreed by the operator and the state, or to
25 reimburse the state licensing agency and any agencies under contract to
26 the state licensing agency for their costs in final closure and
27 decommissioning of the Hanford low-level radioactive waste disposal
28 facility. If a balance remains in the account after satisfactory
29 performance of closure and decommissioning, this balance shall be
30 transferred to the perpetual surveillance and maintenance account. The

1 perpetual surveillance and maintenance account shall be used
2 exclusively by the state to meet post-closure surveillance and
3 maintenance costs, or for otherwise satisfying surveillance and
4 maintenance obligations. Appropriations are required to permit
5 expenditures and payment of obligations from the site closure account
6 and the perpetual surveillance and maintenance account. Moneys which
7 on July 23, 1989, are in the perpetual maintenance account shall be
8 transferred to the perpetual surveillance and maintenance account. All
9 moneys currently administered by the department of ecology for closure
10 of the Hanford low-level radioactive waste disposal facility shall be
11 transferred to the site closure account within the perpetual
12 maintenance fund. All future moneys, including interest, contributed
13 to the perpetual maintenance fund shall be directed to the site closure
14 account until December 31, 1992. Thereafter receipts shall be directed
15 to the perpetual maintenance fund as specified by the department.
16 Moneys in the perpetual maintenance fund shall be invested by the state
17 investment board in the same manner as other state moneys. Any
18 interest accruing as a result of investment shall accrue to the
19 perpetual maintenance fund. Additional moneys specifically
20 appropriated by the legislature or received from any public or private
21 source may be placed in the perpetual maintenance fund;

22 (3) To collect after January 1, 1993, as an added charge on each
23 cubic foot of waste disposed at any facility in the state a surcharge
24 of seven dollars. The surcharge shall be made specifically on the
25 generator of the waste and shall not be considered applicable in any
26 way to the low-level site operator's disposal activities. Five dollars
27 of the surcharge shall be deposited in the fund created in section 17
28 of this act and two dollars of the surcharge shall be remitted monthly
29 to a county in which a low-level radioactive waste disposal facility is
30 located;

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

6 (~~(4)~~) (5) To institute a user permit system and issue site use
7 permits, consistent with regulatory practices, for generators,
8 packagers, or brokers using the Hanford low-level radioactive waste
9 disposal facility. The costs of administering the user permit system
10 shall be borne by the applicants for site use permits. The site use
11 permit fee shall be set at a level that is sufficient to fund
12 completely the executive and legislative participation in activities
13 related to the Northwest Interstate Compact on Low-Level Radioactive
14 Waste Management; and

15 (~~(5)~~) (6) To make application for or otherwise pursue any federal
16 funds to which the state may be eligible, through the federal resource
17 conservation and recovery act or any other federal programs, for the
18 management, treatment or disposal, and any remedial actions, of wastes
19 that are both radioactive and hazardous at all Hanford low-level
20 radioactive waste disposal facilities; and

21 (~~(6)~~) (7) To develop contingency plans for duties and options for
22 the department and other state agencies related to the Hanford low-
23 level radioactive waste disposal facility based on various projections
24 of annual levels of waste disposal. These plans shall include an
25 analysis of expected revenue to the state in various taxes and funds
26 related to low-level radioactive waste disposal and the resulting
27 implications that any increase or decrease in revenue may have on state
28 agency duties or responsibilities. The initial set of plans shall be
29 completed by October 1, 1989, and shall be updated annually. The
30 department shall report annually on the plans and on the balances in

1 the site closure and perpetual surveillance accounts to the energy and
2 utilities committees of the senate and the house of representatives."

3 "NEW SECTION. Sec. 17. A new section is added to chapter 43.200
4 RCW to read as follows:

5 There is established the radioactive waste disposal host area
6 economic development account in the state treasury. All payments
7 received under RCW 43.200.080 shall be deposited in the account.
8 Moneys in the account shall be transferred monthly to the regional
9 revolving loan fund of an economic development district that is a
10 component of any local governmental conference authorized by RCW
11 36.64.080 that includes the county or city in which a low-level
12 radioactive waste disposal area is located. Moneys in the account may
13 be spent without legislative appropriation. Expenditures of these
14 moneys shall conform to applicable federal law."

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

17 "NEW SECTION. Sec. 19. This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and shall take
20 effect immediately."

1 **ESSB 5756** - H COMM AMD
2 By Committee on Energy & Utilities

3
4 On page 1, line 1 of the title, after "sites;" strike the remainder
5 of the title and insert "amending RCW 81.04.010, 82.16.010, 82.04.260,
6 and 43.200.080; adding a new section to chapter 43.200 RCW; adding a
7 new chapter to Title 81 RCW; and declaring an emergency."