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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: AMH-2394.1/01

ATTY/TYPIST: ML:ads

BRIEF DESCRIPTION:

2 **SSB 5862** - H COMM AMD  
3 By Committee on Natural Resources

4 ADOPTED AS AMENDED 4/9/01

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

7 "**Sec. 1.** RCW 79.01.084 and 1982 1st ex.s. c 21 s 150 are each  
8 amended to read as follows:

9 The commissioner of public lands shall cause to be prepared, and  
10 furnish to applicants, blank forms of applications for the appraisal,  
11 transfer, and purchase of any state lands and the purchase of (~~timber,~~  
12 ~~fallen timber, stone, gravel, or other~~) valuable materials situated  
13 thereon, and for the lease of state lands(~~(, which)~~). These forms  
14 shall contain (~~such~~) instructions (~~as will~~) to inform and aid  
15 (~~intending~~) applicants (~~in making applications~~).

16 **Sec. 2.** RCW 79.01.116 and 1982 1st ex.s. c 21 s 152 are each  
17 amended to read as follows:

18 (1) In no case shall any lands granted to the state be offered for  
19 sale unless the same shall have been appraised by the board of natural  
20 resources within ninety days prior to the date fixed for the sale(~~(,~~  
21 ~~and in no case shall any other state lands, or any materials on any~~  
22 ~~state lands, be offered for sale unless the same shall have been~~  
23 ~~appraised by the commissioner of public lands within ninety days prior~~  
24 ~~to the date fixed for the sale)~~).

25 (2) For the sale of valuable materials from state land under this  
26 title, if the board of natural resources is required by law to appraise  
27 the sale, the board must establish a minimum appraisal value that is  
28 valid for a period of one hundred eighty days, or a longer period as  
29 may be established by resolution. The board may reestablish the  
30 minimum appraisal value at any time. For any valuable materials sales  
31 that the board is required by law to appraise, the board may by  
32 resolution transfer this authority to the commissioner of public lands.

33 (3) Where the board of natural resources has set a minimum  
34 appraisal value for a valuable materials sale, the commissioner of  
35 public lands may set the final appraisal value of valuable materials

1 for auction, which must be equal to or greater than the board of  
2 natural resources' minimum appraisal value. The commissioner may also  
3 appraise any valuable materials sale not required by law to be approved  
4 by the board of natural resources.

5 **Sec. 3.** RCW 79.01.124 and 1982 1st ex.s. c 21 s 154 are each  
6 amended to read as follows:

7 (~~Timber, fallen timber, stone, gravel, or other~~) Valuable  
8 material situated upon state lands may be sold separate from the land,  
9 when in the judgment of the commissioner of public lands, it is for the  
10 best interest of the state so to sell the same(~~, and in case the~~  
11 ~~estimated amount of timber on any tract of state lands, shall exceed~~  
12 ~~one million feet to the quarter section, the timber shall be sold~~  
13 ~~separate from the land~~). When application is made for the purchase of  
14 any valuable materials (~~situated upon state lands, the same inspection~~  
15 ~~and report shall be had as upon an application for the appraisalment and~~  
16 ~~sale of such lands, and~~), the commissioner of public lands shall  
17 appraise the value of the valuable materials (~~applied for~~) if the  
18 commissioner determines it is in the best interest of the state to  
19 sell. No (~~timber, fallen timber, stone, gravel, or other~~) valuable  
20 materials(~~,~~) shall be sold for less than the appraised value thereof.

21 **Sec. 4.** RCW 79.01.132 and 1999 c 51 s 1 are each amended to read  
22 as follows:

23 (1) When (~~any timber, fallen timber, stone, gravel, or other~~)  
24 valuable materials on state lands (~~is~~) are sold separate from the  
25 land, (~~it~~) they may be sold as a lump sum sale or as a scale sale.  
26 Lump sum sales under five thousand dollars appraised value shall be  
27 paid for in cash on the day of sale. The initial deposit shall be  
28 maintained until all contract obligations of the purchaser are  
29 satisfied. However, all or a portion of the initial deposit may be  
30 applied as the final payment for the valuable materials in the event  
31 the department of natural resources determines that adequate security  
32 exists for the performance or fulfillment of any remaining obligations  
33 of the purchaser under the sale contract.

34 (2) The initial deposits required in RCW 79.01.204(~~,~~) may not  
35 (~~to~~) exceed twenty-five percent of the actual or projected purchase  
36 price, but in the case of lump sum sales appraised at over five  
37 thousand dollars the initial deposit may not be less than five thousand

1 dollars, and shall be made on the day of the sale(~~(, and in the case~~  
2 ~~of))~~). For those sales appraised below the amount specified in RCW  
3 79.01.200, the department of natural resources may require full cash  
4 payment on the day of sale.

5 (3) The purchaser shall notify the department of natural resources  
6 before any (~~timber is cut and before removal or processing of any~~  
7 ~~valuable materials on the sale area, at which time~~) operation takes  
8 place on the sale site. Upon notification, the department of natural  
9 resources (~~may~~) shall determine and require(~~(, in the amount~~  
10 ~~determined by the department,~~) advance payment for the cutting,  
11 removal, or processing(~~(, and/or cutting)~~) of (~~timber or other~~) the  
12 valuable materials, (~~or~~) or may allow purchasers to guarantee payment  
13 by submitting as adequate security bank letters of credit, payment  
14 bonds, (~~or~~) assignments of savings accounts, assignments of  
15 certificates of deposit, or other methods acceptable to the department  
16 as adequate security. The amount of such advance payments and/or  
17 security shall be determined by the department and at all times equal  
18 or exceed the value of timber cut and other valuable materials  
19 processed or removed until paid for. (~~The initial deposit shall be~~  
20 ~~maintained until all contract obligations of the purchaser are~~  
21 ~~satisfied: PROVIDED HOWEVER, That all or a portion of said initial~~  
22 ~~deposit may be applied as the final payment for said materials in the~~  
23 ~~event the department of natural resources determines that adequate~~  
24 ~~security exists for the performance or fulfillment of any remaining~~  
25 ~~obligations of the purchaser under the sale contract.))~~)

26 (4) In all cases where (~~timber, fallen timber, stone, gravel, or~~  
27 ~~other~~) valuable materials (~~is~~) are sold separate from the land, the  
28 same shall revert to the state if not removed from the land within the  
29 period specified in the sale contract. (~~Said~~) The specified period  
30 shall not exceed five years from the date of the purchase thereof:  
31 PROVIDED, That the specified periods in the sale contract for stone,  
32 sand, fill material, or building stone shall not exceed (~~twenty~~)  
33 thirty years(~~(: PROVIDED FURTHER, That)~~).

34 (5) In all cases where, in the judgment of the department of  
35 natural resources, the purchaser is acting in good faith and  
36 endeavoring to remove such materials, the department of natural  
37 resources may extend the time for the removal thereof for any period  
38 not exceeding (~~twenty~~) forty years from the date of purchase for the  
39 stone, sand, fill material, or building stone or for a total of ten

1 years beyond the normal termination date specified in the original sale  
2 contract for all other material(~~(7)~~). Extension of a contract is  
3 contingent upon payment to the state of a sum to be fixed by the  
4 department of natural resources, based on the estimated loss of income  
5 per acre to the state resulting from the granting of the extension  
6 (~~but~~). In no event may the extension payment be less than fifty  
7 dollars per extension, plus interest on the unpaid portion of the  
8 contract. The interest rate shall be fixed, from time to time, by rule  
9 adopted by the board of natural resources and shall not be less than  
10 six percent per annum. The applicable rate of interest as fixed at the  
11 date of sale (~~and~~), the maximum extension payment (~~shall be set~~  
12 ~~forth in the contract.~~), and the method for calculating the unpaid  
13 portion of the contract upon which such interest shall be paid by the  
14 purchaser shall be set forth in the contract. The department of  
15 natural resources shall pay into the state treasury all sums received  
16 for such extension and the same shall be credited to the fund to which  
17 was credited the original purchase price of the material so sold.

18 (~~However,~~) (6) A direct sale of valuable materials may be sold to  
19 the applicant for cash at full appraised value without notice or  
20 advertising. The board of natural resources shall, by resolution,  
21 establish the value amount of a direct sale not to exceed twenty  
22 thousand dollars in appraised sale value, and establish procedures to  
23 assure that competitive market prices and accountability will be  
24 guaranteed.

25 (7) The department may, in addition to any other securities,  
26 require a performance security to guarantee compliance with all  
27 contract requirements. The security is limited to those types listed  
28 in subsection (3) of this section. The value of the performance  
29 security will, at all times, equal or exceed the value of work  
30 performed or to be performed by the purchaser.

31 (8) Any time that the department of natural resources sells timber  
32 by contract that includes a performance bond, the department shall  
33 require the purchaser to present proof of any and all taxes paid prior  
34 to the release of the performance bond. Within thirty days of payment  
35 of taxes due by the timber purchaser, the county treasurer shall  
36 provide certified evidence of taxes paid, clearly disclosing the sale  
37 contract number.

38 (9) The provisions of this section apply unless otherwise provided  
39 by statute. The board of natural resources shall establish procedures

1 to protect against cedar theft and to ensure adequate notice is given  
2 for persons interested in purchasing cedar.

3 **Sec. 5.** RCW 79.01.160 and 1959 c 257 s 15 are each amended to read  
4 as follows:

5 All sales of ~~((timber))~~ valuable materials upon state lands shall  
6 be made subject to the right, power, and authority of the commissioner  
7 of public lands to prescribe rules ~~((and regulations))~~ or procedures  
8 governing the manner of the sale and removal of the ~~((timber with a  
9 view to the protection of the nonmerchantable timber against  
10 destruction or injury by fire or from other causes, and))~~ valuable  
11 materials. Such ~~((rules or regulations))~~ procedures shall be binding  
12 ~~((upon the))~~ when contained within a purchaser's ~~((of the timber))~~  
13 contract for valuable materials and ~~((his))~~ apply to the purchaser's  
14 successors in interest and shall be enforced by the commissioner of  
15 public lands.

16 **Sec. 6.** RCW 79.01.184 and 1997 c 116 s 2 are each amended to read  
17 as follows:

18 When the department of natural resources shall have decided to sell  
19 any state lands or valuable materials thereon, or with the consent of  
20 the board of regents of the University of Washington, or by legislative  
21 directive, shall have decided to sell any lot, block, tract, or tracts  
22 of university lands, or the ~~((timber, fallen timber, stone, gravel, or  
23 ether))~~ valuable materials thereon, it shall be the duty of the  
24 department to ~~((forthwith))~~ fix the date, place, and time of sale, and  
25 no sale shall be had on any day which is a legal holiday.

26 The department shall give notice of the sale by advertisement  
27 published not less than two times during a four week period prior to  
28 the time of sale in at least one newspaper of general circulation in  
29 the county in which the whole, or any part of any lot, block, or tract  
30 of land to be sold, or the material upon which is to be sold is  
31 situated, and by ~~((causing))~~ posting a copy of ~~((said))~~ the notice ~~((to  
32 be posted))~~ in a conspicuous place in the department's Olympia office  
33 ~~((and))~~, the region headquarters administering such sale, and in the  
34 office of the county auditor of such county~~((, which))~~. The notice  
35 shall specify the place, date, and time of sale, the appraised value  
36 thereof, and describe with particularity each parcel of land to be  
37 sold, or from which valuable materials are to be sold~~((, and))~~. In the

1 case of valuable materials sales, the estimated volume (~~((thereof,))~~)  
2 will be identified and (~~((specify that))~~) the terms of sale will be  
3 (~~((posted))~~) available in the region headquarters and the department's  
4 Olympia office.

5 (~~((However,))~~) The advertisement is for informational purposes only,  
6 and under no circumstances does the information in the notice of sale  
7 constitute a warranty that the purchaser will receive the stated  
8 values, volumes, or acreage. All purchasers are expected to make their  
9 own measurements, evaluations, and appraisals.

10 A direct sale of valuable materials may be sold to the applicant  
11 for cash at full appraised value without notice or advertising. The  
12 board of natural resources shall, by resolution, establish the value  
13 amount of a direct sale not to exceed twenty thousand dollars in  
14 appraised sale value, and establish procedures to (~~((assure))~~) ensure  
15 that competitive market prices and accountability will be guaranteed.

16 **Sec. 7.** RCW 79.01.188 and 1982 1st ex.s. c 21 s 157 are each  
17 amended to read as follows:

18 The commissioner of public lands shall cause to be printed a list  
19 of all public lands, or valuable materials thereon, and the appraised  
20 value thereof, that are to be sold (~~((in the several counties of the~~  
21 ~~state, said lists))~~). This list should be published in a pamphlet form  
22 to be issued at least four weeks prior to the date of any sale of the  
23 lands or valuable materials (~~((enumerated))~~) thereon(~~((, such lands and~~  
24 ~~materials to be listed under the name of the county wherein located, in~~  
25 ~~alphabetical order giving the appraised values, the character of the~~  
26 ~~same, and such other information as may be of interest to prospective~~  
27 ~~buyers. Said commissioner of public lands shall cause to be~~  
28 ~~distributed to the auditor of each county in the state a sufficient~~  
29 ~~number of such lists to supply the demands made upon them respectively~~  
30 ~~as reported by such auditors. And said county auditors shall keep the~~  
31 ~~list so furnished in a conspicuous place or receptacle on the counter~~  
32 ~~of the public office of their respective departments, and, when~~  
33 ~~requested so to do, shall mail copies of such lists to residents of~~  
34 ~~their counties)). The list should be organized by county and by~~  
35 alphabetical order, and provide sale information to prospective buyers.  
36 The commissioner of public lands shall retain for free distribution in  
37 his or her office and the (~~((district))~~) region offices sufficient copies  
38 of (~~((said lists))~~) the pamphlet, to be kept in a conspicuous place (~~((or~~

1 receptacle on the counter of the general office of the commissioner of  
2 public lands, and the districts)), and, when requested so to do, shall  
3 mail copies of (~~said lists~~) the pamphlet as issued to any requesting  
4 applicant (~~therefor~~). (~~Proof of publication of the notice of sale~~  
5 ~~shall be made by affidavit of the publisher, or person in charge, of~~  
6 ~~the newspaper publishing the same and proof of posting the notice of~~  
7 ~~sale and the receipt of the lists shall be made by certificate of the~~  
8 ~~county auditor which shall forthwith be sent to and filed with the~~  
9 ~~commissioner of public lands.)) The commissioner of public lands may  
10 seek additional means of publishing the information in the pamphlet,  
11 such as on the internet, to increase the number of prospective buyers.~~

12 **Sec. 8.** RCW 79.01.204 and 1982 c 27 s 2 are each amended to read  
13 as follows:

14 Sales by public auction under this chapter shall be conducted under  
15 the direction of the department of natural resources(~~, by~~) or its  
16 authorized representative (~~or by the county auditor of the county in~~  
17 ~~which the sale is held~~). The department or department's  
18 representative (~~and the county auditor~~) are hereinafter referred to  
19 as auctioneers. On or before the time specified in the notice of sale  
20 each bidder shall deposit with the auctioneer, in cash or by certified  
21 check, cashier's check, (~~or postal~~) money order payable to the order  
22 of the department of natural resources, or by bid guarantee in the form  
23 of bid bond acceptable to the department, an amount equal to the  
24 deposit specified in the notice of sale. The deposit shall include a  
25 specified amount of the appraised price for the land or valuable  
26 materials offered for sale, together with any fee required by law for  
27 the issuance of contracts, deeds, or bills of sale. Said deposit may,  
28 when prescribed in notice of sale, be considered an opening bid of an  
29 amount not less than the minimum appraised price established in the  
30 notice of sale. The successful bidder's deposit will be retained by  
31 the auctioneer and the difference, if any, between the deposit and the  
32 total amount due shall on the day of the sale be paid in cash,  
33 certified check, cashier's check, bank draft, (~~postal~~) or money  
34 order, (~~or by personal check~~) made payable to the department. If a  
35 bid bond is used, the share of the total deposit due guaranteed by the  
36 bid bond shall, within ten days of the day of sale, be paid in cash,  
37 certified check, cashier's check, (~~or postal~~) money order, or other  
38 acceptable payment method payable to the department. Other deposits,



1 if any, shall be returned to the respective bidders at the conclusion  
2 of each sale. The auctioneer shall deliver to the purchaser a  
3 memorandum of his or her purchase containing a description of the land  
4 or materials purchased, the price bid, and the terms of the sale. The  
5 auctioneer shall at once send to the department the cash, certified  
6 check, cashier's check, bank draft, (~~((postal))~~) money order, (~~((or))~~) bid  
7 guarantee, or other acceptable payment method received from the  
8 purchaser, and a copy of the memorandum delivered to the purchaser,  
9 together with such additional report of his or her proceedings with  
10 reference to such sales as may be required by the department.

11 **Sec. 9.** RCW 79.01.232 and 1927 c 255 s 58 are each amended to read  
12 as follows:

13 When (~~((timber, fallen timber, stone, gravel, or other))~~) valuable  
14 materials(~~((, shall have been))~~) are sold separate from the land and the  
15 purchase price is paid in full, the commissioner of public lands shall  
16 cause a bill of sale, signed by the commissioner and attested by the  
17 seal of his or her office, setting forth the time within which such  
18 material shall be removed, to be issued to the purchaser and to be  
19 recorded in the office of the commissioner of public lands, upon the  
20 payment of the fee provided for in this chapter.

21 NEW SECTION. **Sec. 10.** A new section is added to chapter 79.01 RCW  
22 to read as follows:

23 For the purposes of this title, "appraisal" means an estimate of  
24 the market value of land or valuable materials. The estimate must  
25 reflect the value based on market conditions at the time of the sale or  
26 transfer offering. The appraisal must reflect the department of  
27 natural resources' best effort to establish a reasonable market value  
28 for the purpose of setting a minimum bid at auction or transfer. A  
29 purchaser of state lands or valuable materials may not rely upon the  
30 appraisal prepared by the department of natural resources for purposes  
31 of deciding whether to make a purchase from the department. All  
32 purchasers are required to make their own independent appraisals.

33 **Sec. 11.** RCW 79.01.240 and 1982 1st ex.s. c 21 s 164 are each  
34 amended to read as follows:

35 Any sale, transfer, or lease of state lands (~~((made by mistake, or~~  
36 ~~not in accordance with law, or obtained))~~) in which the purchaser,

1 transfer recipient, or lessee obtains the sale or lease by fraud or  
2 misrepresentation((, shall be)) is void, and the contract of  
3 purchase((,)) or lease((, issued thereon,)) shall be of no effect((,  
4 and the holder of such contract, or lease, shall be required to  
5 surrender the same to the department of natural resources, which,  
6 except in the case of fraud on the part of the purchaser, or lessee,  
7 shall cause the money paid on account of such surrendered contract, or  
8 lease, to be refunded to the holder thereof, provided the same has not  
9 been paid into the state treasury)). In the event of fraud, the  
10 contract, transferred property, or lease must be surrendered to the  
11 department of natural resources, but the purchaser, transfer recipient,  
12 or lessee may not be refunded any money paid on account of the  
13 surrendered contract, transfer, or lease. In the event that a mistake  
14 is discovered in the sale or lease of state lands, or in the sale of  
15 valuable materials on state lands, the department may take action to  
16 correct the mistake in accordance with RCW 79.01.740 if maintaining the  
17 corrected contract, transfer, or lease is in the best interests of the  
18 affected trust or trusts.

19 **Sec. 12.** RCW 79.01.340 and 1982 1st ex.s. c 21 s 171 are each  
20 amended to read as follows:

21 Any county or city or the United States of America or state agency  
22 desiring to locate, establish, and construct a road or street over and  
23 across any state lands of the state of Washington shall by resolution  
24 of the board of county commissioners of such county, or city council or  
25 other governing body of such city, or proper agency of the United  
26 States of America, or state agency, cause to be filed in the office of  
27 the department of natural resources a petition for a right of way for  
28 such road or street, setting forth the reasons for the establishment  
29 thereof, accompanied by a duly attested copy of a plat made by the  
30 county or city engineer or proper agency of the United States of  
31 America, or state agency, showing the location of the proposed road or  
32 street with reference to the legal subdivisions, or lots and blocks of  
33 the official plat, or the lands, over and across which such right of  
34 way is desired, the amount of land to be taken and the amount of land  
35 remaining in each portion of each legal subdivision or lot or block  
36 bisected by such proposed road or street.

37 Upon the filing of such petition and plat the department of natural  
38 resources, if deemed for the best interest of the state to grant the

1 petition, shall cause the land proposed to be taken to be inspected and  
2 shall appraise the value of ~~((any timber))~~ the land and valuable  
3 materials thereon and notify the petitioner of such appraised value.

4 If there ~~((be))~~ are no ~~((timber))~~ valuable materials on the  
5 proposed right of way, or upon the payment of the appraised value of  
6 ~~((any timber))~~ the land and valuable materials thereon, to the  
7 department of natural resources in cash, or by certified check drawn  
8 upon any bank in this state, or ~~((postal))~~ money order, except for all  
9 rights of way granted to the department of natural resources on which  
10 the ~~((timber))~~ valuable materials, if any, shall be sold at public  
11 auction or by sealed bid, the department may approve the plat filed  
12 with the petition and file and enter the same in the records of his or  
13 her office, and such approval and record shall constitute a grant of  
14 such right of way from the state.

15 **Sec. 13.** RCW 79.01.392 and 1961 c 73 s 8 are each amended to read  
16 as follows:

17 Upon the filing of the plat and field notes, as provided in RCW  
18 79.01.388, the land applied for and the ~~((standing timber and/or~~  
19 ~~reproduction))~~ valuable materials on the right of way applied for, and  
20 the marked danger trees to be felled off the right of way, if any, and  
21 the improvements included in the right of way applied for, if any,  
22 shall be appraised as in the case of an application to purchase state  
23 lands. Upon full payment of the appraised value of the land applied  
24 for, or upon payment of an annual rental when the department of natural  
25 resources deems a rental to be in the best interests of the state, and  
26 upon full payment of the appraised value of the ~~((standing timber,~~  
27 ~~reproduction,))~~ valuable materials and improvements, if any, the  
28 commissioner of public lands shall issue to the applicant a certificate  
29 of the grant of such right of way stating the terms and conditions  
30 thereof and shall enter the same in the abstracts and records in his or  
31 her office, and thereafter any sale or lease of the lands affected by  
32 such right of way shall be subject to the easement of such right of  
33 way. Should the corporation, company, association, individual, state  
34 agency, political subdivision of the state, or the United States of  
35 America, securing such right of way ever abandon the use of the same  
36 for a period of sixty months or longer for the purposes for which it  
37 was granted, the right of way shall revert to the state, or the state's  
38 grantee.

1       **Sec. 14.** RCW 79.01.795 and 1987 c 126 s 2 are each amended to read  
2 as follows:

3       When the department finds ~~((timber))~~ valuable materials on state  
4 land that ~~((is))~~ are damaged by fire, wind, flood, or from any other  
5 cause, it shall determine if the ~~((sale))~~ salvage of the damaged  
6 ~~((timber))~~ valuable materials is in the best interest of the trust for  
7 which the land is held. If ~~((selling))~~ salvaging the ~~((timber))~~  
8 valuable materials is in the best interest of the trust, the department  
9 shall proceed to offer the ~~((timber))~~ valuable materials for sale  
10 ~~((within a period not to exceed seven months from the date of first~~  
11 ~~identifying the damaged timber))~~. The valuable materials, when offered  
12 for sale, must be sold in the most expeditious and efficient manner as  
13 determined by the department. In determining if the sale is in the  
14 best interest of the trust the department shall consider the net value  
15 of the ~~((timber))~~ valuable materials and relevant elements of the  
16 physical and social environment. ~~((If selling the timber is not in the~~  
17 ~~best interest of the trust, the department shall not offer it for sale~~  
18 ~~until such time as in the department's determination it is in the~~  
19 ~~trust's best interest.~~

20       ~~If elements of the physical or social environment extend the time~~  
21 ~~required to prepare the timber for sale beyond seven months from the~~  
22 ~~date of first identifying the damaged timber, the department shall~~  
23 ~~prepare the timber for sale at the earliest time practicable.))~~

24       **Sec. 15.** RCW 79.64.030 and 1999 c 279 s 1 are each amended to read  
25 as follows:

26       Funds in the account ~~((derived))~~ from the ~~((gross proceeds of))~~  
27 moneys received from leases, sales, contracts, licenses, permits,  
28 easements, and rights of way issued by the department and affecting  
29 school lands, university lands, scientific school lands, normal school  
30 lands, capitol building lands, or institutional lands shall be pooled  
31 and expended by the department solely for the purpose of defraying the  
32 costs and expenses necessarily incurred in managing and administering  
33 all of the trust lands enumerated in this section. Such funds may be  
34 used for similar costs and expenses in managing and administering other  
35 lands managed by the department provided that such expenditures that  
36 have been or may be made on such other lands shall be repaid to the  
37 resource management cost account together with interest at a rate  
38 determined by the board of natural resources.

1 Costs and expenses necessarily incurred in managing and  
2 administering agricultural college lands shall not be deducted from  
3 proceeds (~~derived~~) received from the sale of such lands or from the  
4 sale of resources that are part of the lands. Costs and expenses  
5 incurred in managing and administering agricultural college trust lands  
6 shall be funded by appropriation under RCW 79.64.090.

7 An accounting shall be made annually of the accrued expenditures  
8 from the pooled trust funds in the account. In the event the  
9 accounting determines that expenditures have been made from moneys  
10 (~~derived~~) received from trust lands for the benefit of other lands,  
11 such expenditure shall be considered a debt and an encumbrance against  
12 the property benefitted, including property held under chapter 76.12  
13 RCW. The results of the accounting shall be reported to the  
14 legislature at the next regular session. The state treasurer is  
15 authorized, upon request of the department, to transfer funds between  
16 the forest development account and the resource management cost account  
17 solely for purpose of repaying loans pursuant to this section.

18 **Sec. 16.** RCW 79.64.040 and 1999 c 279 s 2 are each amended to read  
19 as follows:

20 The board shall determine the amount deemed necessary in order to  
21 achieve the purposes of this chapter and shall provide by rule for the  
22 deduction of this amount from the (~~gross proceeds of~~) moneys received  
23 from all leases, sales, contracts, licenses, permits, easements, and  
24 rights of way issued by the department and affecting public lands,  
25 provided that no deduction shall be made from the proceeds from  
26 agricultural college lands. Moneys received as deposits from  
27 successful bidders, advance payments, and security under RCW 79.01.132  
28 and 79.01.204 prior to December 1, 1981, which have not been subjected  
29 to deduction under this section are not subject to deduction under this  
30 section. The deductions authorized under this section shall in no  
31 event exceed twenty-five percent of the (~~total sum~~) moneys received  
32 by the department in connection with any one transaction pertaining to  
33 public lands other than second class tide and shore lands and the beds  
34 of navigable waters, and fifty percent of the (~~total gross proceeds~~)  
35 moneys received by the department pertaining to second class tide and  
36 shore lands and the beds of navigable waters.

1       **Sec. 17.** RCW 79.64.050 and 1961 c 178 s 5 are each amended to read  
2 as follows:

3       All deductions from (~~gross proceeds~~) moneys received made in  
4 accordance with RCW 79.64.040 shall be paid into the account and the  
5 balance shall be paid into the state treasury to the credit of the fund  
6 otherwise entitled to the proceeds.

7       NEW SECTION. **Sec. 18.** A new section is added to chapter 79.01 RCW  
8 to read as follows:

9       (1) In the event that the department of natural resources  
10 determines that regulatory requirements or some other circumstance  
11 beyond the control of both the department and the purchaser has made a  
12 valuable materials contract wholly or partially impracticable to  
13 perform, the department may cancel any portion of the contract which  
14 could not be performed. In the event of such a cancellation, the  
15 purchaser shall not be liable for the purchase price of any portions of  
16 the contract so canceled. Market price fluctuations shall not  
17 constitute an impracticable situation for valuable materials contracts.

18       (2) Alternatively, and notwithstanding any other provision in this  
19 title, the department of natural resources may substitute valuable  
20 materials from another site in exchange for any valuable materials  
21 which the department determines have become impracticable to remove  
22 under the original contract. Any substituted valuable materials must  
23 belong to the identical trust involved in the original contract, and  
24 the substitute materials shall be determined by the department of  
25 natural resources to have an appraised value that is not greater than  
26 the valuable materials remaining under the original contract. The  
27 substitute valuable materials and site shall remain subject to all  
28 applicable permitting requirements and the state environmental policy  
29 act, chapter 43.21C RCW, for the activities proposed at that site. In  
30 any such substitution, the value of the materials substituted shall be  
31 fixed at the purchase price of the original contract regardless of  
32 subsequent market changes. Consent of the purchaser shall be required  
33 for any substitution under this section."

34       Correct the title.

--- END ---