

2 **SSB 5862** - H COMM AMD **ADOPTED 4/9/01**
3 By Committee on Natural Resources

4

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))~~ as described in RCW 79.01.188 at least four
32 weeks prior to the sale date, and post a copy of ~~((said))~~ the notice
33 ~~((to be posted))~~ in a conspicuous place in the department's Olympia
34 office ~~((and))~~, the region headquarters administering such sale, and in
35 the office of the county auditor of such county~~((, which))~~. The notice
36 shall specify the place, date, and time of sale, the appraised value
37 thereof, and describe with particularity each parcel of land to be

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 Upon the filing of such petition and plat the department of natural
2 resources, if deemed for the best interest of the state to grant the
3 petition, shall cause the land proposed to be taken to be inspected and
4 shall appraise the value of ~~((any timber))~~ the land and valuable
5 materials thereon and notify the petitioner of such appraised value.

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

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

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

1 was granted, the right of way shall revert to the state, or the state's
2 grantee.

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

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

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

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

28 Funds in the account ~~((derived))~~ from the ~~((gross proceeds of))~~
29 moneys received from leases, sales, contracts, licenses, permits,
30 easements, and rights of way issued by the department and affecting
31 school lands, university lands, scientific school lands, normal school
32 lands, capitol building lands, or institutional lands shall be pooled
33 and expended by the department solely for the purpose of defraying the
34 costs and expenses necessarily incurred in managing and administering
35 all of the trust lands enumerated in this section. Such funds may be
36 used for similar costs and expenses in managing and administering other
37 lands managed by the department provided that such expenditures that

1 have been or may be made on such other lands shall be repaid to the
2 resource management cost account together with interest at a rate
3 determined by the board of natural resources.

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

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

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

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

1 moneys received by the department pertaining to second class tide and
2 shore lands and the beds of navigable waters.

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

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

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

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

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

1 Correct the title.

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