

---

**ENGROSSED SUBSTITUTE HOUSE BILL 2688**

---

**State of Washington**

**57th Legislature**

**2002 Regular Session**

**By** House Committee on Agriculture & Ecology (originally sponsored by Representative Linville; by request of Department of Agriculture)

Read first time 02/07/2002. Referred to Committee on .

1       AN ACT Relating to regulating commodity boards and commissions;  
2 amending RCW 15.65.020, 15.65.040, 15.65.050, 15.65.060, 15.65.070,  
3 15.65.090, 15.65.120, 15.65.170, 15.65.180, 15.65.200, 15.65.220,  
4 15.65.230, 15.65.235, 15.65.240, 15.65.250, 15.65.260, 15.65.270,  
5 15.65.280, 15.65.375, 15.65.380, 15.65.430, 15.65.450, 15.65.570,  
6 15.66.010, 15.66.030, 15.66.050, 15.66.060, 15.66.070, 15.66.090,  
7 15.66.110, 15.66.120, 15.66.130, 15.66.140, 15.66.180, 15.66.185,  
8 15.66.245, 15.66.260, 42.17.31907, 16.67.030, 16.67.070, 16.67.090,  
9 16.67.120, 16.67.122, 15.44.010, 15.44.020, 15.44.035, 15.44.038,  
10 15.44.060, 15.44.070, 15.44.080, 15.44.085, 15.44.110, 15.44.140,  
11 15.44.150, 15.28.010, 15.28.020, 15.28.110, 15.28.130, 15.28.250,  
12 15.88.050, 15.76.150, 15.24.010, 15.24.020, 15.24.040, 15.24.050,  
13 15.24.070, 15.24.080, 15.24.085, 15.24.090, 15.24.100, 15.24.110,  
14 15.24.160, 15.24.170, 15.24.800, 15.24.802, 15.24.806, 15.24.808,  
15 15.24.812, 15.24.818, 15.24.900, 15.26.130, and 15.26.250; adding new  
16 sections to chapter 15.65 RCW; adding new sections to chapter 15.66  
17 RCW; adding new sections to chapter 15.26 RCW; adding new sections to  
18 chapter 15.28 RCW; adding new sections to chapter 15.44 RCW; adding new  
19 sections to chapter 15.88 RCW; adding new sections to chapter 16.67  
20 RCW; adding new sections to chapter 15.24 RCW; adding new sections to  
21 chapter 43.23 RCW; adding a new section to chapter 15.88 RCW; repealing

1 RCW 15.65.030, 15.65.080, 15.65.460, 15.65.405, 15.66.020, 16.67.020,  
2 15.44.037, 15.44.900, and 15.28.900; prescribing penalties; and  
3 providing an effective date.

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

5 **Sec. 1.** RCW 15.65.020 and 1993 c 80 s 2 are each amended to read  
6 as follows:

7 The following terms are hereby defined:

8 (1) "Director" means the director of agriculture of the state of  
9 Washington or his or her duly appointed representative. The phrase  
10 "director or his or her designee" means the director unless, in the  
11 provisions of any marketing agreement or order, he or she has  
12 designated an administrator, board, or other designee to act (~~for~~  
13 ~~him~~) in the matter designated, in which case "director or his or her  
14 designee" means for such order or agreement the administrator, board,  
15 or other person(s) so designated and not the director.

16 (2) "Department" means the department of agriculture of the state  
17 of Washington.

18 (3) "Marketing order" means an order (~~issued~~) adopted by the  
19 director (~~pursuant to~~) under this chapter that establishes a  
20 commodity board for an agricultural commodity or agricultural  
21 commodities with like or common qualities or producers.

22 (4) "Marketing agreement" means an agreement entered into and  
23 issued by the director pursuant to this chapter.

24 (5) "Agricultural commodity" means any of the following commodities  
25 or products: Llamas, alpacas, or any other animal or any distinctive  
26 type of agricultural, horticultural, viticultural, floricultural,  
27 vegetable, or animal product, including, but not limited to, products  
28 qualifying as organic food products under chapter 15.86 RCW and private  
29 sector cultured aquatic products as defined in RCW 15.85.020 and other  
30 fish and fish products, either in its natural or processed state,  
31 including beehives containing bees and honey and Christmas trees but  
32 not including timber or timber products. The director is hereby  
33 authorized to determine (on the basis of common usage and practice)  
34 what kinds, types or sub-types should be classed together as an  
35 agricultural commodity for the purposes of this chapter.

36 (6) "Production area" and "marketing area" means any area defined  
37 as such in any marketing order or agreement in accordance with RCW

1 15.65.350. "Affected area" means the marketing or production area so  
2 defined in such order, agreement or proposal.

3 (7) "Unit" of an agricultural commodity means a unit of volume,  
4 weight, quantity, or other measure in which such commodity is commonly  
5 measured. The director shall designate in each marketing order and  
6 agreement the unit to be used therein.

7 (8) "Affected unit" means in the case of marketing agreements and  
8 orders drawn on the basis of a production area, any unit of the  
9 commodity specified in or covered by such agreement or order which is  
10 produced in such area and sold or marketed or delivered for sale or  
11 marketing; and "affected unit" means, in the case of marketing  
12 agreements and orders drawn on the basis of marketing area, any unit of  
13 the commodity specified in or covered by such agreement or order which  
14 is stored in frozen condition or sold or marketed or delivered for sale  
15 or marketing within such marketing area: PROVIDED, That in the case of  
16 marketing agreements "affected unit" shall include only those units  
17 which are produced by producers or handled by handlers who have  
18 assented to such agreement.

19 (9) "Affected commodity" means that part or portion of any  
20 agricultural commodity which is covered by or forms the subject matter  
21 of any marketing agreement or order or proposal, and includes all  
22 affected units thereof as herein defined and no others.

23 (10) "Producer" means any person engaged in the business of  
24 producing any agricultural commodity for market in commercial  
25 quantities. "Affected producer" means any producer (~~of an affected~~  
26 ~~commodity~~) who is subject to a marketing order or agreement. "To  
27 produce" means to act as a producer. For the purposes of RCW 15.65.140  
28 and 15.65.160 as now or hereafter amended "producer" shall include  
29 bailees who contract to produce or grow any agricultural product on  
30 behalf of a bailor who retains title to the seed and its resulting  
31 agricultural product or the agricultural product delivered for further  
32 production or increase.

33 (11) "Handler" means any person who acts, either as principal,  
34 agent or otherwise, in processing, selling, marketing or distributing  
35 an agricultural commodity or storage of a frozen agricultural commodity  
36 which was not produced by him or her. "Handler" does not mean a common  
37 carrier used to transport an agricultural commodity. "Affected  
38 handler" means any handler of an affected commodity. "To handle" means  
39 to act as a handler.

1 (12) "Producer-handler" means any person who acts both as a  
2 producer and as a handler with respect to any agricultural commodity.  
3 A producer-handler shall be deemed to be a producer with respect to the  
4 agricultural commodities which he or she produces, and a handler with  
5 respect to the agricultural commodities which he or she handles,  
6 including those produced by himself or herself.

7 (13) "Cooperative association" means any incorporated or  
8 unincorporated association of producers which conforms to the  
9 qualifications set out in the act of congress of the United States of  
10 February 18, 1922 as amended, known as the "Capper-Volstead Act" and  
11 which is engaged in making collective sales or in marketing any  
12 agricultural commodity or product thereof or in rendering service for  
13 or advancing the interests of the producers of such commodity on a  
14 nonprofit cooperative basis.

15 (14) "Member of a cooperative association" means any producer who  
16 markets his or her product through such cooperative association and who  
17 is a voting stockholder of or has a vote in the control of or is a  
18 party to a marketing agreement with such cooperative association with  
19 respect to such product.

20 (15) "Producer marketing" or "marketed by producers" means any or  
21 all operations performed by any producer or cooperative association of  
22 producers in preparing for market and marketing, and shall include:  
23 (a) selling any agricultural commodity produced by such producer(s) to  
24 any handler; (b) delivering any such commodity or otherwise disposing  
25 of it for commercial purposes to or through any handler.

26 (16) "Commercial quantities" as applied to producers and/or  
27 production means such quantities per year (or other period of time) of  
28 an agricultural commodity as the director finds are not less than the  
29 minimum which a prudent man engaged in agricultural production would  
30 produce for the purpose of making such quantity of such commodity a  
31 substantial contribution to the economic operation of the farm on which  
32 such commodity is produced. "Commercial quantities" as applied to  
33 handlers and/or handling means such quantities per year (or other  
34 period of time) of an agricultural commodity or product thereof as the  
35 director finds are not less than the minimum which a prudent man  
36 engaged in such handling would handle for the purpose of making such  
37 quantity a substantial contribution to the handling operation in which  
38 such commodity or product thereof is so handled. In either case the  
39 director may in his or her discretion: (a) Determine that substantial

1 quantity is any amount above zero; and (b) apply the quantity so  
2 determined on a uniform rule applicable alike to all persons which he  
3 or she finds to be similarly situated.

4 (17) "Commodity board" means any board established pursuant to RCW  
5 15.65.220. "Board" means any such commodity board unless a different  
6 board is expressly specified.

7 (18) "Sell" includes offer for sale, expose for sale, have in  
8 possession for sale, exchange, barter or trade.

9 (19) "Section" means a section of this chapter unless some other  
10 statute is specifically mentioned. The present includes the past and  
11 future tenses, and the past or future the present. The masculine  
12 gender includes the feminine and neuter. The singular number includes  
13 the plural and the plural includes the singular.

14 (20) "Represented in a referendum" means that a written document  
15 evidencing approval or assent or disapproval or dissent is duly and  
16 timely filed with or mailed to the director by or on behalf of an  
17 affected producer and/or a volume of production of an affected  
18 commodity in a form which the director finds meets the requirements of  
19 this chapter. "Referendum" means a vote by the affected parties or  
20 affected producers which is conducted by secret ballot.

21 (21) "Person" (~~as used in this chapter shall mean any person,~~  
22 ~~firm, association or corporation~~) means any individual, firm,  
23 corporation, limited liability company, trust, association,  
24 partnership, society, or any other organization of individuals, or any  
25 unit or agency of local, state, or federal government.

26 (22) "Affected parties" means any producer, affected producer,  
27 handler, or commodity board member.

28 (23) "Assessment" means the monetary amount established in a  
29 marketing order or agreement that is to be paid by each affected  
30 producer to a commodity board in accordance with the schedule  
31 established in the marketing order or agreement.

32 (24) "List of affected parties" means a list containing the names  
33 and mailing addresses of affected parties. This list shall contain the  
34 names and addresses of all affected parties and, if requested by the  
35 director, the amount, by unit, of the affected commodity produced  
36 during a designated period under this chapter.

37 (25) "List of affected producers" means a list containing the names  
38 and mailing addresses of affected producers. This list shall contain  
39 the names and addresses of all affected producers and, if requested by

1 the director, the amount, by unit, of the affected commodity produced  
2 during a designated period under this chapter.

3 (26) "List of affected handlers" means a list containing the names  
4 and addresses of affected handlers. This list shall contain the names  
5 and addresses of all affected handlers and, if requested by the  
6 director, the amount, by unit, of the affected commodity handled during  
7 a designated period under this chapter.

8 (27) "Mail" or "send" for purposes of any notice relating to rule  
9 making, referenda, or elections means regular mail or electronic  
10 distribution, as provided in RCW 34.05.260 for rule making.  
11 "Electronic distribution" or "electronically" means distribution by  
12 electronic mail or facsimile mail.

13 (28) "Percent by numbers" means the percent of those persons on the  
14 list of affected parties or affected producers.

15 (29) "Rule-making proceedings" means the rule-making provisions as  
16 outlined in chapter 34.05 RCW.

17 (30) "Vacancy" means that a board member leaves or is removed from  
18 a board position prior to the end of a term, or a nomination process  
19 for the beginning of a term concludes with no candidates for a  
20 position.

21 (31) "Volume of production" means the percent of the average volume  
22 of production of the affected commodity of those on the list of  
23 affected parties or affected producers for a production period. For  
24 the purposes of this chapter, a production period is a minimum three-  
25 year period or as specified in the marketing order or agreement.

26 NEW SECTION. Sec. 2. A new section is added to chapter 15.65 RCW  
27 to read as follows:

28 The history, economy, culture, and the future of Washington state  
29 to a large degree all involve agriculture. In order to develop and  
30 promote Washington's agricultural products as part of the existing  
31 comprehensive scheme to regulate agricultural commodities, the  
32 legislature declares:

33 (1) That the marketing of agricultural products within this state  
34 is in the public interest. It is vital to the continued economic well-  
35 being of the citizens of this state and their general welfare that its  
36 agricultural commodities be properly promoted by (a) enabling producers  
37 of agricultural commodities to help themselves in establishing orderly,  
38 fair, sound, efficient, and unhampered marketing, grading, and

1 standardizing of the commodities they produce and (b) working towards  
2 stabilizing the agricultural industry by increasing consumption of  
3 agricultural commodities within the state, the nation, and  
4 internationally;

5 (2) That farmers and ranchers operate within a regulatory  
6 environment that imposes burdens on them for the benefit of society and  
7 the citizens of the state and includes restrictions on marketing  
8 autonomy. Those restrictions may impair the agricultural producer's  
9 ability to compete in local, domestic, and foreign markets;

10 (3) That it is now in the overriding public interest that support  
11 for the agricultural industry be clearly expressed, that adequate  
12 protection be given to agricultural commodities, uses, activities, and  
13 operations, and that each agricultural commodity be promoted  
14 individually, and as part of a comprehensive industry to:

15 (a) Enhance the reputation and image of Washington state's  
16 agricultural commodities;

17 (b) Increase the sale and use of Washington state's agricultural  
18 commodities in local, domestic, and foreign markets;

19 (c) Protect the public by educating the public in reference to the  
20 quality, care, and methods used in the production of Washington state's  
21 agricultural commodities;

22 (d) Increase the knowledge of the health-giving qualities and  
23 dietetic value of Washington state's agricultural commodities and  
24 products; and

25 (e) Support and engage in programs or activities that benefit the  
26 planting, production, harvesting, handling, processing, marketing, and  
27 uses of agricultural commodities produced in Washington state;

28 (4) That the director seek to enhance, protect, and perpetuate the  
29 ability of the private sector to produce food and fiber, and seek to  
30 maintain the economic well-being of the agricultural industry in  
31 Washington state consistent with its regulatory activities and  
32 responsibilities;

33 (5) That the director is hereby authorized to implement,  
34 administer, and enforce this chapter through the adoption of marketing  
35 orders that establish commodity boards; and

36 (6) That this chapter is enacted in the exercise of the police  
37 powers of this state for the purpose of protecting the health, peace,  
38 safety, and general welfare of the people of this state.

1        NEW SECTION.    **Sec. 3.**    A new section is added to chapter 15.65 RCW  
2 to read as follows:

3        This chapter and the rules adopted under it are only one aspect of  
4 the comprehensively regulated agricultural industry.

5        (1) Other laws applicable to agricultural commodities include the  
6 following chapters and the rules adopted thereunder:

7            Chapter 15.08 RCW Horticultural pests and diseases;

8            Chapter 15.13 RCW Horticultural plants and facilities--Inspection  
9 and licensing;

10           Chapter 15.14 RCW Planting stock;

11           Chapter 15.15 RCW Certified seed potatoes;

12           Chapter 15.17 RCW Standards of grades and packs;

13           Chapter 15.19 RCW Certification and inspection of ginseng;

14           Chapter 15.30 RCW Controlled atmosphere storage of fruits and  
15 vegetables;

16           Chapter 15.49 RCW Seeds;

17           Chapter 15.53 RCW Commercial feed;

18           Chapter 15.54 RCW Fertilizers, minerals, and limes;

19           Chapter 15.58 RCW Washington pesticide control act;

20           Chapter 15.60 RCW Apiaries;

21           Chapter 15.64 RCW Farm marketing;

22           Chapter 15.83 RCW Agricultural marketing and fair practices;

23           Chapter 15.85 RCW Aquaculture marketing;

24           Chapter 15.86 RCW Organic food products;

25           Chapter 15.92 RCW Center for sustaining agriculture and natural  
26 resources;

27           Chapter 17.24 RCW Insect pests and plant diseases;

28           Chapter 19.94 RCW Weights and measures;

29           Chapter 20.01 RCW Agricultural products--Commission merchants,  
30 dealers, brokers, buyers, agents;

31           Chapter 22.09 RCW Agricultural commodities;

32           Chapter 69.04 RCW Food, drugs, cosmetics, and poisons including  
33 provisions of 21 C.F.R. relating to the general manufacturing  
34 practices, food labeling, food standards, food additives, and pesticide  
35 tolerances;

36           Chapter 69.07 RCW Washington food processing act;

37           Chapter 69.25 RCW Washington wholesome eggs and egg products act;

38           Chapter 69.28 RCW Honey;



1       7 U.S.C., section 136, Federal Insecticide, Fungicide, and  
2 Rodenticide Act.

3       (2) In addition to the laws and regulations listed in subsection  
4 (1) of this section that apply to the agricultural industry as a whole,  
5 the dry pea and lentil industry is regulated by or must comply with the  
6 additional laws and rules adopted under 7 U.S.C., chapter 38,  
7 Agricultural Marketing Act.

8       **Sec. 4.** RCW 15.65.040 and 2001 c 315 s 4 are each amended to read  
9 as follows:

10       (~~It is hereby declared to be the policy of this chapter~~) The  
11 director may adopt a marketing order that establishes a commodity board  
12 under this chapter for any of the following purposes:

13       (1) To aid agricultural producers in preventing economic waste in  
14 the marketing of their agricultural commodities and in developing more  
15 efficient methods of marketing agricultural products.

16       (2) To enable agricultural producers of this state, with the aid of  
17 the state:

18       (a) To develop, and engage in research for developing, better and  
19 more efficient production, irrigation, processing, transportation,  
20 handling, marketing, and utilization of agricultural products;

21       (b) To establish orderly marketing of agricultural commodities;

22       (c) To provide for uniform grading and proper preparation of  
23 agricultural commodities for market;

24       (d) To provide methods and means (including, but not limited to,  
25 public relations and promotion) for the maintenance of present markets  
26 and for the development of new or larger markets, both domestic and  
27 foreign, for agricultural commodities produced within this state and  
28 for the prevention, modification, or elimination of trade barriers  
29 which obstruct the free flow of such agricultural commodities to  
30 market;

31       (e) To eliminate or reduce economic waste in the marketing and/or  
32 use of agricultural commodities;

33       (f) To restore and maintain adequate purchasing power for the  
34 agricultural producers of this state;

35       (g) To provide information or communicate on matters pertaining to  
36 the production, irrigation, processing, transportation, marketing, or  
37 uses of an agricultural commodity produced in Washington state to any  
38 elected official or officer or employee of any agency;

1 (h) To provide marketing information and services for producers of  
2 an agricultural commodity;

3 (i) To provide information and services for meeting resource  
4 conservation objectives of producers of an agricultural commodity;

5 (j) To engage in cooperative efforts in the domestic or foreign  
6 marketing of food products of an agricultural commodity;

7 (k) To provide for commodity-related education and training; and

8 (l) To accomplish all the declared policies of this chapter.

9 (3) To protect the interest of consumers by assuring a sufficient  
10 pure and wholesome supply of agricultural commodities of good quality  
11 at all seasons and times.

12 **Sec. 5.** RCW 15.65.050 and 1961 c 256 s 5 are each amended to read  
13 as follows:

14 The director shall administer and enforce this chapter and it shall  
15 be his or her duty to carry out its provisions and put them into force  
16 in accordance with its terms, but issuance, amendment, modification,  
17 and/or suspension (~~(and/or termination)~~) of marketing agreements and  
18 orders and of any terms or provisions thereof shall be accomplished  
19 according to the procedures set forth in this chapter and not  
20 otherwise. Whenever he or she has reason to believe that the  
21 issuance(~~(or)~~) or amendment (~~(or termination)~~) of a marketing agreement  
22 or order will tend to effectuate any declared policy or purpose of this  
23 chapter with respect to any agricultural commodity, and in the case of  
24 application for issuance or amendment ten or more producers of such  
25 commodity apply or (~~(in the case of application for termination ten~~  
26 ~~percent of the affected producers so apply)~~) when a petition for  
27 amendment is submitted by majority vote of a commodity board, then the  
28 director shall give due notice of, and an opportunity for, a public  
29 hearing upon such issuance(~~(or)~~) or amendment (~~(or termination)~~), and  
30 (~~(he)~~) the director shall issue marketing agreements and orders  
31 containing the provisions specified in this chapter and from time to  
32 time amend (~~(or terminate)~~) the same whenever upon compliance with and  
33 on the basis of facts adduced in accordance with the procedural  
34 requirements of this chapter he or she shall find that such agreement,  
35 order, or amendment:

36 (1) Will tend to effectuate one or more of the declared policies of  
37 this chapter and is needed in order to effectuate the same.

1 (2) Is reasonably adapted to accomplish the purposes and objects  
2 for which it is issued and complies with the applicable provisions of  
3 this chapter.

4 (3) Has been approved or favored by the percentages of producers  
5 and/or handlers specified in and ascertained in accordance with this  
6 chapter.

7 **Sec. 6.** RCW 15.65.060 and 1961 c 256 s 6 are each amended to read  
8 as follows:

9 The director shall cause any (~~proposed~~) marketing agreement,  
10 order proposed for issuance, or amendment (~~or termination~~) to be set  
11 out in detailed form and reduced to writing, which writing is herein  
12 designated "proposal." The director shall make and maintain on file in  
13 the office of the department a copy of each proposal and a full and  
14 complete record of all notices, hearings, findings, decisions, assents,  
15 and all other proceedings relating to each proposal and to each  
16 marketing agreement and order.

17 NEW SECTION. **Sec. 7.** A new section is added to chapter 15.65 RCW  
18 to read as follows:

19 (1) The director may adopt rules necessary to carry out the  
20 director's duties and responsibilities under this chapter including:

21 (a) The issuance, amendment, or termination of marketing orders or  
22 agreements;

23 (b) Procedural, technical, or administrative rules which may  
24 address and include, but are not limited to:

25 (i) The submission of a petition to issue, amend, or terminate a  
26 marketing order or agreement under this chapter;

27 (ii) Nominations conducted under this chapter;

28 (iii) Elections of board members or referenda conducted under this  
29 chapter;

30 (iv) Actions of the director upon a petition to issue, amend, or  
31 terminate a marketing order or agreement;

32 (c) Rules that provide for a method to fund:

33 (i) The costs of staff support for all commodity boards and  
34 commissions in accordance with section 78 of this act if the position  
35 is not directly funded by the legislature; and

36 (ii) The actual costs related to the specific activity undertaken  
37 on behalf of an individual commodity board or commission.

1 (2) The director may adopt amendments to marketing agreements or  
2 orders without conducting a referendum if the amendments are adopted  
3 under the following criteria:

4 (a) The proposed amendments relate only to internal administration  
5 of a marketing order or agreement and are not subject to violation by  
6 a person;

7 (b) The proposed amendments adopt or incorporate by reference  
8 without material change federal statutes or regulations, Washington  
9 state statutes, or rules of other Washington state agencies, if the  
10 material adopted or incorporated regulates the same activities as are  
11 authorized under the marketing order or agreement;

12 (c) The proposed amendments only correct typographical errors, make  
13 address or name changes, or clarify language of a rule without changing  
14 the marketing order or agreement; and

15 (d) The content of the proposed amendments is explicitly and  
16 specifically dictated by statute.

17 A marketing order or agreement shall not be amended without a  
18 referendum to provide that a majority of the commodity board members be  
19 appointed by the director.

20 **Sec. 8.** RCW 15.65.070 and 1987 c 393 s 5 are each amended to read  
21 as follows:

22 The director shall publish notice of any hearing called for the  
23 purpose of considering and acting upon any proposal for a period of not  
24 less than two days in one or more newspapers of general circulation as  
25 the director may prescribe. No such public hearing shall be held prior  
26 to five days after the last day of such period of publication. Such  
27 notice shall set forth the date, time and place of said hearing, the  
28 agricultural commodity and the area covered by such proposal; a concise  
29 statement of the proposal; a concise statement of each additional  
30 subject upon which the director will hear evidence and make a  
31 determination, and a statement that, and the address where, copies of  
32 the proposal may be obtained. The director shall also mail (~~a copy of~~  
33 ~~such~~) notice to all producers and handlers within the affected area  
34 who may be directly affected by such proposal and whose names and  
35 addresses appear, on the day next preceding the day on which such  
36 notice is published, upon lists of such persons then on file in the  
37 department.

1       **Sec. 9.** RCW 15.65.090 and 1961 c 256 s 9 are each amended to read  
2 as follows:

3       (~~In any and every hearing conducted pursuant to any provision of~~  
4 ~~this chapter~~) The director (~~and/or such examiner~~) shall have the  
5 power to issue subpoenas for the production of any books, records, or  
6 documents of any kind and to subpoena witnesses to be produced or to  
7 appear (as the case may be) in the county wherein the principal party  
8 involved in such hearing resides. No person shall be excused from  
9 attending and testifying or from producing documentary evidence before  
10 the director in obedience to the subpoena of the director on the ground  
11 or for the reason that the testimony or evidence, documentary or  
12 otherwise, required of him or her may tend to incriminate him or her or  
13 subject him or her to a penalty or forfeiture, but no natural person  
14 shall be prosecuted or subject to any penalty or forfeiture for or on  
15 account of any transaction, matter or thing concerning which he or she  
16 may be so required to testify or produce evidence, documentary or  
17 otherwise, before the director in obedience to a subpoena issued by him  
18 or her: PROVIDED, That no natural person so testifying shall be exempt  
19 from prosecution and punishment for perjury committed in so testifying.  
20 The superior court of the county in which any such hearing or  
21 proceeding may be had, may compel the attendance of witnesses and the  
22 production of records, papers, books, accounts, documents and testimony  
23 as required by such subpoena. In case any witness refuses to attend or  
24 testify or produce any papers required by the subpoena, the director or  
25 his or her examiner shall so report to the superior court of the county  
26 in which the proceeding is pending by petition setting forth that due  
27 notice was given of the time and place of attendance of (~~said~~) the  
28 witness or the production of (~~said~~) the papers and that the witness  
29 has been summoned in the manner prescribed in this chapter and that the  
30 fees and mileage of the witness have been paid or tendered to him or  
31 her in accordance with RCW 2.40.020 and that he or she has failed to  
32 attend or produce the papers required by the subpoena at the hearing,  
33 cause, or proceeding specified in the notice and subpoena, or has  
34 refused to answer questions propounded to him or her in the course of  
35 such hearing, cause or proceeding, and shall ask an order of the court  
36 to compel such witness to appear and testify before the director. The  
37 court upon such petition shall enter an order directing the witness to  
38 appear before the court at a time and place to be fixed in such order  
39 and then and there show cause why he or she has not responded to the

1 subpoena. A certified copy of the show cause order shall be served  
2 upon the witness. If it shall appear to the court that the subpoena  
3 was regularly issued, the court shall enter a decree that (~~said~~) the  
4 witness appear at the time and place fixed in the decree and testify or  
5 produce the required papers, and on failing to obey said decree the  
6 witness shall be dealt with as for contempt of court.

7 **Sec. 10.** RCW 15.65.120 and 1985 c 261 s 3 are each amended to read  
8 as follows:

9 The recommended decision shall contain the text in full of any  
10 recommended agreement, order, or amendment (~~(or termination)~~), and may  
11 deny or approve the proposal in its entirety, or it may recommend a  
12 marketing agreement, order, or amendment (~~(or termination)~~) containing  
13 other or different terms or conditions from those contained in the  
14 proposal: PROVIDED, That the same shall be of a kind or type  
15 substantially within the purview of the notice of hearing and shall be  
16 supported by evidence taken at the hearing or by documents of which the  
17 director is authorized to take official notice. The final decision  
18 shall set out in full the text of the agreement, order, or amendment  
19 (~~(or termination)~~) covered thereby, and the director shall issue and  
20 deliver or mail copies of (~~said~~) the final decision to all producers  
21 and handlers within the affected area who may be directly affected by  
22 such final decision and whose names and addresses appear, on the day  
23 next preceding the day on which such final decision is issued, upon the  
24 lists of such persons then on file in the department, and to all  
25 parties of record appearing at the hearing, or their attorneys of  
26 record. If the final decision denies the proposal in its entirety no  
27 further action shall be taken by the director.

28 **Sec. 11.** RCW 15.65.170 and 1987 c 393 s 6 are each amended to read  
29 as follows:

30 If the director determines that the requisite assent has been given  
31 (~~(he shall issue and put any order or amendment thereto into force,~~  
32 ~~whereupon each and every provision thereof shall have the force of law.~~  
33 ~~Issuance shall be accomplished by publication of a notice for one day~~  
34 ~~in a newspaper of general circulation in the affected area. The notice~~  
35 ~~shall state that the order has been issued and put into force and where~~  
36 ~~copies of such order may be obtained)) to issue or amend a marketing  
37 order, the issuance or amendment shall be adopted by rule by the~~

1 director within thirty days of the validation of the vote. If the  
2 director determines that the requisite assent has not been given no  
3 further action shall be taken by the director upon the proposal, and  
4 the order contained in the final decision shall be without force or  
5 effect.

6 NEW SECTION. Sec. 12. A new section is added to chapter 15.65 RCW  
7 to read as follows:

8 The director shall not be required to hold a public hearing or a  
9 referendum more than once in any twelve-month period on petitions to  
10 issue, amend, or terminate a commodity marketing order if any of the  
11 following circumstances are present:

12 (1) The petition proposes to establish a marketing order or  
13 agreement for the same commodity;

14 (2) The petition proposes the same or a similar amendment to a  
15 marketing order or agreement; or

16 (3) The petition proposes to terminate the same marketing order or  
17 agreement.

18 **Sec. 13.** RCW 15.65.180 and 1961 c 256 s 18 are each amended to  
19 read as follows:

20 The director may, upon the advice of the commodity board serving  
21 under any marketing agreement or order and without compliance with the  
22 provisions of RCW 15.65.050 through 15.65.170(

23 ~~(1) Amend any marketing agreement or order as to any minor matter  
24 or wording which does not substantially alter the provisions and  
25 intention of such agreement or order;~~

26 ~~(2))~~, suspend any such agreement or order or term or provision  
27 thereof for a period of not to exceed one year, if ~~((he))~~ the director  
28 finds that such suspension will tend to effectuate the declared policy  
29 of this chapter~~((: PROVIDED, That))~~. Any ~~((such))~~ suspension of all  
30 or substantially all of ~~((such))~~ a marketing agreement or order by the  
31 director shall not become effective until the end of the then current  
32 marketing season.

33 NEW SECTION. Sec. 14. A new section is added to chapter 15.65 RCW  
34 to read as follows:

35 The director may terminate a marketing order or agreement in  
36 accordance with this chapter.

1 (1) To terminate a marketing order or agreement:

2 (a) The director must receive a petition by affected producers  
3 under this chapter signed by at least ten percent of the affected  
4 producers; or

5 (b) A majority of a commodity board may file a petition with the  
6 director.

7 (2) The petitioners must include in the petition at the time of  
8 filing:

9 (a) A statement of why the marketing order or agreement and the  
10 commodity board created under it no longer meets the purposes of this  
11 chapter;

12 (b) The name of a person designated to represent the petitioners;  
13 and

14 (c) The effective date of a marketing order or agreement  
15 termination, which may not be less than one year from the date the  
16 petition was filed with the director.

17 (3) Within sixty days of receipt of a petition meeting the  
18 requirements of this section, the director shall commence rule-making  
19 proceedings to repeal the marketing order or agreement and,  
20 subsequently, a referendum on the issue.

21 (4) The director shall include a copy of a petition to terminate a  
22 marketing order or agreement with the notice to affected producers when  
23 rule-making proceedings are commenced.

24 (5) If the petitioners fail to meet the requirements of this  
25 chapter, the director shall deny the petition and a referendum vote  
26 will not be conducted. The person designated to represent the  
27 petitioners shall be notified if a petition is denied.

28 NEW SECTION. Sec. 15. A new section is added to chapter 15.65 RCW  
29 to read as follows:

30 Except as provided in RCW 15.65.190 or subsection (4) of this  
31 section, the director, prior to termination of the marketing order or  
32 agreement, shall conduct a referendum as provided in this chapter, the  
33 rules adopted by the director, and the applicable marketing order or  
34 agreement.

35 (1) If a referendum on the termination of a marketing order or  
36 agreement is assented to, the referendum proposal shall be adopted by  
37 the director within thirty days of the count of the ballots and shall  
38 go into effect under chapter 34.05 RCW. If those affected producers



1 eligible to vote in the referendum do not assent, no further action  
2 shall be taken by the director on the proposal.

3 (2) The list of affected producers used for conducting a referendum  
4 on the termination of a marketing order or agreement shall be kept in  
5 the rule-making file by the director. The list shall be certified as  
6 a true representation of the referendum mailing list. Inadvertent  
7 failure to notify an affected producer does not invalidate a  
8 referendum.

9 (3) The list of affected producers that is certified as the true  
10 representation of the mailing list of a referendum shall be used to  
11 determine assent as provided for in RCW 15.65.190.

12 (4) If the director determines that one hundred percent of the  
13 affected producers have filed a written application with the director  
14 requesting that a marketing order or agreement be terminated, the  
15 director may terminate the marketing order or agreement without  
16 conducting a referendum. The termination of the marketing order or  
17 agreement shall go into effect under chapter 34.05 RCW, but no sooner  
18 than at the end of the marketing season then current.

19 NEW SECTION. **Sec. 16.** A new section is added to chapter 15.65 RCW  
20 to read as follows:

21 If after complying with the procedures outlined in this chapter and  
22 a referendum proposal to terminate a marketing order or agreement is  
23 assented to, the affected commodity board shall:

24 (1) Document the details of all measures undertaken to terminate  
25 the marketing order and identify and document all closing costs;

26 (2) Contact the office of the state auditor and arrange for a final  
27 audit of the commodity board. Payment for the audit shall be from  
28 commodity board funds and identified in the budget for closing costs;

29 (3) Provide for the reimbursement to affected producers of moneys  
30 collected by assessment. Reimbursement shall be made to those  
31 considered affected producers over the previous three-year time frame  
32 on a pro rata basis and at a percent commensurate with their volume of  
33 production over the previous three-year period unless a different time  
34 period is specified in the marketing order or agreement. If the  
35 commodity board finds that the amounts of moneys are so small as to  
36 make impractical the computation and remitting of the pro rata refund,  
37 the moneys shall be paid into the state treasury as unclaimed trust  
38 moneys; and

1 (4) Transfer all remaining files to the department for storage and  
2 archiving, as appropriate.

3 **Sec. 17.** RCW 15.65.200 and 1985 c 261 s 8 are each amended to read  
4 as follows:

5 (1) Whenever application is made for the issuance of a marketing  
6 agreement or order or the director otherwise determines to hold a  
7 hearing for the purpose of such issuance, the director or ((his)) a  
8 designee shall ((cause lists to be prepared from any information which  
9 he has at hand or which he may obtain from producers, associations of  
10 producers and handlers of the affected commodity. Such lists shall  
11 contain the names and addresses of persons who produce the affected  
12 commodity within the affected area, the amount of such commodity  
13 produced by each such person during the period which the director  
14 determines for the purposes of the agreement or order to be  
15 representative, and the name of any cooperative association authorized  
16 to market for him within the affected area the commodity specified in  
17 the marketing agreement or order. Such lists shall also contain the  
18 names and addresses of persons who handle the affected commodity within  
19 the affected area and the amount of such commodity handled by each  
20 person during the period which the director determines for the purposes  
21 of the agreement or order to be representative. Any qualified person  
22 may at any time have his name placed upon any list for which he  
23 qualifies by delivering or mailing his name, address and other  
24 information to the director and in such case the director shall verify  
25 such person's qualifications and if he qualifies, place his name upon  
26 such list. At every hearing upon the issuance, amendment or  
27 termination of such order or agreement the director or his designee  
28 shall take evidence for the purpose of making such lists complete and  
29 accurate and he may employ his powers of subpoena of witnesses and of  
30 books, records and documents for such purpose. After every such  
31 hearing the director shall compile, complete, correct and bring lists  
32 up to date in accordance with the evidence and information obtained at  
33 such hearing. For all purposes of giving notice, holding referenda and  
34 electing members of commodity boards, the lists on hand corrected up to  
35 the day next preceding the date for issuing notices or ballots as the  
36 case may be shall, for all purposes of this chapter, be deemed to be  
37 the list of all persons entitled to notice or to assent or dissent or  
38 to vote)) establish a list of affected parties along with volume of

1 production data covering a minimum three-year period, or in such lesser  
2 time as the affected party has produced the commodity in question, from  
3 information provided by the petitioners, by obtaining information on  
4 affected parties from applicable producer, handler, or processor  
5 organizations or associations or other sources identified as  
6 maintaining the information.

7 (2) The director shall use the list of affected parties for the  
8 purpose of notice, referendum proceedings, and electing and selecting  
9 members of commodity boards in accordance with this chapter.

10 (3) An affected party may at any time file his or her name and  
11 mailing address with the director. A list of affected parties may be  
12 brought up-to-date by the director up to the day preceding a mailing of  
13 a notice or ballot under this chapter and that list is deemed the list  
14 of affected parties entitled to vote.

15 (4) The list of affected parties used for the issuance of a  
16 marketing order or agreement shall be kept in a file maintained by the  
17 director. The list shall be certified as a true representation of the  
18 mailing list. Inadvertent failure to notify an affected party does not  
19 invalidate a proceeding conducted under this chapter.

20 (5) The list of affected parties that is certified as the true  
21 representation of the mailing list of a referendum shall be used to  
22 determine assent as provided in this chapter.

23 (6) The director shall provide the commodity board the list of  
24 affected and interested parties once a marketing order or agreement is  
25 adopted and a commodity board is established as provided in this  
26 chapter.

27 **NEW SECTION. Sec. 18.** A new section is added to chapter 15.65 RCW  
28 to read as follows:

29 (1) Pursuant to RCW 42.17.31907, certain agricultural business  
30 records, commodity board records, and department of agriculture records  
31 relating to commodity boards and producers of agricultural commodities  
32 are exempt from public disclosure.

33 (2) Financial and commercial information and records submitted to  
34 either the department or a commodity board for the purpose of  
35 administering this chapter or a marketing order or agreement may be  
36 shared between the department and the applicable commodity board. They  
37 may also be used, if required, in any suit or administrative hearing  
38 involving this chapter or a marketing order or agreement.

1 (3) This chapter does not prohibit:

2 (a) The issuance of general statements based upon the reports of a  
3 number of persons subject to any marketing order or agreement as long  
4 as the statements do not identify the information furnished by any  
5 person; or

6 (b) The publication by the director or a commodity board of the  
7 name of any person violating any marketing order or agreement and a  
8 statement of the manner of the violation by that person.

9 NEW SECTION. **Sec. 19.** A new section is added to chapter 15.65 RCW  
10 to read as follows:

11 (1) Upon completion of any vote, referendum, or nomination and  
12 elections, the department shall tally the results of the vote and  
13 provide the results to affected parties.

14 (2) If an affected party disputes the results of a vote, that  
15 affected party, within sixty days from the announced results, shall  
16 provide in writing a statement of why the vote is disputed and request  
17 a recount.

18 (3) Once the vote is tallied and distributed, all disputes are  
19 resolved, and all matters in a vote are finalized, the individual  
20 ballots may be destroyed.

21 **Sec. 20.** RCW 15.65.220 and 1961 c 256 s 22 are each amended to  
22 read as follows:

23 (1) Every marketing agreement and order shall provide for the  
24 establishment of a commodity board of not less than five nor more than  
25 thirteen members and shall specify the exact number thereof and all  
26 details as to (a) qualification, (b) nomination, (c) election or  
27 appointment by the director, (d) term of office, and (e) powers,  
28 duties, and all other matters pertaining to such board.

29 (2) The members of the board shall be producers or handlers or both  
30 in such proportion as the director shall specify in the marketing  
31 agreement or order, but in any marketing order or agreement the number  
32 of handlers on the board shall not exceed the number of producers  
33 thereon. The marketing order or agreement may provide that a majority  
34 of the board be appointed by the director, but in any event, no less  
35 than one-third of the board members shall be elected by the affected  
36 producers.

1       (3) In the event that the marketing order or agreement provides  
2 that a majority of the commodity board be appointed by the director,  
3 the marketing order or agreement shall incorporate either the  
4 provisions of section 24 or 25 of this act for board member selection.

5       (4) The director shall appoint to every ~~((such))~~ board one  
6 ~~((person))~~ member who ~~((is neither a producer nor a handler to))~~  
7 represents the ~~((department and the public generally))~~ director. The  
8 director shall be a voting member of each commodity board.

9       **Sec. 21.** RCW 15.65.230 and 2001 c 315 s 5 are each amended to read  
10 as follows:

11       A producer member of each commodity board must be a practical  
12 producer of the affected commodity and must be a citizen, resident of  
13 this state, and over the age of eighteen years. Each producer board  
14 member must be and have been actually engaged in producing such a  
15 commodity within the state of Washington for a period of five years and  
16 have, during that period, derived a substantial portion of his or her  
17 income therefrom and not be engaged in business, directly or  
18 indirectly, as a handler or other dealer. A handler member of each  
19 board must be a practical handler of the affected commodity and must be  
20 a citizen, resident of this state, and over the age of ~~((twenty-five))~~  
21 eighteen years. Each handler board member must be and have been,  
22 either individually or as an officer or employee of a corporation,  
23 firm, partnership, association, or cooperative, actually engaged in  
24 handling such a commodity within the state of Washington for a period  
25 of five years and have, during that period, derived a substantial  
26 portion of his or her income therefrom. The qualification of a member  
27 of the board as set forth in this section must continue during the term  
28 of office.

29       **Sec. 22.** RCW 15.65.235 and 1971 c 25 s 1 are each amended to read  
30 as follows:

31       Whenever any commodity board is formed under the provisions of this  
32 chapter and it only affects producers and producer-handlers, then such  
33 producer-handlers shall be considered to be acting only as producers  
34 for purpose of ~~((election and))~~ membership on a commodity board:  
35 PROVIDED, That this section shall not apply to a commodity board which  
36 only affects producers and producer-handlers of essential oils.

1       **Sec. 23.** RCW 15.65.240 and 1961 c 256 s 24 are each amended to  
2 read as follows:

3       The term of office of board members shall be three years, and one-  
4 third as nearly as may be shall be elected or appointed every year:  
5 PROVIDED, That at the inception of any agreement or order the entire  
6 board shall be elected or appointed one-third for a term of one year,  
7 one-third for a term of two years and one-third for a term of three  
8 years to the end that memberships on such board shall be on a rotating  
9 basis. In the event an order or agreement provides that both producers  
10 and handlers shall be members of such board the terms of each type of  
11 member shall be so arranged that one-third of the handler members as  
12 nearly as may be and one-third of the producer members as nearly as may  
13 be shall be elected or appointed each year.

14       Any marketing agreement or order may provide for election or  
15 appointment of board members by districts, in which case district lines  
16 and the number of board members to be elected or appointed from each  
17 district shall be specified in such agreement or order and upon such  
18 basis as the director finds to be fair and equitable and reasonably  
19 adapted to effectuate the declared policies of this chapter.

20       NEW SECTION. **Sec. 24.** A new section is added to chapter 15.65 RCW  
21 to read as follows:

22       (1) This section or section 25 of this act applies when the  
23 director appoints a majority of the board positions as set forth under  
24 RCW 15.65.220(3).

25       (2) Candidates for director-appointed board positions on a  
26 commodity board shall be nominated under RCW 15.65.250.

27       (3) The director shall cause an advisory vote to be held for the  
28 director-appointed positions. Not less than ten days in advance of the  
29 vote, advisory ballots shall be mailed to all producers or handlers  
30 entitled to vote, if their names appear upon the list of affected  
31 parties or affected producers or handlers, whichever is applicable.  
32 Notice of every advisory vote for board membership shall be published  
33 in a newspaper of general circulation within the affected area defined  
34 in the order or agreement not less than ten days in advance of the date  
35 of the vote. The advisory ballot shall be conducted in a manner so  
36 that it is a secret ballot. The names of the two candidates receiving  
37 the most votes in the advisory vote shall be forwarded to the director  
38 for potential appointment to the board. In the event there are only

1 two candidates nominated for a board position, an advisory vote may not  
2 be held and the candidates' names shall be forwarded to the director  
3 for potential appointment.

4 (4) The candidates whose names are forwarded to the director for  
5 potential appointment shall submit to the director a letter stating why  
6 he or she wishes to be appointed to the board. The director may select  
7 either person for the position.

8 NEW SECTION. **Sec. 25.** A new section is added to chapter 15.65 RCW  
9 to read as follows:

10 (1) This section or section 24 of this act applies when the  
11 director appoints a majority of the board positions as set forth under  
12 RCW 15.65.220(3).

13 (2) Candidates for director-appointed board positions on a  
14 commodity board shall be nominated under RCW 15.65.250.

15 (3) The director shall cause an advisory vote to be held for the  
16 director-appointed positions. Not less than ten days in advance of the  
17 vote, advisory ballots shall be mailed to all producers or handlers  
18 entitled to vote, if their names appear upon the list of affected  
19 parties or affected producers or handlers, whichever is applicable.  
20 Notice of every advisory vote for board membership shall be published  
21 in a newspaper of general circulation within the affected area defined  
22 in the order or agreement not less than ten days in advance of the date  
23 of the vote. The advisory ballot shall be conducted in a manner so  
24 that it is a secret ballot. The name of the candidate receiving the  
25 most votes in the advisory vote shall be forwarded to the director for  
26 appointment to the commodity board.

27 (4) The director shall appoint the candidate receiving the most  
28 votes in an advisory ballot unless the candidate fails to meet the  
29 qualifications of commodity board members under this chapter and the  
30 marketing order. In the event the director rejects the candidate  
31 receiving the most votes, the position is vacant and shall be filled  
32 under RCW 15.65.270(2).

33 **Sec. 26.** RCW 15.65.250 and 1987 c 393 s 7 are each amended to read  
34 as follows:

35 For the purpose of nominating candidates (~~((to be voted upon))~~) for  
36 (~~((election to such))~~) board memberships, the director shall call  
37 separate meetings of the affected producers and handlers within the

1 affected area and in case elections shall be by districts ((he)) the  
2 director shall call separate meetings for each district. However, at  
3 the inception any marketing agreement or order nominations may be at  
4 the issuance hearing. Nomination meetings shall be called annually and  
5 at least thirty days in advance of the date set for the election of  
6 board members. Notice of every such meeting shall be published in a  
7 newspaper of general circulation within the affected area defined in  
8 the order or agreement not less than ten days in advance of the date of  
9 such meeting and in addition, written notice of every such meeting  
10 shall be given to all on the list of affected parties or affected  
11 producers and/or handlers ((according to the list thereof maintained by  
12 the director pursuant to RCW 15.65.200)), whichever is applicable.  
13 However, if the agreement or order provides for election by districts  
14 such written notice need be given only to the producers or handlers  
15 residing in or whose principal place of business is within such  
16 district. Nonreceipt of notice by any interested person shall not  
17 invalidate proceedings at such meetings. Any qualified person may be  
18 nominated orally for membership upon such board at the said meetings.  
19 Nominations may also be made within five days after any such meeting by  
20 written petition filed with the director signed by not less than five  
21 producers or handlers, as the case may be, entitled to have  
22 participated in said meeting.

23 If the board moves and the director approves that the nomination  
24 meeting procedure be deleted, the director shall give notice of the  
25 vacancy by mail to all affected producers or handlers. The notice  
26 shall call for nominations in accordance with the marketing order or  
27 agreement and shall give the final date for filing nominations which  
28 shall not be less than twenty days after the notice was mailed.

29 Not more than one board member may be part of the same "person" as  
30 defined by this chapter. When only one nominee is nominated for any  
31 position on the board, the director shall ((~~deem that said nominee~~  
32 ~~satisfies the requirements of the position and then it shall be deemed~~  
33 ~~that said nominee has been duly~~)) determine whether the nominee meets  
34 the qualifications for the position and, if so, the director shall  
35 declare the nominee elected or appoint the nominee to the position.

36 **Sec. 27.** RCW 15.65.260 and 1985 c 261 s 10 are each amended to  
37 read as follows:



1       (1) The elected members of every (~~such~~) commodity board shall be  
2 elected by secret mail ballot under the supervision of the director.  
3 Elected producer members of (~~such~~) the board shall be elected by a  
4 majority of the votes cast by the affected producers within the  
5 affected area, but if the marketing order or agreement provides for  
6 districts such producer members of the board shall be elected by a  
7 majority of the votes cast by the affected producers in the respective  
8 districts. Each affected producer within the affected area shall be  
9 entitled to one vote. Elected handler members of the board shall be  
10 elected by a majority of the votes cast by the affected handlers within  
11 the affected area, but if the marketing order or agreement provides for  
12 districts such handler members of the board shall be elected by a  
13 majority of the votes cast by the affected handlers in the respective  
14 districts. Each affected handler within the affected area shall be  
15 entitled to one vote.

16       If a nominee does not receive a majority of the votes on the first  
17 ballot a run-off election shall be held by mail in a similar manner  
18 between the two candidates for such position receiving the largest  
19 number of votes.

20       (2) Notice of every election for board membership shall be  
21 published in a newspaper of general circulation within the affected  
22 area defined in the order or agreement not less than ten days in  
23 advance of the date of such election. Not less than ten days prior to  
24 every election for board membership, the director shall mail a ballot  
25 of the candidates to each producer and handler entitled to vote whose  
26 name appears upon the list (~~thereof compiled and maintained by the~~  
27 ~~director in accordance with RCW 15.65.200~~) of affected parties or  
28 affected producers or handlers, whichever is applicable. Any other  
29 producer or handler entitled to vote may obtain a ballot by application  
30 to the director upon establishing his or her qualifications.  
31 Nonreceipt of a ballot by any person entitled to vote shall not  
32 invalidate the election of any board member.

33       **Sec. 28.** RCW 15.65.270 and 2001 2nd sp.s. c 6 s 1 are each amended  
34 to read as follows:

35       (1) In the event of a vacancy in an elected position on the board,  
36 the remaining board members shall select a qualified person to fill the  
37 (~~unexpired term. A majority of the voting members of the board shall~~  
38 ~~constitute a quorum for the transaction of all business and the~~

1 ~~carrying out of all duties of the board.))~~ vacant position for the  
2 remainder of the current term or as provided in the marketing order or  
3 agreement.

4 (2) In the event of a vacancy on the board in a position appointed  
5 by the director, the remaining board members shall recommend to the  
6 director a qualified person for appointment to the vacant position.  
7 The director shall appoint the person recommended by the board unless  
8 the person fails to meet the qualifications of board members under this  
9 chapter and the marketing order or agreement.

10 (3) A majority of the voting members of the board shall constitute  
11 a quorum for the transaction of all business and the carrying out of  
12 all duties of the board.

13 (4) Each member of the board shall be compensated in accordance  
14 with RCW 43.03.230. Members and employees of the board may be  
15 reimbursed for actual travel expenses incurred in carrying out the  
16 provisions of this chapter, as defined under the commodity board's  
17 marketing order or agreement. Otherwise, if not defined or referenced  
18 in the marketing order or agreement, reimbursement for travel expenses  
19 shall be at the rates allowed state employees in accordance with RCW  
20 43.03.050 and 43.03.060.

21 **Sec. 29.** RCW 15.65.280 and 2001 c 315 s 6 are each amended to read  
22 as follows:

23 The powers and duties of the board shall be:

24 (1) To elect a chairman and such other officers as it deems  
25 advisable;

26 (2) To advise and counsel the director with respect to the  
27 administration and conduct of such marketing agreement or order;

28 (3) To recommend to the director administrative rules(~~(7~~  
29 ~~regulations)) and orders and amendments thereto for the exercise of his  
30 or her powers in connection with such agreement or order;~~

31 (4) To advise the director upon any and all assessments provided  
32 pursuant to the terms of such agreement or order and upon the  
33 collection, deposit, withdrawal, disbursement and paying out of all  
34 moneys;

35 (5) To assist the director in the collection of such necessary  
36 information and data as the director may deem necessary in the proper  
37 administration of this chapter;

1 (6) To administer the order or agreement as its administrative  
2 board if the director designates it so to do in such order or  
3 agreement;

4 (7) To work cooperatively with other local, state, and federal  
5 agencies; universities; and national organizations for the purposes  
6 provided in the board's marketing order or agreement;

7 (8) To enter into contracts or interagency agreements with any  
8 private or public agency, whether federal, state, or local, to carry  
9 out the purposes provided in the board's marketing order or agreement.  
10 Personal service contracts must comply with chapter 39.29 RCW;

11 (9) To accept and expend or retain any gifts, bequests,  
12 contributions, or grants from private persons or private and public  
13 agencies to carry out the purposes provided in the board's marketing  
14 order or agreement;

15 (10) To retain in emergent situations the services of private legal  
16 counsel to conduct legal actions on behalf of a board. The retention  
17 of a private attorney is subject to review by the office of the  
18 attorney general;

19 (11) To engage in appropriate fund-raising activities for the  
20 purpose of supporting activities of the board authorized by the  
21 marketing order or agreement;

22 (12) To enter into contracts or agreements for research in the  
23 production, irrigation, processing, transportation, marketing, use, or  
24 distribution of an affected commodity;

25 (13) To participate in international, federal, state, and local  
26 hearings, meetings, and other proceedings relating to the production,  
27 irrigation, manufacture, regulation, transportation, distribution,  
28 sale, or use of affected commodities including activities authorized  
29 under RCW 42.17.190, including the reporting of those activities to the  
30 public disclosure commission; ((and))

31 (14) To maintain a list of the names and addresses of affected  
32 producers that may be compiled from information used to collect  
33 assessments under the marketing order or agreement, and data on the  
34 value of each producer's production for a minimum three-year period;

35 (15) To maintain a list of the names and addresses of persons who  
36 handle the affected commodity within the affected area and data on the  
37 amount and value of the commodity handled for a minimum three-year  
38 period by each person; and

1       (16) To perform such other duties as the director may prescribe in  
2 the marketing agreement or order.

3       Any agreement or order under which the commodity board administers  
4 the order or agreement shall (if so requested by the affected producers  
5 within the affected area in the proposal or promulgation hearing)  
6 contain provisions whereby the director reserves the power to approve  
7 or disapprove every order, rule or directive issued by the board, in  
8 which event such approval or disapproval shall be based on whether or  
9 not the director believes the board's action has been carried out in  
10 conformance with the purposes of this chapter.

11       NEW SECTION.   **Sec. 30.** A new section is added to chapter 15.65 RCW  
12 to read as follows:

13       (1) Each commodity board shall prepare a list of all affected  
14 producers from any information available from the department,  
15 producers, producer associations or organizations, or handlers of the  
16 affected commodity. This list shall contain the names and addresses of  
17 all affected persons who produce the affected commodity and the amount,  
18 by unit, of the affected commodity produced during at least the past  
19 three years.

20       (2) Each commodity board shall prepare a list of all persons who  
21 handle the affected commodity and the amount of the commodity handled  
22 by each person during at least the past three years.

23       (3) It is the responsibility of all affected parties to ensure that  
24 their correct address is filed with the commodity board. It is also  
25 the responsibility of affected parties to submit production data and  
26 handling data to the commodity board as prescribed by the board's  
27 marketing order or agreement.

28       (4) Any qualified person may, at any time, have his or her name  
29 placed upon any list for which he or she qualifies by delivering or  
30 mailing the information to the commodity board. The lists shall be  
31 corrected and brought up-to-date in accordance with evidence and  
32 information provided to the commodity board.

33       (5) At the director's request, the commodity board shall provide  
34 the director a list of affected producers or handlers that is certified  
35 by the commodity board to be complete according to the commodity  
36 board's records. The list shall contain all information required by  
37 the director to conduct a referendum or board member election or  
38 selection under this chapter and the marketing order or agreement.

1 (6) For all purposes of giving notice, holding referenda, and  
2 electing or selecting members of a commodity board, the applicable list  
3 corrected up to the day preceding the date the list is certified by the  
4 commodity board and mailed to the director is deemed to be the list of  
5 all affected producers or affected handlers, as applicable, entitled to  
6 notice or to vote. Inadvertent failure to notify an affected producer  
7 or handler does not invalidate a proceeding conducted under this  
8 chapter.

9 NEW SECTION. **Sec. 31.** A new section is added to chapter 15.65 RCW  
10 to read as follows:

11 Agricultural commodity boards shall adopt rules governing  
12 promotional hosting expenditures by commodity board employees, agents,  
13 or board members under RCW 15.04.200.

14 **Sec. 32.** RCW 15.65.375 and 1988 c 54 s 1 are each amended to read  
15 as follows:

16 Any marketing agreement or order may authorize the members of a  
17 commodity board, or their agents or designees, to participate in  
18 federal or state hearings or other proceedings concerning regulation of  
19 the manufacture, distribution, sale, or use of any pesticide as defined  
20 by RCW 15.58.030(~~((1))~~) (30) or any agricultural chemical which is of  
21 use or potential use in producing the affected commodity. Any  
22 marketing agreement or order may authorize the expenditure of commodity  
23 board funds for this purpose.

24 **Sec. 33.** RCW 15.65.380 and 1961 c 256 s 38 are each amended to  
25 read as follows:

26 Any marketing agreement or order may contain any other, further,  
27 and different provisions which are incidental to and not inconsistent  
28 with this chapter and which the director finds to be needed and  
29 reasonably adapted to effectuate the declared policies of this chapter.  
30 ~~((Such))~~ The provisions shall set forth the detailed application of  
31 this chapter to the affected agricultural commodity. ~~((The director or  
32 his designee shall have the power to make rules and regulations of a  
33 technical or administrative nature under this chapter and/or under any  
34 agreement or order issued pursuant to this chapter.))~~

1       **Sec. 34.** RCW 15.65.430 and 1961 c 256 s 43 are each amended to  
2 read as follows:

3       Any moneys collected or received by the director or his or her  
4 designee pursuant to the provisions of any marketing agreement or order  
5 during or with respect to any season or year may be refunded on a pro  
6 rata basis at the close of such season or year or at the close of such  
7 longer period as the director determines to be reasonably adapted to  
8 effectuate the declared policies of this chapter and the purposes of  
9 such marketing agreement or order, to all persons from whom such moneys  
10 were collected or received, or may be carried over into and used with  
11 respect to the next succeeding season, year or period whenever the  
12 director or ((his)) a designee finds that the same will tend to  
13 effectuate such policies and purposes. ((Upon the termination of any  
14 marketing agreement or order, any and all moneys remaining, and not  
15 required to defray the expenses or repay the obligations incurred and  
16 undertaken pursuant to such agreement or order, shall be returned by  
17 the director upon a pro rata basis to all persons from whom such moneys  
18 were collected or received. However, if the director finds that the  
19 amounts so returnable are so small as to make impractical the  
20 computation and remitting of such pro rata refund to such persons, the  
21 director may use such moneys to defray expenses incurred by him in the  
22 formulation, issuance, administration or enforcement of any subsequent  
23 marketing agreement or order for such commodity. Thereafter, if there  
24 are any such moneys remaining which have not been used by the director  
25 as hereinabove provided, the same shall be withdrawn from the approved  
26 depository and paid into the state treasury as unclaimed trust  
27 moneys.))

28       **Sec. 35.** RCW 15.65.450 and 1961 c 256 s 45 are each amended to  
29 read as follows:

30       Prior to the issuance of any marketing agreement or order, the  
31 director may require the applicants therefor to deposit with him or her  
32 such amount of money as the director may deem necessary to defray the  
33 expenses of preparing and making effective such agreement or order.  
34 ((The director or his designee may reimburse the applicant from any  
35 moneys received by him under such agreement or order for any moneys so  
36 deposited by such applicant and/or for any necessary expenses incurred  
37 by such applicant in preparing and obtaining approval of such marketing

1 ~~agreement or order upon receipt of a verified statement of such expense~~  
2 ~~approved by the director or his designee.))~~

3 (1) A commodity board shall reimburse the department for expenses  
4 incurred by the department when a commodity board petitions the  
5 director to amend or terminate a marketing order or agreement and for  
6 other services provided by the department under this chapter. The  
7 department shall provide to a commodity board an estimate of expenses  
8 that may be incurred to amend or terminate a marketing order or  
9 agreement prior to any services taking place.

10 (2) Petitioners who are not a majority of a commodity board, and  
11 who file a petition with the director to issue, amend, or terminate a  
12 marketing order or agreement, shall deposit funds with the director to  
13 pay for expenses incurred by the department, under rules adopted by the  
14 director.

15 (3) A commodity board shall reimburse petitioners the amount paid  
16 to the department under the following circumstances:

17 (a) If the petition is to issue a marketing order or agreement, the  
18 commodity board shall reimburse the petitioners the amount expended by  
19 the department when funds become available after establishment of the  
20 commodity board; or

21 (b) If the petition is to amend or terminate a marketing order or  
22 agreement and the proposal is assented to by the affected parties or  
23 affected producers, the commodity board shall reimburse the petitioners  
24 within thirty days of the referendum.

25 (4) If for any reason a proceeding is discontinued, the commodity  
26 board or petitioners, whichever is applicable, shall only reimburse the  
27 department for expenses incurred by the department up until the time  
28 the proceeding is discontinued.

29 **Sec. 36.** RCW 15.65.570 and 1961 c 256 s 57 are each amended to  
30 read as follows:

31 (1) All proceedings ((held by the director for the promulgation of  
32 any marketing agreement or order and the amendment, modification, or  
33 dissolution thereof and all proceedings concerning the promulgation of  
34 any rules or regulations or the amendment or modification thereof and  
35 appeals therefrom)) conducted under this chapter shall be subject to  
36 the provisions of chapter 34.05 RCW ((as enacted or hereafter amended))  
37 unless otherwise provided for in this chapter.

1       (2) Rule-making proceedings conducted under this chapter are exempt  
2 from compliance with RCW 34.05.310, chapter 19.85 RCW, the regulatory  
3 fairness act, and RCW 43.135.055 when the adoption of the rules is  
4 determined by a referendum vote of the affected parties.

5       **NEW SECTION.**   **Sec. 37.**   The following acts or parts of acts are  
6 each repealed:

7       (1) RCW 15.65.030 (Declaration of purpose and police power) and  
8 1961 c 256 s 3;

9       (2) RCW 15.65.080 (Hearings public--Oaths--Record--Administrative  
10 law judge, powers) and 1981 c 67 s 18 & 1961 c 256 s 8;

11       (3) RCW 15.65.460 (Marketing act revolving fund--Composition) and  
12 1961 c 256 s 46; and

13       (4) RCW 15.65.405 (Annual assessment in excess of the fiscal growth  
14 factor under chapter 43.135 RCW--Hop commodity board--Mint commodity  
15 board) and 1995 c 109 s 1.

16       **NEW SECTION.**   **Sec. 38.**   A new section is added to chapter 15.66 RCW  
17 to read as follows:

18       The history, economy, culture, and the future of Washington state  
19 to a large degree all involve agriculture. In order to develop and  
20 promote Washington's agricultural products as part of the existing  
21 comprehensive scheme to regulate agricultural commodities, the  
22 legislature declares:

23       (1) That the marketing of agricultural products within this state  
24 is in the public interest. It is vital to the continued economic well-  
25 being of the citizens of this state and their general welfare that its  
26 agricultural commodities be properly promoted by (a) enabling producers  
27 of agricultural commodities to help themselves in establishing orderly,  
28 fair, sound, efficient, and unhampered marketing, grading, and  
29 standardizing of the commodities they produce; and (b) working towards  
30 stabilizing the agricultural industry by increasing consumption of  
31 agricultural commodities within the state, the nation, and  
32 internationally;

33       (2) That farmers and ranchers operate within a regulatory  
34 environment that imposes burdens on them for the benefit of society and  
35 the citizens of the state and includes restrictions on marketing  
36 autonomy. Those restrictions may impair the agricultural producer's  
37 ability to compete in local, domestic, and foreign markets;



1 (3) That it is now in the overriding public interest that support  
2 for the agricultural industry be clearly expressed, that adequate  
3 protection be given to agricultural commodities, uses, activities, and  
4 operations, and that each agricultural commodity be promoted  
5 individually, and as part of a comprehensive industry to:

6 (a) Enhance the reputation and image of Washington state's  
7 agricultural commodities;

8 (b) Increase the sale and use of Washington state's agricultural  
9 commodities in local, domestic, and foreign markets;

10 (c) Protect the public by educating the public in reference to the  
11 quality, care, and methods used in the production of Washington state's  
12 agricultural commodities;

13 (d) Increase the knowledge of the health-giving qualities and  
14 dietetic value of Washington state's agricultural commodities and  
15 products; and

16 (e) Support and engage in programs or activities that benefit the  
17 planting, production, harvesting, handling, processing, marketing, and  
18 uses of agricultural commodities produced in Washington state;

19 (4) That the director seek to enhance, protect, and perpetuate the  
20 ability of the private sector to produce food and fiber, and seek to  
21 maintain the economic well-being of the agricultural industry in  
22 Washington state consistent with its regulatory activities and  
23 responsibilities;

24 (5) That the director is hereby authorized to implement,  
25 administer, and enforce this chapter through the adoption of marketing  
26 orders that establish commodity commissions; and

27 (6) That this chapter is enacted in the exercise of the police  
28 powers of this state for the purpose of protecting the health, peace,  
29 safety, and general welfare of the people of this state.

30 **Sec. 39.** RCW 15.66.010 and 1993 c 80 s 3 are each amended to read  
31 as follows:

32 For the purposes of this chapter:

33 (1) "Director" means the director of agriculture of the state of  
34 Washington or any qualified person or persons designated by the  
35 director of agriculture to act for him or her concerning some matter  
36 under this chapter.

37 (2) "Department" means the department of agriculture of the state  
38 of Washington.

1 (3) "Marketing order" means an order (~~issued~~) adopted by rule by  
2 the director that establishes a commodity commission for an  
3 agricultural commodity pursuant to this chapter.

4 (4) "Agricultural commodity" means any of the following commodities  
5 or products: Llamas, alpacas, or any other animal or any distinctive  
6 type of agricultural, horticultural, viticultural, vegetable, and/or  
7 animal product, including, but not limited to, products qualifying as  
8 organic food products under chapter 15.86 RCW and private sector  
9 cultured aquatic products as defined in RCW 15.85.020 and other fish  
10 and fish products, within its natural or processed state, including  
11 beehives containing bees and honey and Christmas trees but not  
12 including timber or timber products. The director is authorized to  
13 determine what kinds, types or subtypes should be classed together as  
14 an agricultural commodity for the purposes of this chapter.

15 (5) "Producer" means any person engaged in the business of  
16 producing or causing to be produced for market in commercial quantities  
17 any agricultural commodity. "To produce" means to act as a producer.  
18 For the purposes of (~~RCW 15.66.060, 15.66.090, and 15.66.120, as now~~  
19 ~~or hereafter amended~~) this chapter, "producer" shall include bailees  
20 who contract to produce or grow any agricultural product on behalf of  
21 a bailor who retains title to the seed and its resulting agricultural  
22 product or the agricultural product delivered for further production or  
23 increase.

24 (6) "Affected producer" means any producer (~~of an affected~~  
25 ~~commodity~~) who is subject to a marketing order.

26 (7) "Affected commodity" means (~~any agricultural commodity for~~  
27 ~~which the director has established a list of producers pursuant to RCW~~  
28 ~~15.66.060~~) the agricultural commodity that is specified in the  
29 marketing order.

30 (8) "Commodity commission" or "commission" means a commission  
31 formed to carry out the purposes of this chapter under a particular  
32 marketing order concerning an affected commodity.

33 (9) "Unit" means a unit of volume, quantity or other measure in  
34 which an agricultural commodity is commonly measured.

35 (10) "Unfair trade practice" means any practice which is unlawful  
36 or prohibited under the laws of the state of Washington including but  
37 not limited to Titles 15, 16 and 69 RCW and chapters 9.16, 19.77,  
38 19.80, 19.84, and 19.83 RCW, or any practice, whether concerning  
39 interstate or intrastate commerce that is unlawful under the provisions

1 of the act of Congress of the United States, September 26, 1914,  
2 chapter 311, section 5, 38 U.S. Statutes at Large 719 as amended, known  
3 as the "Federal Trade Commission Act of 1914", or the violation of or  
4 failure accurately to label as to grades and standards in accordance  
5 with any lawfully established grades or standards or labels.

6 (11) "Person" includes any individual, firm, corporation, limited  
7 liability company, trust, association, partnership, society, or any  
8 other organization of individuals or any unit or agency of local,  
9 state, or federal government.

10 (12) "Cooperative association" means any incorporated or  
11 unincorporated association of producers which conforms to the  
12 qualifications set out in the act of Congress of the United States,  
13 Feb. 18, 1922, chapter 57, sections 1 and 2, 42 U.S. Statutes at Large  
14 388 as amended, known as the "Capper-Volstead Act" and which is engaged  
15 in making collective sales or in marketing any agricultural commodity  
16 or product thereof or in rendering service for or advancing the  
17 interests of the producers of such commodity on a nonprofit cooperative  
18 basis.

19 (13) "Member of a cooperative association" or "member" means any  
20 producer of an agricultural commodity who markets his or her product  
21 through such cooperative association and who is a voting stockholder of  
22 or has a vote in the control of or is under a marketing agreement with  
23 such cooperative association with respect to such product.

24 (14) "Affected handler" means any handler of an affected commodity.

25 (15) "Affected parties" means any producer, affected producer,  
26 handler, or commodity commission member.

27 (16) "Assessment" means the monetary amount established in a  
28 marketing order that is to be paid by each affected producer to a  
29 commission in accordance with the schedule established in the marketing  
30 order.

31 (17) "Mail" or "send," for purposes of any notice relating to rule  
32 making, referenda, or elections, means regular mail or electronic  
33 distribution, as provided in RCW 34.05.260 for rule making.  
34 "Electronic distribution" or "electronically" means distribution by  
35 electronic mail or facsimile mail.

36 (18) "Handler" means any person who acts, either as principal,  
37 agent, or otherwise, in the processing, selling, marketing, or  
38 distributing of an agricultural commodity that is not produced by the

1 handler. "Handler" does not include a common carrier used to transport  
2 an agricultural commodity. "To handle" means to act as a handler.

3 (19) "List of affected parties" means a list containing the names  
4 and mailing addresses of affected parties. This list must contain the  
5 names and addresses of all affected parties and, if requested by the  
6 director, the amount, by unit, of the affected commodity produced  
7 during a designated period under this chapter.

8 (20) "List of affected producers" means a list containing the names  
9 and mailing addresses of affected producers. This list must contain  
10 the names and addresses of all affected producers and, if requested by  
11 the director, the amount, by unit, of the affected commodity produced  
12 during a designated period under this chapter.

13 (21) "List of affected handlers" means a list containing the names  
14 and addresses of affected handlers. This list must contain the names  
15 and addresses of all affected handlers and, if requested by the  
16 director, the amount, by unit, of the affected commodity handled during  
17 a designated period under this chapter.

18 (22) "Percent by numbers" means the percent of those persons on the  
19 list of affected parties or affected producers.

20 (23) "Referendum" means a vote by the affected parties or affected  
21 producers which is conducted by secret ballot.

22 (24) "Rule-making proceedings" means rule making under chapter  
23 34.05 RCW.

24 (25) "Vacancy" means that a commission member leaves or is removed  
25 from a position on the commission prior to the end of a term, or a  
26 nomination process for the beginning of a term concludes with no  
27 candidates for a position.

28 (26) "Volume of production" means the percent of the average volume  
29 of production of the affected commodity of those on the list of  
30 affected parties or affected producers for a production period. For  
31 the purposes of this chapter, a production period is a minimum three-  
32 year period or as specified in the marketing order.

33 **Sec. 40.** RCW 15.66.030 and 2001 c 315 s 1 are each amended to read  
34 as follows:

35 Marketing orders may be made for any one or more of the following  
36 purposes:

37 (1) To establish plans and conduct programs for advertising and  
38 sales promotion, to maintain present markets, or to create new or

1 larger markets for any agricultural commodity grown in the state of  
2 Washington;

3 (2) To provide for carrying on research studies to find more  
4 efficient methods of production, irrigation, processing,  
5 transportation, handling, and marketing of any agricultural commodity;

6 (3) To provide for improving standards and grades by defining,  
7 establishing, and providing labeling requirements with respect to the  
8 same;

9 (4) To investigate and take necessary action to prevent unfair  
10 trade practices;

11 (5) To provide information or communicate on matters pertaining to  
12 the production, irrigation, processing, transportation, marketing, or  
13 uses of an agricultural commodity produced in Washington state to any  
14 elected official or officer or employee of any agency;

15 (6) To provide marketing information and services for producers of  
16 an agricultural commodity;

17 (7) To provide information and services for meeting resource  
18 conservation objectives of producers of an agricultural commodity;

19 (8) To engage in cooperative efforts in the domestic or foreign  
20 marketing of food products of an agricultural commodity; and

21 (9) To provide for commodity-related education and training.

22 NEW SECTION. Sec. 41. A new section is added to chapter 15.66 RCW  
23 to read as follows:

24 This chapter and the rules adopted under it are only one aspect of  
25 the comprehensively regulated agricultural industry.

26 (1) Other laws applicable to agricultural commodities include the  
27 following chapters and the rules adopted thereunder:

28 Chapter 15.08 RCW Horticultural pests and diseases;

29 Chapter 15.13 RCW Horticultural plants and facilities--Inspection  
30 and licensing;

31 Chapter 15.14 RCW Planting stock;

32 Chapter 15.15 RCW Certified seed potatoes;

33 Chapter 15.17 RCW Standards of grades and packs;

34 Chapter 15.19 RCW Certification and inspection of ginseng;

35 Chapter 15.30 RCW Controlled atmosphere storage of fruits and  
36 vegetables;

37 Chapter 15.49 RCW Seeds;

38 Chapter 15.53 RCW Commercial feed;

1 Chapter 15.54 RCW Fertilizers, minerals, and limes;  
2 Chapter 15.58 RCW Washington pesticide control act;  
3 Chapter 15.60 RCW Apiaries;  
4 Chapter 15.64 RCW Farm marketing;  
5 Chapter 15.83 RCW Agricultural marketing and fair practices;  
6 Chapter 15.85 RCW Aquaculture marketing;  
7 Chapter 15.86 RCW Organic food products;  
8 Chapter 15.92 RCW Center for sustaining agriculture and natural  
9 resources;  
10 Chapter 17.24 RCW Insect pests and plant diseases;  
11 Chapter 19.94 RCW Weights and measures;  
12 Chapter 20.01 RCW Agricultural products--Commission merchants,  
13 dealers, brokers, buyers, agents;  
14 Chapter 22.09 RCW Agricultural commodities;  
15 Chapter 69.04 RCW Food, drugs, cosmetics, and poisons including  
16 provisions of 21 C.F.R. relating to the general manufacturing  
17 practices, food labeling, food standards, food additives, and pesticide  
18 tolerances;  
19 Chapter 69.07 RCW Washington food processing act;  
20 Chapter 69.25 RCW Washington wholesome eggs and egg products act;  
21 Chapter 69.28 RCW Honey;  
22 7 U.S.C., section 136, Federal Insecticide, Fungicide, and  
23 Rodenticide Act.  
24 (2) In addition to the laws and regulations listed in subsection  
25 (1) of this section that apply to the agricultural industry as a whole,  
26 the potato industry is regulated by or must comply with the following  
27 additional laws and the rules or regulations adopted thereunder:  
28 (a) 7 C.F.R., Part 51, United States standards for grades of  
29 potatoes;  
30 (b) 7 C.F.R., Part 946, Federal marketing order for Irish potatoes  
31 grown in Washington;  
32 (c) 7 C.F.R., Part 1207, Potato research and promotion plan.  
33 (3) In addition to the laws and regulations listed in subsection  
34 (1) of this section that apply to the agricultural industry as a whole,  
35 the wheat and barley industries are regulated by or must comply with  
36 the following additional laws and the rules adopted thereunder:  
37 (a) 7 U.S.C., section 1621, Agricultural Marketing Act;  
38 (b) Chapter 70.94 RCW, Washington clean air act, agricultural  
39 burning.

1 (4) In addition to the laws and regulations listed in subsection  
2 (1) of this section that apply to the agricultural industry as a whole,  
3 the poultry industry is regulated by or must comply with the following  
4 additional laws and the rules adopted thereunder:

- 5 (a) 21 U.S.C., chapter 10, Poultry and poultry products inspection;
- 6 (b) 21 U.S.C., chapter 9, Packers and stockyards;
- 7 (c) 7 U.S.C., section 1621, Agricultural Marketing Act;
- 8 (d) Washington fryer commission labeling standards.

9 **Sec. 42.** RCW 15.66.050 and 1961 c 11 s 15.66.050 are each amended  
10 to read as follows:

11 (1) Petitions for issuance, amendment or termination of a marketing  
12 order shall be signed by not less than five percent or one hundred of  
13 the producers alleged to be affected, whichever is less, and shall be  
14 filed with the director. ((Such petition shall be accompanied by a  
15 filing fee of one hundred dollars payable to the state treasurer; and  
16 shall designate some person as attorney in fact for the purpose of this  
17 section. Upon receipt of such a petition, the director shall prepare  
18 a budget estimate for handling such petition which shall include the  
19 cost of the preparation of the estimate, the cost of the hearings and  
20 the cost of the proposed referendum. The petitioners, within thirty  
21 days after receipt of the budget estimate by their attorney in fact  
22 shall remit to the director the difference between the filing fee of  
23 one hundred dollars already paid and the total budget estimate. If the  
24 petitioners fail to remit the difference, or if for any other reason  
25 the proceedings for the issuance, amendment or termination of the  
26 marketing order are discontinued, the filing fee, including any  
27 additional amount paid in accordance with such budget estimates shall  
28 not be refunded. If the petition results, after proper proceedings, in  
29 the issuance, amendment, or termination of a marketing order, said  
30 petitioners shall be reimbursed for the amount paid for said total  
31 filing fee out of funds of the commodity commission as they become  
32 available.)) A petition for amendment or termination of a marketing  
33 order may be submitted to the director by majority vote of a  
34 commission.

35 (2) A commission shall reimburse the department for expenses  
36 incurred by the department when a commodity commission petitions the  
37 director to amend or terminate a marketing order and for other services  
38 provided by the department under this chapter. The department shall

1 provide to a commodity commission an estimate of expenses that may be  
2 incurred to amend or terminate a marketing order prior to any services  
3 taking place.

4 (3) Petitioners who are not a majority of a commission, and who  
5 file a petition with the director to issue, amend, or terminate a  
6 marketing order, shall deposit funds with the director to pay for  
7 expenses incurred by the department, under rules adopted by the  
8 director.

9 (4) A commission shall reimburse petitioners the amount paid to the  
10 department under the following circumstances:

11 (a) If the petition is to issue a marketing order, the commission  
12 shall reimburse the petitioners the amount expended by the department  
13 when funds become available after establishment of the commission; or

14 (b) If the petition is to amend or terminate a marketing order, the  
15 commission shall reimburse the petitioners within thirty days of the  
16 referendum if the proposal is assented to by the affected producers.

17 (5) If for any reason a proceeding is discontinued, the commission  
18 or petitioners, whichever is applicable, shall reimburse the department  
19 only for expenses incurred by the department up until the time the  
20 proceeding is discontinued.

21 NEW SECTION. Sec. 43. A new section is added to chapter 15.66 RCW  
22 to read as follows:

23 (1) All rule-making proceedings conducted under this chapter shall  
24 be in accordance with chapter 34.05 RCW.

25 (2) Rule-making proceedings conducted under this chapter are exempt  
26 from compliance with RCW 34.05.310, chapter 19.85 RCW, the regulatory  
27 fairness act, and RCW 43.135.055 when adoption of the rule is  
28 determined by a referendum vote of the affected parties.

29 (3) The director may adopt amendments to marketing orders without  
30 conducting a referendum if the amendments are adopted under the  
31 following criteria:

32 (a) The proposed amendments relate only to internal administration  
33 of a marketing order and are not subject to violation by a person;

34 (b) The proposed amendments adopt or incorporate by reference  
35 without material change federal statutes or regulations, Washington  
36 state statutes, or rules of other Washington state agencies, if the  
37 material adopted or incorporated regulates the same activities as are  
38 authorized under the marketing order;



1 (c) The proposed amendments only correct typographical errors, make  
2 address or name changes, or clarify language of a rule without changing  
3 the marketing order;

4 (d) The content of the proposed amendments is explicitly and  
5 specifically dictated by statute.

6 A marketing order shall not be amended without a referendum to  
7 provide that a majority of the commodity commission members be  
8 appointed by the director.

9 NEW SECTION. **Sec. 44.** A new section is added to chapter 15.66 RCW  
10 to read as follows:

11 The director may adopt rules necessary to carry out the director's  
12 duties and responsibilities under this chapter including:

13 (1) The issuance, amendment, suspension, or termination of  
14 marketing orders;

15 (2) Procedural, technical, or administrative rules which may  
16 address and include, but are not limited to:

17 (a) The submission of a petition to issue, amend, or terminate a  
18 marketing order under this chapter;

19 (b) Nominations conducted under this chapter;

20 (c) Elections of commission members or referenda conducted under  
21 this chapter; and

22 (d) Actions of the director upon a petition to issue, amend, or  
23 terminate a marketing order;

24 (3) Rules that provide for a method to fund:

25 (a) The costs of staff support for all commodity boards and  
26 commissions in accordance with section 78 of this act if the position  
27 is not directly funded by the legislature; and

28 (b) The actual costs related to the specific activity undertaken on  
29 behalf of an individual commodity board or commission.

30 **Sec. 45.** RCW 15.66.060 and 1975 1st ex.s. c 7 s 7 are each amended  
31 to read as follows:

32 (1) Upon receipt of a petition for the issuance(~~(, amendment, or~~  
33 ~~termination))~~) of a marketing order, the director shall establish a list  
34 of (~~(producers))~~) affected parties of the agricultural commodity  
35 affected (~~(or make any such existing list current))~~). In establishing  
36 (~~(or making current such))~~) a list of (~~(producers))~~) affected parties and  
37 their individual production, the director shall publish a notice to

1 producers of the commodity to be affected requiring them to file with  
2 the director a report showing the producer's name, mailing address, and  
3 the yearly average quantity of the affected commodity produced by him  
4 or her in the three years preceding the date of the notice or in such  
5 lesser time as the producer has produced the commodity in question.  
6 ((Such)) Information as to production may also be accepted from other  
7 valid sources if readily available. ((The notice shall be published  
8 once a week for four consecutive weeks in such newspaper or newspapers,  
9 including a newspaper or newspapers of general circulation within the  
10 affected areas, as the director may prescribe, and shall be mailed to  
11 all affected producers on record with the director. All reports shall  
12 be filed with the director within twenty days from the last date of  
13 publication of the notice or within thirty days after the mailing of  
14 the notice to affected producers, whichever is the later. The director  
15 shall keep such lists at all times as current as possible and may  
16 require information from affected producers at various times in  
17 accordance with rules and regulations prescribed by the director:  
18 PROVIDED, That any commission established under the provisions of this  
19 chapter may at its discretion prior to any election for any purpose by  
20 such commission carry out the above stated mandate to the director for  
21 establishing a list of producers and their individual production, and  
22 supply the director with a current list of all producers subject to the  
23 provisions of the marketing order under which it was formed.

24 ~~Such producer list shall be final and conclusive in making~~  
25 ~~determinations relative to the assent by producers upon the issuance,~~  
26 ~~amendment or termination of a marketing order and in elections under~~  
27 ~~the provisions of this chapter.~~

28 ~~The director shall then notify affected producers, so listed, by~~  
29 ~~mail that the public hearing affording opportunity for them to be heard~~  
30 ~~upon the proposed issuance, amendment, or termination of the marketing~~  
31 ~~order will be heard at the time and place stated in the notice. Such~~  
32 ~~notice of the hearing shall be given not less than ten days nor more~~  
33 ~~than sixty days prior to the hearing.)) Notice of a proposed marketing  
34 order issuance shall be as provided for in RCW 15.66.070.~~

35 (2) The director shall use the list of affected parties for the  
36 purpose of notice, referendum proceedings, and electing or selecting  
37 members of the commission in accordance with this chapter and rules  
38 adopted under this chapter.

1       (3) An affected party may at any time file his or her name and  
2 mailing address with the director. A list of affected parties may be  
3 brought up-to-date by the director up to the day preceding a mailing of  
4 a notice or ballot under this chapter and that list is deemed the list  
5 of affected parties entitled to vote.

6       (4) The list of affected parties shall be kept in the rule-making  
7 file by the director. The list shall be certified as a true  
8 representation of the referendum mailing list. Inadvertent failure to  
9 notify an affected party does not invalidate a proceeding conducted  
10 under this chapter.

11       (5) The list of affected parties that is certified as the true  
12 representation of the mailing list of a referendum shall be used to  
13 determine assent as provided in this chapter.

14       (6) The director shall provide the commodity commission the list of  
15 affected and interested parties once a marketing order is adopted and  
16 a commodity commission is established as provided in this chapter.

17       **Sec. 46.** RCW 15.66.070 and 1961 c 11 s 15.66.070 are each amended  
18 to read as follows:

19       (1) Notice of a public hearing to issue, amend, or terminate a  
20 marketing order shall be published once a week for four consecutive  
21 weeks in a newspaper or newspapers, including a newspaper or newspapers  
22 of general circulation within the affected areas, as the director may  
23 prescribe, and shall be mailed to all affected parties or affected  
24 producers. The director shall mail notice to all affected parties or  
25 affected producers, as applicable, who may be directly affected by the  
26 proposal and whose names and addresses appear on the list compiled  
27 under this chapter.

28       (2) At ((the)) a public hearing the director shall receive  
29 ((evidence and)) testimony offered in support of, or opposition to, the  
30 proposed issuance of, amendment to, or termination of a marketing order  
31 and concerning the terms, conditions, scope, and area thereof. Such  
32 hearing shall be public and all testimony shall be received under oath.  
33 A full and complete record of all proceedings at such hearings shall be  
34 made and maintained on file in the office of the director, which file  
35 shall be open to public inspection. The director shall base ((his))  
36 any findings upon the testimony ((and evidence)) received at the  
37 hearing, together with any other relevant facts available ((to him))  
38 from official publications of institutions of recognized standing. The

1 director shall describe in ((his)) the findings such official  
2 publications upon which any finding is based.

3 ~~((For such hearings and for any other hearings under this~~  
4 ~~chapter,)) (3) The director shall have the power to subpoena witnesses  
5 and to issue subpoenas for the production of any books, records, or  
6 documents of any kind.~~

7 (4) The superior court of the county in which any hearing or  
8 proceeding may be had may compel the attendance of witnesses and the  
9 production of records, papers, books, accounts, documents and testimony  
10 as required by such subpoena. The director, in case of the refusal of  
11 any witness to attest or testify or produce any papers required by the  
12 subpoena, shall report to the superior court of the county in which the  
13 proceeding is pending by petition setting forth that due notice has  
14 been given of the time and place of attendance of ((said)) the witness  
15 or the production of ((said)) the papers and that the witness has been  
16 summoned in the manner prescribed in this chapter and that he or she  
17 has failed to attend or produce the papers required by the subpoena at  
18 the hearing, cause or proceeding specified in the subpoena, or has  
19 refused to answer questions propounded to him or her in the course of  
20 such hearing, cause, or proceeding, and shall ask an order of the court  
21 to compel a witness to appear and testify before the director. The  
22 court upon such petition shall enter an order directing the witness to  
23 appear before the court at a time and place to be fixed in such order  
24 and then and there to show cause why he or she has not responded to the  
25 subpoena. A copy of the order shall be served upon the witness. If it  
26 appears to the court that the subpoena was regularly issued, it shall  
27 enter an order that the witness appear at the time and place fixed in  
28 the order and testify or produce the required papers, and on failing to  
29 obey ((said)) the order the witness shall be dealt with as for contempt  
30 of court.

31 **Sec. 47.** RCW 15.66.090 and 1975 1st ex.s. c 7 s 8 are each amended  
32 to read as follows:

33 After the issuance by the director of the final decision approving  
34 the issuance, amendment, or termination of a marketing order, the  
35 director shall determine by a referendum whether the affected parties  
36 or producers assent to the proposed action or not. The director shall  
37 conduct the referendum among the affected parties or producers based on  
38 the list as provided for in RCW 15.66.060, and the affected parties or

1 producers shall be deemed to have assented to the proposed issuance or  
2 termination order if fifty-one percent or more by number reply to the  
3 referendum within the time specified by the director, and if, of those  
4 replying, sixty-five percent or more by number and fifty-one percent or  
5 more by volume assent to the proposed order. The producers shall be  
6 deemed to have assented to the proposed amendment order if sixty  
7 percent or more by number and sixty percent or more by volume of those  
8 replying assent to the proposed order. The determination by volume  
9 shall be made on the basis of volume as determined in the list of  
10 affected producers created under provisions of RCW 15.66.060, subject  
11 to rules and regulations of the director for such determination. The  
12 director shall consider the approval or disapproval of any cooperative  
13 marketing association authorized by its producer members to act for  
14 them in any such referendum, as being the approval or disapproval of  
15 the producers who are members of or stockholders in or under contract  
16 with such association of cooperative producers: PROVIDED, That the  
17 association shall first determine that a majority of the membership of  
18 the association authorize its action concerning the specific marketing  
19 order. If the requisite assent is given, the director shall promulgate  
20 the order and shall mail notices of the same to all affected producers.

21 NEW SECTION. **Sec. 48.** A new section is added to chapter 15.66 RCW  
22 to read as follows:

23 The director may, upon the request of a commodity commission and  
24 without compliance with RCW 15.66.070 through 15.66.090, suspend the  
25 commission's order or term or provision thereof for a period of not to  
26 exceed one year, if the director finds that the suspension will tend to  
27 effectuate the declared policy of this chapter. Any suspension of all,  
28 or substantially all, of a marketing order by the director is not  
29 effective until the end of the then current marketing season.

30 NEW SECTION. **Sec. 49.** A new section is added to chapter 15.66 RCW  
31 to read as follows:

32 The director is not required to hold a public hearing or a  
33 referendum more than once in any twelve-month period on petitions to  
34 issue, amend, or terminate a marketing order if any of the following  
35 circumstances are present:

36 (1) The petition proposes to establish a marketing order for the  
37 same commodity;

1 (2) The petition proposes the same or a similar amendment to a  
2 marketing order; or

3 (3) The petition proposes to terminate the same marketing order.

4 NEW SECTION. Sec. 50. A new section is added to chapter 15.66 RCW  
5 to read as follows:

6 (1) Pursuant to RCW 42.17.31907, certain agricultural business  
7 records, commodity commission records, and department of agriculture  
8 records relating to commodity commissions and producers of agricultural  
9 commodities are exempt from public disclosure.

10 (2) Financial and commercial information and records submitted to  
11 either the department or a commodity commission for the purpose of  
12 administering this act or a marketing order may be shared between the  
13 department and the applicable commodity commission. They may also be  
14 used, if required, in any suit or administrative hearing involving any  
15 provision of this chapter or a marketing order.

16 (3) This chapter does not prohibit:

17 (a) The issuance of general statements based upon the reports of a  
18 number of persons subject to any marketing order as long as the  
19 statements do not identify the information furnished by any person; or

20 (b) The publication by the director or a commodity commission of  
21 the name of any person violating any marketing order and a statement of  
22 the manner of the violation by that person.

23 **Sec. 51.** RCW 15.66.110 and 2001 c 315 s 2 are each amended to read  
24 as follows:

25 (1) Every marketing order shall establish a commodity commission  
26 composed of not less than five nor more than thirteen members. In  
27 addition, the director shall be an ex officio member of each commodity  
28 commission unless otherwise specified in the marketing order.  
29 Commission members shall be citizens and residents of this state if  
30 required by the marketing order, and over the age of eighteen. Not  
31 more than one commission member may be part of the same "person" as  
32 defined by this chapter. The term of office of commission members  
33 shall be three years with the terms rotating so that one-third of the  
34 terms will commence as nearly as practicable each year. However, the  
35 first commission shall be selected, one-third for a term of one year,  
36 one-third for a term of two years, and one-third for a term of three  
37 years, as nearly as practicable. Except as provided in subsection (2)

1 of this section, no less than two-thirds of the commission members  
2 shall be elected by the affected producers and such elected members  
3 shall all be affected producers. The remaining members shall be  
4 appointed by the commission and shall be either affected producers,  
5 others active in matters relating to the affected commodity, or persons  
6 not so related.

7 (2) A marketing order may provide that a majority of the commission  
8 be appointed by the director, but in any event, no less than one-third  
9 of the commission members shall be elected by the affected producers.

10 (3) In the event that the marketing order provides that a majority  
11 of the commission be appointed by the director, the marketing order  
12 shall incorporate either the provisions of section 52 or 53 of this act  
13 for member selection.

14 NEW SECTION. Sec. 52. A new section is added to chapter 15.66 RCW  
15 to read as follows:

16 (1) This section or section 53 of this act applies when the  
17 director appoints a majority of the positions of the commission as set  
18 forth under RCW 15.66.110(3).

19 (2) Candidates for director-appointed positions on a commission  
20 shall be nominated under RCW 15.66.120(1).

21 (3) Not less than sixty days nor more than seventy-five days prior  
22 to the commencement of a commission member's term, the director shall  
23 cause an advisory vote to be held for the director-appointed positions.  
24 Advisory ballots shall be mailed to all affected producers and shall be  
25 returned to the director not less than thirty days prior to the  
26 commencement of the term. The advisory ballot shall be conducted in a  
27 manner so that it is a secret ballot. The names of the two candidates  
28 receiving the most votes in the advisory vote shall be forwarded to the  
29 director for potential appointment to the commission. In the event  
30 there are only two candidates nominated for a position, an advisory  
31 vote may not be held and the candidates' names shall be forwarded to  
32 the director for potential appointment.

33 (4) The candidates whose names are forwarded to the director for  
34 potential appointment shall submit to the director a letter stating why  
35 he or she wishes to be appointed to the commission. The director may  
36 select either person for the position.

1        NEW SECTION.    **Sec. 53.**    A new section is added to chapter 15.66 RCW  
2 to read as follows:

3        (1) This section or section 52 of this act applies when the  
4 director appoints a majority of the positions on a commission as set  
5 forth under RCW 15.66.110(3).

6        (2) Candidates for director-appointed positions on a commission  
7 shall be nominated under RCW 15.66.120(1).

8        (3) Not less than sixty days nor more than seventy-five days prior  
9 to the commencement of a commission member's term, the director shall  
10 cause an advisory vote to be held for the director-appointed positions.  
11 Advisory ballots shall be mailed to all affected producers and shall be  
12 returned to the director not less than thirty days prior to the  
13 commencement of the term. The advisory ballot shall be conducted in a  
14 manner so that it is a secret ballot. The name of the candidate  
15 receiving the most votes in the advisory vote shall be forwarded to the  
16 director for appointment to the commission.

17        (4) The director shall appoint the candidate receiving the most  
18 votes in an advisory ballot unless the candidate fails to meet the  
19 qualifications of commission members under this chapter and the  
20 marketing order. In the event the director rejects the candidate  
21 receiving the most votes, the position is vacant and shall be filled  
22 under RCW 15.66.120(8).

23        **Sec. 54.**    RCW 15.66.120 and 1975 1st ex.s. c 7 s 9 are each amended  
24 to read as follows:

25        (1) Not less than ninety days nor more than one hundred and five  
26 days prior to the beginning of each term of each elected commission  
27 member, ~~((the director shall give))~~ notice ~~((by mail))~~ shall be mailed  
28 to all affected producers ~~((of the vacancy and))~~ with a call for  
29 nominations in accordance with this section and ~~((with the))~~ provisions  
30 of the marketing order ~~((and shall give)).~~ The notice ~~((of))~~ shall  
31 give the final date for filing nominations, which shall not be less  
32 than eighty days nor more than eighty-five days before the beginning of  
33 such term. ~~((Such))~~ The notice shall also advise that nominating  
34 petitions shall be signed by five persons qualified to vote for such  
35 candidates or, if the number of nominating signers is provided for in  
36 the marketing order, ~~((such))~~ then the number ~~((as such))~~ provided in  
37 the marketing order ~~((provides))~~.



1       (2) Not less than sixty days nor more than seventy-five days prior  
2 to the commencement of (~~such~~) a commission member term, the director  
3 shall (~~submit by~~) mail ballots to all affected producers(~~(, which)~~).  
4 Ballots shall be required to be returned to the director not less than  
5 thirty days prior to the commencement of (~~such~~) the term. (~~Such~~)  
6 The mail ballot shall be conducted in a manner so that it shall be a  
7 secret ballot. With respect to the first commission for a particular  
8 commodity, the director may call for nominations for commission members  
9 in the notice of (~~his~~) the director's decision following the hearing  
10 and the ballot may be submitted at the time the director's proposed  
11 order is submitted to the affected producers for their assent.

12       (~~Said elected~~) (3) Commission members may be elected or appointed  
13 from various districts within the area covered by the marketing order  
14 if the order so provides, with the number of members from each district  
15 to be in accordance with the provisions of the marketing order.

16       (4) The members of the commission not elected by the affected  
17 producers shall be elected by a majority of the commission at a meeting  
18 of the commission within ninety days prior to expiration of the term  
19 (~~but to fill nonelective vacancies caused by other reasons than the~~  
20 ~~expiration of a term, the new member shall be elected by the commission~~  
21 ~~at its first meeting after the occurrence of the vacancy)), or  
22 appointed by the director under this chapter and the marketing order.~~

23       (5) When only one nominee is nominated for any position on the  
24 commission, the director shall (~~deem that said nominee satisfies the~~  
25 ~~requirements of the position and then it shall be deemed that said~~  
26 ~~nominee has been duly~~) determine whether the nominee meets the  
27 qualifications of the position and, if so, the director shall declare  
28 the nominee elected or appoint the nominee to the position.

29       (6) In the event of a vacancy in an elected commission member  
30 position on a commodity commission, the remaining members shall select  
31 a qualified person to fill the vacant position for the remainder of the  
32 current term or as provided in the marketing order.

33       (7) In the event of a vacancy in an appointed member position on a  
34 commodity commission, the appointment of members shall be as specified  
35 in the marketing order.

36       (8) In the event of a vacancy in a director-appointed member  
37 position on a commodity commission, the remaining members shall  
38 recommend to the director a qualified person for appointment to the  
39 vacant position. The director shall appoint the person recommended by

1 the commission unless the person fails to meet the qualifications of  
2 commission members under this chapter and the marketing order.

3 NEW SECTION. **Sec. 55.** A new section is added to chapter 15.66 RCW  
4 to read as follows:

5 (1) Upon completion of any vote, referendum, or nomination and  
6 elections, the department shall tally the results of the vote and  
7 provide the results to affected parties.

8 (2) If an affected party disputes the results of a vote, that  
9 affected party, within sixty days from the announced results, shall  
10 provide in writing a statement of why the vote is disputed and request  
11 a recount.

12 (3) Once the vote is tallied and distributed, all disputes are  
13 resolved, and all matters in a vote are finalized, the individual  
14 ballots may be destroyed.

15 **Sec. 56.** RCW 15.66.130 and 2001 2nd sp.s. c 6 s 2 are each amended  
16 to read as follows:

17 Each commodity commission shall hold such regular meetings as the  
18 marketing order may prescribe or that the commission by resolution may  
19 prescribe, together with such special meetings that may be called in  
20 accordance with provisions of its resolutions upon reasonable notice to  
21 all members thereof. A majority of the voting members shall constitute  
22 a quorum for the transaction of all business of the commission. (~~In~~  
23 ~~the event of a vacancy in an elected or appointed position on the~~  
24 ~~commission, the remaining elected members of the commission shall~~  
25 ~~select a qualified person to fill the unexpired term.))~~

26 Each member of the commission shall be compensated in accordance  
27 with RCW 43.03.230. Members and employees of the commission may be  
28 reimbursed for actual travel expenses incurred in carrying out the  
29 provisions of this chapter, as defined under the commodity ((~~board's~~)  
30 commission's marketing order. Otherwise, if not defined or referenced  
31 in the marketing order, reimbursement for travel expenses shall be in  
32 accordance with RCW 43.03.050 and 43.03.060.

33 **Sec. 57.** RCW 15.66.140 and 2001 c 315 s 3 are each amended to read  
34 as follows:

1 Every (~~marketing~~) commodity commission shall have such powers and  
2 duties in accordance with provisions of this chapter as may be provided  
3 in the marketing order and shall have the following powers and duties:

4 (1) To elect a (~~chairman~~) chair and such other officers as  
5 determined advisable;

6 (2) To adopt, rescind and amend rules and regulations reasonably  
7 necessary for the administration and operation of the commission and  
8 the enforcement of its duties under the marketing order;

9 (3) To administer, enforce, direct and control the provisions of  
10 the marketing order and of this chapter relating thereto;

11 (4) To employ and discharge at its discretion such administrators  
12 and additional personnel, attorneys, advertising and research agencies  
13 and other persons and firms that it may deem appropriate and pay  
14 compensation to the same;

15 (5) To acquire personal property and purchase or lease office space  
16 and other necessary real property and transfer and convey the same;

17 (6) To institute and maintain in its own name any and all legal  
18 actions, including actions by injunction, mandatory injunction or civil  
19 recovery, or proceedings before administrative tribunals or other  
20 governmental authorities necessary to carry out the provisions of this  
21 chapter and of the marketing order;

22 (7) To keep accurate records of all its receipts and disbursements,  
23 which records shall be open to inspection and audit by the state  
24 auditor or private auditor designated by the state auditor at least  
25 every five years;

26 (8) Borrow money and incur indebtedness;

27 (9) Make necessary disbursements for routine operating expenses;

28 (10) To expend funds for commodity-related education, training, and  
29 leadership programs as each commission deems expedient;

30 (11) To work cooperatively with other local, state, and federal  
31 agencies; universities; and national organizations for the purposes  
32 provided in the commission's marketing order;

33 (12) To enter into contracts or interagency agreements with any  
34 private or public agency, whether federal, state, or local, to carry  
35 out the purposes provided in the commission's marketing order.  
36 Personal service contracts must comply with chapter 39.29 RCW;

37 (13) To accept and expend or retain any gifts, bequests,  
38 contributions, or grants from private persons or private and public

1 agencies to carry out the purposes provided in the commission's  
2 marketing order;

3 (14) To enter into contracts or agreements for research in the  
4 production, irrigation, processing, transportation, marketing, use, or  
5 distribution of an affected commodity;

6 (15) To retain in emergent situations the services of private legal  
7 counsel to conduct legal actions on behalf of a commission. The  
8 retention of a private attorney is subject to review by the office of  
9 the attorney general;

10 (16) To engage in appropriate fund-raising activities for the  
11 purpose of supporting activities of the commission authorized by the  
12 marketing order;

13 (17) To participate in international, federal, state, and local  
14 hearings, meetings, and other proceedings relating to the production,  
15 irrigation, manufacture, regulation, transportation, distribution,  
16 sale, or use of affected commodities including activities authorized  
17 under RCW 42.17.190, including the reporting of those activities to the  
18 public disclosure commission; (~~and~~)

19 (18) To maintain a list of the names and addresses of affected  
20 producers that may be compiled from information used to collect  
21 assessments under the provisions of the marketing order and data on the  
22 value of each producer's production for a minimum three-year period;

23 (19) To maintain a list of the names and addresses of persons who  
24 handle the affected commodity within the affected area and data on the  
25 amount and value of the commodity handled for a minimum three-year  
26 period by each person; and

27 (20) Such other powers and duties that are necessary to carry out  
28 the purposes of this chapter.

29 NEW SECTION. Sec. 58. A new section is added to chapter 15.66 RCW  
30 to read as follows:

31 (1) Each commodity commission shall prepare a list of all affected  
32 producers from any information available from the department,  
33 producers, producer associations, organizations, or handlers of the  
34 affected commodity. This list shall contain the names and addresses of  
35 all affected persons who produce the affected commodity and the amount,  
36 by unit, of the affected commodity produced during at least the past  
37 three years.

1 (2) Each commodity commission shall prepare a list of all persons  
2 who handle the affected commodity and the amount of the commodity  
3 handled by each person during at least the past three years.

4 (3) It is the responsibility of all affected parties to ensure that  
5 their correct address is filed with the commodity commission. It is  
6 also the responsibility of affected parties to submit production data  
7 and handling data to the commission as prescribed by the commission's  
8 marketing order.

9 (4) Any qualified person may, at any time, have his or her name  
10 placed upon any list for which he or she qualifies by delivering or  
11 mailing the information to the commission. The lists shall be  
12 corrected and brought up-to-date in accordance with evidence and  
13 information provided to the commission.

14 (5) At the director's request, the commodity commission shall  
15 provide the director a certified list of affected producers or affected  
16 handlers from the commodity commission records. The list shall contain  
17 all information required by the director to conduct a referendum or  
18 commission member elections under this chapter.

19 (6) For all purposes of giving notice and holding referenda on  
20 amendment or termination proposals, and for giving notice and electing  
21 or selecting members of a commission, the applicable list corrected up  
22 to the day preceding the date the list is certified by the commission  
23 and mailed to the director is deemed to be the list of all affected  
24 producers or affected handlers, as applicable, entitled to notice or to  
25 vote. Inadvertent failure to notify an affected producer or handler  
26 does not invalidate a proceeding conducted under this chapter.

27 NEW SECTION. **Sec. 59.** A new section is added to chapter 15.66 RCW  
28 to read as follows:

29 Agricultural commodity commissions shall adopt rules governing  
30 promotional hosting expenditures by commodity commission employees,  
31 agents, or commission members under RCW 15.04.200.

32 NEW SECTION. **Sec. 60.** A new section is added to chapter 15.66 RCW  
33 to read as follows:

34 If after complying with the procedures outlined in this chapter and  
35 a referendum proposal to terminate a commodity commission is assented  
36 to, the affected commodity commission shall:

1 (1) Document the details of all measures undertaken to terminate  
2 the commodity commission and identify and document all closing costs;

3 (2) Contact the office of the state auditor and arrange for a final  
4 audit of the commission. Payment for the audit shall be from  
5 commission funds and identified in the budget for closing costs;

6 (3) Provide for the reimbursement to affected producers of moneys  
7 collected by assessment. Reimbursement shall be made to those  
8 considered affected producers over the previous three-year time frame  
9 on a pro rata basis and at a percent commensurate with their volume of  
10 production over the previous three-year period unless a different time  
11 period is specified in the marketing order. If the commodity  
12 commission finds that the amounts of moneys are so small as to make  
13 impractical the computation and remitting of the pro rata refund, the  
14 moneys shall be paid into the state treasury as unclaimed trust moneys;  
15 and

16 (4) Transfer all remaining files to the department for storage and  
17 archiving, as appropriate.

18 **Sec. 61.** RCW 15.66.180 and 1961 c 11 s 15.66.180 are each amended  
19 to read as follows:

20 All moneys which are collected or otherwise received pursuant to  
21 each marketing order created under this chapter shall be used solely by  
22 and for the commodity commission concerned and shall not be used for  
23 any other commission, nor the department except as otherwise provided  
24 in this chapter. Such moneys shall be deposited in a separate account  
25 or accounts in the name of the individual commission in any bank which  
26 is a state depository. All expenses and disbursements incurred and  
27 made pursuant to the provisions of any marketing order shall be paid  
28 from moneys collected and received pursuant to such order without the  
29 necessity of a specific legislative appropriation and all moneys  
30 deposited for the account of any order shall be paid from said account  
31 by check or voucher in such form and in such manner and upon the  
32 signature of such person as may be prescribed by the commission. None  
33 of the provisions of RCW 43.01.050 shall be applicable to any such  
34 account or any moneys so received, collected or expended.

35 **Sec. 62.** RCW 15.66.185 and 1967 ex.s. c 54 s 2 are each amended to  
36 read as follows:

1 Any funds of any agricultural commodity commission may be invested  
2 in savings or time deposits in banks, trust companies, and mutual  
3 savings banks (~~((which))~~) that are doing business in (~~((this state))~~) the  
4 United States, up to the amount of insurance afforded such accounts by  
5 the Federal Deposit Insurance Corporation. This section shall apply to  
6 all funds which may be lawfully so invested, which in the judgment of  
7 any agricultural commodity commission are not required for immediate  
8 expenditure. The authority granted by this section is not exclusive  
9 and shall be construed to be cumulative and in addition to other  
10 authority provided by law for the investment of such funds.

11 **Sec. 63.** RCW 15.66.245 and 1988 c 54 s 2 are each amended to read  
12 as follows:

13 Any marketing agreement or order may authorize the members of a  
14 commodity commission, or their agents or designees, to participate in  
15 federal or state hearings or other proceedings concerning regulation of  
16 the manufacture, distribution, sale, or use of any pesticide as defined  
17 by RCW 15.58.030(~~((+1))~~) (30) or any agricultural chemical which is of  
18 use or potential use in producing the affected commodity. Any  
19 marketing agreement or order may authorize the expenditure of commodity  
20 commission funds for this purpose.

21 **Sec. 64.** RCW 15.66.260 and 1969 c 66 s 2 are each amended to read  
22 as follows:

23 (~~((All general administrative expenses of the director in carrying  
24 out the provisions of this chapter shall be borne by the state:  
25 PROVIDED, That))~~) The department shall be reimbursed for actual costs  
26 incurred in conducting nominations and elections for members of any  
27 commodity (~~((board))~~) commission established under the provisions of this  
28 chapter. Such reimbursement shall be made from the funds of the  
29 commission for which the nominations and elections were conducted by  
30 the director.

31 NEW SECTION. **Sec. 65.** RCW 15.66.020 (Declaration of purpose) and  
32 1961 c 11 s 15.66.020 are each repealed.

33 **Sec. 66.** RCW 42.17.31907 and 2001 c 314 s 18 are each amended to  
34 read as follows:

1 The following agricultural business records and commodity board and  
2 commission records are exempt from the disclosure requirements of this  
3 chapter:

4 (1) Production or sales records required to determine assessment  
5 levels and actual assessment payments to commodity boards and  
6 commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65,  
7 15.66, 15.74, 15.88, 15.100, and 16.67 RCW or required by the  
8 department of agriculture (~~(under RCW 15.13.310(4) or 15.49.370(6))~~) to  
9 administer these chapters or the department's programs;

10 (2) Consignment information contained on phytosanitary certificates  
11 issued by the department of agriculture under chapters 15.13, 15.49,  
12 and 15.17 RCW or federal phytosanitary certificates issued under 7  
13 C.F.R. 353 through cooperative agreements with the animal and plant  
14 health inspection service, United States department of agriculture, or  
15 on applications for phytosanitary certification required by the  
16 department of agriculture; and

17 (3) Financial and commercial information and records supplied by  
18 persons (~~(to)~~) (a) to the department of agriculture for the purpose of  
19 conducting a referendum for the potential establishment of a commodity  
20 board or commission; (b) to the department of agriculture or commodity  
21 boards or commissions formed under chapter(~~(s)~~) 15.24, 15.28, 15.44,  
22 15.65, 15.66, 15.74, 15.88, 15.100, (~~(and)~~) or 16.67 RCW with respect  
23 to domestic or export marketing activities or individual producer's  
24 production information.

25 NEW SECTION. Sec. 67. A new section is added to chapter 15.26 RCW  
26 to read as follows:

27 (1) Under RCW 42.17.31907, certain agricultural business records,  
28 commission records, and department of agriculture records relating to  
29 the commission and producers of agricultural commodities are exempt  
30 from public disclosure.

31 (2) Financial and commercial information and records submitted to  
32 either the department or the commission for the purpose of  
33 administering this chapter may be shared between the department and the  
34 commission. They may also be used, if required, in any suit or  
35 administrative hearing involving any provision of this chapter or a  
36 marketing order.

37 (3) This chapter does not prohibit:



1 (a) The issuance of general statements based upon the reports of  
2 persons subject to this chapter as long as the statements do not  
3 identify the information furnished by any person; or

4 (b) The publication by the director or the commission of the name  
5 of any person violating this chapter and a statement of the manner of  
6 the violation by that person.

7 NEW SECTION. **Sec. 68.** A new section is added to chapter 15.28 RCW  
8 to read as follows:

9 (1) Under RCW 42.17.31907, certain agricultural business records,  
10 commission records, and department of agriculture records relating to  
11 the commission and producers of agricultural commodities are exempt  
12 from public disclosure.

13 (2) Financial and commercial information and records submitted to  
14 either the department or the commission for the purpose of  
15 administering this chapter may be shared between the department and the  
16 commission. They may also be used, if required, in any suit or  
17 administrative hearing involving any provision of this chapter or a  
18 marketing order.

19 (3) This chapter does not prohibit:

20 (a) The issuance of general statements based upon the reports of  
21 persons subject to this chapter as long as the statements do not  
22 identify the information furnished by any person; or

23 (b) The publication by the director or the commission of the name  
24 of any person violating this chapter and a statement of the manner of  
25 the violation by that person.

26 NEW SECTION. **Sec. 69.** A new section is added to chapter 15.44 RCW  
27 to read as follows:

28 (1) Under RCW 42.17.31907, certain agricultural business records,  
29 commission records, and department of agriculture records relating to  
30 the commission and producers of agricultural commodities are exempt  
31 from public disclosure.

32 (2) Financial and commercial information and records submitted to  
33 either the department or the commission for the purpose of  
34 administering this chapter may be shared between the department and the  
35 commission. They may also be used, if required, in any suit or  
36 administrative hearing involving any provision of this chapter or a  
37 marketing order.

1 (3) This chapter does not prohibit:

2 (a) The issuance of general statements based upon the reports of  
3 persons subject to this chapter as long as the statements do not  
4 identify the information furnished by any person; or

5 (b) The publication by the director or the commission of the name  
6 of any person violating this chapter and a statement of the manner of  
7 the violation by that person.

8 NEW SECTION. Sec. 70. A new section is added to chapter 15.88 RCW  
9 to read as follows:

10 (1) Under RCW 42.17.31907, certain agricultural business records,  
11 commission records, and department of agriculture records relating to  
12 the commission and producers of agricultural commodities are exempt  
13 from public disclosure.

14 (2) Financial and commercial information and records submitted to  
15 either the department or the commission for the purpose of  
16 administering this chapter may be shared between the department and the  
17 commission. They may also be used, if required, in any suit or  
18 administrative hearing involving any provision of this chapter or a  
19 marketing order.

20 (3) This chapter does not prohibit:

21 (a) The issuance of general statements based upon the reports of  
22 persons subject to this chapter as long as the statements do not  
23 identify the information furnished by any person; or

24 (b) The publication by the director or the commission of the name  
25 of any person violating this chapter and a statement of the manner of  
26 the violation by that person.

27 NEW SECTION. Sec. 71. A new section is added to chapter 16.67 RCW  
28 to read as follows:

29 (1) Under RCW 42.17.31907, certain agricultural business records,  
30 commission records, and department of agriculture records relating to  
31 the commission and producers of agricultural commodities are exempt  
32 from public disclosure.

33 (2) Financial and commercial information and records submitted to  
34 either the department or the commission for the purpose of  
35 administering this chapter may be shared between the department and the  
36 commission. They may also be used, if required, in any suit or

1 administrative hearing involving any provision of this chapter or a  
2 marketing order.

3 (3) This chapter does not prohibit:

4 (a) The issuance of general statements based upon the reports of  
5 persons subject to this chapter as long as the statements do not  
6 identify the information furnished by any person; or

7 (b) The publication by the director or the commission of the name  
8 of any person violating this chapter and a statement of the manner of  
9 the violation by that person.

10 NEW SECTION. Sec. 72. A new section is added to chapter 15.24 RCW  
11 to read as follows:

12 The director may provide by rule for a method to fund staff support  
13 for all commodity boards and commissions in accordance with section 78  
14 of this act if a position is not directly funded by the legislature and  
15 costs related to the specific activity undertaken on behalf of an  
16 individual commodity board or commission. The commission shall provide  
17 funds to the department according to the rules adopted by the director.

18 NEW SECTION. Sec. 73. A new section is added to chapter 15.26 RCW  
19 to read as follows:

20 The director may provide by rule for a method to fund staff support  
21 for all commodity boards and commissions in accordance with section 78  
22 of this act if a position is not directly funded by the legislature and  
23 costs related to the specific activity undertaken on behalf of an  
24 individual commodity board or commission. The commission shall provide  
25 funds to the department according to the rules adopted by the director.

26 NEW SECTION. Sec. 74. A new section is added to chapter 15.28 RCW  
27 to read as follows:

28 The director may provide by rule for a method to fund staff support  
29 for all commodity boards and commissions in accordance with section 78  
30 of this act if a position is not directly funded by the legislature and  
31 costs related to the specific activity undertaken on behalf of an  
32 individual commodity board or commission. The commission shall provide  
33 funds to the department according to the rules adopted by the director.

34 NEW SECTION. Sec. 75. A new section is added to chapter 15.44 RCW  
35 to read as follows:

1 The director may provide by rule for a method to fund staff support  
2 for all commodity boards and commissions in accordance with section 78  
3 of this act if a position is not directly funded by the legislature and  
4 costs related to the specific activity undertaken on behalf of an  
5 individual commodity board or commission. The commission shall provide  
6 funds to the department according to the rules adopted by the director.

7 NEW SECTION. **Sec. 76.** A new section is added to chapter 15.88 RCW  
8 to read as follows:

9 The director may provide by rule for a method to fund staff support  
10 for all commodity boards or commissions in accordance with section 78  
11 of this act if a position is not directly funded by the legislature and  
12 costs related to the specific activity undertaken on behalf of an  
13 individual commodity board or commission. The commission shall provide  
14 funds to the department according to the rules adopted by the director.

15 NEW SECTION. **Sec. 77.** A new section is added to chapter 16.67 RCW  
16 to read as follows:

17 The director may provide by rule for a method to fund staff support  
18 for all commodity boards or commissions in accordance with section 78  
19 of this act if a position is not directly funded by the legislature and  
20 costs related to the specific activity undertaken on behalf of an  
21 individual commodity board or commission. The commission shall provide  
22 funds to the department according to the rules adopted by the director.

23 NEW SECTION. **Sec. 78.** A new section is added to chapter 43.23 RCW  
24 to read as follows:

25 (1) The director may provide by rule for a method to fund staff  
26 support for all commodity boards and commissions if a position is not  
27 directly funded by the legislature.

28 (2) Staff support funded under this section and sections 7(1)(c),  
29 44(3), and 72 through 77 of this act shall be limited to one-half full-  
30 time equivalent employee for all commodity boards and commissions.

31 NEW SECTION. **Sec. 79.** A new section is added to chapter 16.67 RCW  
32 to read as follows:

33 The history, economy, culture, and the future of Washington state's  
34 agriculture involves the beef industry. In order to develop and

1 promote beef and beef products as part of an existing comprehensive  
2 scheme to regulate those products the legislature declares:

3 (1) That the Washington state beef commission is created;

4 (2) That it is vital to the continued economic well-being of the  
5 citizens of this state and their general welfare that its beef and beef  
6 products be properly promoted by (a) enabling the beef industry to help  
7 themselves in establishing orderly, fair, sound, efficient, and  
8 unhampered marketing, grading, and standardizing of beef and beef  
9 products they produce; and (b) working to stabilize the beef industry  
10 by increasing consumption of beef and beef products within the state,  
11 the nation, and internationally;

12 (3) That beef producers operate within a regulatory environment  
13 that imposes burdens on them for the benefit of society and the  
14 citizens of the state and includes restrictions on marketing autonomy.  
15 Those restrictions may impair the beef producer's ability to compete in  
16 local, domestic, and foreign markets;

17 (4) That it is in the overriding public interest that support for  
18 the beef industry be clearly expressed, that adequate protection be  
19 given to agricultural commodities, uses, activities, and operations,  
20 and that beef and beef products be promoted individually, and as part  
21 of a comprehensive industry to:

22 (a) Enhance the reputation and image of Washington state's  
23 agriculture industry;

24 (b) Increase the sale and use of beef products in local, domestic,  
25 and foreign markets;

26 (c) Protect the public by educating the public in reference to the  
27 quality, care, and methods used in the production of beef and beef  
28 products, and in reference to the various cuts and grades of beef and  
29 the uses to which each should be put;

30 (d) Increase the knowledge of the health-giving qualities and  
31 dietetic value of beef products; and

32 (e) Support and engage in programs or activities that benefit the  
33 production, handling, processing, marketing, and uses of beef and beef  
34 products;

35 (5) That this chapter is enacted in the exercise of the police  
36 powers of this state for the purpose of protecting the health, peace,  
37 safety, and general welfare of the people of this state; and

38 (6) That the beef industry is a highly regulated industry and that  
39 this chapter and the rules adopted under it are only one aspect of the

1 regulated industry. Other regulations and restraints applicable to the  
2 beef industry include the:

3 (a) Beef Promotion and Research Act of 1985, U.S.C. Title 7,  
4 Chapter 62;

5 (b) Beef promotion and research, 7 C.F.R., Part 1260;

6 (c) Agricultural Marketing Act, 7 U.S.C., section 1621;

7 (d) USDA meat grading, certification, and standards, 7 C.F.R., Part  
8 54;

9 (e) Mandatory price reporting, 7 C.F.R., Part 57;

10 (f) Grazing permits, 43 C.F.R., Part 2920;

11 (g) Capper-Volstead Act, U.S.C. Title 7, Chapters 291 and 292;

12 (h) Livestock identification under chapter 16.57 RCW and rules;

13 (i) Organic food products act under chapter 15.86 RCW and rules;

14 (j) Intrastate commerce in food, drugs, and cosmetics act under  
15 chapter 69.04 RCW and rules, including provisions of 21 C.F.R. relating  
16 to the general manufacturing practices, food labeling, food standards,  
17 food additives, and pesticide tolerances;

18 (k) Washington food processing act under chapter 69.07 RCW and  
19 rules;

20 (l) Washington food storage warehouses act under chapter 69.10 RCW  
21 and rules;

22 (m) Animal health under chapter 16.36 RCW and rules; and

23 (n) Weights and measures under chapter 19.94 RCW and rules.

24 **Sec. 80.** RCW 16.67.030 and 1999 c 291 s 30 are each amended to  
25 read as follows:

26 For the purpose of this chapter:

27 (1) "Commission" means the Washington state beef commission.

28 (2) "Director" means the director of agriculture of the state of  
29 Washington or (~~his duty~~) an appointed representative.

30 (3) "Ex officio members" means those advisory members of the  
31 commission who do not have a vote.

32 (4) "Department" means the department of agriculture of the state  
33 of Washington.

34 (5) "Person" includes any individual, firm, corporation, trust,  
35 association, partnership, society, or any other organization of  
36 individuals.

37 (6) "Beef producer" means any person who raises, breeds, grows, or  
38 purchases cattle or calves for beef production.

1 (7) "Dairy (beef) producer" means any person who raises, breeds,  
2 grows, or purchases cattle for dairy production and who is actively  
3 engaged in the production of fluid milk.

4 (8) "Feeder" means any person actively engaged in the business of  
5 feeding cattle and usually operating a feed lot.

6 (9) "Producer" means any person actively engaged in the cattle  
7 industry including beef producers and dairy (beef) producers.

8 (10) "Washington cattle" shall mean all cattle owned or controlled  
9 by affected producers and located or sold in the state of Washington.

10 (11) "Meat packer" means any person operating a slaughtering  
11 establishment subject to inspection under a federal meat inspection  
12 act.

13 (12) "Livestock salesyard operator" means any person licensed to  
14 operate a cattle auction market or salesyard under the provisions of  
15 chapter 16.65 RCW as enacted or hereafter amended.

16 (13) "Mail" or "send" for purposes of any notice relating to rule  
17 making means regular mail or electronic distribution, as provided in  
18 RCW 34.05.260 for rule making. "Electronic distribution" or  
19 "electronically" means distribution by electronic mail or facsimile  
20 mail.

21 **Sec. 81.** RCW 16.67.070 and 1991 c 9 s 4 are each amended to read  
22 as follows:

23 (1) In the event a position on the commission becomes vacant due to  
24 resignation, disqualification, death, or for any other reason, the  
25 unexpired term of such position shall be filled by the director  
26 forthwith.

27 (2) Each member of the commission shall be compensated in  
28 accordance with RCW 43.03.230 (~~and~~).

29 (3) Each member or employee shall be reimbursed for actual travel  
30 expenses ((in accordance with)) incurred in carrying out the provisions  
31 of this chapter as defined by the commission in rule. Otherwise if not  
32 defined in rule, reimbursement for travel expenses shall be at the  
33 rates allowed by RCW 43.03.050 and 43.03.060.

34 **Sec. 82.** RCW 16.67.090 and 2000 c 146 s 2 are each amended to read  
35 as follows:

36 The powers and duties of the commission shall include the  
37 following:

1 (1) To administer and enforce the provisions of this chapter, and  
2 do all things reasonably necessary to effectuate the purposes of this  
3 chapter;

4 (2) To elect a chairman and such other officers as it deems  
5 advisable;

6 (3) To employ and discharge at its discretion a manager, secretary,  
7 and such other personnel, including attorneys engaged in the private  
8 practice of law subject to the (~~approval and supervision~~) review of  
9 the attorney general, as the commission determines are necessary and  
10 proper to carry out the purposes of this chapter, and to prescribe  
11 their duties and powers and fix their compensation;

12 (4) To adopt, rescind, and amend rules, regulations, and orders for  
13 the exercise of its powers hereunder subject to the provisions of  
14 chapter 34.05 RCW (~~Administrative Procedure Act~~ as now or hereafter  
15 amended), except that rule-making proceedings conducted under this  
16 chapter are exempt from compliance with RCW 34.05.310, the provisions  
17 of chapter 19.85 RCW, the regulatory fairness act, and the provisions  
18 of RCW 43.135.055 when adoption of the rule is determined by a  
19 referendum vote of the affected parties;

20 (5) To establish by resolution, a headquarters which shall continue  
21 as such unless and until so changed by the commission. All records,  
22 books and minutes of the commission shall be kept at such headquarters;

23 (6) To require a bond of all commission members and employees of  
24 the commission in a position of trust in the amount the commission  
25 shall deem necessary. The premium for such bond or bonds shall be paid  
26 by the commission from assessments collected. Such bond shall not be  
27 necessary if any such commission member or employee is covered by any  
28 blanket bond covering officials or employees of the state of  
29 Washington;

30 (7) To establish a beef commission revolving fund, such fund to be  
31 deposited in a bank or banks or financial institution or institutions,  
32 approved for the deposit of state funds, in which all money received by  
33 the commission, except an amount of petty cash for each day's needs not  
34 to exceed one hundred dollars, shall be deposited each day or as often  
35 during the day as advisable; none of the provisions of RCW 43.01.050 as  
36 now or hereafter amended shall apply to money collected under this  
37 chapter;



1 (8) To prepare a budget or budgets covering anticipated income and  
2 expenses to be incurred in carrying out the provisions of this chapter  
3 during each fiscal year;

4 (9) To incur expense and enter into contracts and to create such  
5 liabilities as may be reasonable for the proper administration and  
6 enforcement of this chapter;

7 (10) To borrow money, not in excess of its estimate of its revenue  
8 from the current year's contributions;

9 (11) To keep or cause to be kept in accordance with accepted  
10 standards of good accounting practice, accurate records of all  
11 assessments, expenditures, moneys and other financial transactions made  
12 and done pursuant to this chapter. Such records, books and accounts  
13 shall be audited at least every five years subject to procedures and  
14 methods lawfully prescribed by the state auditor. Such books and  
15 accounts shall be closed as of the last day of each fiscal year. A  
16 copy of such audit shall be delivered within thirty days after  
17 completion thereof to the director, the state auditor and the  
18 commission. On such years and in such event the state auditor is  
19 unable to audit the records, books and accounts within six months  
20 following the close of the audit period it shall be mandatory that the  
21 commission employ a private auditor to make such audit;

22 (12) To sue and be sued as a commission, without individual  
23 liability for acts of the commission within the scope of the powers  
24 conferred upon it by this chapter;

25 (13) To cooperate with any other local, state, or national  
26 commission, organization or agency, whether voluntary or established by  
27 state or federal law, including recognized livestock groups, engaged in  
28 work or activities similar to the work and activities of the commission  
29 created by this chapter and make contracts and agreements with such  
30 organizations or agencies for carrying on joint programs beneficial to  
31 the beef industry;

32 (14) To accept grants, donations, contributions or gifts from any  
33 governmental agency or private source for expenditures for any purpose  
34 consistent with the provisions of this chapter; and

35 (15) To operate jointly with beef commissions or similar agencies  
36 established by state laws in adjoining states.

37 **Sec. 83.** RCW 16.67.120 and 2000 c 146 s 5 are each amended to read  
38 as follows:

1 (1) There is hereby levied an assessment of (~~fifty cents~~) one  
2 dollar per head on all Washington cattle sold in this state or  
3 elsewhere to be paid by the seller at the time of sale: PROVIDED, That  
4 if such sale is accompanied by a brand inspection by the department  
5 such assessment may be collected at the same time, place and in the  
6 same manner as brand inspection fees. Such fees may be collected by  
7 the livestock services division of the department and transmitted to  
8 the commission: PROVIDED FURTHER, That, if such sale is made without  
9 a brand inspection by the department the assessment shall be paid by  
10 the seller and transmitted directly to the commission by the fifteenth  
11 day of the month following the month the transaction occurred.

12 (2) The procedures for collecting all state and federal assessments  
13 under this chapter shall be as required by the federal order and as  
14 described by rules adopted by the commission.

15 **Sec. 84.** RCW 16.67.122 and 2000 c 146 s 6 are each amended to read  
16 as follows:

17 In addition to the assessment authorized pursuant to RCW 16.67.120,  
18 the commission has the authority to collect an additional assessment of  
19 (~~one dollar~~) fifty cents per head for cattle subject to assessment by  
20 federal order for the purpose of providing funds for a national beef  
21 promotion and research program. The manner in which this assessment  
22 will be levied and collected shall be established by rule. The  
23 authority to collect this assessment shall be contingent upon the  
24 implementation of federal legislation providing for a national beef  
25 promotion and research program and the establishment of the assessment  
26 requirement to fund its activities.

27 NEW SECTION. **Sec. 85.** A new section is added to chapter 16.67 RCW  
28 to read as follows:

29 The commission has the power to subpoena witnesses and to issue  
30 subpoenas for the production of any books, records, or documents of any  
31 kind for the purpose of enforcing this chapter.

32 NEW SECTION. **Sec. 86.** A new section is added to chapter 16.67 RCW  
33 to read as follows:

34 (1) The commission shall reimburse the director for necessary costs  
35 for services conducted on behalf of the commission under this chapter.

1 (2) The commission may enter into an agreement with the director to  
2 administer this chapter or chapter 34.05 RCW.

3 NEW SECTION. **Sec. 87.** A new section is added to chapter 15.44 RCW  
4 to read as follows:

5 The history, economy, culture, and the future of Washington state's  
6 agriculture involves the dairy industry. In order to develop and  
7 promote Washington's dairy products as part of an existing  
8 comprehensive scheme to regulate those products the legislature  
9 declares:

10 (1) That the Washington state dairy products commission is created.  
11 The commission may also take actions under the name "the dairy farmers  
12 of Washington";

13 (2) That it is vital to the continued economic well-being of the  
14 citizens of this state and their general welfare that its dairy  
15 products be properly promoted by (a) enabling the dairy industry to  
16 help themselves in establishing orderly, fair, sound, efficient, and  
17 unhampered marketing, grading, and standardizing of the dairy products  
18 they produce; and (b) working to stabilize the dairy industry by  
19 increasing consumption of dairy products within the state, the nation,  
20 and internationally;

21 (3) That dairy producers operate within a regulatory environment  
22 that imposes burdens on them for the benefit of society and the  
23 citizens of the state and includes restrictions on marketing autonomy.  
24 Those restrictions may impair the dairy producer's ability to compete  
25 in local, domestic, and foreign markets;

26 (4) That it is in the overriding public interest that support for  
27 the dairy industry be clearly expressed, that adequate protection be  
28 given to agricultural commodities, uses, activities, and operations,  
29 and that dairy products be promoted individually, and as part of a  
30 comprehensive industry to:

31 (a) Enhance the reputation and image of Washington state's  
32 agriculture industry;

33 (b) Increase the sale and use of Washington state's dairy products  
34 in local, domestic, and foreign markets;

35 (c) Protect the public by educating the public in reference to the  
36 quality, care, and methods used in the production of Washington state's  
37 dairy products;

1 (d) Increase the knowledge of the health giving qualities and  
2 dietetic value of dairy products; and  
3 (e) Support and engage in programs or activities that benefit the  
4 production, handling, processing, marketing, and uses of dairy products  
5 produced in Washington state;  
6 (5) That this chapter is enacted in the exercise of the police  
7 powers of this state for the purpose of protecting the health, peace,  
8 safety, and general welfare of the people of this state; and  
9 (6) That the dairy industry is a highly regulated industry and  
10 that this chapter and the rules adopted under it are only one aspect of  
11 the regulated industry. Other regulations and restraints applicable to  
12 the dairy industry include the:  
13 (a) Federal marketing order under 7 C.F.R., Part 1124;  
14 (b) Dairy promotion program under the dairy and tobacco adjustment  
15 act of 1983, Subtitle B;  
16 (c) Milk and milk products act under chapter 15.36 RCW and rules,  
17 including the:  
18 (i) The national conference of interstate milk shippers pasteurized  
19 milk ordinance;  
20 (ii) The national conference of interstate milk shippers dry milk  
21 ordinance;  
22 (iii) Standards for the fabrication of single-service containers;  
23 (iv) Procedures governing cooperative state-public health service;  
24 (v) Methods of making sanitation ratings of milk supplies;  
25 (vi) Evaluation and certification of milk laboratories; and  
26 (vii) Interstate milk shippers;  
27 (d) Milk and milk products for animal food act under chapter 15.37  
28 RCW and rules;  
29 (e) Organic food products act under chapter 15.86 RCW and rules;  
30 (f) Intrastate commerce in food, drugs, and cosmetics act under  
31 chapter 69.04 RCW and rules, including provisions of 21 C.F.R. relating  
32 to the general manufacturing practices, milk processing, food labeling,  
33 food standards, and food additives;  
34 (g) Washington food processing act under chapter 69.07 RCW and  
35 rules;  
36 (h) Washington food storage warehouses act under chapter 69.10 RCW  
37 and rules;  
38 (i) Animal health under chapter 16.36 RCW and rules;  
39 (j) Weighmasters under chapter 15.80 RCW and rules; and

1 (k) Dairy nutrient management act under chapter 90.64 RCW and  
2 rules.

3 **Sec. 88.** RCW 15.44.010 and 1985 c 261 s 17 are each amended to  
4 read as follows:

5 As used in this chapter:

6 "Commission" means the Washington state dairy products commission;

7 To "ship" means to deliver or consign milk or cream to a person  
8 dealing in, processing, distributing, or manufacturing dairy products  
9 for sale, for human consumption or industrial or medicinal uses;

10 "Handler" means one who purchases milk, cream, or skimmed milk for  
11 processing, manufacturing, sale, or distribution;

12 "Dealer" means one who handles, ships, buys, and sells dairy  
13 products, or who acts as sales or purchasing agent, broker, or factor  
14 of dairy products;

15 "Mail" or "send" for purposes of any notice relating to rule  
16 making, referenda, or elections means regular mail or electronic  
17 distribution, as provided in RCW 34.05.260 for rule making.

18 "Electronic distribution" or "electronically" means distribution by  
19 electronic mail or facsimile mail;

20 "Processor" means a person who uses milk or cream for canning,  
21 drying, manufacturing, preparing, or packaging or for use in producing  
22 or manufacturing any product therefrom;

23 "Producer" means a person who produces milk from cows and sells it  
24 for human or animal food, or medicinal or industrial uses;

25 "Maximum authorized assessment rate" means the level of assessment  
26 most recently approved by a referendum of producers;

27 "Current level of assessment" means the level of assessment paid by  
28 the producer as set by the commission which cannot exceed the maximum  
29 authorized assessment rate.

30 **Sec. 89.** RCW 15.44.020 and 1979 ex.s. c 238 s 2 are each amended  
31 to read as follows:

32 (~~(There is hereby created a Washington state dairy products~~  
33 ~~commission to be thus known and designated: PROVIDED, That the~~  
34 ~~commission may take actions under the name, "the dairy farmers of~~  
35 ~~Washington".)) The dairy products commission shall be composed of not  
36 more than ten members. There shall be one member from each district  
37 who shall be a practical producer of dairy products to be elected by~~

1 such producers, one member shall be a dealer, and one member shall be  
2 a producer who also acts as a dealer, and such dealer and producer who  
3 acts as a dealer shall be appointed by the director of agriculture, and  
4 the director of agriculture shall be an ex officio member without vote.

5 **Sec. 90.** RCW 15.44.035 and 1965 ex.s. c 44 s 7 are each amended to  
6 read as follows:

7 (1) The commission shall prior to each election, in sufficient time  
8 to satisfy the requirements of RCW 15.44.033, furnish the director with  
9 a list of all producers within the district for which the election is  
10 being held. The commission shall require each dealer and shipper in  
11 addition to the information required under RCW 15.44.110 to furnish the  
12 commission with a list of names of producers whose milk they handle.

13 (2) Any producer may on his or her own motion file his or her name  
14 with the commission for the purpose of receiving notice of election.

15 (3) It is the responsibility of each producer to ensure that his or  
16 her correct address is filed with the commission.

17 (4) For all purposes of giving notice, holding referenda, and  
18 electing members of the commission, the applicable list of producers  
19 corrected up to the day preceding the date the list is certified and  
20 mailed to the director is deemed to be the list of all producers or  
21 handlers, as applicable, entitled to notice or to vote. The list shall  
22 be corrected and brought up-to-date in accordance with evidence and  
23 information provided to the commission.

24 **NEW SECTION. Sec. 91.** A new section is added to chapter 15.44 RCW  
25 to read as follows:

26 (1) The commission shall reimburse the director for necessary costs  
27 for services conducted on behalf of the commission under this chapter.

28 (2) The commission may enter into an agreement with the director to  
29 administer this chapter or chapter 34.05 RCW.

30 **Sec. 92.** RCW 15.44.038 and 1984 c 287 s 15 are each amended to  
31 read as follows:

32 (1) A majority of the commission members shall constitute a quorum  
33 for the transaction of all business and the performance of all duties  
34 of the commission.

35 (2) Each member shall be compensated in accordance with RCW  
36 43.03.230 ((and)). Each member or employee shall be reimbursed for

1 actual travel expenses incurred in carrying out the provisions of this  
2 chapter as defined by the commission in rule. Otherwise, if not  
3 defined in rule, reimbursement for travel expenses shall be at the  
4 rates allowed by RCW 43.03.050 and 43.03.060.

5 **Sec. 93.** RCW 15.44.060 and 1999 c 300 s 1 are each amended to read  
6 as follows:

7 The commission shall have the power and duty to:

8 (1) Elect a chairman and such other officers as it deems advisable,  
9 and adopt, rescind, and amend rules, regulations, and orders for the  
10 exercise of its powers, which shall have the effect of law when not  
11 inconsistent with existing laws;

12 (2) Administer and enforce the provisions of this chapter and  
13 perform all acts and exercise all powers reasonably necessary to  
14 effectuate the purpose hereof;

15 (3) Employ and discharge advertising counsel, advertising agents,  
16 and such attorneys, agents, and employees as it deems necessary, and  
17 prescribe their duties and powers and fix their compensation;

18 (4) Establish offices, incur expenses, enter into contracts, and  
19 create such liabilities as are reasonable and proper for the proper  
20 administration of this chapter;

21 (5) Investigate and prosecute violations of this chapter;

22 (6) Conduct scientific research designed to improve milk  
23 production, quality, transportation, processing, and distribution and  
24 to develop and discover uses for products of milk and its derivatives;

25 (7) Make in its name such ~~((advertising))~~ contracts and other  
26 agreements as are necessary to build demand and promote the sale of  
27 dairy products on either a state, national, or foreign basis;

28 (8) Keep accurate records of all its dealings, which shall be open  
29 to public inspection and audit by the regular agencies of the state;

30 (9) Conduct the necessary research to develop more efficient and  
31 equitable methods of marketing dairy products, and enter upon, singly  
32 or in participation with others, the promotion and development of  
33 state, national, or foreign markets; ~~((and))~~

34 (10) Participate in federal and state agency hearings, meetings,  
35 and other proceedings relating to the regulation of the production,  
36 manufacture, distribution, sale, or use of dairy products, to provide  
37 educational meetings and seminars for the dairy industry on such  
38 matters, and to expend commission funds for such activities;

1 (11) Retain the services of private legal counsel to conduct legal  
2 actions, on behalf of the commission. The retention of a private  
3 attorney is subject to the review of the office of the attorney  
4 general;

5 (12) Work cooperatively with other local, state, and federal  
6 agencies, universities, and national organizations for the purposes of  
7 this chapter;

8 (13) Accept and expend or retain any gifts, bequests,  
9 contributions, or grants from private persons or private and public  
10 agencies to carry out the purposes of this chapter;

11 (14) Engage in appropriate fund-raising activities for the purpose  
12 of supporting activities of the commission authorized by this chapter;

13 (15) Expend funds for commodity-related education, training, and  
14 leadership programs as the commission deems appropriate; and

15 (16) Work cooperatively with nonprofit and other organizations to  
16 carry out the purposes of this chapter.

17 **Sec. 94.** RCW 15.44.070 and 1975 1st ex.s. c 7 s 39 are each  
18 amended to read as follows:

19 (1) Every rule(~~(, regulation,)~~) or order made by the commission  
20 shall be filed with the director and published in two legal newspapers,  
21 one east and one west of the Cascade mountains (~~and one west~~  
22 thereof)), within ten days after it is (~~promulgated~~) adopted, and  
23 (~~shall become~~) is effective (~~pursuant to the provisions of~~) as set  
24 forth under RCW 34.05.380.

25 (2) Rule-making proceedings conducted under this chapter are exempt  
26 from compliance with RCW 34.05.310, the provisions of chapter 19.85  
27 RCW, the regulatory fairness act, and the provisions of RCW 43.135.055  
28 when adoption of the rule is determined by a referendum vote of the  
29 affected parties.

30 **Sec. 95.** RCW 15.44.080 and 1985 c 261 s 18 are each amended to  
31 read as follows:

32 (1) There is hereby levied upon all milk produced in this state an  
33 assessment of (~~0.6%~~):

34 (a) 0.75 percent of class I price for 3.5(~~%~~) percent butter fat  
35 milk as established in any market area by a market order in effect in  
36 that area or by the state department of agriculture in case there is no  
37 market order for that area; (~~and~~) or



1       (b) While the federal dairy and tobacco adjustment act of 1983,  
2 Title I, Subtitle B-dairy promotion program, is in effect:

3       (i) An assessment rate not to exceed the rate approved at the most  
4 recent referendum that would achieve a ten cent per hundredweight  
5 credit to local, state, or regional promotion organizations provided by  
6 Title I, Subtitle B of the federal dairy and tobacco adjustment act of  
7 1983; and

8       (ii) An additional assessment of 0.625 of one cent per  
9 hundredweight.

10       (2) Subject to approval by a producer referendum as provided in  
11 this section, the commission shall have the further power and duty to  
12 increase the amount of the maximum authorized assessment rate to be  
13 levied upon either milk or cream according to the necessities required  
14 to effectuate the stated purpose of the commission.

15       In determining such necessities, the commission shall consider one  
16 or more of the following:

17       (a) The necessities of((—)):

18       (i) Developing better and more efficient methods of marketing milk  
19 and related dairy products;

20       (ii) Aiding dairy producers in preventing economic waste in the  
21 marketing of their commodities;

22       (iii) Developing and engaging in research for developing better and  
23 more efficient production, marketing, and utilization of agricultural  
24 products;

25       (iv) Establishing orderly marketing of dairy products;

26       (v) Providing for uniform grading and proper preparation of dairy  
27 products for market;

28       (vi) Providing methods and means including but not limited to  
29 public relations and promotion, for the maintenance of present markets,  
30 for development of new or larger markets, both domestic and foreign,  
31 for dairy products produced within this state, and for the prevention,  
32 modification, or elimination of trade barriers which obstruct the free  
33 flow of such agricultural commodities to market;

34       (vii) Restoring and maintaining adequate purchasing power for dairy  
35 producers of this state; and

36       (viii) Protecting the interest of consumers by assuring a  
37 sufficient pure and wholesome supply of milk and cream of good quality;

38       (b) The extent and probable cost of required research and market  
39 promotion and advertising;

1 (c) The extent of public convenience, interest, and necessity; and  
2 (d) The probable revenue from the assessment as a consequence of  
3 its being revised.

4 (3)(a) This section shall apply where milk or cream is marketed  
5 either in bulk or package. However, this section shall not apply to  
6 milk or cream used upon the farm or in the household where produced.

7 (b) The increase in the maximum authorized assessment rate to be  
8 charged producers on milk and cream provided for in this section shall  
9 not become effective until approved by fifty-one percent of the  
10 producers voting in a referendum conducted by the commission.

11 The referendum for approval of any increase in the maximum  
12 authorized assessment rate provided for in this section shall be by  
13 secret mail ballot furnished to all producers paying assessments to the  
14 commission. The commission shall furnish ballots to producers at least  
15 ten days in advance of the day it has set for concluding the referendum  
16 and counting the ballots. Any interested producer may be present at  
17 such time the commission counts ~~((said))~~ the ballots.

18 **Sec. 96.** RCW 15.44.085 and 1979 ex.s. c 238 s 5 are each amended  
19 to read as follows:

20 There is hereby levied on every hundredweight of class I or class  
21 II milk, as defined in RCW 15.44.087, sold by a dealer, including any  
22 milk sold by a producer who acts as a dealer, an assessment of:

23 (1) Five-eighths of one cent per hundredweight. Such assessment  
24 shall be in addition to the producer assessment paid by any producer  
25 who also acts as a dealer.

26 (2) Any additional assessment, within the power and duty of the  
27 commission to levy, such that the total assessment shall not exceed one  
28 cent per hundredweight, as required to effectuate the purpose of this  
29 section.

30 Such assessment may be increased by approval of dealers and  
31 producers who also act as dealers, subject to the standards set forth  
32 in chapter 15.44 RCW for increasing or decreasing assessments. The  
33 funds derived from such assessment shall be used for educational  
34 programs ~~((in institutions of learning))~~ and the sum of such funds  
35 derived annually from said dealers and producers who act as dealers  
36 shall be matched by assessments derived from producers for the purpose  
37 of funding ~~((said))~~ the educational purposes ~~((in institutions of~~

1 learning)) by an amount not less than the moneys collected from dealers  
2 and producers who act as dealers.

3 **Sec. 97.** RCW 15.44.110 and 1961 c 11 s 15.44.110 are each amended  
4 to read as follows:

5 (1) Each dealer and shipper shall at such times as by rule ((or  
6 regulation)) required((7)) file with the commission a return under oath  
7 on forms to be furnished by the commission, stating the quantity of  
8 dairy products handled, processed, manufactured, delivered, and  
9 shipped, and the quantity of all milk and cream delivered to or  
10 purchased by such person from the various producers of dairy products  
11 or their agents in the state during the period or periods prescribed by  
12 the commission.

13 (2) The commission has the authority to issue subpoenas for the  
14 production of books, records, documents, and other writings of any kind  
15 and may issue subpoenas to witnesses to give testimony.

16 **Sec. 98.** RCW 15.44.140 and 1961 c 11 s 15.44.140 are each amended  
17 to read as follows:

18 (1) The commission through its agents may inspect the premises and  
19 records of any carrier, handler, dealer, manufacturer, processor, or  
20 distributor of dairy products for the purpose of enforcing this  
21 chapter.

22 (2) The commission has the authority to issue subpoenas for the  
23 production of books, records, documents, and other writings of any kind  
24 for any carrier, handler, dealer, manufacturer, processor, or  
25 distributor of dairy products for the purpose of enforcing this  
26 chapter.

27 NEW SECTION. **Sec. 99.** A new section is added to chapter 15.44 RCW  
28 to read as follows:

29 The commission is authorized to adopt rules governing promotional  
30 hosting expenditures by commission employees, agents, or board members  
31 under RCW 15.04.200.

32 NEW SECTION. **Sec. 100.** A new section is added to chapter 15.44  
33 RCW to read as follows:

34 The commission may establish foundations using commission funds as  
35 grant money when the foundation benefits the dairy products industry.

1 Commission funds may only be used for the purposes authorized in this  
2 chapter.

3 NEW SECTION. **Sec. 101.** A new section is added to chapter 15.44  
4 RCW to read as follows:

5 Any board member of the commission may be a member or officer of an  
6 association that has the same objectives for which the commission was  
7 formed. The commission may contract with the association for services  
8 necessary to carry out any purposes authorized under this chapter if an  
9 appropriate written contract has been entered into.

10 **Sec. 102.** RCW 15.44.150 and 1961 c 11 s 15.44.150 are each amended  
11 to read as follows:

12 ~~((The state shall not be liable for the acts or on the contracts of  
13 the commission, nor shall any member or employee of the commission be  
14 liable on its contracts.))~~ Any action by the commission administrator,  
15 member, employee, or agent thereof pertaining to the performance or  
16 nonperformance or misperformance of any matters or things authorized,  
17 required, or permitted by this chapter, and any other liabilities,  
18 debts, or claims against the commission shall be enforced in the same  
19 manner as if the commission were a corporation. Liability for the  
20 debts or actions of the commission's administrator, member, employee,  
21 or agent incurred in their official capacity under this chapter does  
22 not exist either against the administrator, members, employees, and  
23 agents in their individual capacity or the state of Washington. The  
24 administrator, its members, and its agents and employees are not  
25 responsible individually in any way whatsoever to any person for errors  
26 in judgment, mistakes, or other acts, either of commission or omission,  
27 as principal, agent, person, or employee, except for their own  
28 individual acts of dishonesty or crime.

29 All persons employed or contracting under this chapter shall be  
30 limited to, and all salaries, expenses, and liabilities incurred by the  
31 commission shall be payable only from the funds collected ~~((hereunder))~~  
32 under this chapter.

33 NEW SECTION. **Sec. 103.** A new section is added to chapter 15.28  
34 RCW to read as follows:

35 The history, economy, culture, and the future of Washington state's  
36 agriculture involves the production of soft tree fruits. In order to

1 develop and promote Washington's soft tree fruits as part of an  
2 existing comprehensive regulatory scheme the legislature declares:

3 (1) That the Washington state fruit commission is created;

4 (2) That it is vital to the continued economic well-being of the  
5 citizens of this state and their general welfare that its soft tree  
6 fruits be properly promoted by (a) enabling the soft tree fruit  
7 industry to help themselves in establishing orderly, fair, sound,  
8 efficient, and unhampered cooperative marketing, grading, and  
9 standardizing of soft tree fruits they produce; and (b) working to  
10 stabilize the soft tree fruit industry by increasing consumption of  
11 soft tree fruits within the state, the nation, and internationally;

12 (3) That producers of soft tree fruits operate within a regulatory  
13 environment that imposes burdens on them for the benefit of society and  
14 the citizens of the state and includes restrictions on marketing  
15 autonomy. Those restrictions may impair the producers of soft tree  
16 fruits in their ability to compete in local, domestic, and foreign  
17 markets;

18 (4) That it is in the overriding public interest that support for  
19 the soft tree fruit industry be clearly expressed, that adequate  
20 protection be given to agricultural commodities, uses, activities, and  
21 operations, and that soft tree fruits be promoted individually, and as  
22 part of a comprehensive industry to:

23 (a) Enhance the reputation and image of Washington state's  
24 agriculture industry;

25 (b) Increase the sale and use of Washington state's soft tree  
26 fruits in local, domestic, and foreign markets;

27 (c) Protect the public by educating the public in reference to the  
28 quality, care, and methods used in the production of Washington state's  
29 soft tree fruits;

30 (d) Increase the knowledge of the health-giving qualities and  
31 dietetic value of soft tree fruits;

32 (e) Support and engage in cooperative programs or activities that  
33 benefit the production, handling, processing, marketing, and uses of  
34 soft tree fruits produced in Washington state;

35 (5) That this chapter is enacted in the exercise of the police  
36 powers of this state for the purpose of protecting the health, peace,  
37 safety, and general welfare of the people of this state and to  
38 stabilize and protect the soft tree fruit industry of the state; and

1 (6) That the production and marketing of soft tree fruit is a  
2 highly regulated industry and that the provisions of this chapter and  
3 the rules adopted under it are only one aspect of the regulated  
4 industry. Other regulations and restraints applicable to the soft tree  
5 fruit industry include:

6 (a) The federal marketing order under 7 C.F.R. Part 922 (apricots);

7 (b) The federal marketing order under 7 C.F.R. Part 923 (sweet  
8 cherries);

9 (c) The federal marketing order under 7 C.F.R. Part 924 (prunes);

10 (d) The federal marketing order under 7 C.F.R. Part 930 (tart  
11 cherries);

12 (e) The federal marketing order under 7 C.F.R. Part 931 (Bartlett  
13 pears);

14 (f) Tree fruit research act under chapter 15.26 RCW;

15 (g) Controlled atmosphere storage of fruits and vegetables under  
16 chapter 15.30 RCW;

17 (h) Organic food products act under chapter 15.86 RCW;

18 (i) Intrastate commerce in food, drugs, and cosmetics under chapter  
19 69.04 RCW and rules;

20 (j) Washington food processing act under chapter 69.07 RCW;

21 (k) Washington food storage warehouses act under chapter 69.10 RCW;

22 (l) Weighmasters under chapter 15.80 RCW;

23 (m) Horticultural pests and diseases under chapter 15.08 RCW;

24 (n) Horticultural plants and facilities - inspection and licensing  
25 under chapter 15.13 RCW;

26 (o) Planting stock under chapter 15.14 RCW;

27 (p) Standards of grades and packs under chapter 15.17 RCW;

28 (q) Washington pesticide control act under chapter 15.58 RCW;

29 (r) Farm marketing under chapter 15.64 RCW;

30 (s) Insect pests and plant diseases under chapter 17.24 RCW;

31 (t) Weights and measures under chapter 19.94 RCW;

32 (u) Agricultural products - commission merchants, dealers, brokers,  
33 buyers, and agents under chapter 20.01 RCW; and

34 (v) Rules under the Washington Administrative Code, Title 16.

35 **Sec. 104.** RCW 15.28.010 and 1989 c 354 s 27 are each amended to  
36 read as follows:

37 As used in this chapter:

38 (1) "Commission" means the Washington state fruit commission.

1 (2) "Shipment" or "shipped" includes loading in a conveyance to be  
2 transported to market for resale, and includes delivery to a processor  
3 or processing plant, but does not include movement from the orchard  
4 where grown to a packing or storage plant within this state for fresh  
5 shipment;

6 (3) "Handler" means any person who ships or initiates the shipping  
7 operation, whether as owner, agent or otherwise;

8 (4) "Dealer" means any person who handles, ships, buys, or sells  
9 soft tree fruits other than those grown by him or her, or who acts as  
10 sales or purchasing agent, broker, or factor of soft tree fruits;

11 (5) "Processor" or "processing plant" includes every person or  
12 plant receiving soft tree fruits for the purpose of drying,  
13 dehydrating, canning, pressing, powdering, extracting, cooking, quick-  
14 freezing, brining, or for use in manufacturing a product;

15 (6) "Soft tree fruits" mean Bartlett pears and all varieties of  
16 cherries, apricots, prunes, plums, and peaches, which includes all  
17 varieties of nectarines. "Bartlett pears" means and includes all  
18 standard Bartlett pears and all varieties, strains, subvarieties, and  
19 sport varieties of Bartlett pears including Red Bartlett pears, that  
20 are harvested and utilized at approximately the same time and  
21 approximately in the same manner.

22 (7) "Commercial fruit" or "commercial grade" means soft tree fruits  
23 meeting the requirements of any established or recognized fresh fruit  
24 or processing grade. Fruit bought or sold on orchard run basis and not  
25 subject to cull weighback shall be deemed to be "commercial fruit."

26 (8) "Cull grade" means fruit of lower than commercial grade except  
27 when such fruit included with commercial fruit does not exceed the  
28 permissible tolerance permitted in a commercial grade;

29 (9) "Producer" means any person who is a grower of any soft tree  
30 fruit;

31 (10) "District No. 1" or "first district" includes the counties of  
32 Chelan, Okanogan, Grant, Douglas, Ferry, Stevens, Pend Oreille, Spokane  
33 and Lincoln;

34 (11) "District No. 2" or "second district" includes the counties of  
35 Kittitas, Yakima, and Benton county north of the Yakima river;

36 (12) "District No. 3" or "third district" comprises all of the  
37 state not included in the first and second districts;

38 (13) "Mail" or "send" for purposes of any notice relating to rule  
39 making, referenda, or elections means regular mail or electronic

1 distribution, as provided in RCW 34.05.260 for rule making.  
2 "Electronic distribution" or "electronically" means distribution by  
3 electronic mail or facsimile mail;

4 (14) "Department" means the department of agriculture;

5 (15) "Director" means the director of agriculture.

6 **Sec. 105.** RCW 15.28.020 and 1967 c 191 s 1 are each amended to  
7 read as follows:

8 ~~((A corporation to be known as the Washington state fruit~~  
9 ~~commission is hereby created,)) The commission is composed of sixteen  
10 voting members, ~~((to wit))~~ as follows: Ten producers, four dealers,  
11 and two processors, who ~~((shall be))~~ are elected and qualified as  
12 ~~((herein))~~ provided in this chapter. The director ~~((of agriculture,~~  
13 ~~hereinafter referred to as the director, or his duly)),~~ or an  
14 authorized representative, shall be an ex officio member without a  
15 vote.~~

16 A majority of the voting members ~~((shall))~~ constitute a quorum for  
17 the transaction of any business.

18 **Sec. 106.** RCW 15.28.110 and 1961 c 11 s 15.28.110 are each amended  
19 to read as follows:

20 The commission's duties are:

21 (1) To adopt a ~~((corporate))~~ commission seal;

22 (2) To elect a secretary-manager~~((,))~~ and a treasurer, and fix  
23 their compensation. The same person may be elected to both ~~((of said))~~  
24 offices;

25 (3) To establish classifications of soft tree fruits;

26 (4) To conduct scientific research and develop the healthful,  
27 therapeutic, and dietetic value of ~~((said))~~ fruits, and promote the  
28 general welfare of the soft tree fruit industry of the state;

29 (5) To conduct a comprehensive advertising and educational campaign  
30 to effectuate the objects of this chapter;

31 (6) To increase the production, and develop and expand the markets,  
32 and improve the handling and quality of ~~((said))~~ fruits;

33 (7) To keep accurate accounts and records of all of its dealings,  
34 which shall be open to inspection and audit by the state auditor;

35 (8) To investigate and prosecute violations ~~((hereof))~~ of this  
36 chapter; and



1 (9) To serve as an advisory committee to the director with regard  
2 to the adoption and enforcement of rules:

3 (a) Governing the grading, packing, and size and dimensions of  
4 commercial containers of soft tree fruits; and

5 (b) Fixing commercial grades of soft tree fruits and the issuance  
6 of certificates of inspection for those fruits.

7 **Sec. 107.** RCW 15.28.130 and 1961 c 11 s 15.28.130 are each amended  
8 to read as follows:

9 Neither the state, nor any member, agent, or employee of the  
10 commission, (~~shall be~~) is liable for the acts of the commission, or  
11 upon its contracts.

12 All salaries, expenses, costs, obligations, and liabilities of the  
13 commission, and claims arising from the administration of this chapter,  
14 (~~shall be~~) are payable only from funds collected (~~hereunder~~) under  
15 this chapter.

16 In any civil or criminal action or proceeding for violation of any  
17 rule of statutory or common law against monopolies or combinations in  
18 restraint of trade, including any action under chapter 19.86 RCW, proof  
19 that the act complained of was done in compliance with the provisions  
20 of this chapter, and in furtherance of the purposes and provisions of  
21 this chapter, is a complete defense to such an action or proceeding.

22 **Sec. 108.** RCW 15.28.250 and 1961 c 11 s 15.28.250 are each amended  
23 to read as follows:

24 Unless the assessment has been paid by the grower and evidence  
25 thereof submitted by him or her, the dealer, handler, or processor  
26 (~~shall be~~) is responsible for the payment of all assessments  
27 (~~hereunder~~) under this chapter on all soft tree fruits handled,  
28 shipped, or processed by him or her but he or she shall charge the same  
29 against the grower, who shall be primarily responsible for such  
30 payment. Assessments are due upon receipt of an invoice for the  
31 assessments.

32 If the assessment becomes delinquent, the department shall cease to  
33 provide inspection services under chapter 15.17 RCW to the delinquent  
34 party until that party pays all delinquent assessments, interest, and  
35 penalties.

36 Any assessment due and payable under this section constitutes a  
37 personal debt of every person so assessed or who otherwise owes the

1 same. In addition, the commission may add to such unpaid assessment or  
2 sum an amount not exceeding ten percent of the same to defray the cost  
3 of enforcing the collecting of the same. In the event of failure of  
4 such person or persons to pay any such due and payable assessment or  
5 other such sum, the commission may bring a civil action against such  
6 person or persons, together with the specified ten percent thereon, and  
7 such action shall be tried and judgment rendered as in any other cause  
8 of action for debt due and payable.

9 NEW SECTION. Sec. 109. A new section is added to chapter 15.28  
10 RCW to read as follows:

11 Rule-making proceedings conducted under this chapter are exempt  
12 from compliance with RCW 34.05.310 and the provisions of chapter 19.85  
13 RCW, the regulatory fairness act, when adoption of the rule is  
14 determined by a referendum vote of the affected parties.

15 NEW SECTION. Sec. 110. A new section is added to chapter 15.88  
16 RCW to read as follows:

17 The history, economy, culture, and future of Washington state's  
18 agriculture involves the wine industry. In order to develop and  
19 promote wine grapes and wine as part of an existing comprehensive  
20 scheme to regulate those products the legislature declares:

21 (1) That it is vital to the continued economic well-being of the  
22 citizens of this state and their general welfare that its wine grapes  
23 and wine be properly promoted by (a) enabling the wine industry to help  
24 themselves in establishing orderly, fair, sound, efficient, and  
25 unhampered marketing of wine grapes and wines they produce; and (b)  
26 working to stabilize the wine industry by increasing markets for wine  
27 grapes and wine within the state, the nation, and internationally;

28 (2) That wine grape growers and wine producers operate within a  
29 regulatory environment that imposes burdens on them for the benefit of  
30 society and the citizens of the state and includes restrictions on  
31 marketing autonomy. Those restrictions may impair the wine grape  
32 growers' and wine producers' ability to compete in local, domestic, and  
33 foreign markets;

34 (3) That it is in the overriding public interest that support for  
35 the wine industry be clearly expressed; that adequate protection be  
36 given to agricultural commodities, uses, activities, and operations;

1 and that wine grapes and wine be promoted individually, and as part of  
2 a comprehensive industry to:

3 (a) Enhance the reputation and image of Washington state's  
4 agriculture industry;

5 (b) Increase the sale and use of wine grapes and wine in local,  
6 domestic, and foreign markets;

7 (c) Protect the public by educating the public in reference to the  
8 quality, care, and methods used in the production of wine grapes and  
9 wine;

10 (d) Increase the knowledge of the qualities and value of  
11 Washington's wine grapes and wine; and

12 (e) Support and engage in programs or activities that benefit the  
13 production, handling, processing, marketing, and uses of wine grapes  
14 and wine;

15 (4) That this chapter is enacted in the exercise of the police  
16 powers of this state for the purpose of protecting the health, peace,  
17 safety, and general welfare of the people of this state; and

18 (5) That the production and marketing of wine grapes and wine is a  
19 highly regulated industry and that the provisions of this chapter and  
20 the rules adopted under it are only one aspect of the regulated  
21 industry. Other regulations and restraints applicable to the wine  
22 grape and wine industry include:

23 (a) Organic food products act under chapter 15.86 RCW;

24 (b) Horticultural pests and diseases under chapter 15.08 RCW;

25 (c) Horticultural plants and facilities--inspection and licensing  
26 under chapter 15.13 RCW;

27 (d) Planting stock under chapter 15.14 RCW;

28 (e) Washington pesticide control act under chapter 15.58 RCW;

29 (f) Insect pests and plant diseases under chapter 17.24 RCW;

30 (g) Wholesale distributors and suppliers of wine and malt beverages  
31 under chapter 19.126 RCW;

32 (h) Weights and measures under chapter 19.94 RCW;

33 (i) Title 66 RCW, alcoholic beverage control;

34 (j) Title 69 RCW, food, drugs, cosmetics, and poisons including  
35 provisions of 21 C.F.R. relating to the general manufacturing  
36 practices, food labeling, food standards, food additives, and pesticide  
37 tolerances;

38 (k) Chapter 69.07 RCW, Washington food processing act;

39 (l) 27 U.S.C., Secs. 201 through 211, 213 through 219a, and 122A;

1 (m) 27 C.F.R., Parts 1, 6, 9, 10, 12, 16, 240, 251, 252; and  
2 (n) Rules under Titles 16 and 314 WAC, and rules adopted under  
3 chapter 15.88 RCW.

4 **Sec. 111.** RCW 15.88.050 and 1987 c 452 s 5 are each amended to  
5 read as follows:

6 The director shall appoint the members of the commission. In  
7 making such appointments of the voting members, the director shall take  
8 into consideration recommendations made by the growers' association and  
9 the wine institute as the persons recommended for appointment as  
10 members of the commission. In appointing persons to the commission,  
11 the director shall seek to ensure as nearly as possible a balanced  
12 representation on the commission which would reflect the composition of  
13 the growers and wine producers throughout the state as to number of  
14 acres cultivated and amount of wine produced.

15 The appointment shall be carried out immediately subsequent to July  
16 1, 1987, and members so appointed as set forth in this chapter shall  
17 serve for the periods set forth for the original members of the  
18 commission under RCW 15.88.040.

19 In the event a position on the commission becomes vacant due to  
20 resignation, disqualification, death, or for any other reason, the  
21 unexpired term of the position shall immediately be filled by  
22 appointment by the director.

23 Each member or employee of the commission shall be reimbursed for  
24 actual travel expenses ((in accordance with)) incurred in carrying out  
25 the provisions of this chapter as defined by the commission in rule.  
26 Otherwise if not defined in rule, reimbursement for travel expenses  
27 shall be at the rates allowed by RCW 43.03.050 and 43.03.060.

28 NEW SECTION. **Sec. 112.** A new section is added to chapter 43.23  
29 RCW to read as follows:

30 The director may consult with each commodity commission established  
31 under state law in order to establish or maintain an integrated  
32 comprehensive regulatory scheme for each commodity and the agricultural  
33 industry in this state as a whole.

34 **Sec. 113.** RCW 15.76.150 and 1965 ex.s. c 32 s 2 are each amended  
35 to read as follows:

1       The director shall have the authority to make allocations from the  
2 state fair fund, including interest income under RCW 43.79A.040,  
3 exclusively as follows:     Eighty-five percent to participating  
4 agricultural fairs, distributed according to the merit of such fairs  
5 measured by a merit rating to be set up by the director. This merit  
6 rating shall take into account such factors as area and population  
7 served, open and/or youth participation, attendance, gate receipts,  
8 number and type of exhibits, premiums and prizes paid, community  
9 support, evidence of successful achievement of the aims and purposes of  
10 the fair, extent of improvements made to grounds and facilities from  
11 year to year, and overall condition and appearance of grounds and  
12 facilities. The remaining fifteen percent of money in the state fair  
13 fund may be used for special assistance to any participating fair or  
14 fairs and for administrative expenses incurred in the administration of  
15 this chapter only, including expenses incurred by the fair commission  
16 as may be approved by the director: PROVIDED, That not more than five  
17 percent of the state fair fund may be used for such expenses.

18       The division and payment of funds authorized in this section shall  
19 occur at such times as the director may prescribe.

20       NEW SECTION.   **Sec. 114.**   The following acts or parts of acts are  
21 each repealed:

22       (1) RCW 16.67.020 (Purpose of chapter) and 1969 c 133 s 19;

23       (2) RCW 15.44.037 (Reimbursement of election costs) and 1965 ex.s.  
24 c 44 s 8;

25       (3) RCW 15.44.900 (Purpose of chapter) and 1961 c 11 s 15.44.900;  
26 and

27       (4) RCW 15.28.900 (Preamble) and 1961 c 11 s 15.28.900.

28       **Sec. 115.**   RCW 15.24.010 and 1989 c 354 s 53 are each amended to  
29 read as follows:

30       As used in this chapter:

31       (1)   "Commission"   means   the   Washington   (~~state~~)   apple  
32 (~~advertising~~) commission;

33       (2) "Ship" means to load apples into a conveyance for transport,  
34 except apples being moved from the orchard where grown to a packing  
35 house or warehouse within the immediate area of production;

36       (3) "Handler" means any person who ships or initiates a shipping  
37 operation, whether for himself, herself, or for another;

1 (4) "Dealer" means any person who handles, ships, buys, or sells  
2 apples, or who acts as sales or purchasing agent, broker, or factor of  
3 apples;

4 (5) "Processor" and "processing plant" means every person to whom  
5 and every place to which apples are delivered for drying, dehydrating,  
6 canning, pressing, powdering, extracting, cooking, or for use in  
7 producing a product or manufacturing a manufactured article;

8 (6) "Processing apples" means all apples delivered to a processing  
9 plant for drying, dehydrating, canning, pressing, powdering,  
10 extracting, cooking, or for use in producing a product or manufacturing  
11 a manufactured article. However, "processing apples" does not include  
12 fresh apples sliced or cut for raw consumption;

13 (7) "Fresh apples" means all apples other than processing apples;

14 (8) "Director" means the director of the department of agriculture  
15 or his or her duly authorized representative;

16 (9) "Grower district No. 1" includes the counties of Chelan,  
17 Okanogan, and Douglas;

18 (10) "Grower district No. 2" includes the counties of Kittitas,  
19 Yakima, Benton, and Franklin;

20 (11) "Grower district No. 3" includes all counties in the state not  
21 included in the first and second districts;

22 (12) "Dealer district No. 1" includes the area of the state north  
23 of Interstate 90;

24 (13) "Dealer district No. 2" includes the area of the state south  
25 of Interstate 90; and

26 (14) "Executive officer" includes, but is not limited to, the  
27 principal management executive, sales manager, general manager, or  
28 other executive employee of similar responsibility and authority.

29 **Sec. 116.** RCW 15.24.020 and 1989 c 354 s 54 are each amended to  
30 read as follows:

31 There is hereby created a Washington (~~state~~) apple  
32 (~~advertising~~) commission to be thus known and designated. The  
33 commission shall be composed of nine practical apple producers and four  
34 practical apple dealers. The director shall be an ex officio member of  
35 the commission without vote.

36 The nine producer members shall be citizens and residents of this  
37 state, over the age of twenty-five years, each of whom, either  
38 individually or as an executive officer of a corporation, firm or

1 partnership, is and has been actually engaged in growing and producing  
2 apples within the state of Washington for a period of five years,  
3 currently operates a commercial producing orchard in the district  
4 represented, and has during that period derived a substantial portion  
5 of his or her income therefrom: PROVIDED, That he or she may own and  
6 operate an apple warehouse and pack and store apples grown by others,  
7 without being disqualified, so long as a substantial quantity of the  
8 apples handled in such warehouse are grown by him or her; and he or she  
9 may sell apples grown by himself, herself, and others so long as he or  
10 she does not sell a larger quantity of apples grown by others than  
11 those grown by himself or herself. The four dealer members shall be  
12 persons who, either individually or as executive officers of a  
13 corporation, firm, partnership, association, or cooperative  
14 organization, are and have been actively engaged as dealers in apples  
15 within the state of Washington for a period of five years, and are  
16 citizens and residents of this state, and are engaged as apple dealers  
17 in the district represented. The qualifications of members of the  
18 commission as herein set forth must continue during their term of  
19 office.

20 **Sec. 117.** RCW 15.24.040 and 1989 c 354 s 56 are each amended to  
21 read as follows:

22 The ((~~director~~)) commission shall call a meeting of apple growers,  
23 and meetings of apple dealers in dealer district No. 1 and dealer  
24 district No. 2 for the purpose of nominating their respective members  
25 of the commission, when a term is about to expire, or when a vacancy  
26 exists, except as provided in RCW 15.24.050, as amended, at times and  
27 places to be fixed by the commission. ((~~Said~~)) The meetings shall be  
28 held not later than February 15th of each year and insofar as  
29 practicable, the ((~~said~~)) meetings of the growers shall be held at the  
30 same time and place as the annual meeting of the Washington state  
31 horticultural association, or the annual meeting of any other producer  
32 organization which represents a majority of the state's apple  
33 producers, as determined by the commission, but not while the same is  
34 in actual session. Public notice of such meetings shall be given by  
35 the commission in such manner as it may determine: PROVIDED, That  
36 nonreceipt of the notice by any interested person shall not invalidate  
37 the proceedings. Any qualified person may be nominated orally for such  
38 positions at the ((~~said~~)) respective meetings. Nominations may also be

1 made within five days after any such meeting by written petition filed  
2 in the Wenatchee office of the commission, signed by not less than five  
3 apple growers or dealers, as the case may be, residing within the  
4 district or within the subdivision if the nomination is made from a  
5 subdivision.

6 The members of the commission shall be elected by secret mail  
7 ballot under the supervision of the director: PROVIDED, That in any  
8 case where there is but one nomination for a position, a secret mail  
9 ballot shall not be conducted or required and the director shall  
10 certify the candidate to be elected. Grower members of the commission  
11 shall be elected by a majority of the votes cast by the apple growers  
12 in the respective districts or subdivisions thereof, as the case may  
13 be, each grower who operates a commercial producing apple orchard  
14 within the district or subdivision being represented, whether an  
15 individual proprietor, partnership, joint venture, or corporation,  
16 being entitled to one vote. As to bona fide leased or rented orchards,  
17 only the lessee-operator, if otherwise qualified, shall be entitled to  
18 vote. An individual commercial orchard operator, if otherwise  
19 qualified, shall be entitled to vote as such, even though he or she is  
20 also a member of a partnership or corporation which votes for other  
21 apple acreage. Dealer members of the commission shall be elected by a  
22 majority of the votes cast by the apple dealers in the respective  
23 districts, each dealer being entitled to one vote. If a nominee does  
24 not receive a majority of the votes on the first ballot, a run-off  
25 election shall be held by mail in a similar manner between the two  
26 candidates for such position receiving the largest number of votes.

27 **Sec. 118.** RCW 15.24.050 and 1984 c 287 s 12 are each amended to  
28 read as follows:

29 In the event a position becomes vacant due to resignation,  
30 disqualification, death, or for any other reason, such position until  
31 the next annual meeting shall be filled by vote of the remaining  
32 members of the commission. At such annual meeting a commissioner shall  
33 be elected to fill the balance of the unexpired term.

34 A majority of the voting members shall constitute a quorum for the  
35 transaction of all business and the carrying out of the duties of the  
36 commission.

37 Each member of the commission shall be compensated in accordance  
38 with RCW 43.03.230 and shall be reimbursed for actual travel expenses



1 incurred in carrying out the provisions of this chapter. Employees of  
2 the commission may also be reimbursed for actual travel expenses when  
3 (~~out of state~~) on official commission business.

4 **Sec. 119.** RCW 15.24.070 and 1994 c 134 s 1 are each amended to  
5 read as follows:

6 The Washington (~~state~~) apple (~~advertising~~) commission is hereby  
7 declared and created a corporate body. The powers and duties of the  
8 commission shall include the following:

9 (1) To elect a chair and such other officers as it deems advisable;  
10 and to adopt, rescind, and amend rules and orders for the exercise of  
11 its powers under this chapter, which shall have the force and effect of  
12 the law when not inconsistent with existing laws;

13 (2) To administer and enforce the provisions of this chapter, and  
14 do all things reasonably necessary to effectuate the purposes of this  
15 chapter;

16 (3) To employ and at its pleasure discharge a manager, secretary,  
17 agents, attorneys, and employees as it deems necessary, and to  
18 prescribe their duties and powers and fix their compensation;

19 (4) To establish offices and incur expense and enter into contracts  
20 and to create such liabilities as may be reasonable for the proper  
21 administration and enforcement of this chapter. Expenses may include  
22 reasonable, prudent use of promotional hosting to benefit the purposes  
23 of this chapter;

24 (5) To investigate and prosecute violations of this chapter;

25 (6) To conduct scientific research to develop and discover the  
26 health, food, therapeutic, and dietetic value of apples and apple  
27 products;

28 (7) To keep accurate record of all of its dealings, which shall be  
29 open to inspection and audit by the state auditor;

30 (8) To sue and be sued, adopt a corporate seal, and have all of the  
31 powers of a corporation;

32 (9) To expend funds for commodity-related education, training, and  
33 leadership programs as the commission deems expedient;

34 (10) To borrow money and incur indebtedness;

35 (11) To accept gifts, grants, conveyances, bequests, and devises,  
36 of real or personal property, or both, in trust or otherwise, and sell,  
37 lease, exchange, invest, or expend these donations or the proceeds,  
38 rents, profits, and income from the donations except as limited by the

1 donor's terms. The commission shall adopt rules to govern and protect  
2 the receipt and expenditure of the proceeds, rents, profits, and income  
3 of all such gifts, grants, conveyances, bequests, and devises. The  
4 authority to make expenditures granted by this subsection includes the  
5 authority to make expenditures to provide scholarships or financial  
6 assistance to persons as defined in RCW 1.16.080 or entities associated  
7 with the apple industry, but is not limited to the authority to make  
8 expenditures for such a purpose; ~~((and))~~

9 (12) To engage in appropriate fund-raising activities for the  
10 purpose of supporting the activities of the commission authorized by  
11 this chapter; and

12 (13) To retain, discharge, or contract with, at its pleasure,  
13 accountants, marketing agencies, and other professional consultants as  
14 necessary, under procedures for hiring, discharging, and review as  
15 adopted by the commission.

16 **Sec. 120.** RCW 15.24.080 and 1961 c 11 s 15.24.080 are each amended  
17 to read as follows:

18 In order to benefit the people of this state, the state's economy  
19 and its general tax revenues, the commission shall provide for and  
20 conduct a comprehensive and extensive research, advertising, and  
21 educational campaign as continuous as the crop, sales, and market  
22 conditions reasonably require. It shall investigate and ascertain the  
23 needs of producers, conditions of the markets, and extent to which  
24 public convenience and necessity require research and advertising to be  
25 conducted.

26 **Sec. 121.** RCW 15.24.085 and 1961 c 11 s 15.24.085 are each amended  
27 to read as follows:

28 The restrictive provisions of chapter 43.78 RCW shall not apply to  
29 promotional printing and literature for the Washington ~~((state))~~ apple  
30 ~~((advertising))~~ commission, the Washington state fruit commission, or  
31 the Washington state dairy products commission.

32 **Sec. 122.** RCW 15.24.090 and 1983 c 95 s 1 are each amended to read  
33 as follows:

34 If it appears from investigation by the commission that the revenue  
35 from the assessment levied on fresh apples under this chapter is too  
36 high or is inadequate to accomplish the purposes of this chapter, the

1 commission shall adopt a resolution setting forth the necessities of  
2 the industry, the extent and probable cost of the required research,  
3 market promotion, and advertising, the extent of public convenience,  
4 interest, and necessity, and probable revenue from the assessment  
5 levied. It shall thereupon decrease or increase the assessment to a  
6 sum determined by the commission to be necessary for those purposes  
7 based upon a rate per one hundred pounds of apples, gross billing  
8 weight, shipped in bulk, container, or any style of package or  
9 reasonable equivalent net product assessment as determined by the  
10 commission. However, if a different rate is determined for any  
11 specific variety or for fresh apples sliced or cut for raw consumption,  
12 that different rate must be applied to that variety or those sliced or  
13 cut apples. A decrease or an increase becomes effective sixty days  
14 after the resolution is adopted or on any other date provided for in  
15 the resolution, but shall be first referred by the commission to a  
16 referendum mail ballot by the apple growers of this state conducted  
17 under the supervision of the director and be approved by a majority of  
18 the growers voting on it and also be approved by voting growers who  
19 operate more than fifty percent of the acreage voted in the same  
20 election. After the mail ballot, if favorable to the increase or  
21 decrease, the commission shall nevertheless exercise its independent  
22 judgment and discretion as to whether or not to approve the increase or  
23 decrease.

24 **Sec. 123.** RCW 15.24.100 and 1967 c 240 s 28 are each amended to  
25 read as follows:

26 There is hereby levied upon all fresh apples grown annually in this  
27 state, and all apples packed as Washington apples, an assessment of  
28 twelve cents on each one hundred pounds gross billing weight or  
29 reasonable equivalent net product assessment measurement, as determined  
30 by the commission, plus such annual decreases or increases thereof as  
31 are imposed pursuant to the provisions of RCW 15.24.090. All moneys  
32 collected hereunder shall be expended to effectuate the purpose and  
33 objects of this chapter.

34 **Sec. 124.** RCW 15.24.110 and 1967 c 240 s 29 are each amended to  
35 read as follows:

36 The assessments on fresh apples shall be paid, or provision made  
37 therefor satisfactory to the commission, prior to shipment, and no

1 fresh apples shall be carried, transported, or shipped by any person or  
2 by any carrier, railroad, truck, boat, or other conveyance until the  
3 assessment has been paid or provision made therefor satisfactory to the  
4 commission.

5 The commission shall by rule (~~or regulation~~) prescribe the method  
6 of collection, and for that purpose may require stamps to be known as  
7 "Washington apple (~~advertising~~) stamps" to be purchased from the  
8 commission and attached to the containers, invoices, shipping  
9 documents, inspection certificates, releases, or receiving receipts or  
10 tickets. Rule-making procedures conducted under this section are  
11 exempt from the provisions of RCW 43.135.055 when adoption of the rule  
12 or rules is determined by a referendum vote of the persons taxed under  
13 this chapter.

14 NEW SECTION. Sec. 125. A new section is added to chapter 15.24  
15 RCW to read as follows:

16 Rule-making proceedings conducted under this chapter are exempt  
17 from compliance with RCW 34.05.310 and the provisions of chapter 19.85  
18 RCW, the regulatory fairness act, when the proposed rule is subject to  
19 a referendum.

20 **Sec. 126.** RCW 15.24.160 and 1961 c 11 s 15.24.160 are each amended  
21 to read as follows:

22 To maintain and complement the existing comprehensive regulatory  
23 scheme, the commission may employ, designate as agent, act in concert  
24 with, and enter into contracts with any person, council, or commission,  
25 including but not limited to the director, state agencies such as the  
26 Washington state fruit commission and its successors, statewide  
27 horticultural associations, organizations or associations engaged in  
28 tracking the movement and marketing of horticultural products, and  
29 organizations or associations of horticultural growers, for the purpose  
30 of promoting the general welfare of the apple industry and particularly  
31 for the purpose of assisting in the sale and distribution of apples in  
32 domestic or foreign commerce, and expend its funds or such portion  
33 thereof as it may deem necessary or advisable for such purpose and for  
34 the purpose of paying its proportionate share of the cost of any  
35 program providing direct or indirect assistance to the sale and  
36 distribution of apples in domestic or foreign commerce. For such  
37 purposes it may employ and pay for legal counsel and contract and pay

1 for other professional services. Neither the state, nor any member,  
2 agent, or employee of the commission, is liable for the acts of the  
3 commission, or upon its contracts. In any civil or criminal action or  
4 proceeding for violation of any rule of statutory or common law against  
5 monopolies or combinations in restraint of trade, including any action  
6 under chapter 19.86 RCW, proof that the act complained of was done in  
7 compliance with the provisions of this chapter, and in furtherance of  
8 the purposes and provisions of this chapter, is a complete defense to  
9 such an action or proceeding.

10 **Sec. 127.** RCW 15.24.170 and 1975 1st ex.s. c 7 s 37 are each  
11 amended to read as follows:

12 Rules, regulations, and orders made by the commission shall be  
13 filed with the director and published in a legal newspaper in the  
14 cities of Wenatchee and Yakima within five days after being made, and  
15 shall become effective pursuant to the provisions of RCW ((34.05.040))  
16 34.05.380.

17 **Sec. 128.** RCW 15.24.800 and 1987 c 6 s 1 are each amended to read  
18 as follows:

19 The legislature hereby finds that, in order to permit the  
20 Washington ((state)) apple ((advertising)) commission to accomplish  
21 more efficiently its important public purposes, as enumerated in  
22 chapter 15.24 RCW, it is necessary for the state to assist in financing  
23 a new building for the commission, to be located on Euclid Avenue in  
24 Chelan county, and housing commission offices, warehouse space, and a  
25 display room. The state's assistance shall augment approximately five  
26 hundred thousand dollars in commission funds which will be applied  
27 directly to the payment of the costs of this project. The state's  
28 assistance shall be in the amount of eight hundred thousand dollars, or  
29 so much thereof as may be required, to be provided from the proceeds  
30 from the sale and issuance of general obligation bonds of the state,  
31 the principal of and interest on which shall be reimbursed to the state  
32 treasury by the commission from revenues derived from the assessments  
33 levied pursuant to chapter 15.24 RCW and other sources.

34 **Sec. 129.** RCW 15.24.802 and 1987 c 6 s 2 are each amended to read  
35 as follows:

1 For the purpose of providing part of the funds necessary for the  
2 Washington ((state)) apple ((advertising)) commission to undertake a  
3 capital project consisting of the land acquisition for, and the design,  
4 construction, furnishing, and equipping of, the building described in  
5 RCW 15.24.800, and to pay the administrative costs of such project,  
6 including costs of bond issuance and retirement, salaries and related  
7 costs of officials and employees of the state, and other expenses  
8 incidental to the administration of such project, the state finance  
9 committee is authorized to issue general obligation bonds of the state  
10 of Washington in the sum of eight hundred thousand dollars, or so much  
11 thereof as may be required.

12 **Sec. 130.** RCW 15.24.806 and 1987 c 6 s 4 are each amended to read  
13 as follows:

14 The proceeds from the sale of the bonds authorized in RCW  
15 15.24.802, together with all grants, donations, transferred funds, and  
16 all other moneys which the state finance committee or the Washington  
17 ((state)) apple ((advertising)) commission may direct the state  
18 treasurer to deposit therein, shall be deposited in the state building  
19 construction account in the state treasury.

20 **Sec. 131.** RCW 15.24.808 and 1987 c 6 s 5 are each amended to read  
21 as follows:

22 Subject to legislative appropriation, all proceeds from the sale of  
23 the bonds authorized in RCW 15.24.802 shall be administered and  
24 expended by the Washington ((state)) apple ((advertising)) commission  
25 exclusively for the purposes specified in RCW 15.24.802.

26 **Sec. 132.** RCW 15.24.812 and 1987 c 6 s 7 are each amended to read  
27 as follows:

28 On or before June 30 of each year, the state finance committee  
29 shall certify to the Washington ((state)) apple ((advertising))  
30 commission the principal and interest payments determined under RCW  
31 15.24.810, exclusive of deposit interest credit, attributable to the  
32 bonds issued under RCW 15.24.802. On each date on which any interest  
33 or principal and interest payment is due, the commission shall cause  
34 the amount certified by the state finance committee to be due on such  
35 date to be paid out of the commission's general fund to the state  
36 treasurer for deposit into the general fund of the state treasury.

1       **Sec. 133.** RCW 15.24.818 and 1987 c 6 s 10 are each amended to read  
2 as follows:

3       The bonds authorized by RCW 15.24.802 shall be issued only after  
4 the treasurer of the Washington ~~((state))~~ apple ~~((advertising))~~  
5 commission has certified that the net proceeds of the bonds, together  
6 with all money to be made available by the commission for the purposes  
7 described in RCW 15.24.802, shall be sufficient for such purposes; and  
8 also that, based upon the treasurer's estimates of future income from  
9 assessments levied pursuant to chapter 15.24 RCW and other sources, an  
10 adequate balance will be maintained in the commission's general fund to  
11 enable the commission to meet the requirements of RCW 15.24.812 during  
12 the life of the bonds to be issued.

13       **Sec. 134.** RCW 15.24.900 and 1961 c 11 s 15.24.900 are each amended  
14 to read as follows:

15       (1) This chapter is passed:

16       ~~((1))~~ (a) In the exercise of the police power of the state to  
17 assure, through this chapter, and other chapters, that the apple  
18 industry is highly regulated to protect the public health, to prevent  
19 fraudulent practices, to promote the welfare of the state, and to  
20 stabilize and protect the apple industry of the state as a vital and  
21 integral part of its economy for the benefit of all its citizens;

22       ~~((2))~~ (b) Because the apple crop grown in Washington comprises  
23 one of the major agricultural crops of Washington, and that therefore  
24 the business of selling and distributing such crop and the expanding  
25 and protection of its market is of public interest;

26       ~~((3))~~ (c) Because it is necessary and expedient to enhance the  
27 reputation of Washington apples in domestic and foreign markets;

28       ~~((4))~~ (d) Because it is necessary to discover the health giving  
29 qualities and food and dietetic value of Washington apples, and to  
30 spread that knowledge throughout the world in order to increase the  
31 consumption of Washington apples;

32       ~~((5))~~ (e) Because Washington grown apples are handicapped by high  
33 freight rates in competition with eastern and foreign grown apples in  
34 the markets of the world, and this disadvantage can only be overcome by  
35 education and advertising;

36       ~~((6))~~ (f) Because the stabilizing and promotion of the apple  
37 industry, the enlarging of its markets, and the increasing of the  
38 consumption of apples are necessary to assure and increase the payment

1 of taxes to the state and its subdivisions, to alleviate unemployment  
2 within the state, and increase wages for agricultural labor;

3 ~~((7))~~ (g) To disseminate information giving the public full  
4 knowledge of the manner of production, the cost and expense thereof,  
5 the care taken to produce and sell only apples of the finest quality,  
6 the methods and care used in preparing for market, and the methods of  
7 sale and distribution to increase the amount secured by the producer  
8 therefor, so that they can pay higher wages and pay their taxes, and by  
9 such information to reduce the cost of distribution so that the spread  
10 between the cost to the consumer and the amount received by the  
11 producer will be reduced to the minimum absolutely necessary; and

12 ~~((8))~~ (h) To protect the general public by educating it in  
13 reference to the various varieties and grades of Washington apples, the  
14 time to use and consume each variety, and the uses to which each  
15 variety should be put.

16 (2) The history, economy, culture, and future of Washington state's  
17 agricultural industry involves the apple industry. In order to develop  
18 and promote apples and apple products as part of an existing  
19 comprehensive scheme to regulate those products, the legislature  
20 declares:

21 (a) That it is vital to the continued economic well-being of the  
22 citizens of this state and their general welfare that its apple and  
23 apple products be properly promoted by establishing orderly, fair,  
24 sound, efficient, and unhampered marketing, grading, and standards of  
25 and for apples and apple products; and by working to stabilize the  
26 apple industry and by increasing consumption of apples and apple  
27 products within the state, nation, and internationally;

28 (b) That apple producers operate within a regulatory environment  
29 that imposes burdens on them for the benefit of society and the  
30 citizens of the state and includes restrictions on marketing autonomy.  
31 Those restrictions may impair the agricultural producer's ability to  
32 compete in local, domestic, and foreign markets;

33 (c) That it is in the overriding public interest that support for  
34 the apple industry be clearly expressed, that adequate protection be  
35 given to agricultural commodities, uses, activities, and operations,  
36 and that apples and apple products be promoted individually, as well as  
37 part of a comprehensive promotion of the agricultural industry to:

38 (i) Enhance the reputation and image of Washington state's  
39 agricultural industry;



1       (ii) Increase the sale and use of apples and apple products in  
2 local, domestic, and foreign markets;

3       (iii) Protect the public and consumers by correcting any false or  
4 misleading information and by educating the public in reference to the  
5 quality, care, and methods used in the production of apples and apple  
6 products, and in reference to the various sizes, grades, and varieties  
7 of apples and the uses to which each should be put;

8       (iv) Increase the knowledge of the health-giving qualities and  
9 dietetic value of apple products; and

10       (v) Support and engage in programs or activities that benefit the  
11 production, handling, processing, marketing, and uses of apples and  
12 apple products;

13       (d) That the apple industry is a highly regulated industry and that  
14 this chapter and the rules adopted under it are only one aspect of the  
15 regulation of the industry. Other regulations and restraints  
16 applicable to the apple industry include:

17       (i) Washington agriculture general provisions, chapter 15.04 RCW;  
18       (ii) Pests and diseases, chapter 15.08 RCW;  
19       (iii) Standards of grades and packs, chapter 15.17 RCW;  
20       (iv) Tree fruit research, chapter 15.26 RCW;  
21       (v) Controlled atmosphere storage, chapter 15.30 RCW;  
22       (vi) Higher education in agriculture, chapter 28.30 RCW;  
23       (vii) Department of agriculture, chapter 43.23 RCW;  
24       (viii) Fertilizers, minerals, and limes under chapter 15.54 RCW;  
25       (ix) Organic food products act under chapter 15.86 RCW;  
26       (x) Intrastate commerce in food, drugs, and cosmetics under chapter  
27 69.04 RCW and rules;

28       (xi) Horticultural plants and facilities - inspection and licensing  
29 under chapter 15.13 RCW;

30       (xii) Planting stock under chapter 15.14 RCW;  
31       (xiii) Washington pesticide control act under chapter 15.58 RCW;  
32       (xiv) Farm marketing under chapter 15.64 RCW;  
33       (xv) Insect pests and plant diseases under chapter 17.24 RCW;  
34       (xvi) Weights and measures under chapter 19.94 RCW;  
35       (xvii) Agricultural products - commission merchants, dealers,  
36 brokers, buyers, and agents under chapter 20.01 RCW; and

37       (xviii) The federal insecticide, fungicide, and rodenticide act  
38 under 7 U.S.C. Sec. 136; and

1       (e) That this chapter is in the exercise of the police powers of  
2 this state for the purposes of protecting the health, peace, safety,  
3 and general welfare of the people of this state.

4       **Sec. 135.** RCW 15.26.130 and 1969 c 129 s 13 are each amended to  
5 read as follows:

6       The Washington apple (~~(advertising)~~) commission and the Washington  
7 state fruit commission shall supply the director with a list of known  
8 producers subject to paying assessments to the respective commissions.  
9 The director, in addition, shall at the commission's cost compile a  
10 list of known tree fruit producers producing fruit not subject to  
11 assessments of the Washington apple (~~(advertising)~~) commission and the  
12 Washington state fruit commission but subject to assessments or  
13 becoming subject to assessments under the provisions of this chapter.  
14 In compiling such list the director shall publish notice to producers  
15 of such tree fruit, requiring them to file with the director a report  
16 giving the producer's name, mailing address and orchard location. The  
17 notice shall be published once a week for four consecutive weeks in  
18 weekly or daily newspapers of general circulation in the area or areas  
19 where such tree fruit is produced. All producer reports shall be filed  
20 with the director within twenty days from the date of last publication  
21 of notice or thirty days of mailing notice to producers of such tree  
22 fruit, whichever is later. The director shall for the purpose of  
23 conducting any referendum affecting tree fruits subject to the  
24 provisions of this chapter keep such list up to date when conducting  
25 such referendum. Every person who becomes a producer after (~~(said)~~)  
26 the list is compiled shall file with the director a similar report,  
27 giving his or her name, mailing address and orchard location. Such  
28 list shall be final and conclusive in conducting referendums and  
29 failure to notify a producer shall not be cause for the invalidation of  
30 any referendum.

31       **Sec. 136.** RCW 15.26.250 and 1969 c 129 s 25 are each amended to  
32 read as follows:

33       The Washington apple (~~(advertising)~~) commission and Washington  
34 state fruit commission in order to avoid unnecessary duplication of  
35 costs and efforts in collecting assessments for tree fruits at the time  
36 said commissions collect assessments due under the provisions of their  
37 acts may also collect the assessment due the commission on such tree

1 fruit. Such assessments on winter pears may be collected by the  
2 Washington state fruit commission or in a manner prescribed by the  
3 commission. Assessments collected for the commission by the Washington  
4 ((state)) apple ((advertising)) commission and the Washington state  
5 fruit commission shall be forwarded to the commissions expeditiously.  
6 No fee shall be charged the commission for the collection of  
7 assessments because the research conducted by the commission shall be  
8 of direct benefit to all commercial growers of tree fruits in the state  
9 of Washington(~~(:—PROVIDED, That)~~). However, the commission shall  
10 reimburse at actual cost to the department or the Washington state  
11 fruit commission or apple commission any assessment collected for the  
12 commission by such agencies for any tree fruit subject to the  
13 provisions of this chapter, but not subject to pay assessments to the  
14 Washington state fruit commission or the Washington apple  
15 ((advertising)) commission.

16 NEW SECTION. **Sec. 137.** This act takes effect July 1, 2002.

--- END ---