
HOUSE BILL 1446

State of Washington

58th Legislature

2003 Regular Session

By Representatives Sommers, Fromhold, Morrell and Wallace; by request of Office of Financial Management

Read first time 01/27/2003. Referred to Committee on Appropriations.

1 AN ACT Relating to consolidating state functions that are necessary
2 to implement the 2003-2005 omnibus operating appropriations bill;
3 amending RCW 41.06.070, 43.78.030, 43.78.040, 43.78.050, 43.78.070,
4 43.78.090, 43.78.100, 43.78.105, 43.78.170, 41.06.020, 41.06.130,
5 41.50.010, 41.54.010, 43.17.020, 43.33A.020, 47.64.011, 47.64.090,
6 47.64.190, 47.64.210, 47.64.220, 47.64.240, 47.64.280, 41.58.020,
7 43.17.020, 9.46.0201, 9.46.0205, 9.46.0209, 9.46.0217, 9.46.0233,
8 9.46.0261, 9.46.0273, 9.46.0282, 9.46.0311, 9.46.0315, 9.46.0321,
9 9.46.0331, 9.46.0335, 9.46.0345, 9.46.0351, 9.46.0356, 9.46.0361,
10 9.46.060, 9.46.070, 9.46.0701, 9.46.071, 9.46.075, 9.46.077, 9.46.080,
11 9.46.090, 9.46.095, 9.46.100, 9.46.116, 9.46.120, 9.46.130, 9.46.140,
12 9.46.150, 9.46.153, 9.46.158, 9.46.160, 9.46.170, 9.46.198, 9.46.210,
13 9.46.215, 9.46.250, 9.46.293, 9.46.300, 9.46.310, 9.46.350, 9.46.360,
14 9.46.400, 9.46.420, 51.12.020, 51.16.210, 67.16.010, 67.16.040,
15 67.16.100, 67.16.101, 67.16.105, 67.16.130, 67.16.140, 67.16.150,
16 67.17.005, 67.17.120, 82.04.350, 43.21J.030, 43.41.270, 77.55.290,
17 77.85.070, 77.85.110, 79.01.295, 89.08.010, 89.08.020, 89.08.070,
18 89.08.080, 89.08.090, 89.08.100, 89.08.110, 89.08.120, 89.08.130,
19 89.08.140, 89.08.150, 89.08.160, 89.08.170, 89.08.180, 89.08.185,
20 89.08.200, 89.08.210, 89.08.220, 89.08.341, 89.08.350, 89.08.370,
21 89.08.410, 89.08.470, 89.08.480, 89.08.520, 89.08.530, 89.08.540,

1 90.64.005, 90.64.010, 90.64.026, 90.64.028, 90.64.080, 90.64.140,
2 90.64.800, 90.64.810, 90.71.020, 39.19.020, 39.19.030, 39.19.090,
3 39.19.120, 39.19.140, 39.19.150, 39.19.160, 39.19.200, 39.19.240,
4 43.63A.690, 43.172.010, 43.172.030, 47.28.030, 39.04.160, and
5 43.19.536; reenacting and amending RCW 43.17.010, 42.17.2401,
6 43.17.010, 42.17.2401, 70.146.060, and 42.17.2401; adding a new section
7 to chapter 43.78 RCW; adding a new section to chapter 41.56 RCW; adding
8 new sections to chapter 41.06 RCW; adding a new section to chapter
9 43.23 RCW; adding a new section to chapter 39.19 RCW; adding a new
10 section to chapter 43.19 RCW; adding a new section to chapter 49.60
11 RCW; adding new chapters to Title 43 RCW; creating new sections;
12 repealing RCW 43.78.010, 43.78.020, 43.78.110, 41.06.030, 41.50.020,
13 41.50.050, 9.46.0221, 9.46.040, 9.46.050, 9.46.085, 67.16.012,
14 67.16.014, 67.16.015, 67.16.017, 89.08.030, 89.08.040, 89.08.050,
15 89.08.060, 39.19.041, 39.19.050, 39.19.060, 39.19.170, 39.19.210,
16 39.19.220, 39.19.230, 41.06.082, and 39.19.200; providing effective
17 dates; and declaring an emergency.

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

19 NEW SECTION. **Sec. 1.** The legislature recognizes that
20 efficiencies, improvements in customer service, and economies can be
21 achieved by merging the operations of agencies with like functions.
22 Both the public printer and the department of general administration
23 provide vital direct central services to state agencies and their other
24 clients, which involve large scale purchasing, mailing, and
25 distribution and storage. Because of these functional similarities,
26 there is overlap and duplication of some services, administrative
27 functions, and facilities and equipment.

28 It is therefore the intent of the legislature to transfer the
29 powers, duties, and functions of the public printer to the department
30 of general administration to strengthen the ability of both agencies to
31 provide optimal central services to their clients. By combining the
32 resources of the two agencies, the legislature expects that service
33 duplications will be eliminated, administrative functions streamlined,
34 distribution networks coordinated, facility and equipment use
35 maximized, and other efficiencies and economies achieved.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.78 RCW
2 to read as follows:

3 (1) The office of the public printer is abolished and its powers,
4 duties, and functions are transferred to the department of general
5 administration. All references to the public printer or the state
6 printer in the Revised Code of Washington mean the director or the
7 department of general administration.

8 (2)(a) All reports, documents, surveys, books, records, files,
9 papers, or written material in the possession of the public printer
10 must be delivered to the custody of the department of general
11 administration. All cabinets, furniture, office equipment, motor
12 vehicles, and other tangible property employed by the public printer
13 must be made available to the department of general administration.
14 All funds, credits, or other assets held by the public printer are
15 assigned to the department of general administration.

16 (b) If any question arises as to the transfer of any personnel,
17 funds, books, documents, records, papers, files, equipment, or other
18 tangible property used or held in the exercise of the powers and the
19 performance of the duties and functions transferred, the director of
20 financial management shall make a determination as to the proper
21 allocation and certify the same to the state agencies concerned.

22 (3) All employees of the public printer are transferred to the
23 jurisdiction of the department of general administration. All
24 employees classified under chapter 41.06 RCW, the state civil service
25 law, are assigned to the department of general administration to
26 perform their usual duties upon the same terms as formerly, without any
27 loss of rights, subject to any action that may be appropriate
28 thereafter in accordance with the laws and rules governing state civil
29 service.

30 (4) All rules and all pending business before the public printer
31 are continued to be acted upon by the department of general
32 administration. All existing contracts and obligations remain in full
33 force and must be performed by the department of general
34 administration.

35 (5) The transfer of the powers, duties, functions, and personnel of
36 the public printer does not affect the validity of any act performed
37 before the effective date of this section.

1 (6) If apportionments of budgeted funds are required because of the
2 transfers directed by this section, the director of financial
3 management shall certify the apportionments to the agencies affected,
4 the state auditor, and the state treasurer. Each of these shall make
5 the appropriate transfer and adjustments in funds and appropriation
6 accounts and equipment records in accordance with the certification.

7 (7) Nothing contained in this section may be construed to alter any
8 existing collective bargaining unit or the provisions of any existing
9 collective bargaining agreement until the agreement has expired or
10 until the bargaining unit has been modified. Nothing contained in this
11 section may be construed to alter any right to bargain collectively of
12 employees or positions in the state printing plant within the
13 department of general administration.

14 **Sec. 3.** RCW 41.06.070 and 2002 c 354 s 209 are each amended to
15 read as follows:

16 (1) The provisions of this chapter do not apply to:

17 (a) The members of the legislature or to any employee of, or
18 position in, the legislative branch of the state government including
19 members, officers, and employees of the legislative council, joint
20 legislative audit and review committee, statute law committee, and any
21 interim committee of the legislature;

22 (b) The justices of the supreme court, judges of the court of
23 appeals, judges of the superior courts or of the inferior courts, or to
24 any employee of, or position in the judicial branch of state
25 government;

26 (c) Officers, academic personnel, and employees of technical
27 colleges;

28 (d) The officers of the Washington state patrol;

29 (e) Elective officers of the state;

30 (f) The chief executive officer of each agency;

31 (g) In the departments of employment security and social and health
32 services, the director and the director's confidential secretary; in
33 all other departments, the executive head of which is an individual
34 appointed by the governor, the director, his or her confidential
35 secretary, and his or her statutory assistant directors;

36 (h) In the case of a multimember board, commission, or committee,

1 whether the members thereof are elected, appointed by the governor or
2 other authority, serve ex officio, or are otherwise chosen:

3 (i) All members of such boards, commissions, or committees;

4 (ii) If the members of the board, commission, or committee serve on
5 a part-time basis and there is a statutory executive officer: The
6 secretary of the board, commission, or committee; the chief executive
7 officer of the board, commission, or committee; and the confidential
8 secretary of the chief executive officer of the board, commission, or
9 committee;

10 (iii) If the members of the board, commission, or committee serve
11 on a full-time basis: The chief executive officer or administrative
12 officer as designated by the board, commission, or committee; and a
13 confidential secretary to the chair of the board, commission, or
14 committee;

15 (iv) If all members of the board, commission, or committee serve ex
16 officio: The chief executive officer; and the confidential secretary
17 of such chief executive officer;

18 (i) The confidential secretaries and administrative assistants in
19 the immediate offices of the elective officers of the state;

20 (j) Assistant attorneys general;

21 (k) Commissioned and enlisted personnel in the military service of
22 the state;

23 (l) Inmate, student, part-time, or temporary employees, and part-
24 time professional consultants, as defined by the Washington personnel
25 resources board;

26 (m) (~~The public printer or to any~~) Employees of or positions in
27 the state printing plant within the department of general
28 administration;

29 (n) Officers and employees of the Washington state fruit
30 commission;

31 (o) Officers and employees of the Washington (~~state~~) apple
32 (~~advertising~~) commission;

33 (p) Officers and employees of the Washington state dairy products
34 commission;

35 (q) Officers and employees of the Washington tree fruit research
36 commission;

37 (r) Officers and employees of the Washington state beef commission;

1 (s) Officers and employees of any commission formed under chapter
2 15.66 RCW;

3 (t) Officers and employees of agricultural commissions formed under
4 chapter 15.65 RCW;

5 (u) Officers and employees of the nonprofit corporation formed
6 under chapter 67.40 RCW;

7 (v) Executive assistants for personnel administration and labor
8 relations in all state agencies employing such executive assistants
9 including but not limited to all departments, offices, commissions,
10 committees, boards, or other bodies subject to the provisions of this
11 chapter and this subsection shall prevail over any provision of law
12 inconsistent herewith unless specific exception is made in such law;

13 (w) In each agency with fifty or more employees: Deputy agency
14 heads, assistant directors or division directors, and not more than
15 three principal policy assistants who report directly to the agency
16 head or deputy agency heads;

17 (x) All employees of the marine employees' commission;

18 (y) Staff employed by the department of community, trade, and
19 economic development to administer energy policy functions and manage
20 energy site evaluation council activities under RCW 43.21F.045(2)(m);

21 (z) Staff employed by Washington State University to administer
22 energy education, applied research, and technology transfer programs
23 under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

24 (2) The following classifications, positions, and employees of
25 institutions of higher education and related boards are hereby exempted
26 from coverage of this chapter:

27 (a) Members of the governing board of each institution of higher
28 education and related boards, all presidents, vice-presidents, and
29 their confidential secretaries, administrative, and personal
30 assistants; deans, directors, and chairs; academic personnel; and
31 executive heads of major administrative or academic divisions employed
32 by institutions of higher education; principal assistants to executive
33 heads of major administrative or academic divisions; other managerial
34 or professional employees in an institution or related board having
35 substantial responsibility for directing or controlling program
36 operations and accountable for allocation of resources and program
37 results, or for the formulation of institutional policy, or for
38 carrying out personnel administration or labor relations functions,

1 legislative relations, public information, development, senior computer
2 systems and network programming, or internal audits and investigations;
3 and any employee of a community college district whose place of work is
4 one which is physically located outside the state of Washington and who
5 is employed pursuant to RCW 28B.50.092 and assigned to an educational
6 program operating outside of the state of Washington;

7 (b) The governing board of each institution, and related boards,
8 may also exempt from this chapter classifications involving research
9 activities, counseling of students, extension or continuing education
10 activities, graphic arts or publications activities requiring
11 prescribed academic preparation or special training as determined by
12 the board: PROVIDED, That no nonacademic employee engaged in office,
13 clerical, maintenance, or food and trade services may be exempted by
14 the board under this provision;

15 (c) Printing craft employees in the department of printing at the
16 University of Washington.

17 (3) In addition to the exemptions specifically provided by this
18 chapter, the director of personnel may provide for further exemptions
19 pursuant to the following procedures. The governor or other
20 appropriate elected official may submit requests for exemption to the
21 director of personnel stating the reasons for requesting such
22 exemptions. The director of personnel shall hold a public hearing,
23 after proper notice, on requests submitted pursuant to this subsection.
24 If the director determines that the position for which exemption is
25 requested is one involving substantial responsibility for the
26 formulation of basic agency or executive policy or one involving
27 directing and controlling program operations of an agency or a major
28 administrative division thereof, the director of personnel shall grant
29 the request and such determination shall be final as to any decision
30 made before July 1, 1993. The total number of additional exemptions
31 permitted under this subsection shall not exceed one percent of the
32 number of employees in the classified service not including employees
33 of institutions of higher education and related boards for those
34 agencies not directly under the authority of any elected public
35 official other than the governor, and shall not exceed a total of
36 twenty-five for all agencies under the authority of elected public
37 officials other than the governor.

1 The salary and fringe benefits of all positions presently or
2 hereafter exempted except for the chief executive officer of each
3 agency, full-time members of boards and commissions, administrative
4 assistants and confidential secretaries in the immediate office of an
5 elected state official, and the personnel listed in subsections (1)(j)
6 through (u) and (x) and (2) of this section, shall be determined by the
7 director of personnel. Changes to the classification plan affecting
8 exempt salaries must meet the same provisions for classified salary
9 increases resulting from adjustments to the classification plan as
10 outlined in RCW 41.06.152.

11 Any person holding a classified position subject to the provisions
12 of this chapter shall, when and if such position is subsequently
13 exempted from the application of this chapter, be afforded the
14 following rights: If such person previously held permanent status in
15 another classified position, such person shall have a right of
16 reversion to the highest class of position previously held, or to a
17 position of similar nature and salary.

18 Any classified employee having civil service status in a classified
19 position who accepts an appointment in an exempt position shall have
20 the right of reversion to the highest class of position previously
21 held, or to a position of similar nature and salary.

22 A person occupying an exempt position who is terminated from the
23 position for gross misconduct or malfeasance does not have the right of
24 reversion to a classified position as provided for in this section.

25 **Sec. 4.** RCW 43.78.030 and 1994 c 82 s 1 are each amended to read
26 as follows:

27 The (~~public printer~~) director of general administration shall
28 print and bind the session laws, the journals of the two houses of the
29 legislature, all bills, resolutions, documents, and other printing and
30 binding of either the senate or house, as the same may be ordered by
31 the legislature; and such forms, blanks, record books, and printing and
32 binding of every description as may be ordered by all state officers,
33 boards, commissions, and institutions, and the supreme court, and the
34 court of appeals and officers thereof, as the same may be ordered on
35 requisition, from time to time, by the proper authorities. This
36 section shall not apply to the printing of the supreme court and the
37 court of appeals reports, to the printing of bond certificates or bond

1 offering disclosure documents, to the printing of educational
2 publications of the state historical societies, or to any printing done
3 or contracted for by institutions of higher education: PROVIDED, That
4 institutions of higher education, in consultation with the ((~~public~~
5 ~~printer~~)) director of general administration, develop vendor selection
6 procedures comparable to those used by the ((~~public printer~~)) director
7 of general administration for contracted printing jobs. Where any
8 institution or institution of higher learning of the state is or may
9 become equipped with facilities for doing such work, it may do any
10 printing: (1) For itself, or (2) for any other state institution when
11 such printing is done as part of a course of study relative to the
12 profession of printer. Any printing and binding of whatever
13 description as may be needed by any institution or agency of the state
14 department of social and health services not at Olympia, or the supreme
15 court or the court of appeals or any officer thereof, the estimated
16 cost of which shall not exceed one thousand dollars, may be done by any
17 private printing company in the general vicinity within the state of
18 Washington so ordering, if in the judgment of the officer of the agency
19 so ordering, the saving in time and processing justifies the award to
20 such local private printing concern.

21 Beginning on July 1, 1989, and on July 1 of each succeeding odd-
22 numbered year, the dollar limit specified in this section shall be
23 adjusted as follows: The office of financial management shall
24 calculate such limit by adjusting the previous biennium's limit by an
25 appropriate federal inflationary index reflecting the rate of inflation
26 for the previous biennium. Such amounts shall be rounded to the
27 nearest fifty dollars.

28 NEW SECTION. Sec. 5. A new section is added to chapter 41.56 RCW
29 to read as follows:

30 In addition to the entities listed in RCW 41.56.020, this chapter
31 applies to the department of general administration with respect to
32 printing craft employees in the state printing plant within the
33 department of general administration.

34 Sec. 6. RCW 43.78.040 and 1965 c 8 s 43.78.040 are each amended to
35 read as follows:

36 All printing and binding shall be done under the general

1 superintendence of the authorities ordering it, and when completed
2 shall be delivered to such authorities, who shall sign receipts
3 therefor.

4 Before the (~~public printer shall~~) director of general
5 administration may execute any printing or binding for any office,
6 board, commission, or institution, the proper officer thereof shall
7 apply therefor by requisition.

8 **Sec. 7.** RCW 43.78.050 and 1965 c 8 s 43.78.050 are each amended to
9 read as follows:

10 Upon delivering a printing or binding job and receiving a receipt
11 therefor the (~~public printer~~) director of general administration
12 shall make out, and deliver to the requesting agency, an itemized
13 statement of charges.

14 **Sec. 8.** RCW 43.78.070 and 1979 c 151 s 134 are each amended to
15 read as follows:

16 The (~~public printer~~) director of general administration shall use
17 the state printing plant, which includes the state copy centers, upon
18 the following conditions, to wit:

19 (1) (~~He~~) The director shall do the public printing, and charge
20 therefor the fees as provided by law. (~~He~~) The director may print
21 the Washington Reports for the publishers thereof under a contract
22 approved in writing by the governor.

23 (2) (~~The gross income of the public printer shall~~) All receipts
24 from the state printing plant must be deposited in (~~an account~~
25 ~~designated "state printing plant revolving fund" in depositaries~~
26 ~~approved by the state treasurer, and shall be~~) the general
27 administration services account and disbursed (~~by the public printer~~
28 ~~by check and only~~) as follows:

29 (~~First,~~) (a) In payment of the actual cost of labor, material,
30 supplies, replacements, repairs, water, light, heat, telephone, rent,
31 and all other expenses necessary in the operation of the plant(~~+~~
32 ~~PROVIDED, That no machinery shall be purchased except on written~~
33 ~~approval of the governor~~));

34 (~~Second,~~) (b) In payment of the cost of reasonable insurance upon
35 the printing plant(~~, payable to the state and of all fidelity bonds~~
36 ~~required by law of the public printer;~~

1 ~~Third, in payment to the public printer of a salary which shall be~~
2 ~~fixed by the governor in accordance with the provisions of RCW~~
3 ~~43.03.040;~~

4 ~~Fourth, in remitting the balance to the state treasurer for the~~
5 ~~general fund: PROVIDED, That a reasonable sum to be determined by the~~
6 ~~governor, the public printer, and the director of financial management~~
7 ~~shall be retained in the fund for working capital for the public~~
8 ~~printer)).~~

9 (3) Disbursements from the general administration services account
10 for the cost of materials and services purchased for resale by the
11 state printing plant are not subject to allotment procedures provided
12 under chapter 43.88 RCW. Disbursements from the general administration
13 services account for all other expenses of the state printing plant
14 including administrative expenses and all staff costs are subject to
15 the allotment procedures provided under chapter 43.88 RCW. An
16 appropriation is not required for expenditures for the operation of the
17 state printing plant.

18 **Sec. 9.** RCW 43.78.090 and 1965 c 8 s 43.78.090 are each amended to
19 read as follows:

20 Whenever required by law or by the legislature or by any state
21 officer, board, commission, or institution, the ~~((public printer))~~
22 director of general administration shall keep the ~~((type))~~ copy used in
23 printing any matter ~~((forming a part of the first, second, third, and~~
24 ~~fourth classes standing))~~ for a period not exceeding sixty days for use
25 in reprinting such matter.

26 **Sec. 10.** RCW 43.78.100 and 1993 c 379 s 106 are each amended to
27 read as follows:

28 The ~~((public printer))~~ director of general administration shall
29 furnish all paper, stock, and binding materials required in all public
30 work, and shall charge the same to the state, as it is actually used,
31 at the actual price at which it was purchased plus up to five percent
32 for waste, insurance, storage, and handling. This section does not
33 apply to institutions of higher education.

34 **Sec. 11.** RCW 43.78.105 and 1993 c 379 s 105 are each amended to
35 read as follows:

1 The ((~~public printer~~)) director of general administration may use
2 the state printing plant for the purposes of printing or furnishing
3 materials under RCW 43.78.100 if an interlocal agreement under chapter
4 39.34 RCW has been executed between an institution of higher education
5 and the ((~~public printer~~)) department of general administration.

6 **Sec. 12.** RCW 43.78.170 and 1996 c 198 s 3 are each amended to read
7 as follows:

8 The ((~~public printer~~)) director of general administration shall
9 take all actions consistent with the ((~~plan~~)) strategy under RCW
10 43.19A.050 to ensure that seventy-five percent or more of the total
11 dollar amount of printing paper stock used by the ((~~printer~~)) state
12 printing plant is recycled content paper by January 1, 1997, and ninety
13 percent or more of the total dollar amount of printing paper stock used
14 by the ((~~printer~~)) state printing plant is recycled content paper by
15 January 1, 1999.

16 NEW SECTION. **Sec. 13.** The legislature recognizes that the
17 challenge of attracting and retaining skilled employees to carry out
18 vital state government functions is of utmost importance. To meet this
19 challenge effectively, the state must have an integrated human
20 resources management structure to address comprehensively present and
21 future workforce needs.

22 The state's pension, compensation, and personnel laws, policies,
23 and practices must be coordinated and focused on ensuring productive
24 employees and well-managed systems to support agencies, employees, the
25 legislature, and the public. The current state structure is
26 fragmented, with personnel, compensation, and retirement functions in
27 separate agencies. This makes administrative efficiencies and
28 economies, improvements in customer service and employee
29 communications, and strategic planning and systems integration more
30 difficult to achieve.

31 It is, therefore, the intent of the legislature to consolidate
32 operations of the departments of personnel and retirement systems to
33 unify human resources functions for state government. To accomplish
34 this goal, sections 13 through 28 of this act transfer the powers,
35 duties, and functions of the departments of personnel and retirement
36 systems to a new department of human resources.

1 By combining the two agencies, the legislature expects a
2 strengthened and streamlined department of human resources. In
3 addition to current duties, it is the intent of the legislature that
4 the new department, subject to available resources, concentrate its
5 efforts on the following goals and objectives:

6 (1) Implementation of an integrated state workforce plan that
7 addresses the present and future skill needs of state agencies;

8 (2) Development of coordinated personnel, compensation, and
9 retirement information services and systems to support employees,
10 management, the legislature, and the public; and

11 (3) Achievement of efficiencies and economies in administration.

12 NEW SECTION. **Sec. 14.** Unless the context clearly requires
13 otherwise, the definitions in this section apply throughout this
14 chapter.

15 (1) "Department" means the department of human resources.

16 (2) "Director" means the director of human resources.

17 NEW SECTION. **Sec. 15.** There is created a department of state
18 government to be known as the department of human resources. The
19 department is vested with all powers and duties transferred to it under
20 this chapter and such other powers and duties as may be authorized by
21 law. The department of personnel and the department of retirement
22 systems are abolished and their powers, duties, and functions are
23 transferred to the department of human resources. All references in
24 the Revised Code of Washington to the director or department of
25 personnel or the director or department of retirement systems mean the
26 director or department of human resources.

27 NEW SECTION. **Sec. 16.** The executive head and appointing authority
28 of the department is the director. The director is appointed by the
29 governor, subject to confirmation by the senate, and serves at the
30 pleasure of the governor. The director shall be paid a salary to be
31 fixed by the governor in accordance with RCW 43.03.040.

32 NEW SECTION. **Sec. 17.** In addition to other powers and duties
33 granted or transferred to the director, the director has the following
34 powers and duties:

- 1 (1) Supervise and administer the department in accordance with law;
- 2 (2) Appoint personnel and prescribe their duties. Except as
- 3 otherwise provided by law, personnel of the department are subject to
- 4 chapter 41.06 RCW, the state civil service law;
- 5 (3) Appoint a deputy director and such assistant directors and
- 6 special assistants as may be needed to administer the department.
- 7 These employees are exempt from the provisions of chapter 41.06 RCW,
- 8 the state civil service law;
- 9 (4) Enter into contracts on behalf of the department;
- 10 (5) Adopt such rules as are necessary to carry out the powers,
- 11 duties, and functions of the department, except where rule-making
- 12 authority is otherwise granted by law to the personnel resources board;
- 13 (6) Delegate powers, duties, and functions as the director deems
- 14 necessary for efficient administration, but the director is responsible
- 15 for the official acts of the officers and employees of the department;
- 16 (7) Advise the governor and the legislature with respect to matters
- 17 under the jurisdiction of the department;
- 18 (8) Accept and expend grants, gifts, or other funds that are
- 19 related to the purposes of the department;
- 20 (9) Carry out the policies of the governor;
- 21 (10) Create or abolish such administrative structures internal to
- 22 the department as the director deems appropriate, except as otherwise
- 23 specified by law; and
- 24 (11) Establish advisory groups as may be necessary to carry out the
- 25 purposes of the department.

26 NEW SECTION. **Sec. 18.** This chapter must not be construed to
27 interfere with the powers, duties, and authority of the Washington
28 personnel resources board created in RCW 41.06.110.

29 NEW SECTION. **Sec. 19.** A new section is added to chapter 41.06 RCW
30 to read as follows:

31 In addition to the exemptions under RCW 41.06.070, the provisions
32 of this chapter do not apply in the department of human resources to
33 the director, the director's personal secretary, the deputy director,
34 all assistant directors and special assistants, and one confidential
35 secretary for each of these officers.

1 NEW SECTION. **Sec. 20.** (1)(a) All reports, documents, surveys,
2 books, records, files, papers, or written material connected with the
3 powers, duties, and functions transferred by sections 13 through 28 of
4 this act must be delivered to the custody of the department of human
5 resources. All cabinets, furniture, office equipment, motor vehicles,
6 and other tangible property employed in connection with the powers,
7 duties, and functions transferred by sections 13 through 28 of this act
8 must be made available to the department of human resources. All
9 funds, credits, or other assets held in connection with the powers,
10 duties, and functions transferred by sections 13 through 28 of this act
11 are assigned to the department of human resources.

12 (b) Any appropriations made in connection with the powers, duties,
13 and functions transferred by sections 13 through 28 of this act are, on
14 the effective date of this section, transferred and credited to the
15 department of human resources.

16 (c) If any question arises as to the transfer of any personnel,
17 funds, books, documents, records, papers, files, equipment, or other
18 tangible property used or held in the exercise of the powers and the
19 performance of the duties and functions transferred, the director of
20 financial management shall make a determination as to the proper
21 allocation and certify the same to the state agencies concerned.

22 (2) All employees of the department of retirement systems and the
23 department of personnel are transferred to the jurisdiction of the
24 department of human resources. All employees classified under chapter
25 41.06 RCW, the state civil service law, are assigned to the department
26 of human resources to perform their usual duties upon the same terms as
27 formerly, without any loss of rights, subject to any action that may be
28 appropriate thereafter in accordance with the laws and rules governing
29 state civil service.

30 (3) All rules and all pending business before any agency of state
31 government pertaining to the powers, duties, and functions transferred
32 by sections 13 through 28 of this act are continued to be acted upon by
33 the department of human resources. All existing contracts and
34 obligations remain in full force and must be performed by the
35 department of human resources.

36 (4) The transfer of the powers, duties, functions, and personnel
37 under this section does not affect the validity of any act performed
38 before the effective date of this section.

1 (5) If apportionments of budgeted funds are required because of the
2 transfers directed by this section, the director of financial
3 management shall certify the apportionments to the agencies affected,
4 the state auditor, and the state treasurer. Each of these shall make
5 the appropriate transfer and adjustments in funds and appropriation
6 accounts and equipment records in accordance with the certification.

7 (6) Nothing contained in this section may be construed to alter any
8 existing collective bargaining unit or the provisions of any existing
9 collective bargaining agreement until the agreement has expired or
10 until the bargaining unit has been modified by action of the personnel
11 resources board as provided by law.

12 **Sec. 21.** RCW 41.06.020 and 1993 c 281 s 19 are each amended to
13 read as follows:

14 Unless the context clearly indicates otherwise, the words used in
15 this chapter have the meaning given in this section.

16 (1) "Agency" means an office, department, board, commission, or
17 other separate unit or division, however designated, of the state
18 government and all personnel thereof; it includes any unit of state
19 government established by law, the executive officer or members of
20 which are either elected or appointed, upon which the statutes confer
21 powers and impose duties in connection with operations of either a
22 governmental or proprietary nature.

23 (2) "Board" means the Washington personnel resources board
24 established under the provisions of RCW 41.06.110, except that this
25 definition does not apply to the words "board" or "boards" when used in
26 RCW 41.06.070.

27 (3) "Classified service" means all positions in the state service
28 subject to the provisions of this chapter.

29 (4) "Competitive service" means all positions in the classified
30 service for which a competitive examination is required as a condition
31 precedent to appointment.

32 (5) "Comparable worth" means the provision of similar salaries for
33 positions that require or impose similar responsibilities, judgments,
34 knowledge, skills, and working conditions.

35 (6) "Noncompetitive service" means all positions in the classified
36 service for which a competitive examination is not required.

1 (7) "Department" means an agency of government that has as its
2 governing officer a person, or combination of persons such as a
3 commission, board, or council, by law empowered to operate the agency
4 responsible either to (a) no other public officer or (b) the governor.

5 (8) "Career development" means the progressive development of
6 employee capabilities to facilitate productivity, job satisfaction, and
7 upward mobility through work assignments as well as education and
8 training that are both state-sponsored and are achieved by individual
9 employee efforts, all of which shall be consistent with the needs and
10 obligations of the state and its agencies.

11 (9) "Training" means activities designed to develop job-related
12 knowledge and skills of employees.

13 (10) "Director" means the director of (~~personnel~~) human resources
14 appointed under (~~the provisions of RCW 41.06.130~~) section 16 of this
15 act.

16 (11) "Affirmative action" means a procedure by which racial
17 minorities, women, persons in the protected age category, persons with
18 disabilities, Vietnam-era veterans, and disabled veterans are provided
19 with increased employment opportunities. It shall not mean any sort of
20 quota system.

21 (12) "Institutions of higher education" means the University of
22 Washington, Washington State University, Central Washington University,
23 Eastern Washington University, Western Washington University, The
24 Evergreen State College, and the various state community colleges.

25 (13) "Related boards" means the state board for community and
26 technical colleges; and such other boards, councils, and commissions
27 related to higher education as may be established.

28 **Sec. 22.** RCW 41.06.130 and 1993 c 281 s 26 are each amended to
29 read as follows:

30 (~~The office of director of personnel is hereby established.~~

31 (~~1) The director of personnel shall be appointed by the governor.~~
32 ~~The governor shall consult with, but shall not be obligated by~~
33 ~~recommendations of the board. The director's appointment shall be~~
34 ~~subject to confirmation by the senate.~~

35 (~~2) The director of personnel shall serve at the pleasure of the~~
36 ~~governor.~~

1 ~~(3) The director of personnel shall direct and supervise all the~~
2 ~~department of personnel's administrative and technical activities in~~
3 ~~accordance with the provisions of this chapter and the rules adopted~~
4 ~~under it.))~~

5 (1) The director of human resources shall prepare for consideration
6 by the board proposed rules required by this chapter. ~~((The director's~~
7 ~~salary shall be fixed by the governor.~~

8 ~~(4))~~(2) The director of ~~((personnel))~~ human resources may delegate
9 to any agency the authority to perform administrative and technical
10 personnel activities if the agency requests such authority and the
11 director of ~~((personnel))~~ human resources is satisfied that the agency
12 has the personnel management capabilities to effectively perform the
13 delegated activities. The director of ~~((personnel))~~ human resources
14 shall prescribe standards and guidelines for the performance of
15 delegated activities. If the director of ~~((personnel))~~ human resources
16 determines that an agency is not performing delegated activities within
17 the prescribed standards and guidelines, the director shall withdraw
18 the authority from the agency to perform such activities.

19 **Sec. 23.** RCW 41.50.010 and 1994 c 197 s 30 are each amended to
20 read as follows:

21 As used in this chapter, unless the context clearly indicates
22 otherwise:

23 (1) "Actuarial value" means the present value of a change in
24 actuarial liability~~((+))~~.

25 (2) "Department" means the department of ~~((retirement systems;~~
26 ~~and))~~ human resources.

27 (3) "Director" means the director of the department of ~~((retirement~~
28 ~~systems))~~ human resources.

29 **Sec. 24.** RCW 41.54.010 and 1998 c 341 s 702 are each amended to
30 read as follows:

31 The definitions in this section apply throughout this chapter
32 unless the context clearly requires otherwise.

33 (1) "Base salary" means salaries or wages earned by a member of a
34 system during a payroll period for personal services and includes wages
35 and salaries deferred under provisions of the United States internal
36 revenue code, but shall exclude overtime payments, nonmoney maintenance

1 compensation, and lump sum payments for deferred annual sick leave,
2 unused accumulated vacation, unused accumulated annual leave, any form
3 of severance pay, any bonus for voluntary retirement, any other form of
4 leave, or any similar lump sum payment.

5 (2) "Department" means the department of (~~retirement systems~~)
6 human resources.

7 (3) "Director" means the director of the department of (~~retirement~~
8 ~~systems~~) human resources.

9 (4) "Dual member" means a person who (a) is or becomes a member of
10 a system on or after July 1, 1988, (b) has been a member of one or more
11 other systems, and (c) has never been retired for service from a
12 retirement system and is not receiving a disability retirement or
13 disability leave benefit from any retirement system listed in RCW
14 41.50.030 or subsection (6) of this section.

15 (5) "Service" means the same as it may be defined in each
16 respective system. For the purposes of RCW 41.54.030, military service
17 granted under RCW 41.40.170(3) or 43.43.260 may only be based on
18 service accrued under chapter 41.40 or 43.43 RCW, respectively.

19 (6) "System" means the retirement systems established under
20 chapters 41.32, 41.40, 41.44, 41.35, and 43.43 RCW; plan 2 of the
21 system established under chapter 41.26 RCW; and the city employee
22 retirement systems for Seattle, Tacoma, and Spokane. The inclusion of
23 an individual first class city system is subject to the procedure set
24 forth in RCW 41.54.061.

25 **Sec. 25.** RCW 43.17.010 and 1993 sp.s. c 2 s 16, 1993 c 472 s 17,
26 and 1993 c 280 s 18 are each reenacted and amended to read as follows:

27 There shall be departments of the state government which shall be
28 known as (1) the department of social and health services, (2) the
29 department of ecology, (3) the department of labor and industries, (4)
30 the department of agriculture, (5) the department of fish and wildlife,
31 (6) the department of transportation, (7) the department of licensing,
32 (8) the department of general administration, (9) the department of
33 community, trade, and economic development, (10) the department of
34 veterans affairs, (11) the department of revenue, (12) the department
35 of (~~retirement systems~~) human resources, (13) the department of
36 corrections, (~~and~~) (14) the department of health, and (15) the
37 department of financial institutions, which shall be charged with the

1 execution, enforcement, and administration of such laws, and invested
2 with such powers and required to perform such duties, as the
3 legislature may provide.

4 **Sec. 26.** RCW 43.17.020 and 1995 1st sp.s. c 2 s 2 are each amended
5 to read as follows:

6 There shall be a chief executive officer of each department to be
7 known as: (1) The secretary of social and health services, (2) the
8 director of ecology, (3) the director of labor and industries, (4) the
9 director of agriculture, (5) the director of fish and wildlife, (6) the
10 secretary of transportation, (7) the director of licensing, (8) the
11 director of general administration, (9) the director of community,
12 trade, and economic development, (10) the director of veterans affairs,
13 (11) the director of revenue, (12) the director of (~~retirement~~
14 ~~systems~~) human resources, (13) the secretary of corrections, (~~and~~)
15 (14) the secretary of health, and (15) the director of financial
16 institutions.

17 Such officers, except the secretary of transportation and the
18 director of fish and wildlife, shall be appointed by the governor, with
19 the consent of the senate, and hold office at the pleasure of the
20 governor. The secretary of transportation shall be appointed by the
21 transportation commission as prescribed by RCW 47.01.041. The director
22 of fish and wildlife shall be appointed by the fish and wildlife
23 commission as prescribed by RCW 77.04.055.

24 **Sec. 27.** RCW 42.17.2401 and 2001 c 36 s 1 and 2001 c 9 s 1 are
25 each reenacted and amended to read as follows:

26 For the purposes of RCW 42.17.240, the term "executive state
27 officer" includes:

28 (1) The chief administrative law judge, the director of
29 agriculture, the administrator of the Washington basic health plan, the
30 director of the department of services for the blind, the director of
31 the state system of community and technical colleges, the director of
32 community, trade, and economic development, the secretary of
33 corrections, the director of ecology, the commissioner of employment
34 security, the chairman of the energy facility site evaluation council,
35 the secretary of the state finance committee, the director of financial
36 management, the director of fish and wildlife, the executive secretary

1 of the forest practices appeals board, the director of the gambling
2 commission, the director of general administration, the secretary of
3 health, the administrator of the Washington state health care
4 authority, the executive secretary of the health care facilities
5 authority, the executive secretary of the higher education facilities
6 authority, the executive secretary of the horse racing commission, the
7 director of human resources, the executive secretary of the human
8 rights commission, the executive secretary of the indeterminate
9 sentence review board, the director of the department of information
10 services, the director of the interagency committee for outdoor
11 recreation, the executive director of the state investment board, the
12 director of labor and industries, the director of licensing, the
13 director of the lottery commission, the director of the office of
14 minority and women's business enterprises, the director of parks and
15 recreation, (~~the director of personnel,~~) the executive director of
16 the public disclosure commission, (~~the director of retirement~~
17 ~~systems,~~) the director of revenue, the secretary of social and health
18 services, the chief of the Washington state patrol, the executive
19 secretary of the board of tax appeals, the secretary of transportation,
20 the secretary of the utilities and transportation commission, the
21 director of veterans affairs, the president of each of the regional and
22 state universities and the president of The Evergreen State College,
23 each district and each campus president of each state community
24 college;

25 (2) Each professional staff member of the office of the governor;

26 (3) Each professional staff member of the legislature; and

27 (4) Central Washington University board of trustees, board of
28 trustees of each community college, each member of the state board for
29 community and technical colleges, state convention and trade center
30 board of directors, (~~committee for deferred compensation,~~) Eastern
31 Washington University board of trustees, Washington economic
32 development finance authority, The Evergreen State College board of
33 trustees, executive ethics board, forest practices appeals board,
34 forest practices board, gambling commission, Washington health care
35 facilities authority, each member of the Washington health services
36 commission, higher education coordinating board, higher education
37 facilities authority, horse racing commission, state housing finance
38 commission, human rights commission, indeterminate sentence review

1 board, board of industrial insurance appeals, information services
2 board, interagency committee for outdoor recreation, state investment
3 board, commission on judicial conduct, legislative ethics board, liquor
4 control board, lottery commission, marine oversight board, Pacific
5 Northwest electric power and conservation planning council, parks and
6 recreation commission, personnel appeals board, board of pilotage
7 commissioners, pollution control hearings board, public disclosure
8 commission, public pension commission, shorelines hearing board, public
9 employees' benefits board, salmon recovery funding board, board of tax
10 appeals, transportation commission, University of Washington board of
11 regents, utilities and transportation commission, Washington state
12 maritime commission, Washington personnel resources board, Washington
13 public power supply system executive board, Washington State University
14 board of regents, Western Washington University board of trustees, and
15 fish and wildlife commission.

16 **Sec. 28.** RCW 43.33A.020 and 2002 c 303 s 1 are each amended to
17 read as follows:

18 There is hereby created the state investment board to consist of
19 fifteen members to be appointed as provided in this section.

20 (1) One member who is an active member of the public employees'
21 retirement system and has been an active member for at least five
22 years. This member shall be appointed by the governor, subject to
23 confirmation by the senate, from a list of nominations submitted by
24 organizations representing active members of the system. The initial
25 term of appointment shall be one year.

26 (2) One member who is an active member of the law enforcement
27 officers' and fire fighters' retirement system and has been an active
28 member for at least five years. This member shall be appointed by the
29 governor, subject to confirmation by the senate, from a list of
30 nominations submitted by organizations representing active members of
31 the system. The initial term of appointment shall be two years.

32 (3) One member who is an active member of the teachers' retirement
33 system and has been an active member for at least five years. This
34 member shall be appointed by the superintendent of public instruction
35 subject to confirmation by the senate. The initial term of appointment
36 shall be three years.

1 (4) The state treasurer or the assistant state treasurer if
2 designated by the state treasurer.

3 (5) A member of the state house of representatives. This member
4 shall be appointed by the speaker of the house of representatives.

5 (6) A member of the state senate. This member shall be appointed
6 by the president of the senate.

7 (7) One member who is a retired member of a state retirement system
8 shall be appointed by the governor, subject to confirmation by the
9 senate. The initial term of appointment shall be three years.

10 (8) The director of the department of labor and industries.

11 (9) The director of the department of (~~retirement systems~~) human
12 resources.

13 (10) One member who is an active member of the school employees'
14 retirement system and has at least five years of service credit. This
15 member shall be appointed by the superintendent of public instruction
16 subject to confirmation by the senate. The initial term of appointment
17 shall be three years.

18 (11) Five nonvoting members appointed by the state investment board
19 who are considered experienced and qualified in the field of
20 investments.

21 The legislative members shall serve terms of two years. The
22 initial legislative members appointed to the board shall be appointed
23 no sooner than January 10, 1983. The position of a legislative member
24 on the board shall become vacant at the end of that member's term on
25 the board or whenever the member ceases to be a member of the senate or
26 house of representatives from which the member was appointed.

27 After the initial term of appointment, all other members of the
28 state investment board, except ex officio members, shall serve terms of
29 three years and shall hold office until successors are appointed.
30 Members' terms, except for ex officio members, shall commence on
31 January 1 of the year in which the appointments are made.

32 Members may be reappointed for additional terms. Appointments for
33 vacancies shall be made for the unexpired terms in the same manner as
34 the original appointments. Any member may be removed from the board
35 for cause by the member's respective appointing authority.

36 NEW SECTION. **Sec. 29.** The director of personnel and the director
37 of retirement systems shall, by December 1, 2003, jointly submit a plan

1 to the governor for consolidation and smooth transition of the
2 department of personnel and the department of retirement systems into
3 the department of human resources. The plan shall include, but not be
4 limited to, recommendations for any additional statutory changes
5 necessary to implement the consolidated agency.

6 **Sec. 30.** RCW 47.64.011 and 1983 c 15 s 2 are each amended to read
7 as follows:

8 As used in this chapter, unless the context otherwise requires, the
9 definitions in this section shall apply.

10 (1) "Arbitration" means the procedure whereby the parties involved
11 in an impasse submit their differences to a third party for a final and
12 binding decision or as provided in this chapter.

13 (2) "Arbitrator" means either a single arbitrator or a panel of
14 three arbitrators as provided in RCW 47.64.240.

15 (3) "Collective bargaining representative" means the persons
16 designated by the secretary of transportation and employee
17 organizations to be the exclusive representatives during collective
18 bargaining negotiations.

19 (4) "Department of transportation" means the department as defined
20 in RCW 47.01.021.

21 (5) "Ferry employee" means any employee of the marine
22 transportation division of the department of transportation who is a
23 member of a collective bargaining unit represented by a ferry employee
24 organization and does not include an exempt employee pursuant to RCW
25 41.06.079.

26 (6) "Ferry employee organization" means any labor organization
27 recognized to represent a collective bargaining unit of ferry
28 employees.

29 (7) "Ferry system management" means those management personnel of
30 the marine transportation division of the department of transportation
31 who have been vested with the day-to-day management responsibilities of
32 the Washington state ferry system by the transportation commission and
33 who are not members of a collective bargaining unit represented by a
34 ferry employee organization.

35 (8) "Lockout" means the refusal of ferry system management to
36 furnish work to ferry employees in an effort to get ferry employee
37 organizations to make concessions during collective bargaining,

1 grievance, or other labor relation negotiations. Curtailment of
2 employment of ferry employees due to lack of work resulting from a
3 strike or work stoppage, as defined in subsection (11) of this section,
4 shall not be considered a lockout.

5 (9) (~~"Marine employees' commission" means the commission created~~
6 ~~in RCW 47.64.280.~~

7 ~~(10))~~ "Office of financial management" means the office as created
8 in RCW 43.41.050.

9 (10) "Public employment relations commission" means the office as
10 created in RCW 41.58.010.

11 (11) "Strike or work stoppage" means a ferry employee's refusal, in
12 concerted action with others, to report to duty, or his or her wilful
13 absence from his or her position, or his or her stoppage or slowdown of
14 work, or his or her abstinence in whole or in part from the full,
15 faithful, and proper performance of the duties of employment, for the
16 purpose of inducing, influencing, or coercing a change in conditions,
17 compensation, rights, privileges, or obligations of his, her, or any
18 other ferry employee's employment. A refusal, in good faith, to work
19 under conditions which pose an endangerment to the health and safety of
20 ferry employees or the public, as determined by the master of the
21 vessel, shall not be considered a strike for the purposes of this
22 chapter.

23 (12) "Transportation commission" means the commission as defined in
24 RCW 47.01.021.

25 **Sec. 31.** RCW 47.64.090 and 1983 c 15 s 27 are each amended to read
26 as follows:

27 If any party assumes the operation and maintenance of any ferry or
28 ferry system by rent, lease, or charter from the department of
29 transportation, such party shall assume and be bound by all the
30 provisions herein and any agreement or contract for such operation of
31 any ferry or ferry system entered into by the department shall provide
32 that the wages to be paid, hours of employment, working conditions and
33 seniority rights of employees will be established by the (~~marine~~
34 ~~employees'~~) public employment relations commission in accordance with
35 the terms and provisions of this chapter and it shall further provide
36 that all labor disputes shall be adjudicated in accordance with chapter
37 47.64 RCW.

1 **Sec. 32.** RCW 47.64.190 and 1983 c 15 s 10 are each amended to read
2 as follows:

3 (1) No negotiated agreement or arbitration order may become
4 effective and in force until five calendar days after an agreement has
5 been negotiated or an arbitration order entered for each and every
6 ferry employee bargaining unit.

7 (2) Upon the conclusion of negotiations or arbitration procedures
8 with all ferry employee bargaining units, the secretary shall ascertain
9 whether the cumulative fiscal requirements of all such agreements and
10 arbitration orders are within the limitations imposed by RCW 47.64.180.

11 (3) If the secretary finds that budgetary or fare restrictions will
12 be exceeded, he shall, within five calendar days of completion of
13 negotiations or arbitration with the last bargaining unit to conclude
14 an agreement, submit all agreements and arbitration awards to the
15 (~~marine employees~~) public employment relations commission for a
16 binding determination whether the limitations of RCW 47.64.180 have
17 been exceeded.

18 (4) The (~~marine employees~~) public employment relations
19 commission shall review all negotiated agreements and arbitration
20 orders, and may take written or oral testimony from the parties,
21 regarding compliance with RCW 47.64.180. Within fifteen calendar days
22 of receiving the secretary's request for review, the commission shall
23 determine by a majority vote of its members whether or not the
24 cumulative effect of all such agreements and orders exceeds the
25 limitations of RCW 47.64.180.

26 (5) If the (~~marine employees~~) public employment relations
27 commission determines that the limitations of RCW 47.64.180 would be
28 exceeded if all agreements and arbitration orders were given full force
29 and effect, it shall order the minimum percentage reduction in straight
30 time wage provisions applied equally across the board to all agreements
31 or arbitration orders which will result in compliance with RCW
32 47.64.180.

33 (6) Whenever the secretary requests a determination by the (~~marine~~
34 ~~employees~~) public employment relations commission pursuant to this
35 section, the effect of all agreements and arbitration orders shall be
36 stayed, pending the commission's final determination.

1 collected for the salary survey, including proprietary information, but
2 is prohibited from disclosing the salary survey data to any other
3 person or entity, except by court order.

4 **Sec. 35.** RCW 47.64.240 and 1989 c 327 s 3 are each amended to read
5 as follows:

6 (1) If impasse persists fourteen days after the mediator has been
7 appointed, or beyond any other date mutually agreed to by the parties,
8 all impasse items shall be submitted to arbitration pursuant to this
9 section, and that arbitration shall be binding upon the parties.

10 (2) Each party shall submit to the other within four days of
11 request, a final offer on the impasse items with proof of service of a
12 copy upon the other party. Each party shall also submit a copy of a
13 draft of the proposed collective bargaining agreement to the extent to
14 which agreement has been reached and the name of its selected
15 arbitrator. The parties may continue to negotiate all offers until an
16 agreement is reached or a decision rendered by the panel of
17 arbitrators.

18 As an alternative procedure, the two parties may agree to submit
19 the dispute to a single arbitrator. If the parties cannot agree on the
20 arbitrator within four days, the selection shall be made pursuant to
21 subsection (5) of this section. The full costs of arbitration under
22 this provision shall be shared equally by the parties to the dispute.

23 (3) The submission of the impasse items to the arbitrators shall be
24 limited to those issues upon which the parties have not reached
25 agreement. With respect to each such item, the arbitration panel award
26 shall be restricted to the final offers on each impasse item submitted
27 by the parties to the arbitration board on each impasse item.

28 (4) The panel of arbitrators shall consist of three members
29 appointed in the following manner:

30 (a) One member shall be appointed by the secretary of
31 transportation;

32 (b) One member shall be appointed by the ferry employee
33 organization;

34 (c) One member shall be appointed mutually by the members appointed
35 by the secretary of transportation and the employee organization. The
36 last member appointed shall be the chairman of the panel of
37 arbitrators. No member appointed may be an employee of the parties;

1 (d) Ferry system management and the employee organization shall
2 each pay the fees and expenses incurred by the arbitrator each
3 selected. The fee and expenses of the chairman of the panel shall be
4 shared equally by each party.

5 (5) If the third member has not been selected within four days of
6 notification as provided in subsection (2) of this section, a list of
7 seven arbitrators shall be submitted to the parties by the ((~~marine~~
8 ~~employees~~)) public employment relations commission. The two
9 arbitrators selected by ferry system management and the ferry employee
10 organization shall determine by lot which arbitrator shall remove the
11 first name from the list submitted by the ((~~marine employees~~)) public
12 employment relations commission. The second arbitrator and the first
13 arbitrator shall alternately remove one additional name until only one
14 name remains. The person whose name remains shall become the chairman
15 of the panel of arbitrators and shall call a meeting within thirty
16 days, or at such time mutually agreed to by the parties, at a location
17 designated by him or her. In lieu of a list of seven nominees for the
18 third member being submitted by the ((~~marine employees~~)) public
19 employment relations commission, the parties may mutually agree to have
20 either the Federal Mediation and Conciliation Service or the American
21 Arbitration Association submit a list of seven nominees.

22 (6) If a vacancy occurs on the panel of arbitrators, the selection
23 for replacement of that member shall be in the same manner and within
24 the same time limits as the original member was chosen. No final award
25 under subsection (3) of this section may be made by the panel until
26 three arbitrators have been chosen.

27 (7) The panel of arbitrators shall at no time engage in an effort
28 to mediate or otherwise settle the dispute in any manner other than
29 that prescribed in this section.

30 (8) From the time of appointment until such time as the panel of
31 arbitrators makes its final determination, there shall be no discussion
32 concerning recommendations for settlement of the dispute by the members
33 of the panel of arbitrators with parties other than those who are
34 direct parties to the dispute. The panel of arbitrators may conduct
35 formal or informal hearings to discuss offers submitted by both
36 parties.

37 (9) The panel of arbitrators shall consider, in addition to any
38 other relevant factors, the following factors:

1 (a) Past collective bargaining contracts between the parties
2 including the bargaining that led up to the contracts;

3 (b) Comparison of wages, hours, employee benefits, and conditions
4 of employment of the involved ferry employees with those of public and
5 private sector employees in states along the west coast of the United
6 States, including Alaska, and in British Columbia doing directly
7 comparable but not necessarily identical work, giving consideration to
8 factors peculiar to the area and the classifications involved;

9 (c) The interests and welfare of the public, the ability of the
10 ferry system to finance economic adjustments, and the effect of the
11 adjustments on the normal standard of services;

12 (d) The right of the legislature to appropriate and to limit funds
13 for the conduct of the ferry system; and

14 (e) The limitations on ferry toll increases and operating subsidies
15 as may be imposed by the legislature.

16 (10) The chairman of the panel of arbitrators may hold hearings and
17 administer oaths, examine witnesses and documents, take testimony and
18 receive evidence, issue subpoenas to compel the attendance of witnesses
19 and the production of records, and delegate such powers to other
20 members of the panel of arbitrators. The chairman of the panel of
21 arbitrators may petition the superior court in Thurston county, or any
22 county in which any hearing is held, to enforce the order of the
23 chairman compelling the attendance of witnesses and the production of
24 records.

25 (11) A majority of the panel of arbitrators shall within thirty
26 days after its first meeting select the most reasonable offer, in its
27 judgment, of the final offers on each impasse item submitted by the
28 parties.

29 (12) The selections by the panel of arbitrators and items agreed
30 upon by the ferry system management and the employee organization shall
31 be deemed to be the collective bargaining agreement between the
32 parties.

33 (13) The determination of the panel of arbitrators shall be by
34 majority vote and shall be final and binding, subject to RCW 47.64.180
35 and 47.64.190. The panel of arbitrators shall give written explanation
36 for its selection and inform the parties of its decision.

1 **Sec. 36.** RCW 47.64.280 and 1984 c 287 s 95 are each amended to
2 read as follows:

3 ~~(1) ((There is created the marine employees' commission. The~~
4 ~~governor shall appoint the commission with the consent of the senate.~~
5 ~~The commission shall consist of three members: One member to be~~
6 ~~appointed from labor, one member from industry, and one member from the~~
7 ~~public who has significant knowledge of maritime affairs. The public~~
8 ~~member shall be chairman of the commission. One of the original~~
9 ~~members shall be appointed for a term of three years, one for a term of~~
10 ~~four years, and one for a term of five years. Their successors shall~~
11 ~~be appointed for terms of five years each, except that any person~~
12 ~~chosen to fill a vacancy shall be appointed only for the unexpired term~~
13 ~~of the member whom he succeeds. Commission members are eligible for~~
14 ~~reappointment. Any member of the commission may be removed by the~~
15 ~~governor, upon notice and hearing, for neglect of duty or malfeasance~~
16 ~~in office, but for no other cause. Commission members are not eligible~~
17 ~~for state retirement under chapter 41.40 RCW by virtue of their service~~
18 ~~on the commission. Members of the commission shall be compensated in~~
19 ~~accordance with RCW 43.03.250 and shall receive reimbursement for~~
20 ~~official travel and other expenses at the same rate and on the same~~
21 ~~terms as provided for the transportation commission by RCW 47.01.061.~~
22 ~~The payments shall be made from the Puget Sound ferry operations~~
23 ~~account.~~

24 ~~(2))~~ The ~~((marine employees'))~~ public employment relations
25 commission shall: (a) Adjust all complaints, grievances, and disputes
26 between labor and management arising out of the operation of the ferry
27 system as provided in RCW 47.64.150; (b) provide for impasse mediation
28 as required in RCW 47.64.210; (c) conduct fact-finding and provide
29 salary surveys as required in RCW 47.64.220; and (d) provide for the
30 selection of an impartial arbitrator as required in RCW 47.64.240(5).

31 ~~((3))~~ (2) In adjudicating all complaints, grievances, and
32 disputes, the party claiming labor disputes shall, in writing, notify
33 the ~~((marine employees'))~~ public employment relations commission, which
34 shall make careful inquiry into the cause thereof and issue an order
35 advising the ferry employee, or the ferry employee organization
36 representing him or her, and the department of transportation, as to
37 the decision of the public employment relations commission.

1 The parties are entitled to offer evidence relating to disputes at
2 all hearings conducted by the public employment relations commission.
3 The orders and awards of the public employment relations commission are
4 final and binding upon any ferry employee or employees or their
5 representative affected thereby and upon the department.

6 The public employment relations commission shall adopt rules of
7 procedure under chapter 34.05 RCW.

8 The public employment relations commission has the authority to
9 subpoena any ferry employee or employees, or their representatives, and
10 any member or representative of the department, and any witnesses. The
11 public employment relations commission may require attendance of
12 witnesses and the production of all pertinent records at any hearings
13 held by the public employment relations commission. The subpoenas of
14 the public employment relations commission are enforceable by order of
15 any superior court in the state of Washington for the county within
16 which the proceeding may be pending. The public employment relations
17 commission may hire staff as necessary, appoint consultants, enter into
18 contracts, and conduct studies as reasonably necessary to carry out
19 this chapter.

20 **Sec. 37.** RCW 41.58.020 and 1993 c 379 s 303 are each amended to
21 read as follows:

22 (1) It shall be the duty of the commission, in order to prevent or
23 minimize interruptions growing out of labor disputes, to assist
24 employers and employees to settle such disputes through mediation and
25 fact-finding.

26 (2) The commission, through the director, may proffer its services
27 in any labor dispute arising under a collective bargaining statute
28 administered by the commission, either upon its own motion or upon the
29 request of one or more of the parties to the dispute, whenever in its
30 judgment such dispute threatens to cause a substantial disruption to
31 the public welfare.

32 (3) If the director is not able to bring the parties to agreement
33 by mediation within a reasonable time, the director shall seek to
34 induce the parties to voluntarily seek other means of settling the
35 dispute without resort to strike or other coercion, including
36 submission to the employees in the bargaining unit of the employer's
37 last offer of settlement for approval or rejection in a secret ballot.

1 The failure or refusal of either party to agree to any procedure
2 suggested by the director shall not be deemed a violation of any duty
3 or obligation imposed by this chapter.

4 (4) Final adjustment by a method agreed upon by the parties is
5 declared to be the desirable method for settlement of grievance
6 disputes arising over the application or interpretation of an existing
7 collective bargaining agreement. The commission is directed to make
8 its mediation and fact-finding services available in the settlement of
9 such grievance disputes only as a last resort.

10 (5) Notwithstanding the requirements of this chapter, settlements
11 of grievance disputes involving employees of the marine transportation
12 division of the department of transportation shall be administered in
13 accordance with the requirements of chapter 47.64 RCW.

14 NEW SECTION. Sec. 38. (1) The marine employees' commission is
15 hereby abolished and its powers, duties, and functions are hereby
16 transferred to the public employment relations commission. All
17 references to the commissioners or the marine employees' commission in
18 the Revised Code of Washington shall be construed to mean the director
19 or the public employment relations commission.

20 (2)(a) All reports, documents, surveys, books, records, files,
21 papers, or written material in the possession of the marine employees'
22 commission shall be delivered to the custody of the public employment
23 relations commission. All cabinets, furniture, office equipment, motor
24 vehicles, and other tangible property employed by the marine employees'
25 commission shall be made available to the public employment relations
26 commission. All funds, credits, or other assets held by the marine
27 employees' commission shall be assigned to the public employment
28 relations commission.

29 (b) Any appropriations made to the marine employees' commission
30 shall, on the effective date of this section, be transferred and
31 credited to the public employment relations commission.

32 (c) If any question arises as to the transfer of any personnel,
33 funds, books, documents, records, papers, files, equipment, or other
34 tangible property used or held in the exercise of the powers and the
35 performance of the duties and functions transferred, the director of
36 financial management shall make a determination as to the proper
37 allocation and certify the same to the state agencies concerned.

1 (3) All rules and all pending business before the marine employees'
2 commission shall be continued and acted upon by the public employment
3 relations commission. All existing contracts and obligations shall
4 remain in full force and shall be performed by the public employment
5 relations commission.

6 (4) The transfer of the powers, duties, functions, and personnel of
7 the marine employees' commission shall not affect the validity of any
8 act performed before the effective date of this section.

9 (5) If apportionments of budgeted funds are required because of the
10 transfers directed by this section, the director of financial
11 management shall certify the apportionments to the agencies affected,
12 the state auditor, and the state treasurer. Each of these shall make
13 the appropriate transfer and adjustments in funds and appropriation
14 accounts and equipment records in accordance with the certification.

15 (6) Nothing contained in this section may be construed to alter any
16 existing collective bargaining unit or the provisions of any existing
17 collective bargaining agreement until the agreement has expired or
18 until the bargaining unit has been modified by action of the personnel
19 resources board as provided by law.

20 NEW SECTION. **Sec. 39.** The public employment relations commission
21 shall report by September 1, 2004, to the house of representatives
22 appropriations committee, the senate ways and means committee and the
23 transportation committees in both houses on the progress it has made in
24 subsuming the responsibilities and duties of the marine employees'
25 commission. This report shall include the process used to transfer the
26 functions from the marine employees' commission to the public
27 employment relations commission, any difficulties encountered in the
28 transfer, how those difficulties were overcome, and whether any
29 legislation may be needed to fully achieve the transfer.

30 NEW SECTION. **Sec. 40.** Unless the context clearly requires
31 otherwise, the definitions in this section apply throughout this
32 chapter.

33 (1) "Department" means the department of gaming.

34 (2) "Director" means the director of gaming.

1 NEW SECTION. **Sec. 41.** There is created a department of state
2 government to be known as the department of gaming. The department is
3 vested with all powers and duties transferred to it under this chapter
4 and such other powers and duties as may be authorized by law.

5 NEW SECTION. **Sec. 42.** The executive head and appointing authority
6 of the department is the director. The director shall be appointed by
7 the governor, with the consent of the senate, and shall serve at the
8 pleasure of the governor. The director shall be paid a salary to be
9 fixed by the governor in accordance with RCW 43.03.040. If a vacancy
10 occurs in the position while the senate is not in session, the governor
11 shall make a temporary appointment until the next meeting of the
12 senate.

13 NEW SECTION. **Sec. 43.** It is the intent of the legislature
14 wherever possible to place the internal affairs of the department under
15 the control of the director in order that the director may institute
16 therein the flexible, alert, and intelligent management of its business
17 that changing contemporary circumstances require. Therefore, whenever
18 the director's authority is not specifically limited by law, the
19 director has complete charge and supervisory powers over the
20 department. The director may create such administrative structures as
21 the director considers appropriate, except as otherwise specified by
22 law. The director may employ such assistants and personnel as
23 necessary for the general administration of the department. This
24 employment shall be in accordance with the state civil service law,
25 chapter 41.06 RCW, except as otherwise provided.

26 NEW SECTION. **Sec. 44.** Any power or duty vested in or transferred
27 to the director by law or executive order may be delegated by the
28 director to the deputy director or to any other assistant or
29 subordinate; but the director shall be responsible for the official
30 acts of the officers and employees of the department.

31 NEW SECTION. **Sec. 45.** A new section is added to chapter 41.06 RCW
32 to read as follows:

33 In addition to the exemptions under RCW 41.06.070, the provisions
34 of this chapter shall not apply in the department of gaming to the

1 director, the director's personal secretary, the deputy director, all
2 division directors and assistant directors, and one confidential
3 secretary for each of these officers.

4 **Sec. 46.** RCW 43.17.010 and 1993 sp.s. c 2 s 16, 1993 c 472 s 17,
5 and 1993 c 280 s 18 are each reenacted and amended to read as follows:

6 There shall be departments of the state government which shall be
7 known as (1) the department of social and health services, (2) the
8 department of ecology, (3) the department of labor and industries, (4)
9 the department of agriculture, (5) the department of fish and wildlife,
10 (6) the department of transportation, (7) the department of licensing,
11 (8) the department of general administration, (9) the department of
12 community, trade, and economic development, (10) the department of
13 veterans affairs, (11) the department of revenue, (12) the department
14 of retirement systems, (13) the department of corrections, (~~and~~) (14)
15 the department of health, (~~and~~) (15) the department of financial
16 institutions, and (16) the department of gaming, which shall be charged
17 with the execution, enforcement, and administration of such laws, and
18 invested with such powers and required to perform such duties, as the
19 legislature may provide.

20 **Sec. 47.** RCW 43.17.020 and 1995 1st sp.s. c 2 s 2 are each amended
21 to read as follows:

22 There shall be a chief executive officer of each department to be
23 known as: (1) The secretary of social and health services, (2) the
24 director of ecology, (3) the director of labor and industries, (4) the
25 director of agriculture, (5) the director of fish and wildlife, (6) the
26 secretary of transportation, (7) the director of licensing, (8) the
27 director of general administration, (9) the director of community,
28 trade, and economic development, (10) the director of veterans affairs,
29 (11) the director of revenue, (12) the director of retirement systems,
30 (13) the secretary of corrections, (~~and~~) (14) the secretary of
31 health, (~~and~~) (15) the director of financial institutions, and (16)
32 the director of gaming.

33 Such officers, except the secretary of transportation and the
34 director of fish and wildlife, shall be appointed by the governor, with
35 the consent of the senate, and hold office at the pleasure of the
36 governor. The secretary of transportation shall be appointed by the

1 transportation commission as prescribed by RCW 47.01.041. The director
2 of fish and wildlife shall be appointed by the fish and wildlife
3 commission as prescribed by RCW 77.04.055.

4 NEW SECTION. **Sec. 48.** (1) The gambling commission and the horse
5 racing commission are hereby abolished and their powers, duties, and
6 functions are hereby transferred to the department of gaming. All
7 references to the executive directors of the gambling commission or the
8 horse racing commission or the gambling commission or the horse racing
9 commission in the Revised Code of Washington shall be construed to mean
10 the director or the department of gaming.

11 (2)(a) All reports, documents, surveys, books, records, files,
12 papers, or written material in the possession of the gambling
13 commission or the horse racing commission shall be delivered to the
14 custody of the department of gaming. All cabinets, furniture, office
15 equipment, motor vehicles, and other tangible property employed by the
16 gambling commission or the horse racing commission shall be made
17 available to the department of gaming. All funds, credits, or other
18 assets held by the gambling commission or the horse racing commission
19 shall be assigned to the department of gaming.

20 (b) Any appropriations made to the gambling commission or the horse
21 racing commission shall, on the effective date of this section, be
22 transferred and credited to the department of gaming.

23 (c) If any question arises as to the transfer of any personnel,
24 funds, books, documents, records, papers, files, equipment, or other
25 tangible property used or held in the exercise of the powers and the
26 performance of the duties and functions transferred, the director of
27 financial management shall make a determination as to the proper
28 allocation and certify the same to the state agencies concerned.

29 (3) All employees of the gambling commission and the horse racing
30 commission are transferred to the jurisdiction of the department of
31 gaming. All employees classified under chapter 41.06 RCW, the state
32 civil service law, are assigned to the department of gaming to perform
33 their usual duties upon the same terms as formerly, without any loss of
34 rights, subject to any action that may be appropriate thereafter in
35 accordance with the laws and rules governing state civil service.

36 (4) All rules and all pending business before the gambling
37 commission and the horse racing commission shall be continued and acted

1 upon by the department of gaming. All existing contracts and
2 obligations shall remain in full force and shall be performed by the
3 department of gaming.

4 (5) The transfer of the powers, duties, functions, and personnel of
5 the gambling commission and the horse racing commission shall not
6 affect the validity of any act performed before the effective date of
7 this section.

8 (6) If apportionments of budgeted funds are required because of the
9 transfers directed by this section, the director of financial
10 management shall certify the apportionments to the agencies affected,
11 the state auditor, and the state treasurer. Each of these shall make
12 the appropriate transfer and adjustments in funds and appropriation
13 accounts and equipment records in accordance with the certification.

14 (7) Nothing contained in this section may be construed to alter any
15 existing collective bargaining unit or the provisions of any existing
16 collective bargaining agreement until the agreement has expired or
17 until the bargaining unit has been modified by action of the personnel
18 resources board as provided by law.

19 **Sec. 49.** RCW 9.46.0201 and 1987 c 4 s 2 are each amended to read
20 as follows:

21 "Amusement game," as used in this chapter, means a game played for
22 entertainment in which:

23 (1) The contestant actively participates;

24 (2) The outcome depends in a material degree upon the skill of the
25 contestant;

26 (3) Only merchandise prizes are awarded;

27 (4) The outcome is not in the control of the operator;

28 (5) The wagers are placed, the winners are determined, and a
29 distribution of prizes or property is made in the presence of all
30 persons placing wagers at such game; and

31 (6) Said game is conducted or operated by any agricultural fair,
32 person, association, or organization in such manner and at such
33 locations as may be authorized by rules (~~and regulations~~) adopted by
34 the (~~commission~~) department pursuant to this chapter (~~as now or~~
35 ~~hereafter amended~~)).

36 Cake walks as commonly known and fish ponds as commonly known shall
37 be treated as amusement games for all purposes under this chapter.

1 **Sec. 50.** RCW 9.46.0205 and 2002 c 369 s 1 are each amended to read
2 as follows:

3 "Bingo," as used in this chapter, means a game conducted only in
4 the county within which the organization is principally located in
5 which prizes are awarded on the basis of designated numbers or symbols
6 on a card conforming to numbers or symbols selected at random and in
7 which no cards are sold except at the time and place of said game, when
8 said game is conducted by a bona fide charitable or nonprofit
9 organization, or if an agricultural fair authorized under chapters
10 15.76 and 36.37 RCW, which does not conduct bingo on more than twelve
11 consecutive days in any calendar year, and except in the case of any
12 agricultural fair as authorized under chapters 15.76 and 36.37 RCW, no
13 person other than a bona fide member or an employee of said
14 organization takes any part in the management or operation of said
15 game, and no person who takes any part in the management or operation
16 of said game takes any part in the management or operation of any game
17 conducted by any other organization or any other branch of the same
18 organization, unless approved by the (~~commission~~) department, and no
19 part of the proceeds thereof inure to the benefit of any person other
20 than the organization conducting said game. For the purposes of this
21 section, the organization shall be deemed to be principally located in
22 the county within which it has its primary business office. If the
23 organization has no business office, the organization shall be deemed
24 to be located in the county of principal residence of its chief
25 executive officer: PROVIDED, That any organization which is conducting
26 any licensed and established bingo game in any locale as of January 1,
27 1981, shall be exempt from the requirement that such game be conducted
28 in the county in which the organization is principally located.

29 **Sec. 51.** RCW 9.46.0209 and 2000 c 233 s 1 are each amended to read
30 as follows:

31 "Bona fide charitable or nonprofit organization," as used in this
32 chapter, means: (1) Any organization duly existing under the
33 provisions of chapter 24.12, 24.20, or 24.28 RCW, any agricultural fair
34 authorized under the provisions of chapters 15.76 or 36.37 RCW, or any
35 nonprofit corporation duly existing under the provisions of chapter
36 24.03 RCW for charitable, benevolent, eleemosynary, educational, civic,
37 patriotic, political, social, fraternal, athletic or agricultural

1 purposes only, or any nonprofit organization, whether incorporated or
2 otherwise, when found by the ((~~commission~~)) department to be organized
3 and operating for one or more of the aforesaid purposes only, all of
4 which in the opinion of the ((~~commission~~)) department have been
5 organized and are operated primarily for purposes other than the
6 operation of gambling activities authorized under this chapter; or (2)
7 any corporation which has been incorporated under Title 36 U.S.C. and
8 whose principal purposes are to furnish volunteer aid to members of the
9 armed forces of the United States and also to carry on a system of
10 national and international relief and to apply the same in mitigating
11 the sufferings caused by pestilence, famine, fire, floods, and other
12 national calamities and to devise and carry on measures for preventing
13 the same. Such an organization must have been organized and
14 continuously operating for at least twelve calendar months immediately
15 preceding making application for any license to operate a gambling
16 activity, or the operation of any gambling activity authorized by this
17 chapter for which no license is required. It must have not less than
18 fifteen bona fide active members each with the right to an equal vote
19 in the election of the officers, or board members, if any, who
20 determine the policies of the organization in order to receive a
21 gambling license. An organization must demonstrate to the
22 ((~~commission~~)) department that it has made significant progress toward
23 the accomplishment of the purposes of the organization during the
24 twelve consecutive month period preceding the date of application for
25 a license or license renewal. The fact that contributions to an
26 organization do not qualify for charitable contribution deduction
27 purposes or that the organization is not otherwise exempt from payment
28 of federal income taxes pursuant to the internal revenue code of 1954,
29 as amended, shall constitute prima facie evidence that the organization
30 is not a bona fide charitable or nonprofit organization for the
31 purposes of this section.

32 Any person, association or organization which pays its employees,
33 including members, compensation other than is reasonable therefor under
34 the local prevailing wage scale shall be deemed paying compensation
35 based in part or whole upon receipts relating to gambling activities
36 authorized under this chapter and shall not be a bona fide charitable
37 or nonprofit organization for the purposes of this chapter.

1 For the purposes of RCW 9.46.0315 and 9.46.110, a bona fide
2 nonprofit organization also includes a credit union organized and
3 operating under state or federal law. All revenue less prizes and
4 expenses received from raffles conducted by credit unions must be
5 devoted to purposes authorized under this section for charitable and
6 nonprofit organizations.

7 **Sec. 52.** RCW 9.46.0217 and 1994 c 120 s 1 are each amended to read
8 as follows:

9 "Commercial stimulant," as used in this chapter, means an activity
10 is operated as a commercial stimulant, for the purposes of this
11 chapter, only when it is an activity operated in connection with an
12 established business, with the purpose of increasing the volume of
13 sales of food or drink for consumption on that business premises. The
14 (~~commission~~) department may by rule establish guidelines and criteria
15 for applying this definition to its applicants and licensees for
16 gambling activities authorized by this chapter as commercial
17 stimulants.

18 **Sec. 53.** RCW 9.46.0233 and 2000 c 178 s 1 are each amended to read
19 as follows:

20 (1) "Fund raising event," as used in this chapter, means a fund
21 raising event conducted during any seventy-two consecutive hours but
22 exceeding twenty-four consecutive hours and not more than once in any
23 calendar year or a fund raising event conducted not more than twice
24 each calendar year for not more than twenty-four consecutive hours each
25 time by a bona fide charitable or nonprofit organization as defined in
26 RCW 9.46.0209 other than any agricultural fair referred to thereunder,
27 upon authorization therefor by the (~~commission~~) department, which the
28 legislature hereby authorizes to issue a license therefor, with or
29 without fee, permitting the following activities, or any of them,
30 during such event: Bingo, amusement games, contests of chance,
31 lotteries, and raffles. However: (a) Gross wagers and bets or revenue
32 generated from participants under subsection (2) of this section
33 received by the organization less the amount of money paid by the
34 organization as winnings, or as payment for services or equipment
35 rental under subsection (2) of this section, and for the purchase cost
36 of prizes given as winnings do not exceed ten thousand dollars during

1 the total calendar days of such fund raising event in the calendar
2 year; (b) such activities shall not include any mechanical gambling or
3 lottery device activated by the insertion of a coin or by the insertion
4 of any object purchased by any person taking a chance by gambling in
5 respect to the device; (c) only bona fide members of the organization
6 who are not paid for such service or persons licensed or approved by
7 the ((~~commission~~)) department under subsection (2) of this section
8 shall participate in the management or operation of the activities, and
9 all income therefrom, after deducting the cost of prizes and other
10 expenses, shall be devoted solely to the lawful purposes of the
11 organization; and (d) such organization shall notify the appropriate
12 local law enforcement agency of the time and place where such
13 activities shall be conducted. The ((~~commission~~)) department shall
14 require an annual information report setting forth in detail the
15 expenses incurred and the revenue received relative to the activities
16 permitted.

17 (2) Bona fide charitable or nonprofit organizations may hire a
18 person or vendor, who is licensed or approved by the ((~~commission~~))
19 department, to organize and conduct a fund raising event on behalf of
20 the sponsoring organization subject to the following restrictions:

21 (a) The person or vendor may not provide the facility for the
22 event;

23 (b) The person or vendor may use paid personnel and may be
24 compensated by a fixed fee determined prior to the event, but may not
25 share in the proceeds of the event;

26 (c) All wagers must be made with scrip or chips having no cash
27 value. At the end of the event, participants may be given the
28 opportunity to purchase or otherwise redeem their scrip or chips for
29 merchandise prizes;

30 (d) The value of all purchased prizes must not exceed ten percent
31 of the gross revenue from the event; and

32 (e) Only members and guests of the sponsoring organization may
33 participate in the event.

34 (3) Bona fide charitable or nonprofit organizations holding a
35 license to conduct a fund raising event may join together to jointly
36 conduct a fund raising event if:

37 (a) Approval to do so is received from the ((~~commission~~))
38 department; and

1 (b) The method of dividing the income and expenditures and the
2 method of recording and handling of funds are disclosed to the
3 ((~~commission~~)) department in the application for approval of the joint
4 fund raising event and are approved by the ((~~commission~~)) department.

5 The gross wagers and bets or revenue generated from participants
6 under subsection (2) of this section received by the organizations less
7 the amount of money paid by the organizations as winnings, or as
8 payment for services or equipment rental under subsection (2) of this
9 section, and for the purchase costs of prizes given as winnings may not
10 exceed ten thousand dollars during the total calendar days of such
11 event. The net receipts each organization receives shall count against
12 the organization's annual limit stated in this subsection.

13 A joint fund raising event shall count against only the lead
14 organization or organizations receiving fifty percent or more of the
15 net receipts for the purposes of the number of such events an
16 organization may conduct each year.

17 The ((~~commission~~)) department may issue a joint license for a joint
18 fund raising event and charge a license fee for such license according
19 to a schedule of fees adopted by the ((~~commission~~)) department which
20 reflects the added cost to the ((~~commission~~)) department of licensing
21 more than one licensee for the event.

22 **Sec. 54.** RCW 9.46.0261 and 1987 c 4 s 16 are each amended to read
23 as follows:

24 "Member" and "bona fide member," as used in this chapter, mean a
25 person accepted for membership in an organization eligible to be
26 licensed by the ((~~commission~~)) department under this chapter upon
27 application, with such action being recorded in the official minutes of
28 a regular meeting or who has held full and regular membership status in
29 the organization for a period of not less than twelve consecutive
30 months prior to participating in the management or operation of any
31 gambling activity. Such membership must in no way be dependent upon,
32 or in any way related to, the payment of consideration to participate
33 in any gambling activity.

34 Member or bona fide member shall include only members of an
35 organization's specific chapter or unit licensed by the ((~~commission~~))
36 department or otherwise actively conducting the gambling activity:
37 PROVIDED, That:

1 (1) Members of chapters or local units of a state, regional or
2 national organization may be considered members of the parent
3 organization for the purpose of a gambling activity conducted by the
4 parent organization, if the rules of the parent organization so permit;

5 (2) Members of a bona fide auxiliary to a principal organization
6 may be considered members of the principal organization for the purpose
7 of a gambling activity conducted by the principal organization.
8 Members of the principal organization may also be considered members of
9 its auxiliary for the purpose of a gambling activity conducted by the
10 auxiliary; and

11 (3) Members of any chapter or local unit within the jurisdiction of
12 the next higher level of the parent organization, and members of a bona
13 fide auxiliary to that chapter or unit, may assist any other chapter or
14 local unit of that same organization licensed by the (~~commission~~)
15 department in the conduct of gambling activities.

16 No person shall be a member of any organization if that person's
17 primary purpose for membership is to become, or continue to be, a
18 participant in, or an operator or manager of, any gambling activity or
19 activities.

20 **Sec. 55.** RCW 9.46.0273 and 1987 c 4 s 19 are each amended to read
21 as follows:

22 "Punch boards" and "pull-tabs," as used in this chapter, shall be
23 given their usual and ordinary meaning as of July 16, 1973, except that
24 such definition may be revised by the (~~commission~~) department
25 pursuant to rules (~~and regulations promulgated~~) adopted pursuant to
26 this chapter.

27 **Sec. 56.** RCW 9.46.0282 and 1997 c 118 s 1 are each amended to read
28 as follows:

29 "Social card game" as used in this chapter means a card game that
30 constitutes gambling and is authorized by the (~~commission~~) department
31 under RCW 9.46.070. Authorized card games may include a house-banked
32 or a player-funded banked card game. No one may participate in the
33 card game or have an interest in the proceeds of the card game who is
34 not a player or a person licensed by the (~~commission~~) department to
35 participate in social card games. There shall be two or more
36 participants in the card game who are players or persons licensed by

1 the ((~~commission~~)) department. The card game must be played in
2 accordance with the rules adopted by the ((~~commission~~)) department
3 under RCW 9.46.070, which shall include but not be limited to rules for
4 the collection of fees, limitation of wagers, and management of player
5 funds. The number of tables authorized shall be set by the
6 ((~~commission~~)) department but shall not exceed a total of fifteen
7 separate tables per establishment.

8 **Sec. 57.** RCW 9.46.0311 and 1987 c 4 s 26 are each amended to read
9 as follows:

10 The legislature hereby authorizes bona fide charitable or nonprofit
11 organizations to conduct bingo games, raffles, amusement games, and
12 fund raising events, and to utilize punch boards and pull-tabs and to
13 allow their premises and facilities to be used by only members, their
14 guests, and members of a chapter or unit organized under the same
15 state, regional, or national charter or constitution, to play social
16 card games authorized by the ((~~commission~~)) department, when licensed,
17 conducted or operated pursuant to the provisions of this chapter and
18 rules ((~~and regulations~~)) adopted pursuant thereto.

19 **Sec. 58.** RCW 9.46.0315 and 1991 c 192 s 4 are each amended to read
20 as follows:

21 Bona fide charitable or bona fide nonprofit organizations organized
22 primarily for purposes other than the conduct of raffles, are hereby
23 authorized to conduct raffles without obtaining a license to do so from
24 the ((~~commission~~)) department when such raffles are held in accordance
25 with all other requirements of this chapter, other applicable laws, and
26 rules of the ((~~commission~~)) department; when gross revenues from all
27 such raffles held by the organization during the calendar year do not
28 exceed five thousand dollars; and when tickets to such raffles are sold
29 only to, and winners are determined only from among, the regular
30 members of the organization conducting the raffle. The organization
31 may provide unopened containers of beverages containing alcohol as
32 raffle prizes if the appropriate permit has been obtained from the
33 liquor control board: PROVIDED, That the term members for this purpose
34 shall mean only those persons who have become members prior to the
35 commencement of the raffle and whose qualification for membership was

1 not dependent upon, or in any way related to, the purchase of a ticket,
2 or tickets, for such raffles.

3 **Sec. 59.** RCW 9.46.0321 and 1987 c 4 s 28 are each amended to read
4 as follows:

5 Bona fide charitable or bona fide nonprofit organizations organized
6 primarily for purposes other than the conduct of such activities are
7 hereby authorized to conduct bingo, raffles, and amusement games,
8 without obtaining a license to do so from the (~~commission~~) department
9 but only when:

10 (1) Such activities are held in accordance with all other
11 requirements of this chapter, other applicable laws, and rules of the
12 (~~commission~~) department;

13 (2) Said activities are, alone or in any combination, conducted no
14 more than twice each calendar year and over a period of no more than
15 twelve consecutive days each time, notwithstanding the limitations of
16 RCW 9.46.0205: PROVIDED, That a raffle conducted under this subsection
17 may be conducted for a period longer than twelve days;

18 (3) Only bona fide members of that organization, who are not paid
19 for such services, participate in the management or operation of the
20 activities;

21 (4) Gross revenues to the organization from all the activities
22 together do not exceed five thousand dollars during any calendar year;

23 (5) All revenue therefrom, after deducting the cost of prizes and
24 other expenses of the activity, is devoted solely to the purposes for
25 which the organization qualifies as a bona fide charitable or nonprofit
26 organization;

27 (6) The organization gives notice at least five days in advance of
28 the conduct of any of the activities to the local police agency of the
29 jurisdiction within which the activities are to be conducted of the
30 organization's intent to conduct the activities, the location of the
31 activities, and the date or dates they will be conducted; and

32 (7) The organization conducting the activities maintains records
33 for a period of one year from the date of the event which accurately
34 show at a minimum the gross revenue from each activity, details of the
35 expenses of conducting the activities, and details of the uses to which
36 the gross revenue therefrom is put.

1 **Sec. 60.** RCW 9.46.0331 and 1991 c 287 s 1 are each amended to read
2 as follows:

3 The legislature hereby authorizes any person to conduct or operate
4 amusement games when licensed and operated pursuant to the provisions
5 of this chapter and rules ~~((and—regulations))~~ adopted by the
6 ~~((commission))~~ department at such locations as the ~~((commission))~~
7 department may authorize. The rules shall provide for at least the
8 following:

9 (1) Persons other than bona fide charitable or bona fide nonprofit
10 organizations shall conduct amusement games only after obtaining a
11 special amusement game license from the ~~((commission))~~ department.

12 (2) Amusement games may be conducted under such a license only as
13 a part of, and upon the site of:

14 (a) Any agricultural fair as authorized under chapter 15.76 or
15 36.37 RCW; or

16 (b) A civic center of a county, city, or town; or

17 (c) A world's fair or similar exposition that is approved by the
18 bureau of international expositions at Paris, France; or

19 (d) A community-wide civic festival held not more than once
20 annually and sponsored or approved by the city, town, or county in
21 which it is held; or

22 (e) A commercial exposition organized and sponsored by an
23 organization or association representing the retail sales and service
24 operators conducting business in a shopping center or other commercial
25 area developed and operated for retail sales and service, but only upon
26 a parking lot or similar area located in said shopping center or
27 commercial area for a period of no more than seventeen consecutive days
28 by any licensee during any calendar year; or

29 (f) An amusement park. An amusement park is a group of activities,
30 at a permanent location, to which people go to be entertained through
31 a combination of various mechanical or aquatic rides, theatrical
32 productions, motion picture, and/or slide show presentations with food
33 and drink service. The amusement park must include at least five
34 different mechanical, or aquatic rides, three additional activities,
35 and the gross receipts must be primarily from these amusement
36 activities; or

37 (g) Within a regional shopping center. A regional shopping center
38 is a shopping center developed and operated for retail sales and

1 service by retail sales and service operators and consisting of more
2 than six hundred thousand gross square feet not including parking
3 areas. Amusement games conducted as a part of, and upon the site of,
4 a regional shopping center shall not be subject to the prohibition on
5 revenue sharing set forth in RCW 9.46.120(2); or

6 (h) A location that possesses a valid license from the Washington
7 state liquor (~~control~~) control board and prohibits minors on their
8 premises; or

9 (i) Movie theaters, bowling alleys, miniature golf course
10 facilities, and amusement centers. For the purposes of this section an
11 amusement center shall be defined as a permanent location whose primary
12 source of income is from the operation of ten or more amusement
13 devices; or

14 (j) Any business whose primary activity is to provide food service
15 for on premises consumption and who offers family entertainment which
16 includes at least three of the following activities: Amusement
17 devices; theatrical productions; mechanical rides; motion pictures; and
18 slide show presentations.

19 (3) No amusement games may be conducted in any location except in
20 conformance with local zoning, fire, health, and similar regulations.
21 In no event may the licensee conduct any amusement games at any of the
22 locations set out in subsection (2) of this section without first
23 having obtained the written permission to do so from the person or
24 organization owning the premises or an authorized agent thereof, and
25 from the persons sponsoring the fair, exhibition, commercial
26 exhibition, or festival, or from the city or town operating the civic
27 center, in connection with which the games are to be operated.

28 (4) In no event may a licensee conduct any amusement games at the
29 location described in subsection (2)(g) of this section, without, at
30 the location of such games, providing adult supervision during all
31 hours the licensee is open for business at such location, prohibiting
32 school-age minors from entry during school hours, maintaining full-time
33 personnel whose responsibilities include maintaining security and daily
34 machine maintenance, and providing for hours for the close of business
35 at such location that are no later than 10:00 p.m. on Fridays and
36 Saturdays and on all other days that are the same as those of the
37 regional shopping center in which the licensee is located.

1 (5) In no event may a licensee conduct any amusement game at a
2 location described in subsection (2)(i) or (j) of this section,
3 without, at the location of such games, providing adult supervision
4 during all hours the licensee is open for business at such location,
5 prohibiting school-age minors from playing licensed amusement games
6 during school hours, maintaining full-time personnel whose
7 responsibilities include maintaining security and daily machine
8 maintenance, and prohibiting minors from playing the amusement games
9 after 10:00 p.m. on any day.

10 **Sec. 61.** RCW 9.46.0335 and 1987 c 4 s 31 are each amended to read
11 as follows:

12 The legislature hereby authorizes any person, association, or
13 organization to conduct sports pools without a license to do so from
14 the ((~~commission~~)) department but only when the outcome of which is
15 dependent upon the score, or scores, of a certain athletic contest and
16 which is conducted only in the following manner:

17 (1) A board or piece of paper is divided into one hundred equal
18 squares, each of which constitutes a chance to win in the sports pool
19 and each of which is offered directly to prospective contestants at one
20 dollar or less;

21 (2) The purchaser of each chance or square signs his or her name on
22 the face of each square or chance he or she purchases; and

23 (3) At some time not later than prior to the start of the subject
24 athletic contest the pool is closed and no further chances in the pool
25 are sold;

26 (4) After the pool is closed a prospective score is assigned by
27 random drawing to each square;

28 (5) All money paid by entrants to enter the pool less taxes is paid
29 out as the prize or prizes to those persons holding squares assigned
30 the winning score or scores from the subject athletic contest;

31 (6) The sports pool board is available for inspection by any person
32 purchasing a chance thereon, the ((~~commission~~)) department, or by any
33 law enforcement agency upon demand at all times prior to the payment of
34 the prize;

35 (7) The person or organization conducting the pool is conducting no
36 other sports pool on the same athletic event; and

1 (8) The sports pool conforms to any rules ((~~and regulations~~)) of
2 the ((~~commission~~)) department applicable thereto.

3 **Sec. 62.** RCW 9.46.0345 and 1987 c 4 s 33 are each amended to read
4 as follows:

5 The legislature hereby authorizes bowling establishments to
6 conduct, without the necessity of obtaining a permit or license to do
7 so, as a commercial stimulant, a bowling activity which permits bowlers
8 to purchase tickets from the establishment for a predetermined and
9 posted amount of money, which tickets are then selected by the luck of
10 the draw and the holder of the matching ticket so drawn has an
11 opportunity to bowl a strike and if successful receives a predetermined
12 and posted monetary prize: PROVIDED, That all sums collected by the
13 establishment from the sale of tickets shall be returned to purchasers
14 of tickets and no part of the proceeds shall inure to any person other
15 than the participants winning in the game or a recognized charity. The
16 tickets shall be sold, and accounted for, separately from all other
17 sales of the establishment. The price of any single ticket shall not
18 exceed one dollar. Accounting records shall be available for
19 inspection during business hours by any person purchasing a chance
20 thereon, by the ((~~commission~~)) department or its representatives, or by
21 any law enforcement agency.

22 **Sec. 63.** RCW 9.46.0351 and 1999 c 143 s 5 are each amended to read
23 as follows:

24 (1) The legislature hereby authorizes any bona fide charitable or
25 nonprofit organization which is licensed pursuant to RCW 66.24.400, and
26 its officers and employees, to allow the use of the premises,
27 furnishings, and other facilities not gambling devices of such
28 organization by members of the organization, and members of a chapter
29 or unit organized under the same state, regional, or national charter
30 or constitution, who engage as players in the following types of
31 gambling activities only:

- 32 (a) Social card games; and
- 33 (b) Social dice games, which shall be limited to contests of
34 chance, the outcome of which are determined by one or more rolls of
35 dice.

1 (2) Bona fide charitable or nonprofit organizations shall not be
2 required to be licensed by the (~~commission~~) department in order to
3 allow use of their premises in accordance with this section. However,
4 the following conditions must be met:

5 (a) No organization, corporation, or person shall collect or obtain
6 or charge any percentage of or shall collect or obtain any portion of
7 the money or thing of value wagered or won by any of the players:
8 PROVIDED, That a player may collect his or her winnings; and

9 (b) No organization, corporation, or person shall collect or obtain
10 any money or thing of value from, or charge or impose any fee upon, any
11 person which either enables him or her to play or results in or from
12 his or her playing: PROVIDED, That this subsection shall not preclude
13 collection of a membership fee which is unrelated to participation in
14 gambling activities authorized under this section.

15 **Sec. 64.** RCW 9.46.0356 and 2000 c 228 s 1 are each amended to read
16 as follows:

17 (1) The legislature authorizes a business to conduct a promotional
18 contest of chance as defined in this section, in this state, or
19 partially in this state, whereby the elements of prize and chance are
20 present but in which the element of consideration is not present.

21 (2) Promotional contests of chance under this section are not
22 gambling as defined in RCW 9.46.0237.

23 (3) Promotional contests of chance shall be conducted as
24 advertising and promotional undertakings solely for the purpose of
25 advertising or promoting the services, goods, wares, and merchandise of
26 a business.

27 (4) No person eligible to receive a prize in a promotional contest
28 of chance may be required to:

29 (a) Pay any consideration to the promoter or operator of the
30 business in order to participate in the contest; or

31 (b) Purchase any service, goods, wares, merchandise, or anything of
32 value from the business, however, for other than contests entered
33 through a direct mail solicitation, the promoter or sponsor may give
34 additional entries or chances upon purchase of service, goods, wares,
35 or merchandise if the promoter or sponsor provides an alternate method
36 of entry requiring no consideration.

1 (5)(a) As used in this section, "consideration" means anything of
2 pecuniary value required to be paid to the promoter or sponsor in order
3 to participate in a promotional contest. Such things as visiting a
4 business location, placing or answering a telephone call, completing an
5 entry form or customer survey, or furnishing a stamped, self-addressed
6 envelope do not constitute consideration.

7 (b) Coupons or entry blanks obtained by purchase of a bona fide
8 newspaper or magazine or in a program sold in conjunction with a
9 regularly scheduled sporting event are not consideration.

10 (6) Unless authorized by the (~~commission~~) department, equipment
11 or devices made for use in a gambling activity are prohibited from use
12 in a promotional contest.

13 (7) This section shall not be construed to permit noncompliance
14 with chapter 19.170 RCW, promotional advertising of prizes, and chapter
15 19.86 RCW, unfair business practices.

16 **Sec. 65.** RCW 9.46.0361 and 1987 c 4 s 36 are each amended to read
17 as follows:

18 The legislature hereby authorizes bona fide charitable or nonprofit
19 organizations to conduct, without the necessity of obtaining a permit
20 or license to do so from the (~~commission~~) department, turkey shoots
21 permitting wagers of money. Such contests shall not constitute such
22 gambling or lottery as otherwise prohibited in this chapter, or be
23 subject to civil or criminal penalties. Such organizations must be
24 organized for purposes other than the conduct of turkey shoots.

25 Such turkey shoots shall be held in accordance with all other
26 requirements of this chapter, other applicable laws, and rules that may
27 be adopted by the (~~commission~~) department. Gross revenues from all
28 such turkey shoots held by the organization during the calendar year
29 shall not exceed five thousand dollars. Turkey shoots conducted under
30 this section shall meet the following requirements:

31 (1) The target shall be divided into one hundred or fewer equal
32 sections, with each section constituting a chance to win. Each chance
33 shall be offered directly to a prospective contestant for one dollar or
34 less;

35 (2) The purchaser of each chance shall sign his or her name on the
36 face of the section he or she purchases;

1 (3) The person shooting at the target shall not be a participant in
2 the contest, but shall be a member of the organization conducting the
3 contest;

4 (4) Participation in the contest shall be limited to members of the
5 organization which is conducting the contest and their guests;

6 (5) The target shall contain the following information:

7 (a) Distance from the shooting position to the target;

8 (b) The gauge of the shotgun;

9 (c) The type of choke on the barrel;

10 (d) The size of shot that will be used; and

11 (e) The prize or prizes that are to be awarded in the contest;

12 (6) The targets, shotgun, and ammunition shall be available for
13 inspection by any person purchasing a chance thereon, the
14 ((~~commission~~)) department, or by any law enforcement agency upon
15 demand, at all times before the prizes are awarded;

16 (7) The turkey shoot shall award the prizes based upon the greatest
17 number of shots striking a section;

18 (8) No turkey shoot may offer as a prize the right to advance or
19 continue on to another turkey shoot or turkey shoot target; and

20 (9) Only bona fide members of the organization who are not paid for
21 such service may participate in the management or operation of the
22 turkey shoot, and all income therefrom, after deducting the cost of
23 prizes and other expenses, shall be devoted solely to the lawful
24 purposes of the organization.

25 **Sec. 66.** RCW 9.46.060 and 1973 1st ex.s. c 218 s 6 are each
26 amended to read as follows:

27 (1) The attorney general shall be general counsel for the ((~~state~~
28 ~~gambling commission~~)) department and shall assign such assistants as
29 may be necessary in carrying out the purposes and provisions of this
30 chapter, which shall include instituting and prosecuting any actions
31 and proceedings necessary thereto.

32 (2) The state auditor shall audit the books, records, and affairs
33 of the ((~~commission~~)) department annually. The ((~~commission~~))
34 department shall pay to the state treasurer for the credit of the state
35 auditor such funds as may be necessary to defray the costs of such
36 audits. The ((~~commission~~)) department may provide for additional

1 audits by certified public accountants. All such audits shall be
2 public records of the state.

3 The payment for legal services and audits as authorized in this
4 section shall be paid upon authorization of the ((~~commission~~))
5 department from moneys in the gambling revolving fund.

6 **Sec. 67.** RCW 9.46.070 and 2002 c 119 s 1 are each amended to read
7 as follows:

8 The ((~~commission~~)) department shall have the following powers and
9 duties:

10 (1) To authorize and issue licenses for a period not to exceed one
11 year to bona fide charitable or nonprofit organizations approved by the
12 ((~~commission~~)) department meeting the requirements of this chapter and
13 any rules ((~~and regulations~~)) adopted pursuant thereto permitting said
14 organizations to conduct bingo games, raffles, amusement games, and
15 social card games, to utilize punch boards and pull-tabs in accordance
16 with the provisions of this chapter and any rules ((~~and regulations~~))
17 adopted pursuant thereto and to revoke or suspend said licenses for
18 violation of any provisions of this chapter or any rules ((~~and~~
19 ~~regulations~~)) adopted pursuant thereto: PROVIDED, That the
20 ((~~commission~~)) department shall not deny a license to an otherwise
21 qualified applicant in an effort to limit the number of licenses to be
22 issued: PROVIDED FURTHER, That the ((~~commission~~)) department or
23 director shall not issue, deny, suspend, or revoke any license because
24 of considerations of race, sex, creed, color, or national origin: AND
25 PROVIDED FURTHER, That the ((~~commission~~)) department may authorize the
26 director to temporarily issue or suspend licenses subject to final
27 action by the ((~~commission~~)) department;

28 (2) To authorize and issue licenses for a period not to exceed one
29 year to any person, association, or organization operating a business
30 primarily engaged in the selling of items of food or drink for
31 consumption on the premises, approved by the ((~~commission~~)) department
32 meeting the requirements of this chapter and any rules ((~~and~~
33 ~~regulations~~)) adopted pursuant thereto permitting said person,
34 association, or organization to utilize punch boards and pull-tabs and
35 to conduct social card games as a commercial stimulant in accordance
36 with the provisions of this chapter and any rules ((~~and regulations~~))
37 adopted pursuant thereto and to revoke or suspend said licenses for

1 violation of any provisions of this chapter and any rules ((and
2 regulations)) adopted pursuant thereto: PROVIDED, That the
3 ((commission)) department shall not deny a license to an otherwise
4 qualified applicant in an effort to limit the number of licenses to be
5 issued: PROVIDED FURTHER, That the ((commission)) department may
6 authorize the director to temporarily issue or suspend licenses subject
7 to final action by the ((commission)) department;

8 (3) To authorize and issue licenses for a period not to exceed one
9 year to any person, association, or organization approved by the
10 ((commission)) department meeting the requirements of this chapter and
11 meeting the requirements of any rules ((and regulations)) adopted by
12 the ((commission)) department pursuant to this chapter ((as now or
13 hereafter amended)), permitting said person, association, or
14 organization to conduct or operate amusement games in such manner and
15 at such locations as the ((commission)) department may determine;

16 (4) To authorize, require, and issue, for a period not to exceed
17 one year, such licenses as the ((commission)) department may by rule
18 provide, to any person, association, or organization to engage in the
19 selling, distributing, or otherwise supplying or in the manufacturing
20 of devices for use within this state for those activities authorized by
21 this chapter;

22 (5) To establish a schedule of annual license fees for carrying on
23 specific gambling activities upon the premises, and for such other
24 activities as may be licensed by the ((commission)) department, which
25 fees shall provide to the ((commission)) department not less than an
26 amount of money adequate to cover all costs incurred by the
27 ((commission)) department relative to licensing under this chapter and
28 the enforcement by the ((commission)) department of the provisions of
29 this chapter and rules ((and regulations)) adopted pursuant thereto:
30 PROVIDED, That all licensing fees shall be submitted with an
31 application therefor and such portion of said fee as the ((commission))
32 department may determine, based upon its cost of processing and
33 investigation, shall be retained by the ((commission)) department upon
34 the withdrawal or denial of any such license application as its
35 reasonable expense for processing the application and investigation
36 into the granting thereof: PROVIDED FURTHER, That if in a particular
37 case the basic license fee established by the ((commission)) department
38 for a particular class of license is less than the ((commission's))

1 department's actual expenses to investigate that particular
2 application, the ((~~commission~~)) department may at any time charge to
3 that applicant such additional fees as are necessary to pay the
4 ((~~commission~~)) department for those costs. The ((~~commission~~))
5 department may decline to proceed with its investigation and no license
6 shall be issued until the ((~~commission~~)) department has been fully paid
7 therefor by the applicant: AND PROVIDED FURTHER, That the
8 ((~~commission~~)) department may establish fees for the furnishing by it
9 to licensees of identification stamps to be affixed to such devices and
10 equipment as required by the ((~~commission~~)) department and for such
11 other special services or programs required or offered by the
12 ((~~commission~~)) department, the amount of each of these fees to be not
13 less than is adequate to offset the cost to the ((~~commission~~))
14 department of the stamps and of administering their dispersal to
15 licensees or the cost of administering such other special services,
16 requirements or programs;

17 (6) To prescribe the manner and method of payment of taxes, fees
18 and penalties to be paid to or collected by the ((~~commission~~))
19 department;

20 (7) To require that applications for all licenses contain such
21 information as may be required by the ((~~commission~~)) department:
22 PROVIDED, That all persons (a) having a managerial or ownership
23 interest in any gambling activity, or the building in which any
24 gambling activity occurs, or the equipment to be used for any gambling
25 activity, or (b) participating as an employee in the operation of any
26 gambling activity, shall be listed on the application for the license
27 and the applicant shall certify on the application, under oath, that
28 the persons named on the application are all of the persons known to
29 have an interest in any gambling activity, building, or equipment by
30 the person making such application: PROVIDED FURTHER, That the
31 ((~~commission~~)) department shall require fingerprinting and national
32 criminal history background checks on any persons seeking licenses,
33 certifications, or permits under this chapter or of any person holding
34 an interest in any gambling activity, building, or equipment to be used
35 therefor, or of any person participating as an employee in the
36 operation of any gambling activity. All national criminal history
37 background checks shall be conducted using fingerprints submitted to
38 the United States department of justice-federal bureau of

1 investigation. The (~~commission~~) department must establish rules to
2 delineate which persons named on the application are subject to
3 national criminal history background checks. In identifying these
4 persons, the (~~commission~~) department must take into consideration the
5 nature, character, size, and scope of the gambling activities requested
6 by the persons making such applications;

7 (8) To require that any license holder maintain records as directed
8 by the (~~commission~~) department and submit such reports as the
9 (~~commission~~) department may deem necessary;

10 (9) To require that all income from bingo games, raffles, and
11 amusement games be recorded and reported as established by rule (~~or~~
12 ~~regulation~~) of the (~~commission~~) department to the extent deemed
13 necessary by considering the scope and character of the gambling
14 activity in such a manner that will disclose gross income from any
15 gambling activity, amounts received from each player, the nature and
16 value of prizes, and the fact of distributions of such prizes to the
17 winners thereof;

18 (10) To regulate and establish maximum limitations on income
19 derived from bingo. In establishing limitations pursuant to this
20 subsection the (~~commission~~) department shall take into account (i)
21 the nature, character, and scope of the activities of the licensee;
22 (ii) the source of all other income of the licensee; and (iii) the
23 percentage or extent to which income derived from bingo is used for
24 charitable, as distinguished from nonprofit, purposes. However, the
25 (~~commission's~~) department's powers and duties granted by this
26 subsection are discretionary and not mandatory;

27 (11) To regulate and establish the type and scope of and manner of
28 conducting the gambling activities authorized by this chapter,
29 including but not limited to, the extent of wager, money, or other
30 thing of value which may be wagered or contributed or won by a player
31 in any such activities;

32 (12) To regulate the collection of and the accounting for the fee
33 which may be imposed by an organization, corporation, or person
34 licensed to conduct a social card game on a person desiring to become
35 a player in a social card game in accordance with RCW 9.46.0282;

36 (13) To cooperate with and secure the cooperation of county, city,
37 and other local or state agencies in investigating any matter within
38 the scope of its duties and responsibilities;

1 (14) In accordance with RCW 9.46.080, to adopt such rules (~~and~~
2 ~~regulations~~) as are deemed necessary to carry out the purposes and
3 provisions of this chapter. All rules (~~and regulations~~) shall be
4 adopted pursuant to the administrative procedure act, chapter 34.05
5 RCW;

6 (15) To set forth for the perusal of counties, city-counties,
7 cities and towns, model ordinances by which any legislative authority
8 thereof may enter into the taxing of any gambling activity authorized
9 by this chapter;

10 (16) To establish and regulate a maximum limit on salaries or wages
11 which may be paid to persons employed in connection with activities
12 conducted by bona fide charitable or nonprofit organizations and
13 authorized by this chapter, where payment of such persons is allowed,
14 and to regulate and establish maximum limits for other expenses in
15 connection with such authorized activities, including but not limited
16 to rent or lease payments. However, the (~~commissioner's~~)
17 department's powers and duties granted by this subsection are
18 discretionary and not mandatory.

19 In establishing these maximum limits the (~~commission~~) department
20 shall take into account the amount of income received, or expected to
21 be received, from the class of activities to which the limits will
22 apply and the amount of money the games could generate for authorized
23 charitable or nonprofit purposes absent such expenses. The
24 (~~commission~~) department may also take into account, in its
25 discretion, other factors, including but not limited to, the local
26 prevailing wage scale and whether charitable purposes are benefited by
27 the activities;

28 (17) To authorize, require, and issue for a period not to exceed
29 one year such licenses or permits, for which the (~~commission~~)
30 department may by rule provide, to any person to work for any operator
31 of any gambling activity authorized by this chapter in connection with
32 that activity, or any manufacturer, supplier, or distributor of devices
33 for those activities in connection with such business. The
34 (~~commission~~) department shall not require that persons working solely
35 as volunteers in an authorized activity conducted by a bona fide
36 charitable or bona fide nonprofit organization, who receive no
37 compensation of any kind for any purpose from that organization, and
38 who have no managerial or supervisory responsibility in connection with

1 that activity, be licensed to do such work. The ((~~commission~~))
2 department may require that licensees employing such unlicensed
3 volunteers submit to the ((~~commission~~)) department periodically a list
4 of the names, addresses, and dates of birth of the volunteers. If any
5 volunteer is not approved by the ((~~commission~~)) department, the
6 ((~~commission~~)) department may require that the licensee not allow that
7 person to work in connection with the licensed activity;

8 (18) To publish and make available at the office of the
9 ((~~commission~~)) department or elsewhere to anyone requesting it a list
10 of the ((~~commission~~)) department licensees, including the name,
11 address, type of license, and license number of each licensee;

12 (19) To establish guidelines for determining what constitutes
13 active membership in bona fide nonprofit or charitable organizations
14 for the purposes of this chapter; ((~~and~~))

15 (20) To license, regulate, and supervise all race meets held in
16 this state under chapter 67.16 RCW; and

17 (21) To perform all other matters and things necessary to carry out
18 the purposes and provisions of this chapter.

19 **Sec. 68.** RCW 9.46.0701 and 2002 c 369 s 2 are each amended to read
20 as follows:

21 The ((~~commission~~)) department may allow existing licensees under
22 RCW 9.46.070(1) to share facilities at one location.

23 **Sec. 69.** RCW 9.46.071 and 1994 c 218 s 6 are each amended to read
24 as follows:

25 The legislature recognizes that some individuals in this state are
26 problem or compulsive gamblers. Because the state promotes and
27 regulates gambling through the activities of the ((~~state lottery~~
28 ~~commission, the Washington horse racing commission, and the Washington~~
29 ~~state gambling commission~~)) department, the state has the
30 responsibility to continue to provide resources for the support of
31 services for problem and compulsive gamblers. Therefore, the
32 ((~~Washington state gambling commission, the Washington horse racing~~
33 ~~commission,~~)) department and the state lottery commission shall jointly
34 develop informational signs concerning problem and compulsive gambling
35 which include a toll-free hot line number for problem and compulsive

1 gamblers. The signs shall be placed in the establishments of gambling
2 licensees, horse racing licensees, and lottery retailers.

3 **Sec. 70.** RCW 9.46.075 and 1981 c 139 s 4 are each amended to read
4 as follows:

5 The (~~commission~~) department may deny an application, or suspend
6 or revoke any license or permit issued by it, for any reason or
7 reasons, it deems to be in the public interest. These reasons shall
8 include, but not be limited to, cases wherein the applicant or
9 licensee, or any person with any interest therein:

10 (1) Has violated, failed or refused to comply with the provisions,
11 requirements, conditions, limitations or duties imposed by chapter 9.46
12 RCW and any amendments thereto, or any rules adopted by the
13 (~~commission~~) department pursuant thereto, or when a violation of any
14 provision of chapter 9.46 RCW, or any (~~commission~~) department rule,
15 has occurred upon any premises occupied or operated by any such person
16 or over which he or she has substantial control;

17 (2) Knowingly causes, aids, abets, or conspires with another to
18 cause, any person to violate any of the laws of this state or the rules
19 of the (~~commission~~) department;

20 (3) Has obtained a license or permit by fraud, misrepresentation,
21 concealment, or through inadvertence or mistake;

22 (4) Has been convicted of, or forfeited bond upon a charge of, or
23 pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud,
24 wilful failure to make required payments or reports to a governmental
25 agency at any level, or filing false reports therewith, or of any
26 similar offense or offenses, or of bribing or otherwise unlawfully
27 influencing a public official or employee of any state or the United
28 States, or of any crime, whether a felony or misdemeanor involving any
29 gambling activity or physical harm to individuals or involving moral
30 turpitude;

31 (5) Denies the (~~commission~~) department or its authorized
32 representatives, including authorized local law enforcement agencies,
33 access to any place where a licensed activity is conducted or who fails
34 promptly to produce for inspection or audit any book, record, document
35 or item required by law or (~~commission~~) department rule;

36 (6) Shall fail to display its license on the premises where the

1 licensed activity is conducted at all times during the operation of the
2 licensed activity;

3 (7) Makes a misrepresentation of, or fails to disclose, a material
4 fact to the (~~commission~~) department;

5 (8) Fails to prove, by clear and convincing evidence, that he, she
6 or it is qualified in accordance with the provisions of this chapter;

7 (9) Is subject to current prosecution or pending charges, or a
8 conviction which is under appeal, for any of the offenses included
9 under subsection (4) of this section: PROVIDED, That at the request of
10 an applicant for an original license, the (~~commission~~) department may
11 defer decision upon the application during the pendency of such
12 prosecution or appeal;

13 (10) Has pursued or is pursuing economic gain in an occupational
14 manner or context which is in violation of the criminal or civil public
15 policy of this state if such pursuit creates probable cause to believe
16 that the participation of such person in gambling or related activities
17 would be inimical to the proper operation of an authorized gambling or
18 related activity in this state. For the purposes of this section,
19 occupational manner or context shall be defined as the systematic
20 planning, administration, management or execution of an activity for
21 financial gain;

22 (11) Is a career offender or a member of a career offender cartel
23 or an associate of a career offender or career offender cartel in such
24 a manner which creates probable cause to believe that the association
25 is of such a nature as to be inimical to the policy of this chapter or
26 to the proper operation of the authorized gambling or related
27 activities in this state. For the purposes of this section, career
28 offender shall be defined as any person whose behavior is pursued in an
29 occupational manner or context for the purpose of economic gain
30 utilizing such methods as are deemed criminal violations of the public
31 policy of this state. A career offender cartel shall be defined as any
32 group of persons who operate together as career offenders.

33 For the purpose of reviewing any application for a license and for
34 considering the denial, suspension or revocation of any license the
35 (~~gambling commission~~) department may consider any prior criminal
36 conduct of the applicant or licensee and the provisions of RCW 9.95.240
37 and of chapter 9.96A RCW shall not apply to such cases.

1 **Sec. 71.** RCW 9.46.077 and 1981 c 139 s 5 are each amended to read
2 as follows:

3 The ~~((commission))~~ department, when suspending any license for a
4 period of thirty days or less, may further provide in the order of
5 suspension that such suspension shall be vacated upon payment to the
6 ~~((commission))~~ department of a monetary penalty in an amount then fixed
7 by the ~~((commission))~~ department.

8 **Sec. 72.** RCW 9.46.080 and 1994 c 218 s 14 are each amended to read
9 as follows:

10 ~~((The commission shall employ a full time director, who shall be
11 the administrator for the commission in carrying out its powers and
12 duties and who shall issue rules and regulations adopted by the
13 commission governing the activities authorized hereunder and shall
14 supervise commission employees in carrying out the purposes and
15 provisions of this chapter. In addition,))~~ The director shall employ
16 a deputy director, not more than three assistant directors, together
17 with such investigators and enforcement officers and such staff as the
18 ~~((commission))~~ department determines is necessary to carry out the
19 purposes and provisions of this chapter. The director, the deputy
20 director, the assistant directors, and personnel occupying positions
21 requiring the performing of undercover investigative work shall be
22 exempt from the provisions of chapter 41.06 RCW~~((, as now law or
23 hereafter amended))~~. Neither the director nor any ~~((commission))~~
24 department employee working therefor shall be an officer or manager of
25 any bona fide charitable or bona fide nonprofit organization, or of any
26 organization which conducts gambling activity in this state.

27 The director~~((, subject to the approval of the commission,))~~ is
28 authorized to enter into agreements on behalf of the ~~((commission))~~
29 department for mutual assistance and services, based upon actual costs,
30 with any state or federal agency or with any city, town, or county, and
31 such state or local agency is authorized to enter into such an
32 agreement with the ~~((commission))~~ department. If a needed service is
33 not available from another agency of state government within a
34 reasonable time, the director may obtain that service from private
35 industry.

1 **Sec. 73.** RCW 9.46.090 and 1987 c 505 s 3 are each amended to read
2 as follows:

3 Subject to RCW 40.07.040, the (~~commission~~) department shall, from
4 time to time, make reports to the governor and the legislature covering
5 such matters in connection with this chapter as the governor and the
6 legislature may require. These reports shall be public documents and
7 contain such general information and remarks as the (~~commission~~)
8 department deems pertinent thereto and any information requested by
9 either the governor or members of the legislature: PROVIDED, That the
10 (~~commission appointed pursuant to RCW 9.46.040~~) department may
11 conduct a thorough study of the types of gambling activity permitted
12 and the types of gambling activity prohibited by this chapter and may
13 make recommendations to the legislature as to: (1) Gambling activity
14 that ought to be permitted; (2) gambling activity that ought to be
15 prohibited; (3) the types of licenses and permits that ought to be
16 required; (4) the type and amount of tax that ought to be applied to
17 each type of permitted gambling activity; (5) any changes which may be
18 made to the law of this state which further the purposes and policies
19 set forth in RCW 9.46.010 (~~as now law or hereafter amended~~); and (6)
20 any other matter that the (~~commission~~) department may deem
21 appropriate. (~~Members of the commission and its~~) Department staff
22 may contact the legislature, or any of its members, at any time, to
23 advise it of recommendations of the (~~commission~~) department.

24 **Sec. 74.** RCW 9.46.095 and 1989 c 175 s 41 are each amended to read
25 as follows:

26 No court of the state of Washington other than the superior court
27 of Thurston county shall have jurisdiction over any action or
28 proceeding against the (~~commission~~) department or any member thereof
29 for anything done or omitted to be done in or arising out of the
30 performance of his or her duties under this title: PROVIDED, That an
31 appeal from an adjudicative proceeding involving a final decision of
32 the (~~commission~~) department to deny, suspend, or revoke a license
33 shall be governed by chapter 34.05 RCW, the Administrative Procedure
34 Act.

35 Neither the (~~commission~~) department nor any (~~member or members~~)
36 employee thereof shall be personally liable in any action at law for
37 damages sustained by any person because of any acts performed or done,

1 or omitted to be done, by the (~~commission or any member of the~~
2 ~~commission,~~) department or any employee of the (~~commission~~)
3 department, in the performance of his or her duties and in the
4 administration of this title.

5 **Sec. 75.** RCW 9.46.100 and 2002 c 371 s 901 are each amended to
6 read as follows:

7 There is hereby created the gambling revolving fund which shall
8 consist of all moneys receivable for licensing, penalties, forfeitures,
9 and all other moneys, income, or revenue received by the (~~commission~~)
10 department. The state treasurer shall be custodian of the fund. All
11 moneys received by the (~~commission~~) department or any employee
12 thereof, except for change funds and an amount of petty cash as fixed
13 by rule (~~or regulation~~) of the (~~commission~~) department, shall be
14 deposited each day in a depository approved by the state treasurer and
15 transferred to the state treasurer to be credited to the gambling
16 revolving fund. Disbursements from the revolving fund shall be on
17 authorization of the (~~commission or a duly authorized representative~~
18 ~~thereof~~) director or the director's designee. In order to maintain an
19 effective expenditure and revenue control the gambling revolving fund
20 shall be subject in all respects to chapter 43.88 RCW but no
21 appropriation shall be required to permit expenditures and payment of
22 obligations from such fund. All expenses relative to (~~commission~~)
23 department business, including but not limited to salaries and expenses
24 of the director and other (~~commission~~) department employees shall be
25 paid from the gambling revolving fund.

26 (~~During the 2001-2003 fiscal biennium, the legislature may~~
27 ~~transfer from the gambling revolving fund to the state general fund~~
28 ~~such amounts as reflect the excess fund balance of the fund and~~
29 ~~reductions made by the 2002 supplemental appropriations act for~~
30 ~~administrative efficiencies and savings.~~)

31 **Sec. 76.** RCW 9.46.116 and 1985 c 7 s 2 are each amended to read as
32 follows:

33 The (~~commission~~) department shall charge fees or increased fees
34 on pull tabs sold over-the-counter and on sales from punchboards and
35 pull tab devices at levels necessary to assure that the increased

1 revenues are equal or greater to the amount of revenue lost by removing
2 the special tax on coin-operated gambling devices by the 1984 repeal of
3 RCW 9.46.115.

4 **Sec. 77.** RCW 9.46.120 and 1997 c 394 s 3 are each amended to read
5 as follows:

6 (1) Except in the case of an agricultural fair as authorized under
7 chapters 15.76 and 36.37 RCW, no person other than a member of a bona
8 fide charitable or nonprofit organization (and their employees) or any
9 other person, association or organization (and their employees)
10 approved by the ((~~commission~~)) department, shall take any part in the
11 management or operation of any gambling activity authorized under this
12 chapter unless approved by the ((~~commission~~)) department. No person
13 who takes any part in the management or operation of any such gambling
14 activity shall take any part in the management or operation of any
15 gambling activity conducted by any other organization or any other
16 branch of the same organization unless approved by the ((~~commission~~))
17 department. No part of the proceeds of the activity shall inure to the
18 benefit of any person other than the organization conducting such
19 gambling activities or if such gambling activities be for the
20 charitable benefit of any specific persons designated in the
21 application for a license, then only for such specific persons as so
22 designated.

23 (2) No bona fide charitable or nonprofit organization or any other
24 person, association or organization shall conduct any gambling activity
25 authorized under this chapter in any leased premises if rental for such
26 premises is unreasonable or to be paid, wholly or partly, on the basis
27 of a percentage of the receipts or profits derived from such gambling
28 activity.

29 **Sec. 78.** RCW 9.46.130 and 1981 c 139 s 10 are each amended to read
30 as follows:

31 The premises and paraphernalia, and all the books and records of
32 any person, association or organization conducting gambling activities
33 authorized under this chapter and any person, association or
34 organization receiving profits therefrom or having any interest therein
35 shall be subject to inspection and audit at any reasonable time, with
36 or without notice, upon demand, by the ((~~commission~~)) department or its

1 designee, the attorney general or his designee, the chief of the
2 Washington state patrol or his designee or the prosecuting attorney,
3 sheriff or director of public safety or their designees of the county
4 wherein located, or the chief of police or his designee of any city or
5 town in which said organization is located, for the purpose of
6 determining compliance or noncompliance with the provisions of this
7 chapter and any rules (~~or regulations~~) or local ordinances adopted
8 pursuant thereto. A reasonable time for the purpose of this section
9 shall be: (1) If the items or records to be inspected or audited are
10 located anywhere upon a premises any portion of which is regularly open
11 to the public or members and guests, then at any time when the premises
12 are so open, or at which they are usually open; or (2) if the items or
13 records to be inspected or audited are not located upon a premises set
14 out in subsection (1) above, then any time between the hours of 8:00
15 a.m. and 9:00 p.m., Monday through Friday.

16 The (~~commission~~) department shall be provided at such reasonable
17 intervals as the (~~commission~~) department shall determine with a
18 report, under oath, detailing all receipts and disbursements in
19 connection with such gambling activities together with such other
20 reasonable information as required in order to determine whether such
21 activities comply with the purposes of this chapter or any local
22 ordinances relating thereto.

23 **Sec. 79.** RCW 9.46.140 and 1989 c 175 s 42 are each amended to read
24 as follows:

25 (1) The (~~commission~~) department or its authorized representative
26 may:

27 (a) Make necessary public or private investigations within or
28 outside of this state to determine whether any person has violated or
29 is about to violate this chapter or any rule or order hereunder, or to
30 aid in the enforcement of this chapter or in the prescribing of rules
31 and forms hereunder; and

32 (b) Inspect the books, documents, and records of any person lending
33 money to or in any manner financing any license holder or applicant for
34 a license or receiving any income or profits from the use of such
35 license for the purpose of determining compliance or noncompliance with
36 the provisions of this chapter or the rules (~~and regulations~~) adopted
37 pursuant thereto.

1 (2) For the purpose of any investigation or proceeding under this
2 chapter, the (~~commission~~) department or an administrative law judge
3 appointed under chapter 34.12 RCW may conduct hearings, administer
4 oaths or affirmations, or upon the (~~commission's~~) department's or
5 administrative law judge's motion or upon request of any party may
6 subpoena witnesses, compel attendance, take depositions, take evidence,
7 or require the production of any matter which is relevant to the
8 investigation or proceeding, including but not limited to the
9 existence, description, nature, custody, condition, or location of any
10 books, documents, or other tangible things, or the identity or location
11 of persons having knowledge or relevant facts, or any other matter
12 reasonably calculated to lead to the discovery of material evidence.

13 (3) Upon failure to obey a subpoena or to answer questions
14 propounded by the administrative law judge and upon reasonable notice
15 to all persons affected thereby, the director may apply to the superior
16 court for an order compelling compliance.

17 (4) The administrative law judges appointed under chapter 34.12 RCW
18 may conduct hearings respecting the suspension, revocation, or denial
19 of licenses, who may administer oaths, admit or deny admission of
20 evidence, compel the attendance of witnesses, issue subpoenas, issue
21 orders, and exercise all other powers and perform all other functions
22 set out in RCW 34.05.446, 34.05.449, and 34.05.452.

23 (5) Except as otherwise provided in this chapter, all proceedings
24 under this chapter shall be in accordance with the Administrative
25 Procedure Act, chapter 34.05 RCW.

26 **Sec. 80.** RCW 9.46.150 and 1973 1st ex.s. c 218 s 15 are each
27 amended to read as follows:

28 (1) Any activity conducted in violation of any provision of this
29 chapter may be enjoined in an action commenced by the (~~commission~~)
30 department through the attorney general or by the prosecuting attorney
31 or legal counsel of any city or town in which the prohibited activity
32 may occur.

33 (2) When a violation of any provision of this chapter or any rule
34 (~~or regulation~~) adopted pursuant hereto has occurred on any property
35 or premises for which one or more licenses, permits, or certificates
36 issued by this state, or any political subdivision or public agency
37 thereof are in effect, all such licenses, permits and certificates may

1 be voided and no license, permit, or certificate so voided shall be
2 issued or reissued for such property or premises for a period of up to
3 sixty days thereafter.

4 **Sec. 81.** RCW 9.46.153 and 1981 c 139 s 14 are each amended to read
5 as follows:

6 (1) It shall be the affirmative responsibility of each applicant
7 and licensee to establish by clear and convincing evidence the
8 necessary qualifications for licensure of each person required to be
9 qualified under this chapter, as well as the qualifications of the
10 facility in which the licensed activity will be conducted;

11 (2) All applicants and licensees shall consent to inspections,
12 searches and seizures and the supplying of handwriting examples as
13 authorized by this chapter and rules adopted hereunder;

14 (3) All licensees, and persons having any interest in licensees,
15 including but not limited to employees and agents of licensees, and
16 other persons required to be qualified under this chapter or rules of
17 the ((~~commission~~)) department shall have a duty to inform the
18 ((~~commission~~)) department or its staff of any action or omission which
19 they believe would constitute a violation of this chapter or rules
20 adopted pursuant thereto. No person who so informs the ((~~commission~~))
21 department or the staff shall be discriminated against by an applicant
22 or licensee because of the supplying of such information;

23 (4) All applicants, licensees, persons who are operators or
24 directors thereof and persons who otherwise have a substantial interest
25 therein shall have the continuing duty to provide any assistance or
26 information required by the ((~~commission~~)) department and to
27 investigations conducted by the ((~~commission~~)) department. If, upon
28 issuance of a formal request to answer or produce information, evidence
29 or testimony, any applicant, licensee or officer or director thereof or
30 person with a substantial interest therein, refuses to comply, the
31 applicant or licensee may be denied or revoked by the ((~~commission~~))
32 department;

33 (5) All applicants and licensees shall waive any and all liability
34 as to the state of Washington, its agencies, employees and agents for
35 any damages resulting from any disclosure or publication in any manner,
36 other than a wilfully unlawful disclosure or publication, of any

1 information acquired by the ((~~commission~~)) department during its
2 licensing or other investigations or inquiries or hearings;

3 (6) Each applicant or licensee may be photographed for
4 investigative and identification purposes in accordance with rules of
5 the ((~~commission~~)) department;

6 (7) An application to receive a license under this chapter or rules
7 adopted pursuant thereto constitutes a request for determination of the
8 applicant's and those person's with an interest in the applicant,
9 general character, integrity and ability to engage or participate in,
10 or be associated with, gambling or related activities impacting this
11 state. Any written or oral statement made in the course of an official
12 investigation, proceeding or process of the ((~~commission~~)) department
13 by any member, employee or agent thereof or by any witness, testifying
14 under oath, which is relevant to the investigation, proceeding or
15 process, is absolutely privileged and shall not impose any liability
16 for slander, libel or defamation, or constitute any grounds for
17 recovery in any civil action.

18 **Sec. 82.** RCW 9.46.158 and 1981 c 139 s 18 are each amended to read
19 as follows:

20 No applicant for a license from, nor licensee of, the
21 ((~~commission~~)) department, nor any operator of any gambling activity,
22 shall, without advance approval of the ((~~commission~~)) department,
23 knowingly permit any person to participate in the management or
24 operation of any activity for which a license from the ((~~commission~~))
25 department is required or which is otherwise authorized by this chapter
26 if that person:

27 (1) Has been convicted of, or forfeited bond upon a charge of, or
28 pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud,
29 wilful failure to make required payments or reports to a governmental
30 agency at any level, or filing false reports therewith, or of any
31 similar offense or offenses, or of any crime, whether a felony or
32 misdemeanor involving any gambling activity or physical harm to
33 individuals or involving moral turpitude; or

34 (2) Has violated, failed, or refused to comply with provisions,
35 requirements, conditions, limitations or duties imposed by this
36 chapter, and any amendments thereto, or any rules adopted by the
37 ((~~commission~~)) department pursuant thereto, or has permitted, aided,

1 abetted, caused, or conspired with another to cause, any person to
2 violate any of the provisions of this chapter or rules of the
3 (~~commission~~) department.

4 **Sec. 83.** RCW 9.46.160 and 1991 c 261 s 3 are each amended to read
5 as follows:

6 Any person who conducts any activity for which a license is
7 required by this chapter, or by rule of the (~~commission~~) department,
8 without the required license issued by the (~~commission~~) department
9 shall be guilty of a class B felony. If any corporation conducts any
10 activity for which a license is required by this chapter, or by rule of
11 the (~~commission~~) department, without the required license issued by
12 the (~~commission~~) department, it may be punished by forfeiture of its
13 corporate charter, in addition to the other penalties set forth in this
14 section.

15 **Sec. 84.** RCW 9.46.170 and 1991 c 261 s 4 are each amended to read
16 as follows:

17 Whoever, in any application for a license or in any book or record
18 required to be maintained by the (~~commission~~) department or in any
19 report required to be submitted to the (~~commission~~) department, shall
20 make any false or misleading statement, or make any false or misleading
21 entry or wilfully fail to maintain or make any entry required to be
22 maintained or made, or who wilfully refuses to produce for inspection
23 by the (~~commission~~) department, or its designee, any book, record, or
24 document required to be maintained or made by federal or state law,
25 shall be guilty of a gross misdemeanor subject to the penalty set forth
26 in RCW 9A.20.021.

27 **Sec. 85.** RCW 9.46.198 and 1999 c 143 s 7 are each amended to read
28 as follows:

29 Any person who works as an employee or agent or in a similar
30 capacity for another person in connection with the operation of an
31 activity for which a license is required under this chapter or by
32 (~~commission~~) department rule without having obtained the applicable
33 license required by the (~~commission~~) department under RCW
34 9.46.070(17) shall be guilty of a gross misdemeanor and shall, upon

1 conviction, be punished by not more than one year in the county jail or
2 a fine of not more than five thousand dollars, or both.

3 **Sec. 86.** RCW 9.46.210 and 2000 c 46 s 1 are each amended to read
4 as follows:

5 (1) It shall be the duty of all peace officers, law enforcement
6 officers, and law enforcement agencies within this state to
7 investigate, enforce, and prosecute all violations of this chapter.

8 (2) In addition to the authority granted by subsection (1) of this
9 section law enforcement agencies of cities and counties shall
10 investigate and report to the ~~((commission))~~ department all violations
11 of the provisions of this chapter and of the rules of the
12 ~~((commission))~~ department found by them and shall assist the
13 ~~((commission))~~ department in any of its investigations and proceedings
14 respecting any such violations. Such law enforcement agencies shall
15 not be deemed agents of the ~~((commission))~~ department.

16 (3) In addition to its other powers and duties, the ~~((commission))~~
17 department shall have the power to enforce the penal provisions of
18 this chapter ~~((218, Laws of 1973 1st ex. sess. and as it may be
19 amended,))~~ and the penal laws of this state relating to the conduct of
20 or participation in gambling activities and the manufacturing,
21 importation, transportation, distribution, possession, and sale of
22 equipment or paraphernalia used or for use in connection therewith.
23 The director~~((, the deputy director, both assistant directors,))~~ and
24 each of the ~~((commission's))~~ department's investigators, enforcement
25 officers, and inspectors shall have the power, under the supervision of
26 the ~~((commission))~~ department, to enforce the penal provisions of this
27 chapter ~~((218, Laws of 1973 1st ex. sess. and as it may be amended,))~~
28 and the penal laws of this state relating to the conduct of or
29 participation in gambling activities and the manufacturing,
30 importation, transportation, distribution, possession, and sale of
31 equipment or paraphernalia used or for use in connection therewith.
32 They shall have the power and authority to apply for and execute all
33 warrants and serve process of law issued by the courts in enforcing the
34 penal provisions of this chapter ~~((218, Laws of 1973 1st ex. sess. and
35 as it may be amended,))~~ and the penal laws of this state relating to
36 the conduct of or participation in gambling activities and the
37 manufacturing, importation, transportation, distribution, possession,

1 and sale of equipment or paraphernalia used or for use in connection
2 therewith. They shall have the power to arrest without a warrant, any
3 person or persons found in the act of violating any of the penal
4 provisions of this chapter (~~((218, Laws of 1973 1st ex. sess. and as it~~
5 ~~may be amended,))~~) and the penal laws of this state relating to the
6 conduct of or participation in gambling activities and the
7 manufacturing, importation, transportation, distribution, possession,
8 and sale of equipment or paraphernalia used or for use in connection
9 therewith. To the extent set forth (~~(above)~~) in this section, the
10 (~~(commission)~~) department shall be a law enforcement agency of this
11 state with the power to investigate for violations of and to enforce
12 the provisions of this chapter (~~(, as now law or hereafter amended,))~~
13 and to obtain information from and provide information to all other law
14 enforcement agencies.

15 (4) Criminal history record information that includes nonconviction
16 data, as defined in RCW 10.97.030, may be disseminated by a criminal
17 justice agency to the (~~(Washington state gambling commission)~~)
18 department for any purpose associated with the investigation for
19 suitability for involvement in gambling activities authorized under
20 this chapter. The (~~(Washington state gambling commission)~~) department
21 shall only disseminate nonconviction data obtained under this section
22 to criminal justice agencies.

23 **Sec. 87.** RCW 9.46.215 and 1994 c 218 s 9 are each amended to read
24 as follows:

25 Whoever knowingly owns, manufactures, possesses, buys, sells,
26 rents, leases, finances, holds a security interest in, stores, repairs,
27 or transports any gambling device or offers or solicits any interest
28 therein, whether through an agent or employee or otherwise, is guilty
29 of a felony and shall be fined not more than one hundred thousand
30 dollars or imprisoned not more than five years or both. However, this
31 section does not apply to persons licensed by the (~~(commission)~~)
32 department, or who are otherwise authorized by this chapter, or by
33 (~~(commission)~~) department rule, to conduct gambling activities without
34 a license, respecting devices that are to be used, or are being used,
35 solely in that activity for which the license was issued, or for which
36 the person has been otherwise authorized if:

1 (1) The person is acting in conformance with this chapter and the
2 rules adopted under this chapter; and

3 (2) The devices are a type and kind traditionally and usually
4 employed in connection with the particular activity. This section also
5 does not apply to any act or acts by the persons in furtherance of the
6 activity for which the license was issued, or for which the person is
7 authorized, when the activity is conducted in compliance with this
8 chapter and in accordance with the rules adopted under this chapter.
9 In the enforcement of this section direct possession of any such a
10 gambling device is presumed to be knowing possession thereof.

11 **Sec. 88.** RCW 9.46.250 and 1987 c 4 s 45 are each amended to read
12 as follows:

13 (1) All gambling premises are common nuisances and shall be subject
14 to abatement by injunction or as otherwise provided by law. The
15 plaintiff in any action brought under this subsection against any
16 gambling premises, need not show special injury and may, in the
17 discretion of the court, be relieved of all requirements as to giving
18 security.

19 (2) When any property or premise held under a mortgage, contract or
20 leasehold is determined by a court having jurisdiction to be a gambling
21 premises, all rights and interests of the holder therein shall
22 terminate and the owner shall be entitled to immediate possession at
23 his election: PROVIDED, HOWEVER, That this subsection shall not apply
24 to those premises in which activities authorized by this chapter or any
25 act or acts in furtherance thereof are carried on when conducted in
26 compliance with the provisions of this chapter and in accordance with
27 the rules (~~and regulations~~) adopted pursuant thereto.

28 (3) When any property or premises for which one or more licenses
29 issued by the (~~commission~~) department are in effect, is determined by
30 a court having jurisdiction to be a gambling premise, all such licenses
31 may be voided and no longer in effect, and no license so voided shall
32 be issued or reissued for such property or premises for a period of up
33 to sixty days thereafter. Enforcement of this subsection shall be the
34 duty of all peace officers and all taxing and licensing officials of
35 this state and its political subdivisions and other public agencies.
36 This subsection shall not apply to property or premises in which
37 activities authorized by this chapter, or any act or acts in

1 furtherance thereof, are carried on when conducted in compliance with
2 the provisions of this chapter and in accordance with the rules (~~and~~
3 ~~regulations~~) adopted pursuant thereto.

4 **Sec. 89.** RCW 9.46.293 and 1989 c 8 s 1 are each amended to read as
5 follows:

6 Any fishing derby, defined under RCW 9.46.0229, shall not be
7 subject to any other provisions of this chapter or to any rules (~~or~~
8 ~~regulations~~) of the (~~commission~~) department.

9 **Sec. 90.** RCW 9.46.300 and 1977 ex.s. c 326 s 17 are each amended
10 to read as follows:

11 All applications for licenses made to the (~~commission~~)
12 department, with the exception of any portions of the applications
13 describing the arrest or conviction record of any person, and all
14 reports required by the (~~commission~~) department to be filed by its
15 licensees on a periodic basis concerning the operation of the licensed
16 activity or concerning any organization, association, or business in
17 connection with which a licensed activity is operated, in the
18 (~~commission~~) department files, shall be open to public inspection at
19 the (~~commission's~~) department's offices upon a prior written request
20 of the (~~commission~~) department. The (~~staff~~) employees of the
21 (~~commission~~) department may decline to allow an inspection until such
22 time as the inspection will not unduly interfere with the other duties
23 of the (~~staff~~) employees. The (~~commission~~) department may charge
24 the person making a request for an inspection an amount necessary to
25 offset the costs to the (~~commission~~) department of providing the
26 inspection and copies of any requested documents.

27 **Sec. 91.** RCW 9.46.310 and 1981 c 139 s 13 are each amended to read
28 as follows:

29 No person shall manufacture, and no person shall sell, distribute,
30 furnish or supply to any other person, any gambling device, including
31 but not limited to punchboards and pull tabs, in this state, or for use
32 within this state, without first obtaining a license to do so from the
33 (~~commission~~) department under the provisions of this chapter.

34 Such licenses shall not be issued by the (~~commission~~) department
35 except respecting devices which are designed and permitted for use in

1 connection with activities authorized under this chapter: PROVIDED,
2 That this requirement for licensure shall apply only insofar as the
3 ((~~commission~~)) department has adopted, or may adopt, rules implementing
4 it as to particular categories of gambling devices and related
5 equipment.

6 **Sec. 92.** RCW 9.46.350 and 1981 c 139 s 16 are each amended to read
7 as follows:

8 At any time within five years after any amount of fees, interest,
9 penalties, or tax which is imposed pursuant to this chapter, or rules
10 adopted pursuant thereto, shall become due and payable, the attorney
11 general, on behalf of the ((~~commission~~)) department, may bring a civil
12 action in the courts of this state, or any other state, or of the
13 United States, to collect the amount delinquent, together with
14 penalties and interest: PROVIDED, That where the tax is one imposed by
15 a county, city or town under RCW 9.46.110, any such action shall be
16 brought by that county, city or town on its own behalf. An action may
17 be brought whether or not the person owing the amount is at such time
18 a licensee pursuant to the provisions of this chapter.

19 If such an action is brought in the courts of this state, a writ of
20 attachment may be issued and no bond or affidavit prior to the issuance
21 thereof shall be required. In all actions in this state, the records
22 of the ((~~commission~~)) department, or the appropriate county, city or
23 town, shall be prima facie evidence of the determination of the tax due
24 or the amount of the delinquency.

25 **Sec. 93.** RCW 9.46.360 and 1992 c 172 s 2 are each amended to read
26 as follows:

27 (1) The negotiation process for compacts with federally recognized
28 Indian tribes for conducting class III gaming, as defined in the Indian
29 Gaming Regulatory Act, 25 U.S.C. Sec. 2701 et seq., on federal Indian
30 lands is governed by this section.

31 (2) The ((~~gambling commission~~)) department, through the director or
32 the director's designee, shall negotiate compacts for class III gaming
33 on behalf of the state with federally recognized Indian tribes in the
34 state of Washington.

35 (3) When a tentative agreement with an Indian tribe on a proposed
36 compact is reached, the director shall immediately transmit a copy of

1 the proposed compact to ~~((all voting and ex officio members of the~~
2 ~~gambling commission and to))~~ the standing committees designated
3 pursuant to subsection ~~((+5))~~ (4) of this section.

4 (4) ~~((Notwithstanding RCW 9.46.040, the four ex officio members of~~
5 ~~the gambling commission shall be deemed voting members of the gambling~~
6 ~~commission for the sole purpose of voting on proposed compacts~~
7 ~~submitted under this section.~~

8 ~~(+5))~~ Within thirty days after receiving a proposed compact from
9 the director, one standing committee from each house of the legislature
10 shall hold a public hearing on the proposed compact and forward its
11 respective comments to the ~~((gambling commission))~~ department. The
12 president of the senate shall designate the senate standing committee
13 that is to carry out the duties of this section, and the speaker of the
14 house of representatives shall designate the house standing committee
15 that is to carry out the duties of this section. The designated
16 committees shall continue to perform under this section until the
17 president of the senate or the speaker of the house of representatives,
18 as the case may be, designates a different standing committee.

19 ~~((+6))~~ (5) The ~~((gambling commission))~~ department may hold public
20 hearings on the proposed compact any time after receiving a copy of the
21 compact ~~((from the director))~~. Within forty-five days after receiving
22 the proposed compact ~~((from))~~, the director ~~((, the gambling commission,~~
23 ~~including the four ex officio members, shall vote on whether to return~~
24 ~~the proposed compact to the director with instructions for further~~
25 ~~negotiation or to))~~ may forward the proposed compact to the governor
26 for review and final execution.

27 ~~((+7))~~ (6) Notwithstanding provisions in this section to the
28 contrary, if the director forwards a proposed compact to the ~~((gambling~~
29 ~~commission and the))~~ designated standing committees within ten days
30 before the beginning of a regular session of the legislature, or during
31 a regular or special session of the legislature, the thirty-day time
32 limit set forth in subsection ~~((+5))~~ (4) of this section and the
33 forty-five day limit set forth in subsection ~~((+6))~~ (5) of this
34 section are each forty-five days and sixty days, respectively.

35 ~~((+8))~~ (7) Funding for the negotiation process under this section
36 must come from the gambling revolving fund.

37 ~~((+9))~~ (8) In addition to the powers granted under this chapter,
38 the ~~((commission))~~ department, consistent with the terms of any

1 compact, is authorized and empowered to enforce the provisions of any
2 compact between a federally recognized Indian tribe and the state of
3 Washington.

4 **Sec. 94.** RCW 9.46.400 and 1996 c 101 s 3 are each amended to read
5 as follows:

6 Any raffle authorized by the fish and wildlife commission involving
7 hunting big game animals or wild turkeys shall not be subject to any
8 provisions of this chapter other than RCW 9.46.010 and this section or
9 to any rules (~~(or regulations)~~) of the (~~(gambling commission)~~)
10 department.

11 **Sec. 95.** RCW 9.46.420 and 2002 c 252 s 3 are each amended to read
12 as follows:

13 The (~~(commission)~~) department shall consider the provisions of RCW
14 9.46.410 as elements to be negotiated with federally recognized Indian
15 tribes as provided in RCW 9.46.360.

16 **Sec. 96.** RCW 42.17.2401 and 2001 c 36 s 1 and 2001 c 9 s 1 are
17 each reenacted and amended to read as follows:

18 For the purposes of RCW 42.17.240, the term "executive state
19 officer" includes:

20 (1) The chief administrative law judge, the director of
21 agriculture, the administrator of the Washington basic health plan, the
22 director of the department of services for the blind, the director of
23 the state system of community and technical colleges, the director of
24 community, trade, and economic development, the secretary of
25 corrections, the director of ecology, the commissioner of employment
26 security, the chairman of the energy facility site evaluation council,
27 the secretary of the state finance committee, the director of financial
28 management, the director of fish and wildlife, the executive secretary
29 of the forest practices appeals board, the director of the (~~(gambling
30 commission)~~) department of gaming, the director of general
31 administration, the secretary of health, the administrator of the
32 Washington state health care authority, the executive secretary of the
33 health care facilities authority, the executive secretary of the higher
34 education facilities authority, (~~(the executive secretary of the horse
35 racing commission,)~~) the executive secretary of the human rights

1 commission, the executive secretary of the indeterminate sentence
2 review board, the director of the department of information services,
3 the director of the interagency committee for outdoor recreation, the
4 executive director of the state investment board, the director of labor
5 and industries, the director of licensing, the director of the lottery
6 commission, the director of the office of minority and women's business
7 enterprises, the director of parks and recreation, the director of
8 personnel, the executive director of the public disclosure commission,
9 the director of retirement systems, the director of revenue, the
10 secretary of social and health services, the chief of the Washington
11 state patrol, the executive secretary of the board of tax appeals, the
12 secretary of transportation, the secretary of the utilities and
13 transportation commission, the director of veterans affairs, the
14 president of each of the regional and state universities and the
15 president of The Evergreen State College, each district and each campus
16 president of each state community college;

17 (2) Each professional staff member of the office of the governor;

18 (3) Each professional staff member of the legislature; and

19 (4) Central Washington University board of trustees, board of
20 trustees of each community college, each member of the state board for
21 community and technical colleges, state convention and trade center
22 board of directors, committee for deferred compensation, Eastern
23 Washington University board of trustees, Washington economic
24 development finance authority, The Evergreen State College board of
25 trustees, executive ethics board, forest practices appeals board,
26 forest practices board, (~~(gambling commission,)~~) Washington health care
27 facilities authority, each member of the Washington health services
28 commission, higher education coordinating board, higher education
29 facilities authority, (~~(horse racing commission,)~~) state housing
30 finance commission, human rights commission, indeterminate sentence
31 review board, board of industrial insurance appeals, information
32 services board, interagency committee for outdoor recreation, state
33 investment board, commission on judicial conduct, legislative ethics
34 board, liquor control board, lottery commission, marine oversight
35 board, Pacific Northwest electric power and conservation planning
36 council, parks and recreation commission, personnel appeals board,
37 board of pilotage commissioners, pollution control hearings board,
38 public disclosure commission, public pension commission, shorelines

1 hearing board, public employees' benefits board, salmon recovery
2 funding board, board of tax appeals, transportation commission,
3 University of Washington board of regents, utilities and transportation
4 commission, Washington state maritime commission, Washington personnel
5 resources board, Washington public power supply system executive board,
6 Washington State University board of regents, Western Washington
7 University board of trustees, and fish and wildlife commission.

8 **Sec. 97.** RCW 51.12.020 and 1999 c 68 s 1 are each amended to read
9 as follows:

10 The following are the only employments which shall not be included
11 within the mandatory coverage of this title:

12 (1) Any person employed as a domestic servant in a private home by
13 an employer who has less than two employees regularly employed forty or
14 more hours a week in such employment.

15 (2) Any person employed to do gardening, maintenance, or repair, in
16 or about the private home of the employer. For the purposes of this
17 subsection, "maintenance" means the work of keeping in proper
18 condition, "repair" means to restore to sound condition after damage,
19 and "private home" means a person's place of residence.

20 (3) A person whose employment is not in the course of the trade,
21 business, or profession of his or her employer and is not in or about
22 the private home of the employer.

23 (4) Any person performing services in return for aid or sustenance
24 only, received from any religious or charitable organization.

25 (5) Sole proprietors or partners.

26 (6) Any child under eighteen years of age employed by his or her
27 parent or parents in agricultural activities on the family farm.

28 (7) Jockeys while participating in or preparing horses for race
29 meets licensed by the (~~Washington horse racing commission~~) department
30 of gaming pursuant to chapter 67.16 RCW.

31 (8)(a) Except as otherwise provided in (b) of this subsection, any
32 bona fide officer of a corporation voluntarily elected or voluntarily
33 appointed in accordance with the articles of incorporation or bylaws of
34 the corporation, who at all times during the period involved is also a
35 bona fide director, and who is also a shareholder of the corporation.
36 Only such officers who exercise substantial control in the daily

1 management of the corporation and whose primary responsibilities do not
2 include the performance of manual labor are included within this
3 subsection.

4 (b) Alternatively, a corporation that is not a "public company" as
5 defined in RCW 23B.01.400(~~(+21)~~) may exempt eight or fewer bona fide
6 officers, who are voluntarily elected or voluntarily appointed in
7 accordance with the articles of incorporation or bylaws of the
8 corporation and who exercise substantial control in the daily
9 management of the corporation, from coverage under this title without
10 regard to the officers' performance of manual labor if the exempted
11 officer is a shareholder of the corporation, or may exempt any number
12 of officers if all the exempted officers are related by blood within
13 the third degree or marriage. If a corporation that is not a "public
14 company" elects to be covered under subsection (8)(a) of this section,
15 the corporation's election must be made on a form prescribed by the
16 department and under such reasonable rules as the department may adopt.

17 (c) Determinations respecting the status of persons performing
18 services for a corporation shall be made, in part, by reference to
19 Title 23B RCW and to compliance by the corporation with its own
20 articles of incorporation and bylaws. For the purpose of determining
21 coverage under this title, substance shall control over form, and
22 mandatory coverage under this title shall extend to all workers of this
23 state, regardless of honorary titles conferred upon those actually
24 serving as workers.

25 (d) A corporation may elect to cover officers who are exempted by
26 this subsection in the manner provided by RCW 51.12.110.

27 (9) Services rendered by a musician or entertainer under a contract
28 with a purchaser of the services, for a specific engagement or
29 engagements when such musician or entertainer performs no other duties
30 for the purchaser and is not regularly and continuously employed by the
31 purchaser. A purchaser does not include the leader of a group or
32 recognized entity who employs other than on a casual basis musicians or
33 entertainers.

34 (10) Services performed by a newspaper carrier selling or
35 distributing newspapers on the street or from house to house.

36 (11) Services performed by an insurance agent, insurance broker, or
37 insurance solicitor, as defined in RCW 48.17.010, 48.17.020, and
38 48.17.030, respectively.

1 (12) Services performed by a booth renter (~~as defined in RCW~~
2 ~~18.16.020~~). However, a person exempted under this subsection may
3 elect coverage under RCW 51.32.030.

4 (13) Members of a limited liability company, if either:

5 (a) Management of the company is vested in its members, and the
6 members for whom exemption is sought would qualify for exemption under
7 subsection (5) of this section were the company a sole proprietorship
8 or partnership; or

9 (b) Management of the company is vested in one or more managers,
10 and the members for whom the exemption is sought are managers who would
11 qualify for exemption under subsection (8) of this section were the
12 company a corporation.

13 **Sec. 98.** RCW 51.16.210 and 1989 c 385 s 1 are each amended to read
14 as follows:

15 (1) The department shall assess premiums, under the provisions of
16 this section, for certain horse racing employments licensed in
17 accordance with chapter 67.16 RCW. This premium assessment shall be
18 for the purpose of providing industrial insurance coverage for
19 employees of trainers licensed under chapter 67.16 RCW, including but
20 not limited to exercise riders, pony riders, and grooms, and including
21 all on or off track employment. For the purposes of RCW 51.16.210,
22 67.16.300, 51.16.140, 51.32.073, and 67.16.020 a hotwalker shall be
23 considered a groom. The department may adopt rules under chapter 34.05
24 RCW to carry out the purposes of this section, including rules
25 providing for alternative reporting periods and payment due dates for
26 coverage under this section. The department rules shall ensure that no
27 licensee licensed prior to May 13, 1989, shall pay more than the
28 assessment fixed at the basic manual rate.

29 (2) The department shall compute industrial insurance premium rates
30 on a per license basis, which premiums shall be assessed at the time of
31 each issuance or renewal of the license for owners, trainers, and
32 grooms in amounts established by department rule for coverage under
33 this section. Premium assessments shall be determined in accordance
34 with the requirements of this title, except that assessments shall not
35 be experience rated and shall be fixed at the basic manual rate.
36 However, rates may vary according to differences in working conditions
37 at major tracks and fair tracks.

1 (3) For the purposes of paying premiums and assessments under this
2 section and making reports under this title, individuals licensed as
3 trainers by the (~~Washington horse racing commission~~) department of
4 gaming shall be considered employers. The premium assessment for a
5 groom's license shall be paid by the trainer responsible for signing
6 the groom's license application and shall be payable at the time of
7 license issuance or renewal.

8 (4) The fee to be assessed on owner licenses as required by this
9 section shall not exceed one hundred fifty dollars. However, those
10 owners having less than a full ownership in a horse or horses shall pay
11 a percentage of the required license fee that is equal to the total
12 percentage of the ownership that the owner has in the horse or horses.
13 In no event shall an owner having an ownership percentage in more than
14 one horse pay more than a one hundred fifty-dollar license fee. The
15 assessment on each owner's license shall not imply that an owner is an
16 employer, but shall be required as part of the privilege of holding an
17 owner's license.

18 (5) Premium assessments under this section shall be collected by
19 the (~~Washington horse racing commission~~) department of gaming and
20 deposited in the industrial insurance trust funds as provided under
21 department rules.

22 **Sec. 99.** RCW 67.16.010 and 1991 c 270 s 1 are each amended to read
23 as follows:

24 (1) Unless the context otherwise requires, words and phrases as
25 used herein shall mean:

26 (~~"Commission" shall mean the Washington horse racing commission,~~
27 ~~hereinafter created.)) (a) "Department" means the department of gaming
28 created in section 41 of this act.~~

29 (b) "Parimutuel machine" shall mean and include both machines at
30 the track and machines at the satellite locations, that record
31 parimutuel bets and compute the payoff.

32 (c) "Person" shall mean and include individuals, firms,
33 corporations and associations.

34 (d) "Race meet" shall mean and include any exhibition of
35 thoroughbred, quarter horse, paint horse, appaloosa horse racing,
36 arabian horse racing, or standard bred harness horse racing, where the
37 parimutuel system is used.

1 training and development results in legalized horse racing or in the
2 recreational use of horses;

3 (2) The (~~horse racing commission~~) department has a further major
4 responsibility to assure that any facility used as a race course should
5 be maintained and upgraded to insure the continued safety of both the
6 public and the horse at any time the facility is used for the training
7 or contesting of these animals;

8 (3) Small race courses within the state have difficulty in
9 obtaining sufficient funds to provide the maintenance and upgrading
10 necessary to assure this safety at these facilities, or to permit
11 frequent use of these facilities by 4-H children or other horse owners
12 involved in training; and

13 (4) The one percent of the parimutuel machine gross receipts used
14 to pay a special purse to the licensed owners of Washington bred horses
15 is available for the purpose of drawing interest, thereby obtaining
16 sufficient funds to be disbursed to achieve the necessary support to
17 these small race courses.

18 **Sec. 103.** RCW 67.16.105 and 1998 c 345 s 6 are each amended to
19 read as follows:

20 (1) Licensees of race meets that are nonprofit in nature and are of
21 ten days or less shall be exempt from payment of a parimutuel tax.

22 (2) Licensees that do not fall under subsection (1) of this section
23 shall withhold and pay to the (~~commission~~) department daily for each
24 authorized day of parimutuel wagering the following applicable
25 percentage of all daily gross receipts from its in-state parimutuel
26 machines:

27 (a) If the gross receipts of all its in-state parimutuel machines
28 are more than fifty million dollars in the previous calendar year, the
29 licensee shall withhold and pay to the (~~commission~~) department daily
30 1.30 percent of the daily gross receipts; and

31 (b) If the gross receipts of all its in-state parimutuel machines
32 are fifty million dollars or less in the previous calendar year, the
33 licensee shall withhold and pay to the (~~commission~~) department daily
34 (~~(0.52)~~) 1.803 percent of the daily gross receipts.

35 (3) In addition to those amounts in subsection (2) of this section,
36 a licensee shall forward one-tenth of one percent of the daily gross
37 receipts of all its in-state parimutuel machines to the (~~commission~~)

1 department for payment to those nonprofit race meets as set forth in
2 RCW 67.16.130 and subsection (1) of this section, but said percentage
3 shall not be charged against the licensee. Payments to nonprofit race
4 meets under this subsection shall be distributed on a pro rata per-
5 race-day basis and used only for purses at race tracks that have been
6 operating under RCW 67.16.130 and subsection (1) of this section for
7 the five consecutive years immediately preceding the year of payment.
8 The ((~~commission~~)) department shall transfer funds generated under
9 subsection (2) of this section equal to the difference between funds
10 collected under this subsection (3) in a calendar year and three
11 hundred thousand dollars, and distribute that amount under this
12 subsection (3).

13 (4) Beginning July 1, 1999, at the conclusion of each authorized
14 race meet, the ((~~commission~~)) department shall calculate the
15 mathematical average daily gross receipts of parimutuel wagering that
16 is conducted only at the physical location of the live race meet at
17 those race meets of licensees with gross receipts of all their in-state
18 parimutuel machines of more than fifty million dollars. Such
19 calculation shall include only the gross parimutuel receipts from
20 wagering occurring on live racing dates, including live racing receipts
21 and receipts derived from one simulcast race card that is conducted
22 only at the physical location of the live racing meet, which, for the
23 purposes of this subsection, is "the handle." If the calculation
24 exceeds eight hundred eighty-six thousand dollars, the licensee shall
25 within ten days of receipt of written notification by the
26 ((~~commission~~)) department forward to the ((~~commission~~)) department
27 a sum equal to the product obtained by multiplying 0.6 percent by the
28 handle. Sums collected by the ((~~commission~~)) department under this
29 subsection shall be forwarded on the next business day following
30 receipt thereof to the state treasurer to be deposited in the fair fund
31 created in RCW 15.76.115.

32 **Sec. 104.** RCW 67.16.130 and 1991 c 270 s 7 are each amended to
33 read as follows:

34 (1) Notwithstanding any other provision of law or of chapter 67.16
35 RCW, the ((~~commission~~)) department may license race meets which are
36 nonprofit in nature, of ten days or less, and which have an average
37 daily handle of one hundred twenty thousand dollars or less, at a daily

1 licensing fee of ten dollars, and the sponsoring nonprofit association
2 shall be exempt from any other fees as provided for in chapter 67.16
3 RCW or by rule (~~or regulation~~) of the (~~commission~~) department:
4 PROVIDED, That the (~~commission~~) department may deny the application
5 for a license to conduct a racing meet by a nonprofit association, if
6 same shall be determined not to be a nonprofit association by the
7 (~~Washington state racing commission~~) department.

8 (2) Notwithstanding any other provision of law or of chapter 67.16
9 RCW or any rule promulgated by the (~~commission~~) department, no
10 license for a race meet which is nonprofit in nature, of ten days or
11 less, and which has an average daily handle of one hundred twenty
12 thousand dollars or less, shall be denied for the reason that the
13 applicant has not installed an electric parimutuel tote board.

14 (3) As a condition to the reduction in fees as provided for in
15 subsection (1) of this section, all fees charged to horse owners,
16 trainers, or jockeys, or any other fee charged for a permit incident to
17 the running of such race meet shall be retained by the (~~commission~~)
18 department as reimbursement for its expenses incurred in connection
19 with the particular race meet.

20 **Sec. 105.** RCW 67.16.140 and 1973 1st ex.s. c 216 s 3 are each
21 amended to read as follows:

22 No employee of the (~~horse racing commission~~) department shall
23 serve as an employee of any track at which that individual will also
24 serve as an employee of the (~~commission~~) department.

25 **Sec. 106.** RCW 67.16.150 and 1973 1st ex.s. c 216 s 4 are each
26 amended to read as follows:

27 No employee nor (~~any commissioner~~) the director of the (~~horse~~
28 ~~racing commission~~) department shall have any financial interest
29 whatsoever, other than an ownership interest in a community venture, in
30 any track at which said employee serves as an agent or employee of the
31 (~~commission or at any track with respect to a commissioner~~)
32 department.

33 **Sec. 107.** RCW 67.17.005 and 2001 c 18 s 1 are each amended to read
34 as follows:

35 The purposes of the live horse racing compact are to:

1 (1) Establish uniform requirements among the party states for the
2 licensing of participants in live horse racing with pari-mutuel
3 wagering, and ensure that all such participants who are licensed
4 pursuant to the compact meet a uniform minimum standard of honesty and
5 integrity;

6 (2) Facilitate the growth of the horse racing industry in each
7 party state and nationwide by simplifying the process for licensing
8 participants in live racing, and reduce the duplicative and costly
9 process of separate licensing by the regulatory agency in each state
10 that conducts live horse racing with pari-mutuel wagering;

11 (3) Authorize the (~~Washington horse racing commission~~) department
12 of gaming to participate in the live horse racing compact;

13 (4) Provide for participation in the live horse racing compact by
14 officials of the party states, and permit those officials, through the
15 compact committee established by this chapter, to enter into contracts
16 with governmental agencies and nongovernmental persons to carry out the
17 purposes of the live horse racing compact; and

18 (5) Establish the compact committee created by this chapter as an
19 interstate governmental entity duly authorized to request and receive
20 criminal history record information from the federal bureau of
21 investigation and other state and local law enforcement agencies.

22 **Sec. 108.** RCW 67.17.120 and 2001 c 18 s 13 are each amended to
23 read as follows:

24 Nothing in this chapter shall be construed to diminish or limit the
25 powers and responsibilities of the (~~Washington horse racing~~
26 ~~commission~~) department of gaming established in (~~chapter 67.16 RCW~~)
27 section 41 of this act or to invalidate any action of the Washington
28 horse racing commission or the department of gaming previously taken,
29 including without limitation any (~~regulation issued~~) rule adopted by
30 the commission or the department.

31 **Sec. 109.** RCW 82.04.350 and 1961 c 15 s 82.04.350 are each amended
32 to read as follows:

33 This chapter shall not apply to any person in respect to the
34 business of conducting race meets for the conduct of which a license
35 must be secured from the (~~horse racing commission~~) department of
36 gaming.

1 NEW SECTION. **Sec. 110.** (1) The state conservation commission is
2 hereby abolished and its powers, duties, and functions are hereby
3 transferred to the department of agriculture. All references to the
4 executive director or the state conservation commission in the Revised
5 Code of Washington shall be construed to mean the director or the
6 department of agriculture.

7 (2)(a) All reports, documents, surveys, books, records, files,
8 papers, or written material in the possession of the state conservation
9 commission shall be delivered to the custody of the department of
10 agriculture. All cabinets, furniture, office equipment, motor
11 vehicles, and other tangible property employed by the state
12 conservation commission shall be made available to the department of
13 agriculture. All funds, credits, or other assets held by the state
14 conservation commission shall be assigned to the department of
15 agriculture.

16 (b) Any appropriations made to the state conservation commission
17 shall, on the effective date of this section, be transferred and
18 credited to the department of agriculture.

19 (c) If any question arises as to the transfer of any personnel,
20 funds, books, documents, records, papers, files, equipment, or other
21 tangible property used or held in the exercise of the powers and the
22 performance of the duties and functions transferred, the director of
23 financial management shall make a determination as to the proper
24 allocation and certify the same to the state agencies concerned.

25 (3) The employees of the state conservation commission that are
26 transferred to the jurisdiction of the department of agriculture shall
27 be determined based upon the amount of money appropriated for staff.
28 All transferred employees classified under chapter 41.06 RCW, the state
29 civil service law, are assigned to the department of agriculture to
30 perform their usual duties upon the same terms as formerly, without any
31 loss of rights, subject to any action that may be appropriate
32 thereafter in accordance with the laws and rules governing state civil
33 service.

34 (4) All rules and all pending business before the state
35 conservation commission shall be continued and acted upon by the
36 department of agriculture. All existing contracts and obligations
37 shall remain in full force and shall be performed by the department of
38 agriculture.

1 (5) The transfer of the powers, duties, functions, and personnel of
2 the state conservation commission shall not affect the validity of any
3 act performed before the effective date of this section.

4 (6) If apportionments of budgeted funds are required because of the
5 transfers directed by this section, the director of financial
6 management shall certify the apportionments to the agencies affected,
7 the state auditor, and the state treasurer. Each of these shall make
8 the appropriate transfer and adjustments in funds and appropriation
9 accounts and equipment records in accordance with the certification.

10 (7) Nothing contained in this section may be construed to alter any
11 existing collective bargaining unit or the provisions of any existing
12 collective bargaining agreement until the agreement has expired or
13 until the bargaining unit has been modified by action of the personnel
14 resources board as provided by law.

15 NEW SECTION. **Sec. 111.** A new section is added to chapter 43.23
16 RCW to read as follows:

17 (1) There is hereby created within the department a program to
18 provide grants and technical assistance to local conservation
19 districts. For the program, the department shall be vested with all
20 powers and duties transferred to it from the state conservation
21 commission and such other powers and duties as may be authorized by
22 chapter 89.08 RCW.

23 (2) The department shall establish a committee to advise the agency
24 on its implementation of programs and technical assistance established
25 in this section.

26 (3) The advisory committee shall consist of ten members, selected
27 as provided for in this subsection.

28 (a) Five of the ten members shall be appointed by the director,
29 three of whom shall be landowners or operators of a farm. Two of the
30 five members appointed by the director shall reside in eastern
31 Washington, and two of the five members shall reside in western
32 Washington. The appointed members shall serve for terms of four years.

33 (b) Three of the ten members shall be elected by the conservation
34 district supervisors at their annual statewide meeting. At least two
35 of the three elected members shall be landowners or operators of a
36 farm. One of the members shall reside in eastern Washington, one in
37 central Washington, and one in western Washington, the specific

1 boundaries to be determined by district supervisors. At the initial
2 election, the term of the member from western Washington is one year,
3 the term of the member from central Washington is two years, and the
4 term of the member from eastern Washington is three years. Successors
5 shall be elected for three-year terms.

6 (c) One member of the committee shall be appointed by the director
7 of the department of ecology, and one member of the committee shall be
8 appointed by the director of the department of fish and wildlife.

9 (4) Unexpired term vacancies in the office of appointed committee
10 members shall be filled by the director in the same manner as full-term
11 appointments. Unexpired terms of elected commission members shall be
12 filled by the regional vice-president of the Washington association of
13 conservation districts who is serving that part of the state where the
14 vacancy occurs, the term continuing only until conservation district
15 supervisors fill the unexpired term by electing the commission member.

16 (5) Members of the advisory committee shall be compensated in
17 accordance with RCW 43.03.240 and are entitled to travel expenses
18 incurred in the discharge of their duties in accordance with RCW
19 43.03.050 and 43.03.060.

20 **Sec. 112.** RCW 43.21J.030 and 1998 c 245 s 60 are each amended to
21 read as follows:

22 (1) There is created the environmental enhancement and job creation
23 task force within the office of the governor. The purpose of the task
24 force is to provide a coordinated and comprehensive approach to
25 implementation of chapter 516, Laws of 1993. The task force shall
26 consist of the commissioner of public lands, the director of the
27 department of fish and wildlife, the director of the department of
28 ecology, the director of the parks and recreation commission, the
29 timber team coordinator, the executive director of the work force
30 training and education coordinating board, and the executive director
31 of the Puget Sound (~~(water quality authority)~~) action team, or their
32 designees. The task force may seek the advice of the following
33 agencies and organizations: The department of community, trade, and
34 economic development, the (~~(conservation commission)~~) department of
35 agriculture, the employment security department, the interagency
36 committee for outdoor recreation, appropriate federal agencies,
37 appropriate special districts, the Washington state association of

1 counties, the association of Washington cities, labor organizations,
2 business organizations, timber-dependent communities, environmental
3 organizations, and Indian tribes. The governor shall appoint the task
4 force chair. Members of the task force shall serve without additional
5 pay. Participation in the work of the committee by agency members
6 shall be considered in performance of their employment. The governor
7 shall designate staff and administrative support to the task force and
8 shall solicit the participation of agency personnel to assist the task
9 force.

10 (2) The task force shall have the following responsibilities:

11 (a) Soliciting and evaluating, in accordance with the criteria set
12 forth in RCW 43.21J.040, requests for funds from the environmental and
13 forest restoration account and making distributions from the account.
14 The task force shall award funds for projects and training programs it
15 approves and may allocate the funds to state agencies for disbursement
16 and contract administration;

17 (b) Coordinating a process to assist state agencies and local
18 governments to implement effective environmental and forest restoration
19 projects funded under this chapter;

20 (c) Considering unemployment profile data provided by the
21 employment security department.

22 (3) Beginning July 1, 1994, the task force shall have the following
23 responsibilities:

24 (a) To solicit and evaluate proposals from state and local
25 agencies, private nonprofit organizations, and tribes for environmental
26 and forest restoration projects;

27 (b) To rank the proposals based on criteria developed by the task
28 force in accordance with RCW 43.21J.040; and

29 (c) To determine funding allocations for projects to be funded from
30 the account created in RCW 43.21J.020 and for projects or programs as
31 designated in the omnibus operating and capital appropriations acts.

32 **Sec. 113.** RCW 43.41.270 and 2001 c 227 s 2 are each amended to
33 read as follows:

34 (1) The office of financial management shall assist natural
35 resource-related agencies in developing outcome-focused performance
36 measures for administering natural resource-related and environmentally

1 based grant and loan programs. These performance measures are to be
2 used in determining grant eligibility, for program management and
3 performance assessment.

4 (2) The office of financial management and the governor's salmon
5 recovery office shall assist natural resource-related agencies in
6 developing recommendations for a monitoring program to measure outcome-
7 focused performance measures required by this section. The
8 recommendations must be consistent with the framework and coordinated
9 monitoring strategy developed by the monitoring oversight committee
10 established in RCW 77.85.210.

11 (3) Natural resource agencies shall consult with grant or loan
12 recipients including local governments, tribes, nongovernmental
13 organizations, and other interested parties, and report to the office
14 of financial management on the implementation of this section. The
15 office of financial management shall report to the appropriate
16 legislative committees of the legislature on the agencies'
17 implementation of this section, including any necessary changes in
18 current law, and funding requirements by July 31, 2002. Natural
19 resource agencies shall assist the office of financial management in
20 preparing the report, including complying with time frames for
21 submitting information established by the office of financial
22 management.

23 (4) For purposes of this section, "natural resource-related
24 agencies" include the department of ecology, the department of natural
25 resources, the department of fish and wildlife, the ((~~state~~
26 ~~conservation commission~~)) department of agriculture, the interagency
27 committee for outdoor recreation, the salmon recovery funding board,
28 and the public works board within the department of community, trade,
29 and economic development.

30 (5) For purposes of this section, "natural resource-related
31 environmentally based grant and loan programs" includes the
32 conservation reserve enhancement program; dairy nutrient management
33 grants under chapter 90.64 RCW; ((~~state conservation commission~~))
34 department of agriculture water quality grants under chapter 89.08 RCW;
35 coordinated prevention grants, public participation grants, and
36 remedial action grants under RCW 70.105D.070; water pollution control
37 facilities financing under chapter 70.146 RCW; aquatic lands
38 enhancement grants under RCW 79.24.580; habitat grants under the

1 Washington wildlife and recreation program under RCW 79A.15.040; salmon
2 recovery grants under chapter 77.85 RCW; and the public ((work[s+]))
3 works trust fund program under chapter 43.155 RCW. The term also
4 includes programs administered by the department of fish and wildlife
5 related to protection or recovery of fish stocks which are funded with
6 moneys from the capital budget.

7 **Sec. 114.** RCW 70.146.060 and 1987 c 527 s 1 and 1987 c 436 s 7 are
8 each reenacted and amended to read as follows:

9 During the period from July 1, 1987, until June 30, 1995, the
10 following limitations shall apply to the department's total
11 distribution of funds appropriated from the water quality account:

12 (1) Not more than fifty percent for water pollution control
13 facilities which discharge directly into marine waters;

14 (2) Not more than twenty percent for water pollution control
15 activities that prevent or mitigate pollution of underground waters and
16 facilities that protect federally designated sole source aquifers with
17 at least two-thirds for the Spokane-Rathdrum Prairie Aquifer;

18 (3) Not more than ten percent for water pollution control
19 activities that protect freshwater lakes and rivers including but not
20 limited to Lake Chelan and the Yakima and Columbia rivers;

21 (4) Not more than ten percent for activities which control nonpoint
22 source water pollution;

23 (5) Ten percent and such sums as may be remaining from the
24 categories specified in subsections (1) through (4) of this section for
25 water pollution control activities or facilities as determined by the
26 department; and

27 (6) Two and one-half percent of the total amounts of moneys under
28 subsections (1) through (5) of this section from February 21, 1986,
29 until December 31, 1995, shall be appropriated biennially to the
30 ((~~state conservation commission~~)) department of agriculture for the
31 purposes of this chapter. Not less than ten percent of the moneys
32 received by the ((~~state conservation commission~~)) department of
33 agriculture under the provisions of this section shall be expended on
34 research activities.

35 The distribution under this section shall not be required to be met
36 in any single fiscal year.

1 Funds provided for facilities and activities under this chapter may
2 be used for payments to a service provider under a service agreement
3 pursuant to RCW 70.150.060. If funds are to be used for such payments,
4 the department may make periodic disbursements to a public body or may
5 make a single lump sum disbursement. Disbursements of funds with
6 respect to a facility owned or operated by a service provider shall be
7 equivalent in value to disbursements that would otherwise be made if
8 that facility were owned or operated by a public body. Payments under
9 this chapter for waste disposal and management facilities made to
10 public bodies entering into service agreements pursuant to RCW
11 70.150.060 shall not exceed amounts paid to public bodies not entering
12 into service agreements.

13 **Sec. 115.** RCW 77.55.290 and 2001 c 253 s 55 are each amended to
14 read as follows:

15 (1) In order to receive the permit review and approval process
16 created in this section, a fish habitat enhancement project must meet
17 the criteria under (a) and (b) of this subsection:

18 (a) A fish habitat enhancement project must be a project to
19 accomplish one or more of the following tasks:

20 (i) Elimination of human-made fish passage barriers, including
21 culvert repair and replacement;

22 (ii) Restoration of an eroded or unstable stream bank employing the
23 principle of bioengineering, including limited use of rock as a
24 stabilization only at the toe of the bank, and with primary emphasis on
25 using native vegetation to control the erosive forces of flowing water;
26 or

27 (iii) Placement of woody debris or other instream structures that
28 benefit naturally reproducing fish stocks.

29 The department shall develop size or scale threshold tests to
30 determine if projects accomplishing any of these tasks should be
31 evaluated under the process created in this section or under other
32 project review and approval processes. A project proposal shall not be
33 reviewed under the process created in this section if the department
34 determines that the scale of the project raises concerns regarding
35 public health and safety; and

36 (b) A fish habitat enhancement project must be approved in one of
37 the following ways:

- 1 (i) By the department pursuant to chapter 77.95 or 77.100 RCW;
- 2 (ii) By the sponsor of a watershed restoration plan as provided in
- 3 chapter 89.08 RCW;
- 4 (iii) By the department as a department-sponsored fish habitat
- 5 enhancement or restoration project;
- 6 (iv) Through the review and approval process for the jobs for the
- 7 environment program;
- 8 (v) Through the review and approval process for conservation
- 9 district-sponsored projects, where the project complies with design
- 10 standards established by the (~~conservation commission~~) department of
- 11 agriculture through interagency agreement with the United States fish
- 12 and wildlife service and the natural resource conservation service;
- 13 (vi) Through a formal grant program established by the legislature
- 14 or the department for fish habitat enhancement or restoration; and
- 15 (vii) Through other formal review and approval processes
- 16 established by the legislature.

17 (2) Fish habitat enhancement projects meeting the criteria of

18 subsection (1) of this section are expected to result in beneficial

19 impacts to the environment. Decisions pertaining to fish habitat

20 enhancement projects meeting the criteria of subsection (1) of this

21 section and being reviewed and approved according to the provisions of

22 this section are not subject to the requirements of RCW

23 43.21C.030(2)(c).

24 (3) Hydraulic project approval is required for projects that meet

25 the criteria of subsection (1) of this section and are being reviewed

26 and approved under this section. An applicant shall use a joint

27 aquatic resource permit application form developed by the department of

28 ecology permit assistance center to apply for approval under this

29 chapter. On the same day, the applicant shall provide copies of the

30 completed application form to the department and to each appropriate

31 local government. Local governments shall accept the application as

32 notice of the proposed project. The department shall provide a

33 fifteen-day comment period during which it will receive comments

34 regarding environmental impacts. In no more than forty-five days, the

35 department shall either issue hydraulic project approval, with or

36 without conditions, deny approval, or make a determination that the

37 review and approval process created by this section is not appropriate

38 for the proposed project. The department shall base this determination

1 on identification during the comment period of adverse impacts that
2 cannot be mitigated by hydraulic project approval. If the department
3 determines that the review and approval process created by this section
4 is not appropriate for the proposed project, the department shall
5 notify the applicant and the appropriate local governments of its
6 determination. The applicant may reapply for approval of the project
7 under other review and approval processes.

8 Any person aggrieved by the approval, denial, conditioning, or
9 modification of hydraulic project approval under this section may
10 formally appeal the decision to the hydraulic appeals board pursuant to
11 the provisions of this chapter.

12 (4) No local government may require permits or charge fees for fish
13 habitat enhancement projects that meet the criteria of subsection (1)
14 of this section and that are reviewed and approved according to the
15 provisions of this section.

16 **Sec. 116.** RCW 77.85.070 and 2000 c 107 s 97 are each amended to
17 read as follows:

18 (1) The (~~conservation commission~~) department of agriculture, in
19 consultation with local government and the tribes, shall invite
20 private, federal, state, tribal, and local government personnel with
21 appropriate expertise to act as a technical advisory group.

22 (2) For state personnel, involvement on the technical advisory
23 group shall be at the discretion of the particular agency. Unless
24 specifically provided for in the budget, technical assistance
25 participants shall be provided from existing full-time equivalent
26 employees.

27 (3) The technical advisory group shall identify the limiting
28 factors for salmonids to respond to the limiting factors relating to
29 habitat pursuant to RCW 77.85.060(2).

30 (4) Where appropriate, the conservation district within the area
31 implementing this chapter shall take the lead in developing and
32 maintaining relationships between the technical advisory group and the
33 private landowners under RCW 75.46.080. The conservation districts may
34 assist landowners to organize around river, tributary, estuary, or
35 subbasins of a watershed.

36 (5) Fishery enhancement groups and other volunteer organizations
37 may participate in the activities under this section.

1 **Sec. 117.** RCW 77.85.110 and 1999 sp.s. c 13 s 3 are each amended
2 to read as follows:

3 (1) The salmon recovery funding board is created consisting of ten
4 members.

5 (2) Five members of the board shall be voting members who are
6 appointed by the governor, subject to confirmation by the senate. One
7 of these voting members shall be a cabinet-level appointment as the
8 governor's representative to the board. Board members who represent
9 the general public shall not have a financial or regulatory interest in
10 salmon recovery. The governor shall appoint one of the general public
11 members of the board as the chair. The voting members of the board
12 shall be appointed for terms of four years, except that two members
13 initially shall be appointed for terms of two years and three members
14 shall initially be appointed for terms of three years. In making the
15 appointments, the governor shall seek a board membership that
16 collectively provide the expertise necessary to provide strong fiscal
17 oversight of salmon recovery expenditures, and that provide extensive
18 knowledge of local government processes and functions and an
19 understanding of issues relevant to salmon recovery in Washington
20 state. The governor shall appoint at least three of the voting members
21 of the board no later than ninety days after July 1, 1999. Vacant
22 positions on the board shall be filled in the same manner as the
23 original appointments. The governor may remove members of the board
24 for good cause.

25 In addition to the five voting members of the board, the following
26 five state officials shall serve as ex officio nonvoting members of the
27 board: The director of the department of fish and wildlife, the
28 ((executive)) director of the ((~~conservation commission~~)) department of
29 agriculture, the secretary of transportation, the director of the
30 department of ecology, and the commissioner of public lands. The state
31 officials serving in an ex officio capacity may designate a
32 representative of their respective agencies to serve on the board in
33 their behalf. Such designations shall be made in writing and in such
34 manner as is specified by the board.

35 (3) Staff support to the board shall be provided by the interagency
36 committee for outdoor recreation. For administrative purposes, the
37 board shall be located with the interagency committee for outdoor
38 recreation.

1 (4) Members of the board who do not represent state agencies shall
2 be compensated as provided by RCW 43.03.250. Members of the board
3 shall be reimbursed for travel expenses as provided by RCW 43.03.050
4 and 43.03.060.

5 **Sec. 118.** RCW 79.01.295 and 1998 c 245 s 162 are each amended to
6 read as follows:

7 (1) By December 31, 1993, the department of fish and wildlife shall
8 develop goals for the wildlife and fish that this agency manages, to
9 preserve, protect, and perpetuate wildlife and fish on shrub steppe
10 habitat or on lands that are presently agricultural lands, rangelands,
11 or grazable woodlands. These goals shall be consistent with the
12 maintenance of a healthy ecosystem.

13 (2) (~~By July 31, 1993,~~) The (~~conservation commission~~)
14 department of agriculture shall appoint a technical advisory committee
15 to develop standards that achieve the goals developed in subsection (1)
16 of this section. The committee members shall include but not be
17 limited to technical experts representing the following interests:
18 Agriculture, academia, range management, utilities, environmental
19 groups, commercial and recreational fishing interests, the Washington
20 rangelands committee, Indian tribes, the department of fish and
21 wildlife, the department of natural resources, the department of
22 ecology, and conservation districts(~~, and the department of~~
23 ~~agriculture~~)). (~~A member of the conservation commission~~) The
24 director of the department of agriculture shall appoint a chair from
25 among the members of the committee.

26 (3) By December 31, 1994, the committee shall develop standards to
27 meet the goals developed under subsection (1) of this section. These
28 standards shall not conflict with the recovery of wildlife or fish
29 species that are listed or proposed for listing under the federal
30 endangered species act. These standards shall be utilized to the
31 extent possible in development of coordinated resource management plans
32 to provide a level of management that sustains and perpetuates
33 renewable resources, including fish and wildlife, riparian areas, soil,
34 water, timber, and forage for livestock and wildlife. Furthermore, the
35 standards are recommended for application to model watersheds
36 designated by the Northwest power planning council in conjunction with
37 the (~~conservation commission~~) department of agriculture. The

1 maintenance and restoration of sufficient habitat to preserve, protect,
2 and perpetuate wildlife and fish shall be a major component included in
3 the standards and coordinated resource management plans. Application
4 of standards to privately owned lands is voluntary and may be dependent
5 on funds to provide technical assistance through conservation
6 districts.

7 (4) The (~~conservation commission~~) department of agriculture shall
8 approve the standards and shall provide them to the departments of
9 natural resources and fish and wildlife, each of the conservation
10 districts, and Washington State University cooperative extension
11 service. The conservation districts shall make these standards
12 available to the public and for coordinated resource management
13 planning. Application to private lands is voluntary.

14 (5) The department of natural resources shall implement practices
15 necessary to meet the standards developed pursuant to this section on
16 department managed agricultural and grazing lands, consistent with the
17 trust mandate of the Washington state Constitution and Title 79 RCW.
18 The standards may be modified on a site-specific basis as needed to
19 achieve the fish and wildlife goals, and as determined by the
20 department of fish and wildlife, and the department of natural
21 resources. Existing lessees shall be provided an opportunity to
22 participate in any site-specific field review. Department agricultural
23 and grazing leases issued after December 31, 1994, shall be subject to
24 practices to achieve the standards that meet those developed pursuant
25 to this section.

26 **Sec. 119.** RCW 89.08.010 and 1973 1st ex.s. c 184 s 2 are each
27 amended to read as follows:

28 It is hereby declared, as a matter of legislative determination:

29 (1) That the lands of the state of Washington are among the basic
30 assets of the state and that the preservation of these lands is
31 necessary to protect and promote the health, safety, and general
32 welfare of its people; that improper land-use practices have caused and
33 have contributed to, and are now causing and contributing to, a
34 progressively more serious erosion of the lands of this state by wind
35 and water; that the breaking of natural grass, plant and forest cover
36 have interfered with the natural factors of soil stabilization, causing
37 loosening of soil and exhaustion of humus, and developing a soil

1 condition that favors erosion; that the topsoil is being blown and
2 washed off of lands; that there has been an accelerated washing of
3 sloping lands; that these processes of erosion by wind and water speed
4 up with removal of absorptive topsoil, causing exposure of less
5 absorptive and less protective but more erosive subsoil; that failure
6 by any land occupier to conserve the soil and control erosion upon his
7 lands may cause a washing and blowing of soil from his lands onto other
8 lands and makes the conservation of soil and control of erosion on such
9 other lands difficult or impossible, and that extensive denuding of
10 land for development creates critical erosion areas that are difficult
11 to effectively regenerate and the resulting sediment causes extensive
12 pollution of streams, ponds, lakes and other waters.

13 (2) That the consequences of such soil erosion in the form of soil
14 blowing and soil washing are the silting and sedimentation of stream
15 channels, reservoirs, dams, ditches, and harbors, and loading the air
16 with soil particles; the loss of fertile soil material in dust storms;
17 the piling up of soil on lower slopes and its deposit over alluvial
18 plains; the reduction in productivity or outright ruin of rich bottom
19 lands by overwash of poor subsoil material, sand, and gravel swept out
20 of the hills; deterioration of soil and its fertility, deterioration of
21 crops grown thereon, and declining acre yields despite development of
22 scientific processes for increasing such yields; loss of soil and water
23 which causes destruction of food and cover for wildlife; a blowing and
24 washing of soil into streams which silts over spawning beds, and
25 destroys water plants, diminishing the food supply of fish; a
26 diminishing of the underground water reserve, which causes water
27 shortages, intensifies periods of drought, and causes crop failures; an
28 increase in the speed and volume of rainfall run-off, causing severe
29 and increasing floods, which bring suffering, disease, and death;
30 impoverishment of families attempting to farm eroding and eroded lands;
31 damage to roads, highways, railways, buildings, and other property from
32 floods and from dust storms; and losses in navigation, hydroelectric
33 power, municipal water supply, irrigation developments, farming and
34 grazing.

35 (3) That to conserve soil resources and control and prevent soil
36 erosion and prevent flood water and sediment damages, and further
37 agricultural and nonagricultural phases of the conservation,
38 development, utilization, and disposal of water, it is necessary that

1 land-use practices contributing to soil wastage and soil erosion be
2 discouraged and discontinued, and appropriate soil-conserving land-use
3 practices, and works of improvement for flood prevention of
4 agricultural and nonagricultural phases of the conservation,
5 development, utilization, and disposal of water be adopted and carried
6 out; that among the procedures necessary for widespread adoption, are
7 the carrying on of engineering operations such as the construction of
8 terraces, terrace outlets, check-dams, desilting basins, flood water
9 retarding structures, channel floodways, dikes, ponds, ditches, and the
10 like; the utilization of strip cropping, contour cultivating, and
11 contour furrowing; land irrigation; seeding and planting of waste,
12 sloping, abandoned, or eroded lands to water-conserving and erosion-
13 preventing plants, trees, and grasses; forestation and reforestation;
14 rotation of crops; soil stabilizations with trees, grasses, legumes,
15 and other thick-growing, soil-holding crops, retardation of run-off by
16 increasing absorption of rainfall; and retirement from cultivation of
17 steep, highly erosive areas and areas now badly gullied or otherwise
18 eroded.

19 (4) Whereas, there is a pressing need for the conservation of
20 renewable resources in all areas of the state, whether urban, suburban,
21 or rural, and that the benefits of resource practices, programs, and
22 projects, as carried out by the (~~state conservation commission~~)
23 department of agriculture and by the conservation districts, should be
24 available to all such areas; therefore, it is hereby declared to be the
25 policy of the legislature to provide for the conservation of the
26 renewable resources of this state, and for the control and prevention
27 of soil erosion, and for the prevention of flood water and sediment
28 damages, and for furthering agricultural and nonagricultural phases of
29 conservation, development, utilization, and disposal of water, and
30 thereby to preserve natural resources, control floods, prevent
31 impairment of dams and reservoirs, assist in maintaining the
32 navigability of rivers and harbors, preserve wildlife, protect the tax
33 base, protect public lands, and protect and promote the health, safety,
34 and general welfare of the people of this state. To this end all
35 incorporated cities and towns heretofore excluded from the boundaries
36 of a conservation district established pursuant to the provisions of
37 the state conservation district law, as amended, may be approved by the
38 (~~conservation commission~~) department of agriculture as being included

1 in and deemed a part of the district upon receiving a petition for
2 annexation signed by the governing authority of the city or town and
3 the conservation district within the exterior boundaries of which it
4 lies in whole or in part or to which it lies closest.

5 **Sec. 120.** RCW 89.08.020 and 1999 c 305 s 1 are each amended to
6 read as follows:

7 Unless the context clearly indicates otherwise, as used in this
8 chapter:

9 (~~("Commission" and "state conservation commission" means the agency
10 created hereunder. All former references to "state soil and water
11 conservation committee", "state committee" or "committee" shall be
12 deemed to be references to the "state conservation commission";)~~)

13 "Department" means the state department of agriculture;

14 "Director" means the director of the department;

15 "District", or "conservation district" means a governmental
16 subdivision of this state and a public body corporate and politic,
17 organized in accordance with the provisions of chapter 184, Laws of
18 1973 1st ex. sess., for the purposes, with the powers, and subject to
19 the restrictions set forth in this chapter. All districts created
20 under chapter 184, Laws of 1973 1st ex. sess. shall be known as
21 conservation districts and shall have all the powers and duties set out
22 in chapter 184, Laws of 1973 1st ex. sess. All references in chapter
23 184, Laws of 1973 1st ex. sess. to "districts", or "soil and water
24 conservation districts" shall be deemed to be reference to
25 "conservation districts";

26 "Board" and "supervisors" mean the board of supervisors of a
27 conservation district;

28 "Land occupier" or "occupier of land" includes any person, firm,
29 political subdivision, government agency, municipality, public or
30 private corporation, copartnership, association, or any other entity
31 whatsoever which holds title to, or is in possession of, any lands
32 lying within a district organized under the provisions of chapter 184,
33 Laws of 1973 1st ex. sess., whether as owner, lessee, renter, tenant,
34 or otherwise;

35 "District elector" or "voter" means a registered voter in the
36 county where the district is located who resides within the district
37 boundary or in the area affected by a petition;

1 "Due notice" means a notice published at least twice, with at least
2 six days between publications, in a publication of general circulation
3 within the affected area, or if there is no such publication, by
4 posting at a reasonable number of public places within the area, where
5 it is customary to post notices concerning county and municipal
6 affairs. Any hearing held pursuant to due notice may be postponed from
7 time to time without a new notice;

8 "Renewable natural resources", "natural resources" or "resources"
9 includes land, air, water, vegetation, fish, wildlife, wild rivers,
10 wilderness, natural beauty, scenery and open space;

11 "Conservation" includes conservation, development, improvement,
12 maintenance, preservation, protection and use, and alleviation of
13 floodwater and sediment damages, and the disposal of excess surface
14 waters.

15 "Farm and agricultural land" means either (a) land in any
16 contiguous ownership of twenty or more acres devoted primarily to
17 agricultural uses; (b) any parcel of land five acres or more but less
18 than twenty acres devoted primarily to agricultural uses, which has
19 produced a gross income from agricultural uses equivalent to one
20 hundred dollars or more per acre per year for three of the five
21 calendar years preceding the date of application for classification
22 under this chapter; or (c) any parcel of land of less than five acres
23 devoted primarily to agricultural uses which has produced a gross
24 income of one thousand dollars or more per year for three of the five
25 calendar years preceding the date of application for classification
26 under this chapter. Agricultural lands shall also include farm
27 woodlots of less than twenty and more than five acres and the land on
28 which appurtenances necessary to production, preparation or sale of the
29 agricultural products exist in conjunction with the lands producing
30 such products. Agricultural lands shall also include any parcel of
31 land of one to five acres, which is not contiguous, but which otherwise
32 constitutes an integral part of farming operations being conducted on
33 land qualifying under this section as "farm and agricultural lands".

34 **Sec. 121.** RCW 89.08.070 and 1973 1st ex.s. c 184 s 8 are each
35 amended to read as follows:

36 In addition to the duties and powers hereinafter conferred upon the

1 ((~~commission~~)) department, it shall have the following duties and
2 powers:

3 (1) To offer such assistance as may be appropriate to the
4 supervisors of conservation districts organized under the provisions of
5 chapter 184, Laws of 1973 1st ex. sess., in the carrying out of any of
6 their powers and programs:

7 (a) to assist and guide districts in the preparation and carrying
8 out of programs for resource conservation authorized under chapter 184,
9 Laws of 1973 1st ex. sess.;

10 (b) to review district programs;

11 (c) to coordinate the programs of the several districts and resolve
12 any conflicts in such programs;

13 (d) to facilitate, promote, assist, harmonize, coordinate, and
14 guide the resource conservation programs and activities of districts as
15 they relate to other special purpose districts, counties, and other
16 public agencies.

17 (2) To keep the supervisors of each of the several conservation
18 districts organized under the provisions of chapter 184, Laws of 1973
19 1st ex. sess. informed of the activities and experience of all other
20 districts organized hereunder, and to facilitate an interchange of
21 advice and experience between such districts and cooperation between
22 them.

23 (3) To review agreements, or forms of agreements, proposed to be
24 entered into by districts with other districts or with any state,
25 federal, interstate, or other public or private agency, organization,
26 or individual, and advise the districts concerning such agreements or
27 forms of agreements.

28 (4) To secure the cooperation and assistance of the United States
29 and any of its agencies, and of agencies of this state in the work of
30 such districts.

31 (5) To recommend the inclusion in annual and longer term budgets
32 and appropriation legislation of the state of Washington of funds
33 necessary for appropriation by the legislature to finance the
34 activities of the ((~~commission~~)) department and the conservation
35 districts; to administer the provisions of any law hereinafter enacted
36 by the legislature appropriating funds for expenditure in connection
37 with the activities of conservation districts; to distribute to
38 conservation districts funds, equipment, supplies and services received

1 by the (~~commission~~) department for that purpose from any source,
2 subject to such conditions as shall be made applicable thereto in any
3 state or federal statute or local ordinance making available such
4 funds, property or services; to issue regulations establishing
5 guidelines and suitable controls to govern the use by conservation
6 districts of such funds, property and services; and to review all
7 budgets, administrative procedures and operations of such districts and
8 advise the districts concerning their conformance with applicable laws
9 and regulations.

10 (6) To encourage the cooperation and collaboration of state,
11 federal, regional, interstate and local public and private agencies
12 with the conservation districts, and facilitate arrangements under
13 which the conservation districts may serve county governing bodies and
14 other agencies as their local operating agencies in the administration
15 of any activity concerned with the conservation of renewable natural
16 resources.

17 (7) To disseminate information throughout the state concerning the
18 activities and programs of the conservation districts organized
19 (~~hereunder~~) under this chapter, and to encourage the formation of
20 such districts in areas where their organization is desirable; to make
21 available information concerning the needs and the work of the
22 conservation district and the (~~commission~~) department to the
23 governor, the legislature, executive agencies of the government of this
24 state, political subdivisions of this state, cooperating federal
25 agencies, and the general public.

26 (8) Pursuant to procedures developed mutually by the (~~commission~~)
27 department and other state and local agencies that are authorized to
28 plan or administer activities significantly affecting the conservation
29 of renewable natural resources, to receive from such agencies for
30 review and comment suitable descriptions of their plans, programs and
31 activities for purposes of coordination with district conservation
32 programs; to arrange for and participate in conferences necessary to
33 avoid conflict among such plans and programs, to call attention to
34 omissions, and to avoid duplication of effort.

35 (9) To compile information and make studies, summaries and analysis
36 of district programs in relation to each other and to other resource
37 conservation programs on a statewide basis.

1 (10) To assist conservation districts in obtaining legal services
2 from state and local legal officers.

3 (11) To require annual reports from conservation districts, the
4 form and content of which shall be developed by the ((~~commission~~))
5 department.

6 (12) To establish by ((~~regulations~~)) rule, with the assistance and
7 advice of the state auditor's office, adequate and reasonably uniform
8 accounting and auditing procedures which shall be used by conservation
9 districts.

10 **Sec. 122.** RCW 89.08.080 and 1999 c 305 s 2 are each amended to
11 read as follows:

12 To form a conservation district, twenty percent of the voters
13 within the area to be affected may file a petition with the
14 ((~~commission~~)) department asking that the area be organized into a
15 district.

16 The petition shall give the name of the proposed district, state
17 that it is needed in the interest of the public health, safety, and
18 welfare, give a general description of the area proposed to be
19 organized and request that the ((~~commission~~)) department determine that
20 it be created, and that it define the boundaries thereof and call an
21 election on the question of creating the district.

22 If more than one petition is filed covering parts of the same area,
23 the ((~~commission~~)) department may consolidate all or any of them.

24 **Sec. 123.** RCW 89.08.090 and 1973 1st ex.s. c 184 s 10 are each
25 amended to read as follows:

26 Within thirty days after a petition is filed, the ((~~commission~~))
27 department shall give due notice of the time and place of a public
28 hearing thereon. At the hearing all interested persons shall be heard.

29 If it appears to the ((~~commission~~)) department that additional land
30 should be included in the district, the hearing shall be adjourned and
31 a new notice given covering the entire area and a new date fixed for
32 further hearing, unless waiver of notice by the owners of the
33 additional land is filed with the ((~~commission~~)) department.

34 No district shall include any portion of a railroad right of way,
35 or another similar district. The lands included in a district need not
36 be contiguous.

1 **Sec. 124.** RCW 89.08.100 and 1973 1st ex.s. c 184 s 11 are each
2 amended to read as follows:

3 After the hearing, if the ((~~commission~~)) department finds that the
4 public health, safety, and welfare warrant the creation of the
5 district, it shall enter an order to that effect and define the
6 boundaries thereof by metes and bounds or by legal subdivisions.

7 In making its findings the ((~~commission~~)) department shall consider
8 the topography of the particular area and of the state generally; the
9 composition of the soil; the distribution of erosion; the prevailing
10 land use practices; the effects upon and benefits to the land proposed
11 to be included; the relation of the area to existing watersheds and
12 agricultural regions and to other similar districts organized or
13 proposed; and consider such other physical, geographical, and economic
14 factors as are relevant.

15 If the ((~~commission~~)) department finds there is no need for the
16 district, it shall enter an order denying the petition, and no petition
17 covering the same or substantially the same area may be filed within
18 six months thereafter.

19 **Sec. 125.** RCW 89.08.110 and 1999 c 305 s 3 are each amended to
20 read as follows:

21 If the ((~~commission~~)) department finds that the district is needed,
22 it shall then determine whether it is practicable. To assist the
23 ((~~commission~~)) department in determining this question, it shall,
24 within a reasonable time, submit the proposition to a vote of the
25 district electors in the proposed district.

26 The ((~~commission~~)) department shall fix the date of the election,
27 designate the polling places, fix the hours for opening and closing the
28 polls, and appoint the election officials. The election shall be
29 conducted, the vote counted and returns canvassed and the results
30 published by the ((~~commission~~)) department.

31 **Sec. 126.** RCW 89.08.120 and 1973 1st ex.s. c 184 s 13 are each
32 amended to read as follows:

33 The ((~~commission~~)) department shall provide the ballots for the
34 election which shall contain the words

35 "□ For creation of a conservation district of the lands below

1 described and lying in the county or counties of,
2 and," and

3 "□ Against creation of a conservation district of the lands below
4 described and lying in the county or counties of,
5 and"

6 The ballot shall set forth the boundaries of the proposed district,
7 and contain a direction to insert an X in the square of the voter's
8 choice.

9 **Sec. 127.** RCW 89.08.130 and 1999 c 305 s 4 are each amended to
10 read as follows:

11 The ((~~commission~~)) department shall give due notice of the
12 election, which shall state generally the purpose of the election, the
13 date thereof, the place and hours of voting, and set forth the
14 boundaries of the proposed district.

15 Only qualified district electors within the proposed district as
16 determined by the ((~~commission~~)) department may vote at the election.
17 Each voter shall vote in the polling place nearest the voter's
18 residence.

19 **Sec. 128.** RCW 89.08.140 and 1973 1st ex.s. c 184 s 15 are each
20 amended to read as follows:

21 The ((~~commission~~)) department shall bear all expense of giving the
22 notices and conducting the hearings and election, and shall issue
23 ((~~regulations~~)) rules governing all hearings and elections and
24 supervise the conduct thereof. It shall provide for registration of
25 eligible voters or prescribe the procedure to determine the eligible
26 voters. No informality in connection with the election shall
27 invalidate the results, if the notice thereof was substantially given,
28 and the election fairly conducted.

29 **Sec. 129.** RCW 89.08.150 and 1999 c 305 s 5 are each amended to
30 read as follows:

31 If a majority of the votes cast at the election are against the
32 creation of the district, the ((~~commission~~)) department shall deny the
33 petition. If a majority favor the district, the ((~~commission~~))
34 department shall determine the practicability of the project.

1 In making such determination, the (~~commission~~) department shall
2 consider the attitude of the voters of the district; the number of
3 eligible voters who voted at the election; the size of the majority
4 vote; the wealth and income of the land occupiers; the probable expense
5 of carrying out the project; and any other economic factors relevant
6 thereto.

7 If the (~~commission~~) department finds that the project is
8 impracticable it shall enter an order to that effect and deny the
9 petition. When the petition has been denied, no new petition covering
10 the same or substantially the same area may be filed within six months
11 therefrom.

12 **Sec. 130.** RCW 89.08.160 and 1973 1st ex.s. c 184 s 17 are each
13 amended to read as follows:

14 If the (~~commission~~) department finds the project practicable, it
15 shall appoint two supervisors, one of whom shall be a landowner or
16 operator of a farm, who shall be qualified by training and experience
17 to perform the specialized skilled services required of them. They,
18 with the three elected supervisors, two of whom shall be landowners or
19 operators of a farm, shall constitute the governing board of the
20 district.

21 The two appointed supervisors shall file with the secretary of
22 state a sworn application, reciting that a petition was filed with the
23 (~~commission~~) department for the creation of the district; that all
24 required proceedings were had thereon; that they were appointed by the
25 (~~commission~~) department as such supervisors; and that the application
26 is being filed to complete the organization of the district. It shall
27 contain the names and residences of the applicants, a certified copy of
28 their appointments, the name of the district, the location of the
29 office of the supervisors and the term of office of each applicant.

30 The application shall be accompanied by a statement of the
31 (~~commission~~) department, reciting that a petition was filed, notice
32 issued, and hearing held thereon as required; that it determined the
33 need for the district and defined the boundaries thereof; that notice
34 was given and an election held on the question of creating the
35 district; that a majority vote favored the district, and that the
36 (~~commission~~) department had determined the district practicable; and
37 shall set forth the boundaries of the district.

1 **Sec. 131.** RCW 89.08.170 and 1973 1st ex.s. c 184 s 18 are each
2 amended to read as follows:

3 If the secretary of state finds that the name of the proposed
4 district is such as will not be confused with that of any other
5 district, he shall enter the application and statement in his records.
6 If he finds the name may be confusing, he shall certify that fact to
7 the ((~~commission, which~~)) director, who shall submit a new name free
8 from such objections, and he shall enter the application and statement
9 as modified, in his records. Thereupon the district shall be
10 considered organized into a body corporate.

11 The secretary of state shall then issue to the supervisors a
12 certificate of organization of the district under the seal of the
13 state, and shall record the certificate in his office. Proof of the
14 issuance of the certificate shall be evidence of the establishment of
15 the district, and a certified copy of the certificate shall be
16 admissible as evidence and shall be proof of the filing and contents
17 thereof. The name of a conservation district may be changed upon
18 recommendation by the supervisors of a district and approval by the
19 ((~~state conservation commission~~)) director and the secretary of state.
20 The new name shall be recorded by the secretary of state following the
21 same general procedure as for the previous name.

22 **Sec. 132.** RCW 89.08.180 and 1999 c 305 s 6 are each amended to
23 read as follows:

24 Territory may be added to an existing district upon filing a
25 petition as in the case of formation with the ((~~commission~~)) department
26 by twenty percent of the voters of the affected area to be included.
27 The same procedure shall be followed as for the creation of the
28 district.

29 As an alternate procedure, the ((~~commission~~)) department may upon
30 the petition of a majority of the voters in any one or more districts
31 or in unorganized territory adjoining a conservation district change
32 the boundaries of a district, or districts, if such action will promote
33 the practical and feasible administration of such district or
34 districts.

35 Upon petition of the boards of supervisors of two or more
36 districts, the ((~~commission~~)) department may approve the combining of
37 all or parts of such districts and name the district, or districts,

1 with the approval of the name by the secretary of state. A public
2 hearing and/or a referendum may be held if deemed necessary or
3 desirable by the ((~~commission~~)) department in order to determine the
4 wishes of the voters.

5 When districts are combined, the joint boards of supervisors will
6 first select a chairman, secretary and other necessary officers and
7 select a regular date for meetings. All elected supervisors will
8 continue to serve as members of the board until the expiration of their
9 current term of office, and/or until the election date nearest their
10 expiration date. All appointed supervisors will continue to serve
11 until the expiration of their current term of office, at which time the
12 ((~~commission~~)) department will make the necessary appointments. In the
13 event that more than two districts are combined, a similar procedure
14 will be set up and administered by the ((~~commission~~)) department.

15 When districts are combined or territory is moved from one district
16 to another, the property, records and accounts of the districts
17 involved shall be distributed to the remaining district or districts as
18 approved by the ((~~commission~~)) department. A new certificate of
19 organization, naming and describing the new district or districts,
20 shall be issued by the secretary of state.

21 **Sec. 133.** RCW 89.08.185 and 1999 c 305 s 7 are each amended to
22 read as follows:

23 The local governing body of any city or incorporated town within an
24 existing district may approve by majority vote a petition to withdraw
25 from the district. The petition shall be submitted to the district for
26 its approval. If approved by the district, the petition shall be sent
27 to the ((~~commission~~)) department. The ((~~commission~~)) department shall
28 approve the petition and forward it to the secretary of state and the
29 boundary of the district shall be adjusted accordingly. If the
30 petition is not approved by the district, the district shall adopt a
31 resolution specifying the reasons why the petition is not approved.
32 The petition and the district's resolution shall be sent to the
33 ((~~commission~~)) department for its review. The ((~~commission~~))
34 department shall approve or reject the petition based upon criteria it
35 has adopted for the evaluation of petitions in dispute. If the
36 ((~~commission~~)) department approves the petition, it shall forward the
37 petition to the secretary of state and the boundaries of the district

1 shall be adjusted accordingly. The criteria used by the ((~~commission~~))
2 department to evaluate petitions which are in dispute shall be adopted
3 as rules by the ((~~commission~~)) department under chapter 34.05 RCW, the
4 administrative procedure act.

5 **Sec. 134.** RCW 89.08.200 and 1973 1st ex.s. c 184 s 21 are each
6 amended to read as follows:

7 The term of office of each supervisor shall be three years and
8 until his successor is appointed or elected and qualified, except that
9 the supervisors first appointed shall serve for one and two years
10 respectively from the date of their appointments, as designated in
11 their appointments.

12 In the case of elected supervisors, the term of office of each
13 supervisor shall be three years and until his successor is elected and
14 qualified, except that for the first election, the one receiving the
15 largest number of votes shall be elected for three years; the next
16 largest two years; and the third largest one year. Successors shall be
17 elected for three-year terms.

18 Vacancies in the office of appointed supervisors shall be filled by
19 the ((~~state conservation commission~~)) director. Vacancies in the
20 office of elected supervisors shall be filled by appointment made by
21 the remaining supervisors for the unexpired term.

22 A majority of the supervisors shall constitute a quorum and the
23 concurrence of a majority is required for any official action or
24 determination.

25 Supervisors shall serve without compensation, but they shall be
26 entitled to expenses, including traveling expenses, necessarily
27 incurred in discharge of their duties. A supervisor may be removed by
28 the ((~~state conservation commission~~)) director upon notice and hearing,
29 for neglect of duty or malfeasance in office, but for no other reason.

30 The governing board shall designate a chairman from time to time.

31 **Sec. 135.** RCW 89.08.210 and 2000 c 45 s 1 are each amended to read
32 as follows:

33 The supervisors may employ a secretary, treasurer, technical
34 experts, and such other officers, agents, and employees, permanent and
35 temporary, as they may require, and determine their qualifications,
36 duties, and compensation. It may call upon the attorney general for

1 legal services, or may employ its own counsel and legal staff. The
2 supervisors may delegate to their chairman, to one or more supervisors,
3 or to one or more agents or employees such powers and duties as it
4 deems proper. The supervisors shall furnish to the (~~commission~~)
5 department, upon request, copies of such internal rules, regulations,
6 orders, contracts, forms, and other documents as they shall adopt or
7 employ, and such other information concerning their activities as the
8 (~~commission~~) department may require in the performance of its duties
9 under chapter 184, Laws of 1973 1st ex. sess. The supervisors shall
10 provide for the execution of surety bonds for officers and all
11 employees who shall be entrusted with funds or property.

12 The supervisors shall provide for the keeping of a full and
13 accurate record of all proceedings, resolutions, regulations, and
14 orders issued or adopted. The supervisors shall provide for an annual
15 audit of the accounts of receipts and disbursements in accordance with
16 procedures prescribed by (~~regulations~~) rules of the (~~commission~~)
17 department.

18 The board may invite the legislative body of any municipality or
19 county near or within the district, to designate a representative to
20 advise and consult with it on all questions of program and policy which
21 may affect the property, water supply, or other interests of such
22 municipality or county. The governing body of a district shall appoint
23 such advisory committees as may be needed to assure the availability of
24 appropriate channels of communication to the board of supervisors, to
25 persons affected by district operations, and to local, regional, state
26 and interstate special-purpose districts and agencies responsible for
27 community planning, zoning, or other resource development activities.
28 The district shall keep such committees informed of its work, and such
29 advisory committees shall submit recommendations from time to time to
30 the board of supervisors.

31 **Sec. 136.** RCW 89.08.220 and 1999 c 305 s 8 are each amended to
32 read as follows:

33 A conservation district organized under the provisions of chapter
34 184, Laws of 1973 1st ex. sess. shall constitute a governmental
35 subdivision of this state, and a public body corporate and politic
36 exercising public powers, but shall not levy taxes or issue bonds and

1 such district, and the supervisors thereof, shall have the following
2 powers, in addition to others granted in other sections of chapter 184,
3 Laws of 1973 1st ex. sess.:

4 (1) To conduct surveys, investigations, and research relating to
5 the conservation of renewable natural resources and the preventive and
6 control measures and works of improvement needed, to publish the
7 results of such surveys, investigations, or research, and to
8 disseminate information concerning such preventive and control measures
9 and works of improvement: PROVIDED, That in order to avoid duplication
10 of research activities, no district shall initiate any research program
11 except in cooperation with the government of this state or any of its
12 agencies, or with the United States or any of its agencies;

13 (2) To conduct educational and demonstrational projects on any
14 lands within the district upon obtaining the consent of the occupier of
15 such lands and such necessary rights or interests in such lands as may
16 be required in order to demonstrate by example the means, methods,
17 measures, and works of improvement by which the conservation of
18 renewable natural resources may be carried out;

19 (3) To carry out preventative and control measures and works of
20 improvement for the conservation of renewable natural resources, within
21 the district including, but not limited to, engineering operations,
22 methods of cultivation, the growing of vegetation, changes in use of
23 lands, and the measures listed in RCW 89.08.010, on any lands within
24 the district upon obtaining the consent of the occupier of such lands
25 and such necessary rights or interests in such lands as may be
26 required;

27 (4) To cooperate or enter into agreements with, and within the
28 limits of appropriations duly made available to it by law, to furnish
29 financial or other aid to any agency, governmental or otherwise, or any
30 occupier of lands within the district in the carrying on of preventive
31 and control measures and works of improvement for the conservation of
32 renewable natural resources within the district, subject to such
33 conditions as the supervisors may deem necessary to advance the
34 purposes of chapter 184, Laws of 1973 1st ex. sess. For purposes of
35 this subsection only, land occupiers who are also district supervisors
36 are not subject to the provisions of RCW 42.23.030;

37 (5) To obtain options upon and to acquire in any manner, except by
38 condemnation, by purchase, exchange, lease, gift, bequest, devise, or

1 otherwise, any property, real or personal, or rights or interests
2 therein; to maintain, administer, and improve any properties acquired,
3 to receive income from such properties and to expend such income in
4 carrying out the purposes and provisions of chapter 184, Laws of 1973
5 1st ex. sess.; and to sell, lease, or otherwise dispose of any of its
6 property or interests therein in furtherance of the purposes and the
7 provisions of chapter 184, Laws of 1973 1st ex. sess.;

8 (6) To make available, on such terms, as it shall prescribe, to
9 land occupiers within the district, agricultural and engineering
10 machinery and equipment, fertilizer, seeds, seedlings, and such other
11 equipment and material as will assist them to carry on operations upon
12 their lands for the conservation of renewable natural resources;

13 (7) To prepare and keep current a comprehensive long-range program
14 recommending the conservation of all the renewable natural resources of
15 the district. Such programs shall be directed toward the best use of
16 renewable natural resources and in a manner that will best meet the
17 needs of the district and the state, taking into consideration, where
18 appropriate, such uses as farming, grazing, timber supply, forest,
19 parks, outdoor recreation, potable water supplies for urban and rural
20 areas, water for agriculture, minimal flow, and industrial uses,
21 watershed stabilization, control of soil erosion, retardation of water
22 run-off, flood prevention and control, reservoirs and other water
23 storage, restriction of developments of flood plains, protection of
24 open space and scenery, preservation of natural beauty, protection of
25 fish and wildlife, preservation of wilderness areas and wild rivers,
26 the prevention or reduction of sedimentation and other pollution in
27 rivers and other waters, and such location of highways, schools,
28 housing developments, industries, airports and other facilities and
29 structures as will fit the needs of the state and be consistent with
30 the best uses of the renewable natural resources of the state. The
31 program shall include an inventory of all renewable natural resources
32 in the district, a compilation of current resource needs, projections
33 of future resource requirements, priorities for various resource
34 activities, projected timetables, descriptions of available
35 alternatives, and provisions for coordination with other resource
36 programs.

37 The district shall also prepare an annual work plan, which shall

1 describe the action programs, services, facilities, materials, working
2 arrangements and estimated funds needed to carry out the parts of the
3 long-range programs that are of the highest priorities.

4 The districts shall hold public hearings at appropriate times in
5 connection with the preparation of programs and plans, shall give
6 careful consideration to the views expressed and problems revealed in
7 hearings, and shall keep the public informed concerning their programs,
8 plans, and activities. Occupiers of land shall be invited to submit
9 proposals for consideration to such hearings. The districts may
10 supplement such hearings with meetings, referenda and other suitable
11 means to determine the wishes of interested parties and the general
12 public in regard to current and proposed plans and programs of a
13 district. They shall confer with public and private agencies,
14 individually and in groups, to give and obtain information and
15 understanding of the impact of district operations upon agriculture,
16 forestry, water supply and quality, flood control, particular
17 industries, commercial concerns and other public and private interests,
18 both rural and urban.

19 Each district shall submit to the (~~commission~~) department its
20 proposed long-range program and annual work plans for review and
21 comment.

22 The long-range renewable natural resource program, together with
23 the supplemental annual work plans, developed by each district under
24 the foregoing procedures shall have official status as the authorized
25 program of the district, and it shall be published by the districts as
26 its "renewable resources program". Copies shall be made available by
27 the districts to the appropriate counties, municipalities, special
28 purpose districts and state agencies, and shall be made available in
29 convenient places for examination by public land occupier or private
30 interest concerned. Summaries of the program and selected material
31 therefrom shall be distributed as widely as feasible for public
32 information;

33 (8) To administer any project or program concerned with the
34 conservation of renewable natural resources located within its
35 boundaries undertaken by any federal, state, or other public agency by
36 entering into a contract or other appropriate administrative
37 arrangement with any agency administering such project or program;

1 (9) Cooperate with other districts organized under chapter 184,
2 Laws of 1973 1st ex. sess. in the exercise of any of its powers;

3 (10) To accept donations, gifts, and contributions in money,
4 services, materials, or otherwise, from the United States or any of its
5 agencies, from this state or any of its agencies, or from any other
6 source, and to use or expend such moneys, services, materials, or any
7 contributions in carrying out the purposes of chapter 184, Laws 1973
8 1st ex. sess.;

9 (11) To sue and be sued in the name of the district; to have a seal
10 which shall be judicially noticed; have perpetual succession unless
11 terminated as hereinafter provided; to make and execute contracts and
12 other instruments, necessary or convenient to the exercise of its
13 powers; to borrow money and to pledge, mortgage and assign the income
14 of the district and its real or personal property therefor; and to
15 make, amend rules and regulations not inconsistent with chapter 184,
16 Laws of 1973 1st ex. sess. and to carry into effect its purposes;

17 (12) Any two or more districts may engage in joint activities by
18 agreement between or among them in planning, financing, constructing,
19 operating, maintaining, and administering any program or project
20 concerned with the conservation of renewable natural resources. The
21 districts concerned may make available for purposes of the agreement
22 any funds, property, personnel, equipment, or services available to
23 them under chapter 184, Laws of 1973 1st ex. sess.;

24 Any district may enter into such agreements with a district or
25 districts in adjoining states to carry out such purposes if the law in
26 such other states permits the districts in such states to enter into
27 such agreements.

28 The (~~commission~~) department shall have authority to propose,
29 guide, and facilitate the establishment and carrying out of any such
30 agreement;

31 (13) Every district shall, through public hearings, annual
32 meetings, publications, or other means, keep the general public,
33 agencies and occupiers of land within the district, informed of the
34 works and activities planned and administered by the district, of the
35 purposes these will serve, of the income and expenditures of the
36 district, of the funds borrowed by the district and the purposes for
37 which such funds are expended, and of the results achieved annually by
38 the district; and

1 (14) The supervisors of conservation districts may designate an
2 area, state, and national association of conservation districts as a
3 coordinating agency in the execution of the duties imposed by this
4 chapter, and to make gifts in the form of dues, quotas, or otherwise to
5 such associations for costs of services rendered, and may support and
6 attend such meetings as may be required to promote and perfect the
7 organization and to effect its purposes.

8 **Sec. 137.** RCW 89.08.341 and 1973 1st ex.s. c 184 s 24 are each
9 amended to read as follows:

10 Any agency of the government of this state and any local political
11 subdivision of this state is hereby authorized to make such
12 arrangements with any district, through contract, regulation or other
13 appropriate means, wherever it believes that such arrangements will
14 promote administrative efficiency or economy.

15 In connection with any such arrangements, any state or local agency
16 or political subdivision of this state is authorized, within the limits
17 of funds available to it, to contribute funds, equipment, property or
18 services to any district; and to collaborate with a district in jointly
19 planning, constructing, financing or operating any work or activity
20 provided for in such arrangements and in the joint acquisition,
21 maintenance and operation of equipment or facilities in connection
22 therewith.

23 State agencies, the districts, and other local agencies are
24 authorized to make available to each other maps, reports and data in
25 their possession that are useful in the preparation of their respective
26 programs and plans for resource conservation. The districts shall keep
27 the state and local agencies fully informed concerning the status and
28 progress of the preparation of their resource conservation programs and
29 plans.

30 The (~~state conservation commission~~) department and the counties
31 of the state may provide respective conservation districts such
32 administrative funds as will be necessary to carry out the purpose of
33 chapter 184, Laws of 1973 1st ex. sess.

34 **Sec. 138.** RCW 89.08.350 and 1999 c 305 s 9 are each amended to
35 read as follows:

36 At any time after five years from the organization of a district,

1 twenty percent of the voters in the district may file with the
2 ((~~commission~~)) department a petition, praying that the district be
3 dissolved. The ((~~commission~~)) department may hold public hearings
4 thereon, and within sixty days from receipt of the petition, shall give
5 due notice of an election on the question of dissolution. It shall
6 provide appropriate ballots, conduct the election, canvass the returns,
7 and declare the results in the same manner as for elections to create
8 a district.

9 All district electors may vote at the election. No informality
10 relating to the election shall invalidate it if notice is substantially
11 given and the election is fairly conducted.

12 **Sec. 139.** RCW 89.08.370 and 1999 c 305 s 11 are each amended to
13 read as follows:

14 If the district is ordered dissolved, the supervisors shall
15 forthwith terminate the affairs of the district and dispose of all
16 district property at public auction, and pay the proceeds therefrom to
17 pay any debts of the district and any remaining balance to the state
18 treasurer.

19 They shall then file a verified application with the secretary of
20 state for the dissolution of the district, accompanied by a certificate
21 of the ((~~commission~~)) department reciting the determination that
22 further operation of the district is impracticable. The application
23 shall recite that the property of the district has been disposed of,
24 that the proceeds therefrom have been used to pay any debts of the
25 district and any remaining balance paid to the treasurer, and contain
26 a full accounting of the property and proceeds. Thereupon the
27 secretary shall issue to the supervisors a certificate of dissolution
28 and file a copy thereof in his or her records.

29 **Sec. 140.** RCW 89.08.410 and 1989 c 18 s 2 are each amended to read
30 as follows:

31 The ((~~state conservation commission~~)) director may authorize grants
32 to conservation districts from moneys appropriated to the
33 ((~~commission~~)) department for such purposes as provided in this
34 section. Such grants shall be made annually on or before the last day
35 of June of each year and shall be made only to those conservation
36 districts that apply for the grants. After all the grant requests have

1 been submitted, the initial grants in any year shall be made so that a
2 conservation district shall not receive a grant in excess of the lesser
3 of: (1) an amount equal to the total moneys obtained by the
4 conservation district from all other sources, other than any grants
5 obtained from the state, during the preceding calendar year; or (2)
6 twenty-two thousand five hundred dollars. If the appropriated moneys
7 are insufficient to make the maximum level of the initial grants, each
8 grant amount shall be reduced by an equal dollar amount until the total
9 amount of the grants is equal to the amount of the appropriation.

10 However, further grants shall be made to those conservation
11 districts that were limited to grants of twenty-two thousand five
12 hundred dollars if the appropriated moneys are in excess of the amount
13 of the initial distribution of grants, but the total of both grants to
14 any conservation district in any year shall not exceed an amount equal
15 to the total moneys obtained by that conservation district from all
16 other sources, other than any grants obtained from the state, during
17 the preceding calendar year. If the appropriated moneys are
18 insufficient to make the second distribution of grants, each grant
19 under the second distribution shall be reduced by an equal dollar
20 amount until the total amount of all the grants is equal to the amount
21 of the appropriation.

22 **Sec. 141.** RCW 89.08.470 and 1998 c 249 s 13 are each amended to
23 read as follows:

24 (1) (~~By January 1, 1996, the Washington conservation commission~~)
25 The department shall develop, in consultation with other state
26 agencies, tribes, and local governments, a consolidated application
27 process for permits for a watershed restoration project developed by an
28 agency or sponsored by an agency on behalf of a volunteer organization.
29 The consolidated process shall include a single permit application form
30 for use by all responsible state and local agencies. The
31 (~~commission~~) department shall encourage use of the consolidated
32 permit application process by any federal agency responsible for
33 issuance of related permits. The permit application forms to be
34 consolidated shall include, at a minimum, applications for: (a)
35 Approvals related to water quality standards under chapter 90.48 RCW;
36 (b) hydraulic project approvals under chapter (~~75.20~~) 77.55 RCW; and

1 (c) section 401 water quality certifications under 33 U.S.C. Sec. 1341
2 and chapter 90.48 RCW.

3 (2) If a watershed restoration project is also a fish habitat
4 enhancement project that meets the criteria of RCW ((75.20.350(1)))
5 77.55.290(1), the project sponsor shall instead follow the permit
6 review and approval process established in RCW ((75.20.350)) 77.55.290
7 with regard to state and local government permitting requirements. The
8 sponsor shall so notify state and local permitting authorities.

9 **Sec. 142.** RCW 89.08.480 and 1995 c 378 s 4 are each amended to
10 read as follows:

11 Each agency of the state and unit of local government that claims
12 jurisdiction or the right to require permits, other approvals, or fees
13 as a condition of allowing a watershed restoration project to proceed
14 shall designate an office or official as a designated recipient of
15 project applications and shall inform the ((conservation commission))
16 department of the designation.

17 **Sec. 143.** RCW 89.08.520 and 2001 c 227 s 3 are each amended to
18 read as follows:

19 In administering grant programs to improve water quality and
20 protect habitat, the ((commission)) department shall require grant
21 recipients to incorporate the environmental benefits of the project
22 into their grant applications, and the ((commission)) department shall
23 utilize the statement of environmental ((benefit[s])) benefits in its
24 grant prioritization and selection process. The ((commission))
25 department shall also develop appropriate outcome-focused performance
26 measures to be used both for management and performance assessment of
27 the grant program. The ((commission)) department shall work with the
28 districts to develop uniform performance measures across participating
29 districts. To the extent possible, the ((commission)) department
30 should coordinate its performance measure system with other natural
31 resource-related agencies as defined in RCW 43.41.270. The
32 ((commission)) department shall consult with affected interest groups
33 in implementing this section.

34 **Sec. 144.** RCW 89.08.530 and 2002 c 280 s 2 are each amended to
35 read as follows:

1 (1) The agricultural conservation easements program is created.
2 The (~~state conservation commission~~) department shall manage the
3 program and adopt rules as necessary to implement the legislature's
4 intent.

5 (2) The (~~commission~~) department shall report to the legislature
6 on an (~~on-going~~) ongoing basis regarding potential funding sources
7 for the purchase of agricultural conservation easements under the
8 program and recommend changes to existing funding authorized by the
9 legislature.

10 (3) All funding for the program shall be deposited into the
11 agricultural conservation easements account created in RCW 89.08.540.
12 Expenditures from the account shall be made to local governments and
13 private nonprofits on a match or no match required basis at the
14 discretion of the (~~commission~~) director.

15 (4) Easements purchased with money from the agricultural
16 conservation easements account run with the land.

17 **Sec. 145.** RCW 89.08.540 and 2002 c 280 s 3 are each amended to
18 read as follows:

19 (1) The agricultural conservation easements account is created in
20 the custody of the state treasurer. All receipts from legislative
21 appropriations, other sources as directed by the legislature, and
22 gifts, grants, or endowments from public or private sources must be
23 deposited into the account. Expenditures from the account may be used
24 only for the purchase of easements under the agricultural conservation
25 easements program. Only the (~~state conservation commission, or the~~
26 ~~executive director of the commission on the commission's behalf,~~)
27 director may authorize expenditures from the account. The account is
28 subject to allotment procedures under chapter 43.88 RCW, but an
29 appropriation is not required for expenditures.

30 (2) The (~~commission~~) department is authorized to receive and
31 expend gifts, grants, or endowments from public or private sources that
32 are made available, in trust or otherwise, for the use and benefit of
33 the agricultural conservation easements program.

34 **Sec. 146.** RCW 90.64.005 and 1998 c 262 s 1 are each amended to
35 read as follows:

36 The legislature finds that there is a need to establish a clear and

1 understandable process that provides for the proper and effective
2 management of dairy nutrients that affect the quality of surface or
3 ground waters in the state of Washington. The legislature finds that
4 there is a need for a program that will provide a stable and
5 predictable business climate upon which dairy farms may base future
6 investment decisions.

7 The legislature finds that federal regulations require a permit
8 program for dairies with over seven hundred head of mature cows and,
9 other specified dairy farms that directly discharge into waters or are
10 otherwise significant contributors of pollution. The legislature finds
11 that significant work has been ongoing over a period of time and that
12 the intent of this chapter is to take the consensus that has been
13 developed and place it into statutory form.

14 It is also the intent of this chapter to establish an inspection
15 and technical assistance program for dairy farms to address the
16 discharge of pollution to surface and ground waters of the state that
17 will lead to water quality compliance by the industry. A further
18 purpose is to create a balanced program involving technical assistance,
19 regulation, and enforcement with coordination and oversight of the
20 program by a committee composed of industry, agency, and other
21 representatives. Furthermore, it is the objective of this chapter to
22 maintain the administration of the water quality program as it relates
23 to dairy operations at the state level.

24 It is also the intent of this chapter to recognize the existing
25 working relationships between conservation districts, the
26 (~~(conservation commission)~~) department of agriculture, and the
27 department of ecology in protecting water quality of the state. A
28 further purpose of this chapter is to provide statutory recognition of
29 the coordination of the functions of conservation districts, the
30 (~~(conservation commission)~~) department of agriculture, and the
31 department of ecology pertaining to development of dairy waste
32 management plans for the protection of water quality.

33 **Sec. 147.** RCW 90.64.010 and 1998 c 262 s 2 are each amended to
34 read as follows:

35 Unless the context clearly requires otherwise, the definitions in
36 this section apply throughout this chapter.

1 (1) "Advisory and oversight committee" means a balanced committee
2 of agency, dairy farm, and interest group representatives convened to
3 provide oversight and direction to the dairy nutrient management
4 program.

5 (2) "Bypass" means the intentional diversion of waste streams from
6 any portion of a treatment facility.

7 (3) "Catastrophic" means a tornado, hurricane, earthquake, flood,
8 or other extreme condition that causes an overflow from a required
9 waste retention structure.

10 (4) "Certification" means:

11 (a) The acknowledgment by a local conservation district that a
12 dairy producer has constructed or otherwise put in place the elements
13 necessary to implement his or her dairy nutrient management plan; and

14 (b) The acknowledgment by a dairy producer that he or she is
15 managing dairy nutrients as specified in his or her approved dairy
16 nutrient management plan.

17 (5) "Chronic" means a series of wet weather events that precludes
18 the proper operation of a dairy nutrient management system that is
19 designed for the current herd size.

20 (6) (~~("Conservation commission" or "commission" means the~~
21 ~~conservation commission under chapter 89.08 RCW.~~

22 ~~(7))~~ "Conservation districts" or "district" means a subdivision of
23 state government organized under chapter 89.08 RCW.

24 ~~((8))~~ (7) "Concentrated dairy animal feeding operation" means a
25 dairy animal feeding operation subject to regulation under this chapter
26 which the director designates under RCW 90.64.020 or meets the
27 following criteria:

28 (a) Has more than seven hundred mature dairy cows, whether milked
29 or dry cows, that are confined; or

30 (b) Has more than two hundred head of mature dairy cattle, whether
31 milked or dry cows, that are confined and either:

32 (i) From which pollutants are discharged into navigable waters
33 through a manmade ditch, flushing system, or other similar manmade
34 device; or

35 (ii) From which pollutants are discharged directly into surface or
36 ground waters of the state that originate outside of and pass over,
37 across, or through the facility or otherwise come into direct contact
38 with the animals confined in the operation.

1 (~~(9)~~) (8) "Dairy animal feeding operation" means a lot or
2 facility where the following conditions are met:

3 (a) Dairy animals that have been, are, or will be stabled or
4 confined and fed for a total of forty-five days or more in any twelve-
5 month period; and

6 (b) Crops, vegetation forage growth, or postharvest residues are
7 not sustained in the normal growing season over any portion of the lot
8 or facility. Two or more dairy animal feeding operations under common
9 ownership are considered, for the purposes of this chapter, to be a
10 single dairy animal feeding operation if they adjoin each other or if
11 they use a common area for land application of wastes.

12 (~~(10)~~) (9) "Dairy farm" means any farm that is licensed to
13 produce milk under chapter 15.36 RCW.

14 (~~(11)~~) (10) "Dairy nutrient" means any organic waste produced by
15 dairy cows or a dairy farm operation.

16 (~~(12)~~) (11) "Dairy nutrient management plan" means a plan meeting
17 the requirements established under RCW 90.64.026.

18 (~~(13)~~) (12) "Dairy nutrient management technical assistance team"
19 means one or more professional engineers and local conservation
20 district employees convened to serve one of four distinct geographic
21 areas in the state.

22 (~~(14)~~) (13) "Dairy producer" means a person who owns or operates
23 a dairy farm.

24 (~~(15)~~) (14) "Department" means the department of ecology under
25 chapter 43.21A RCW.

26 (~~(16)~~) (15) "Director" means the director of the department of
27 ecology, or his or her designee.

28 (~~(17)~~) (16) "Upset" means an exceptional incident in which there
29 is an unintentional and temporary noncompliance with technology-based
30 permit effluent limitations because of factors beyond the reasonable
31 control of the dairy. An upset does not include noncompliance to the
32 extent caused by operational error, improperly designed treatment
33 facilities, inadequate treatment facilities, lack of preventive
34 maintenance, or careless or improper operation.

35 (~~(18)~~) (17) "Violation" means the following acts or omissions:

36 (a) A discharge of pollutants into the waters of the state, except
37 those discharges that are due to a chronic or catastrophic event, or to

1 an upset as provided in 40 C.F.R. Sec. 122.41, or to a bypass as
2 provided in 40 C.F.R. Sec. 122.41, and that occur when:

3 (i) A dairy producer has a current national pollutant discharge
4 elimination system permit with a wastewater system designed, operated,
5 and maintained for the current herd size and that contains all process-
6 generated wastewater plus average annual precipitation minus
7 evaporation plus contaminated storm water runoff from a twenty-five
8 year, twenty-four hour rainfall event for that specific location, and
9 the dairy producer has complied with all permit conditions, including
10 dairy nutrient management plan conditions for appropriate land
11 application practices; or

12 (ii) A dairy producer does not have a national pollutant discharge
13 elimination system permit, but has complied with all of the elements of
14 a dairy nutrient management plan that: Prevents the discharge of
15 pollutants to waters of the state, is commensurate with the dairy
16 producer's current herd size, and is approved and certified under RCW
17 90.64.026;

18 (b) Failure to register as required under RCW 90.64.017; or

19 (c) The lack of an approved dairy nutrient management plan by July
20 1, 2002; or

21 (d) The lack of a certified dairy nutrient management plan for a
22 dairy farm after December 31, 2003.

23 **Sec. 148.** RCW 90.64.026 and 1998 c 262 s 6 are each amended to
24 read as follows:

25 (1) Except for those producers who already have a certified dairy
26 nutrient management plan as required under the terms and conditions of
27 an individual or general national pollutant discharge elimination
28 system permit, all dairy producers licensed under chapter 15.36 RCW,
29 regardless of size, shall prepare a dairy nutrient management plan. If
30 at any time a dairy nutrient management plan fails to prevent the
31 discharge of pollutants to waters of the state, it shall be required to
32 be updated.

33 (2) (~~By November 1, 1998, the conservation commission~~) The
34 department of agriculture, in conjunction with the advisory and
35 oversight committee established under section 8 (~~of this act~~),
36 chapter 262, Laws of 1998 shall develop a document clearly describing

1 the elements that a dairy nutrient management plan must contain to gain
2 local conservation district approval.

3 (3) In developing the elements that an approved dairy nutrient
4 management plan must contain, the (~~commission~~) department of
5 agriculture may authorize the use of other methods and technologies
6 than those developed by the natural resources conservation service when
7 such alternatives have been evaluated by the advisory and oversight
8 committee. Alternative methods and technologies shall meet the
9 standards and specifications of:

10 (a) The natural resources conservation service as modified by the
11 geographically based standards developed under RCW 90.64.140; or

12 (b) A professional engineer with expertise in the area of dairy
13 nutrient management.

14 (4) In evaluating alternative technologies and methods, the
15 principal objectives of the committee's evaluation shall be
16 determining:

17 (a) Whether there is a substantial likelihood that, once
18 implemented, the alternative technologies and methods would not violate
19 water quality requirements;

20 (b) Whether more cost-effective methods can be successfully
21 implemented in some or all categories of dairy operations; and

22 (c) Whether the technologies and methods approved or provided by
23 the natural resources conservation service for use by confined animal
24 feeding operations are necessarily required for other categories of
25 dairy operations.

26 In addition, the committee shall encourage the (~~conservation~~
27 ~~commission~~) department of agriculture and the conservation districts
28 to apply in dairy nutrient management plans technologies and methods
29 that are appropriate to the needs of the specific type of operation and
30 the specific farm site and to avoid imposing requirements that are not
31 necessary for the specific dairy producer to achieve compliance with
32 water quality requirements.

33 (5) Such plans shall be submitted for approval to the local
34 conservation district where the dairy farm is located, and shall be
35 approved by conservation districts no later than by July 1, 2002. The
36 (~~conservation commission~~) department of agriculture, in conjunction
37 with conservation districts, shall develop a statewide schedule of plan

1 development and approval to ensure adequate resources are available to
2 have all plans approved by July 1, 2002.

3 (6) If a dairy producer leases land for dairy production from an
4 owner who has prohibited the development of capital improvements, such
5 as storage lagoons, on the leased property, the dairy producer shall
6 indicate in his or her dairy nutrient management plan that such
7 improvements are prohibited by the landowner and shall describe other
8 methods, such as land application, that will be employed by the dairy
9 producer to manage dairy nutrients.

10 (7) Notwithstanding the timelines in this section, any dairy farm
11 licensed after September 1, 1998, shall have six months from the date
12 of licensing to develop a dairy nutrient management plan and another
13 eighteen months to fully implement that plan.

14 (8) If a plan contains the elements identified in subsection (2) of
15 this section, a conservation district shall approve the plan no later
16 than ninety days after receiving the plan. If the plan does not
17 contain the elements identified in subsection (2) of this section, the
18 local conservation district shall notify the dairy producer in writing
19 of modifications needed in the plan no later than ninety days after
20 receiving the plan. The dairy producer shall provide a revised plan
21 that includes the needed modifications within ninety days of the date
22 of the local conservation district notification. If the dairy producer
23 does not agree with, or otherwise takes exception to, the modifications
24 requested by the local conservation district, the dairy producer may
25 initiate the appeals process described in RCW 90.64.028 within thirty
26 days of receiving the letter of notification.

27 (9) An approved plan shall be certified by a conservation district
28 and a dairy producer when the elements necessary to implement the plan
29 have been constructed or otherwise put in place, and are being used as
30 designed and intended. A certification form shall be developed by the
31 (~~(conservation commission)~~) department of agriculture for use statewide
32 and shall provide for a signature by both a conservation district
33 representative and a dairy producer. Certification forms shall be
34 signed by December 31, 2003, and a copy provided to the department for
35 recording in the data base established in RCW 90.64.130.

36 (10) The ability of dairy producers to comply with the planning
37 requirements of this chapter depends, in many cases, on the
38 availability of federal and state funding to support technical

1 assistance provided by local conservation districts. Dairy producers
2 shall not be held responsible for noncompliance with the planning
3 requirements of this chapter if conservation districts are unable to
4 perform their duties under this chapter because of insufficient
5 funding.

6 **Sec. 149.** RCW 90.64.028 and 1998 c 262 s 7 are each amended to
7 read as follows:

8 (1) Conservation district decisions pertaining to denial of
9 approval or denial of certification of a dairy nutrient management
10 plan; modification or amendment of a plan; conditions contained in a
11 plan; application of any dairy nutrient management practices,
12 standards, methods, and technologies to a particular dairy farm; and
13 the failure to adhere to plan review and approval timelines identified
14 in RCW 90.64.026 are appealable under this chapter. Department actions
15 pertaining to water quality violations are appealable under chapter
16 90.48 RCW.

17 In addition, a dairy producer who is constrained from complying
18 with the planning requirements of this chapter because of financial
19 hardship or local permitting delays may request a hearing before the
20 (~~conservation commission~~) department of agriculture and may request
21 an extension of up to one year beyond the approval and certification
22 dates prescribed in this chapter for plan approval and certification.

23 (2) Within thirty days of receiving a local conservation district
24 notification regarding any of the decisions identified in subsection
25 (1) of this section, a dairy producer who disagrees with any of these
26 decisions may request an informal hearing before the (~~conservation~~
27 ~~commission~~) department of agriculture or may appeal directly to the
28 pollution control hearings board. The (~~commission~~) department of
29 agriculture shall issue a written decision no later than thirty days
30 after the informal hearing.

31 (3) If the (~~conservation commission~~) department of agriculture
32 reverses the decision of the conservation district, the conservation
33 district may appeal this reversal to the pollution control hearings
34 board according to the procedure in chapter 43.21B RCW within thirty
35 days of receipt of the (~~commission's~~) department of agriculture's
36 decision.

1 (4) When an appeals process is initiated under this section, the
2 length of time extending from the start of the appeals process to its
3 conclusion shall be added onto the timelines provided in this chapter
4 for plan development, approval, and certification only if an appeal is
5 heard by the pollution control hearings board.

6 **Sec. 150.** RCW 90.64.080 and 1998 c 262 s 14 are each amended to
7 read as follows:

8 (1) (~~The conservation commission~~) Under this chapter, the
9 department of agriculture has the following duties:

10 (a) Provide assistance as may be appropriate to the conservation
11 districts in the discharge of their responsibilities as management
12 agencies in dairy nutrient management program implementation;

13 (b) Provide coordination for conservation district programs at the
14 state level through special arrangements with appropriate federal and
15 state agencies, including oversight of the review, approval, and
16 certification of dairy nutrient management plans;

17 (c) Inform conservation districts of activities and experiences of
18 other conservation districts relative to agricultural water quality
19 protection, and facilitate an interchange of advice, experience, and
20 cooperation between the districts;

21 (d) Provide an informal hearing for disputes between dairy
22 producers and local conservation districts pertaining to: (i) Denial
23 of approval or denial of certification of dairy nutrient management
24 plans; (ii) modification or amendment of plans; (iii) conditions
25 contained in plans; (iv) application of any dairy nutrient management
26 practices, standards, methods, and technologies to a particular dairy
27 farm; and (v) the failure to adhere to the plan review and approval
28 timelines identified in RCW 90.64.026. An informal hearing may also
29 provide an opportunity for dairy producers who are constrained from
30 timely compliance with the planning requirements of this chapter
31 because of financial hardship or local permitting delays to petition
32 for additional time to comply;

33 (e) Encourage communication between the conservation district
34 personnel and local department personnel;

35 (f) Accept nominations and appoint members to serve on the advisory
36 and oversight committee with advice of the Washington association of
37 conservation districts and the department;

1 (g) Provide a cochair to the advisory and oversight committee;

2 (h) Report to the legislature by December 1st of each year until
3 2003 on the status of dairy nutrient management planning and on the
4 technical assistance provided to dairy producers in carrying out the
5 requirements of this chapter; and

6 (i) Work with the department to provide communication outreach to
7 representatives of agricultural and environmental organizations to
8 receive feedback on implementation of this chapter.

9 (2) The (~~commission's~~) department of agriculture's capability to
10 carry out its responsibilities under this chapter is contingent upon
11 the availability of funding and resources to implement a dairy nutrient
12 management program.

13 **Sec. 151.** RCW 90.64.140 and 1998 c 262 s 10 are each amended to
14 read as follows:

15 (1) The (~~conservation commission~~) department of agriculture shall
16 establish four dairy nutrient management technical assistance teams by
17 June 1, 1998. The teams shall be geographically located throughout the
18 state. Each team shall consist of one or more professional engineers,
19 local conservation district employees, and dairy nutrient management
20 experts from Washington State University. The purpose of the teams is
21 to:

22 (a) Actively develop and promote new cost-effective approaches for
23 managing dairy nutrients; and

24 (b) Assist dairy farms in developing dairy nutrient management
25 plans.

26 (2) By January 1, 1999, each team shall develop one or more initial
27 sets of standards and specifications to assist dairy producers in
28 developing and implementing dairy nutrient management plans. Standards
29 and specifications developed by a technical assistance team shall be
30 appropriate to the soils and other conditions within that geographic
31 area and shall be reviewed by the advisory and oversight committee.

32 **Sec. 152.** RCW 90.64.800 and 1998 c 262 s 17 are each amended to
33 read as follows:

34 The department, in conjunction with the (~~conservation commission~~)
35 department of agriculture and advisory and oversight committee, shall
36 report to the legislature by December 1st of each year until 2003, on

1 progress made in implementing chapter 262, Laws of 1998. At a minimum,
2 the reports shall include data on inspections, the status of dairy
3 nutrient planning, compliance with water quality standards, and
4 enforcement actions. The report shall also provide recommendations on
5 how implementation of chapter 262, Laws of 1998 could be facilitated
6 for dairy producers and generally improved.

7 ~~((The conservation commission shall include in the report to the
8 legislature filed December 1, 1999, an evaluation of whether the fiscal
9 resources available to the commission, to conservation districts, and
10 to Washington State University dairy nutrient management experts are
11 adequate to fund the technical assistance teams established under RCW
12 90.64.140 and to develop and certify plans as required by the schedule
13 established in RCW 90.64.026. If the funding is insufficient, the
14 report shall include an estimate of the amount of funding necessary to
15 accomplish the schedule contained in RCW 90.64.026.))~~

16 **Sec. 153.** RCW 90.64.810 and 2000 c 147 s 1 are each amended to
17 read as follows:

18 (1) A dairy nutrient management task force is created that shall be
19 comprised of no more than fifteen members, who are appointed as
20 follows:

21 (a) Two members of the house of representatives, one from each
22 major caucus, appointed by the co-speakers of the house of
23 representatives;

24 (b) Two members of the senate, one from each major caucus,
25 appointed by the president of the senate;

26 (c) A representative of the department of ecology, appointed by the
27 director of ecology;

28 (d) A representative of the ~~((state conservation commission))~~
29 department of agriculture, appointed by ~~((its executive secretary))~~ the
30 director of agriculture;

31 (e) A representative of local conservation districts, appointed by
32 the president of a statewide association of conservation districts;

33 (f) A representative of local health departments, appointed by the
34 Washington state association of local public health officials;

35 (g) A representative of commercial shellfish growers, appointed by
36 a statewide organization representing oyster growers;

1 (h) Four representatives of the dairy industry, appointed by a
2 statewide organization representing the dairy industry in the state;

3 (i) A representative of an environmental interest organization with
4 familiarity and expertise in water quality issues, appointed by a
5 statewide organization representing environmental interests;

6 (j) A representative of the United States environmental protection
7 agency, appointed by the regional director of the agency if the agency
8 chooses to be represented on the task force; and

9 (k) A representative of the United States natural resources
10 conservation service, appointed by the state conservationist of that
11 agency for this state, if the agency chooses to be represented on the
12 task force.

13 (2) The task force shall convene as soon as possible upon
14 appointment of its members. The task force shall elect a chair and
15 adopt rules for conducting the business of the task force. Staff
16 support for the task force shall be provided by the (~~Washington state~~
17 ~~conservation commission~~) department of agriculture.

18 (3) This section expires June 30, 2004.

19 **Sec. 154.** RCW 90.71.020 and 1998 c 246 s 14 are each amended to
20 read as follows:

21 (1) The Puget Sound action team is created. The action team shall
22 consist of: The directors of the departments of ecology; agriculture;
23 natural resources; fish and wildlife; and community, trade, and
24 economic development; the secretaries of the departments of health and
25 transportation; the director of the parks and recreation commission;
26 the director of the interagency committee for outdoor recreation; (~~the~~
27 ~~administrative officer of the conservation commission designated in RCW~~
28 ~~89.08.050~~) one person representing cities, appointed by the governor;
29 one person representing counties, appointed by the governor; one person
30 representing federally recognized tribes, appointed by the governor;
31 and the chair of the action team. The action team shall also include
32 the following ex officio nonvoting members: The regional director of
33 the United States environmental protection agency; the regional
34 administrator of the national marine fisheries service; and the
35 regional supervisor of the United States fish and wildlife service.
36 The members representing cities and counties shall each be reimbursed
37 for travel expenses as provided in RCW 43.03.050 and 43.03.060.

1 (2) The action team shall:

2 (a) Prepare a Puget Sound work plan and budget for inclusion in the
3 governor's biennial budget;

4 (b) Coordinate monitoring and research programs as provided in RCW
5 90.71.060;

6 (c) Work under the direction of the action team chair as provided
7 in RCW 90.71.040;

8 (d) Coordinate permitting requirements as necessary to expedite
9 permit issuance for any local watershed plan developed pursuant to
10 rules adopted under this chapter;

11 (e) Identify and resolve any policy or rule conflicts that may
12 exist between one or more agencies represented on the action team;

13 (f) Periodically amend the Puget Sound management plan;

14 (g) Enter into, amend, and terminate contracts with individuals,
15 corporations, or research institutions for the purposes of this
16 chapter;

17 (h) Receive such gifts, grants, and endowments, in trust or
18 otherwise, for the use and benefit of the purposes of the action team.
19 The action team may expend the same or any income therefrom according
20 to the terms of the gifts, grants, or endowments;

21 (i) Promote extensive public participation, and otherwise seek to
22 broadly disseminate information concerning Puget Sound;

23 (j) Receive and expend funding from other public agencies;

24 (k) To reduce costs and improve efficiency, review by December 1,
25 1996, all requirements for reports and documentation from state
26 agencies and local governments specified in the plan for the purpose of
27 eliminating and consolidating reporting requirements; and

28 (l) Beginning in December 1998, and every two years thereafter,
29 submit a report to the appropriate policy and fiscal committees of the
30 legislature that describes and evaluates the successes and shortcomings
31 of the current work plan relative to the priority problems identified
32 for each geographic area of Puget Sound.

33 (3) By July 1, 1996, the action team shall begin developing its
34 initial work plan, which shall include the coordination of necessary
35 support staff.

36 (4) The action team shall incorporate, to the maximum extent
37 possible, the recommendations of the council regarding amendments to
38 the Puget Sound management plan and the work plan.

1 (5) All proceedings of the action team are subject to the open
2 public meetings act under chapter 42.30 RCW.

3 NEW SECTION. **Sec. 155.** A new section is added to chapter 39.19
4 RCW to read as follows:

5 (1) The office of minority and women's business enterprises is
6 hereby abolished. All remaining references to the office of minority
7 and women's business enterprises in the Revised Code of Washington
8 shall be construed to mean the department of community, trade, and
9 economic development.

10 (2)(a) All reports, documents, surveys, books, records, files,
11 papers, or written material in the possession of the office of minority
12 and women's business enterprises shall be delivered to the custody of
13 the department of community, trade, and economic development, except
14 that materials related to the certified business data base and other
15 information technology systems and applications shall be delivered to
16 the custody of the department of general administration. All cabinets,
17 furniture, office equipment, motor vehicles, and other tangible
18 property employed by the office of minority and women's business
19 enterprises shall be made available to the department of community,
20 trade, and economic development and the department of general
21 administration. All funds, credits, or other assets held by the office
22 of minority and women's business enterprises shall be assigned to the
23 office of financial management for division between the department of
24 community, trade, and economic development and the department of
25 general administration as required to implement this section.

26 (b) If any question arises as to the transfer of any personnel,
27 funds, books, documents, records, papers, files, equipment, or other
28 tangible property used or held in the exercise of the powers and the
29 performance of the duties and functions transferred, the director of
30 financial management shall make a determination as to the proper
31 allocation and certify the same to the state agencies concerned.

32 (3) All rules and all pending business before the office of
33 minority and women's business enterprises shall be continued and acted
34 upon by the department of community, trade, and economic development.
35 All existing contracts, agreements, and obligations shall remain in
36 full force and shall be performed by the department of community,
37 trade, and economic development.

1 (4) If apportionments of budgeted funds are required because of the
2 transfers directed by this section, the director of financial
3 management shall certify the apportionments to the agencies affected,
4 the state auditor, and the state treasurer. Each of these shall make
5 the appropriate transfer and adjustments in funds and appropriation
6 accounts and equipment records in accordance with the certification.

7 (5) The abolishment of the office of minority and women's business
8 enterprises shall not affect the validity of any act performed before
9 the effective date of this section.

10 **Sec. 156.** RCW 39.19.020 and 1996 c 69 s 4 are each amended to read
11 as follows:

12 Unless the context clearly requires otherwise, the definitions in
13 this section apply throughout this chapter.

14 (1) (~~"Advisory committee" means the advisory committee on minority
15 and women's business enterprises.~~

16 ~~(2))~~ "Broker" means a person that provides a bona fide service,
17 such as professional, technical, consultant, brokerage, or managerial
18 services and assistance in the procurement of essential personnel,
19 facilities, equipment, materials, or supplies required for performance
20 of a contract.

21 (2) "Department" means the department of community, trade, and
22 economic development.

23 (3) "Director" means the director of the (~~office of minority and~~
24 ~~women's business enterprises~~) department of community, trade, and
25 economic development.

26 (4) "Educational institutions" means the state universities, the
27 regional universities, The Evergreen State College, and the community
28 colleges.

29 (5) "Goals" means annual overall agency goals, expressed as a
30 percentage of dollar volume, for participation by minority and women-
31 owned and controlled businesses and shall not be construed as a minimum
32 goal for any particular contract or for any particular geographical
33 area. It is the intent of this chapter that such overall agency goals
34 shall be achievable and shall be met on a contract-by-contract or
35 class-of-contract basis.

36 (6) "Goods and/or services" includes professional services and all
37 other goods and services.

1 (7) (~~"Office" means the office of minority and women's business~~
2 ~~enterprises.~~

3 ~~(8))~~ "Person" includes one or more individuals, partnerships,
4 associations, organizations, corporations, cooperatives, legal
5 representatives, trustees and receivers, or any group of persons.

6 ~~((9))~~ (8) "Procurement" means the purchase, lease, or rental of
7 any goods or services.

8 ~~((10))~~ (9) "Public works" means all work, construction, highway
9 and ferry construction, alteration, repair, or improvement other than
10 ordinary maintenance, which a state agency or educational institution
11 is authorized or required by law to undertake.

12 ~~((11))~~ (10) "State agency" includes the state of Washington and
13 all agencies, departments, offices, divisions, boards, commissions, and
14 correctional and other types of institutions.

15 **Sec. 157.** RCW 39.19.030 and 1996 c 69 s 5 are each amended to read
16 as follows:

17 ~~((There is hereby created the office of minority and women's~~
18 ~~business enterprises. The governor shall appoint a director for the~~
19 ~~office, subject to confirmation by the senate. The director may employ~~
20 ~~a deputy director and a confidential secretary, both of which shall be~~
21 ~~exempt under chapter 41.06 RCW, and such staff as are necessary to~~
22 ~~carry out the purposes of this chapter.~~

23 ~~The office shall consult with the minority and women's business~~
24 ~~enterprises advisory committee to:~~

25 ~~(1) Develop, plan, and implement programs to provide an opportunity~~
26 ~~for participation by qualified minority and women owned and controlled~~
27 ~~businesses in public works and the process by which goods and services~~
28 ~~are procured by state agencies and educational institutions from the~~
29 ~~private sector;~~

30 ~~(2) Develop a comprehensive plan insuring that qualified minority~~
31 ~~and women owned and controlled businesses are provided an opportunity~~
32 ~~to participate in public contracts for public works and goods and~~
33 ~~services;~~

34 ~~(3) Identify barriers to equal participation by qualified minority~~
35 ~~and women owned and controlled businesses in all state agency and~~
36 ~~educational institution contracts;~~

1 ~~(4) Establish annual overall goals for participation by qualified~~
2 ~~minority and women owned and controlled businesses for each state~~
3 ~~agency and educational institution to be administered on a contract by-~~
4 ~~contract basis or on a class of contracts basis;~~

5 ~~(5) Develop and maintain a central minority and women's business~~
6 ~~enterprise certification list for all state agencies and educational~~
7 ~~institutions. No business is entitled to certification under this~~
8 ~~chapter unless it meets the definition of small business concern as~~
9 ~~established by the office. All applications for certification under~~
10 ~~this chapter shall be sworn under oath;~~

11 ~~(6) Develop, implement, and operate a system of monitoring~~
12 ~~compliance with this chapter;~~

13 ~~(7) Adopt rules under chapter 34.05 RCW, the Administrative~~
14 ~~Procedure Act, governing: (a) Establishment of agency goals; (b)~~
15 ~~development and maintenance of a central minority and women's business~~
16 ~~enterprise certification program, including a definition of "small~~
17 ~~business concern" which shall be consistent with the small business~~
18 ~~requirements defined under section 3 of the Small Business Act, 15~~
19 ~~U.S.C. Sec. 632, and its implementing regulations as guidance; (c)~~
20 ~~procedures for monitoring and enforcing compliance with goals,~~
21 ~~regulations, contract provisions, and this chapter; (d) utilization of~~
22 ~~standard clauses by state agencies and educational institutions, as~~
23 ~~specified in RCW 39.19.050; and (e) determination of an agency's or~~
24 ~~educational institution's goal attainment consistent with the~~
25 ~~limitations of RCW 39.19.075;~~

26 ~~(8) Submit an annual report to the governor and the legislature~~
27 ~~outlining the progress in implementing this chapter;~~

28 ~~(9) Investigate complaints of violations of this chapter with the~~
29 ~~assistance of the involved agency or educational institution; and~~

30 ~~(10) Cooperate and act jointly or by division of labor with the~~
31 ~~United States or other states, and with political subdivisions of the~~
32 ~~state of Washington and their respective minority, socially and~~
33 ~~economically disadvantaged and women business enterprise programs to~~
34 ~~carry out the purposes of this chapter. However, the power which may~~
35 ~~be exercised by the office under this subsection permits investigation~~
36 ~~and imposition of sanctions only if the investigation relates to a~~
37 ~~possible violation of chapter 39.19 RCW, and not to violation of local~~

1 ~~ordinances, rules, regulations, however denominated, adopted by~~
2 ~~political subdivisions of the state.))~~

3 The director shall:

4 (1) Adopt rules under chapter 34.05 RCW governing development and
5 maintenance of a central socially and economically disadvantaged,
6 minority, and women's business enterprise certification program,
7 consistent with enabling such businesses and state and local government
8 entities to establish and maintain eligibility for any federal program,
9 if ineligibility would result in a loss of federal funds; and

10 (2) Submit a biennial report to the governor and the appropriate
11 committees of the legislature outlining the progress implementing this
12 section, commencing on December 1, 2004.

13 **Sec. 158.** RCW 39.19.090 and 1987 c 328 s 6 are each amended to
14 read as follows:

15 If a person, firm, corporation, or business does not comply with
16 any provision of this chapter or with a contract requirement
17 established under this chapter, the state may withhold payment, debar
18 the contractor, suspend, or terminate the contract and subject the
19 contractor to civil penalties of up to ten percent of the amount of the
20 contract or up to five thousand dollars for each violation. The
21 ((office)) director shall adopt, by rule, criteria for the imposition
22 of penalties under this section. Wilful repeated violations, exceeding
23 a single violation, may disqualify the contractor from further
24 participation in state contracts for a period of up to three years. An
25 apparent low-bidder must be in compliance with the contract provisions
26 required under this chapter as a condition precedent to the granting of
27 a notice of award by any state agency or educational institution.

28 The ((office)) director shall follow administrative procedures
29 under chapter 34.05 RCW in determining a violation and imposing
30 penalties under this chapter.

31 The procedures and sanctions in this section are not exclusive;
32 nothing in this section prevents the state agency or educational
33 institution administering the contracts from pursuing such procedures
34 or sanctions as are otherwise provided by statute, rule, or contract
35 provision.

1 **Sec. 159.** RCW 39.19.120 and 1987 c 328 s 7 are each amended to
2 read as follows:

3 (1) The ((office)) director shall be the sole authority to perform
4 certification of minority business enterprises, socially and
5 economically disadvantaged business enterprises, and women's business
6 enterprises throughout the state of Washington. Certification by the
7 ((state-office)) director will allow these firms to participate in
8 programs for these enterprises administered by the state of Washington,
9 any city, town, county, special purpose district, public corporation
10 created by the state, municipal corporation, or quasi-municipal
11 corporation within the state of Washington.

12 (2) This statewide certification process will prevent duplication
13 of effort, achieve efficiency, and permit local jurisdictions to
14 further develop, implement, and/or enhance comprehensive systems of
15 monitoring and compliance for contracts issued by their agencies. This
16 statewide certification process will also enable state and local
17 governments within the state of Washington to establish or maintain
18 eligibility for any federal program, if ineligibility would result in
19 the loss of federal funds.

20 (3) For the benefit of certified socially and economically
21 disadvantaged business enterprises, minority business enterprises, and
22 women's business enterprises, the department shall develop, plan, and
23 implement programs to (a) develop and maintain a certification process;
24 (b) provide technical assistance and training; and (c) facilitate
25 access to business development resources and capital funding. The
26 department shall consult and collaborate in these efforts with private
27 sector entities and other federal, state, and local government agencies
28 engaged in providing services to these businesses.

29 **Sec. 160.** RCW 39.19.140 and 1987 c 328 s 9 are each amended to
30 read as follows:

31 Implementation of statewide certification shall be effective
32 January 1, 1988, following consultation by the ((office)) director with
33 appropriate state and local officials who currently administer similar
34 certification programs. ~~((Any business having been certified under any
35 of the programs identified pursuant to RCW 39.19.130 as a minority and
36 women's business enterprise shall be deemed certified by the office as
37 of January 1, 1988.))~~

1 **Sec. 161.** RCW 39.19.150 and 1987 c 328 s 10 are each amended to
2 read as follows:

3 (1) Any city, county, town, special purpose district, public
4 corporation created by the state, municipal corporation, or quasi-
5 municipal corporation having reason to believe that a particular
6 minority and women's business enterprise should not have been certified
7 under RCW 39.19.140 may petition the ((office)) director for
8 reconsideration. The basis for the petition may be one or more of the
9 following:

10 (a) The ((office's)) rules or regulations pertaining to this
11 chapter were improperly applied; or

12 (b) Material facts relating to the minority and women's business
13 enterprise's certification application to the ((office)) director are
14 untrue.

15 (2) The petitioner shall carry the burden of persuasion. The
16 affected minority or women's business enterprise shall receive notice
17 of the petition and an opportunity to respond.

18 (3) After reviewing the information presented in support of and in
19 opposition to the petition, the ((office)) director shall issue a
20 written decision, granting or denying the petition. If the ((office))
21 director grants the petition, it may revoke, suspend, or refuse to
22 renew the certification or impose sanctions under this chapter as
23 appropriate.

24 (4) The ((office's)) director's decision on a petition is
25 administratively final and the rights of appeal set out in the
26 ((office)) director's regulations shall apply. A certification shall
27 remain in effect while a petition is pending.

28 **Sec. 162.** RCW 39.19.160 and 1987 c 328 s 11 are each amended to
29 read as follows:

30 Any city, town, county, special purpose district, public
31 corporation created by the state, municipal corporation, or quasi-
32 municipal corporation within the state of Washington utilizing the
33 certification by the ((office)) director retains the responsibility for
34 monitoring compliance with the programs under its jurisdiction. The
35 ((office)) director shall not be responsible for enforcement of local
36 ordinances, rules, or regulations, however titled.

1 **Sec. 163.** RCW 39.19.200 and 1993 c 195 s 1 are each amended to
2 read as follows:

3 The minority and women's business enterprises account is created in
4 the custody of the state treasurer. All receipts from RCW 39.19.210,
5 39.19.220, and 39.19.230 shall be deposited in the account.
6 Expenditures from the account may be used only for the purposes
7 defraying all or part of the costs of the ((office)) department in
8 administering this chapter. Only the director ((~~or the director's~~
9 ~~designee~~)) of the department of general administration may authorize
10 expenditures from the account. Moneys in the account may be spent only
11 after appropriation.

12 **Sec. 164.** RCW 39.19.240 and 2002 c 305 s 2 are each amended to
13 read as follows:

14 (1) The ((office)) department shall, in consultation with the state
15 treasurer ((~~and the department of community, trade, and economic~~
16 ~~development~~)), compile information on minority and women's business
17 enterprises that have received financial assistance through a qualified
18 public depository under the provisions of RCW 43.86A.060. The
19 information shall include, but is not limited to:

20 (a) Name of the qualified public depository;

21 (b) Geographic location of the minority or women's business
22 enterprise;

23 (c) Name of the minority or women's business enterprise;

24 (d) Date of last certification by the ((office)) department and
25 certification number;

26 (e) Type of business;

27 (f) Amount and term of the loan to the minority or women's business
28 enterprise; and

29 (g) Other information the ((office)) department deems necessary for
30 the implementation of this section.

31 (2) The ((office)) department shall notify the state treasurer of
32 minority or women's business enterprises that are no longer certified
33 under the provisions of this chapter. The written notification shall
34 contain information regarding the reason for the decertification and
35 information on financing provided to the minority or women's business
36 enterprise under RCW 43.86A.060.

1 **Sec. 165.** RCW 42.17.2401 and 2001 c 36 s 1 and 2001 c 9 s 1 are
2 each reenacted and amended to read as follows:

3 For the purposes of RCW 42.17.240, the term "executive state
4 officer" includes:

5 (1) The chief administrative law judge, the director of
6 agriculture, the administrator of the Washington basic health plan, the
7 director of the department of services for the blind, the director of
8 the state system of community and technical colleges, the director of
9 community, trade, and economic development, the secretary of
10 corrections, the director of ecology, the commissioner of employment
11 security, the chairman of the energy facility site evaluation council,
12 the secretary of the state finance committee, the director of financial
13 management, the director of fish and wildlife, the executive secretary
14 of the forest practices appeals board, the director of the gambling
15 commission, the director of general administration, the secretary of
16 health, the administrator of the Washington state health care
17 authority, the executive secretary of the health care facilities
18 authority, the executive secretary of the higher education facilities
19 authority, the executive secretary of the horse racing commission, the
20 executive secretary of the human rights commission, the executive
21 secretary of the indeterminate sentence review board, the director of
22 the department of information services, the director of the interagency
23 committee for outdoor recreation, the executive director of the state
24 investment board, the director of labor and industries, the director of
25 licensing, the director of the lottery commission, (~~the director of~~
26 ~~the office of minority and women's business enterprises,~~) the director
27 of parks and recreation, the director of personnel, the executive
28 director of the public disclosure commission, the director of
29 retirement systems, the director of revenue, the secretary of social
30 and health services, the chief of the Washington state patrol, the
31 executive secretary of the board of tax appeals, the secretary of
32 transportation, the secretary of the utilities and transportation
33 commission, the director of veterans affairs, the president of each of
34 the regional and state universities and the president of The Evergreen
35 State College, each district and each campus president of each state
36 community college;

37 (2) Each professional staff member of the office of the governor;

38 (3) Each professional staff member of the legislature; and

1 (4) Central Washington University board of trustees, board of
2 trustees of each community college, each member of the state board for
3 community and technical colleges, state convention and trade center
4 board of directors, committee for deferred compensation, Eastern
5 Washington University board of trustees, Washington economic
6 development finance authority, The Evergreen State College board of
7 trustees, executive ethics board, forest practices appeals board,
8 forest practices board, gambling commission, Washington health care
9 facilities authority, each member of the Washington health services
10 commission, higher education coordinating board, higher education
11 facilities authority, horse racing commission, state housing finance
12 commission, human rights commission, indeterminate sentence review
13 board, board of industrial insurance appeals, information services
14 board, interagency committee for outdoor recreation, state investment
15 board, commission on judicial conduct, legislative ethics board, liquor
16 control board, lottery commission, marine oversight board, Pacific
17 Northwest electric power and conservation planning council, parks and
18 recreation commission, personnel appeals board, board of pilotage
19 commissioners, pollution control hearings board, public disclosure
20 commission, public pension commission, shorelines hearing board, public
21 employees' benefits board, salmon recovery funding board, board of tax
22 appeals, transportation commission, University of Washington board of
23 regents, utilities and transportation commission, Washington state
24 maritime commission, Washington personnel resources board, Washington
25 public power supply system executive board, Washington State University
26 board of regents, Western Washington University board of trustees, and
27 fish and wildlife commission.

28 **Sec. 166.** RCW 43.63A.690 and 2002 c 305 s 3 are each amended to
29 read as follows:

30 (1) The department shall provide technical assistance and loan
31 packaging services that enable minority and women-owned business
32 enterprises to obtain financing under the linked deposit program
33 created under RCW 43.86A.060.

34 (2) The department shall, in consultation with the state treasurer
35 (~~(and office of minority and women's business enterprises)~~), monitor
36 the performance of loans made to minority and women-owned business
37 enterprises under RCW 43.86A.060.

1 (3) The department(~~(, in consultation with the office of minority~~
2 ~~and women's business enterprises,)~~) shall develop indicators to measure
3 the performance of the linked deposit program in the areas of job
4 creation or retention and providing access to capital to minority or
5 women's business enterprises.

6 **Sec. 167.** RCW 43.172.010 and 1993 c 512 s 2 are each amended to
7 read as follows:

8 Unless the context clearly requires otherwise, the definitions in
9 this section apply throughout this chapter.

10 (1) "Minority" means persons of color, including African-Americans,
11 Hispanic/Latino Americans, Native Americans, and Asian/Pacific
12 Islanders Americans;

13 (2) "Minority and women-owned business" means any resident minority
14 business enterprise or women's business enterprise, certified as such
15 by the (~~office of minority and women's business enterprises~~)
16 department of community, trade, and economic development under chapter
17 39.19 RCW and consistent with subsection (1) of this section.

18 **Sec. 168.** RCW 43.172.030 and 1993 c 512 s 18 are each amended to
19 read as follows:

20 The department shall seek information, advice, and assistance from
21 regional minority contractor organizations, and the United States small
22 business administration and any other appropriate organization or
23 agency.

24 The following departments, offices, and agencies shall, at the
25 request of the department, provide information, advice, and assistance
26 to the department:

- 27 (1) The department of general administration;
28 (2) The Washington state business assistance center;
29 (3) The office of the insurance commissioner; and
30 (4) The Washington state economic development finance authority(~~(+~~
31 ~~and~~
32 ~~(5) The office of minority and women's business enterprises)~~).

33 **Sec. 169.** RCW 47.28.030 and 1999 c 15 s 1 are each amended to read
34 as follows:

35 A state highway shall be constructed, altered, repaired, or

1 improved, and improvements located on property acquired for right of
2 way purposes may be repaired or renovated pending the use of such right
3 of way for highway purposes, by contract or state forces. The work or
4 portions thereof may be done by state forces when the estimated costs
5 thereof (~~(is-are)~~) are less than fifty thousand dollars and effective
6 July 1, 2005, sixty thousand dollars: PROVIDED, That when delay of
7 performance of such work would jeopardize a state highway or constitute
8 a danger to the traveling public, the work may be done by state forces
9 when the estimated cost thereof is less than eighty thousand dollars
10 and effective July 1, 2005, one hundred thousand dollars. When the
11 department of transportation determines to do the work by state forces,
12 it shall enter a statement upon its records to that effect, stating the
13 reasons therefor. To enable a larger number of small businesses, and
14 minority, and women contractors to effectively compete for department
15 of transportation contracts, the department may adopt rules providing
16 for bids and award of contracts for the performance of work, or
17 furnishing equipment, materials, supplies, or operating services
18 whenever any work is to be performed and the engineer's estimate
19 indicates the cost of the work would not exceed eighty thousand dollars
20 and effective July 1, 2005, one hundred thousand dollars. The rules
21 adopted under this section:

22 (1) Shall provide for competitive bids to the extent that
23 competitive sources are available except when delay of performance
24 would jeopardize life or property or inconvenience the traveling
25 public; and

26 (2) Need not require the furnishing of a bid deposit nor a
27 performance bond, but if a performance bond is not required then
28 progress payments to the contractor may be required to be made based on
29 submittal of paid invoices to substantiate proof that disbursements
30 have been made to laborers, materialmen, mechanics, and subcontractors
31 from the previous partial payment; and

32 (3) May establish prequalification standards and procedures as an
33 alternative to those set forth in RCW 47.28.070, but the
34 prequalification standards and procedures under RCW 47.28.070 shall
35 always be sufficient.

36 The department of transportation shall comply with such goals and
37 rules as may be adopted by the (~~office of minority and women's~~
38 ~~business enterprises~~) department of community, trade, and economic

1 development to implement chapter 39.19 RCW with respect to contracts
2 entered into under this chapter. The department may adopt such rules
3 as may be necessary to comply with the rules adopted by the (~~office of~~
4 ~~minority and women's business enterprises~~) department of community,
5 trade, and economic development under chapter 39.19 RCW.

6 **Sec. 170.** RCW 39.04.160 and 1983 c 120 s 11 are each amended to
7 read as follows:

8 All contracts entered into under this chapter by the state on or
9 after September 1, 1983, are subject to the (~~requirements~~) targets
10 established under chapter (~~39.19~~) 49.60 RCW.

11 **Sec. 171.** RCW 43.19.536 and 1983 c 120 s 13 are each amended to
12 read as follows:

13 All contracts entered into and purchases made, including leasing or
14 renting, under this chapter on or after September 1, 1983, are subject
15 to the (~~requirements~~) targets established under chapter (~~39.19~~)
16 49.60 RCW.

17 NEW SECTION. **Sec. 172.** A new section is added to chapter 43.19
18 RCW to read as follows:

19 (1) The department shall support state and local governments in
20 contracting and purchasing by maintaining a centralized vendor
21 registry.

22 (2) The department shall house and maintain, on behalf of the
23 department of community, trade, and economic development and other
24 users, a central directory of all businesses certified under chapter
25 39.19 RCW.

26 (3) The department may provide to state agencies, institutions of
27 higher education, and local governments reimbursable technical
28 assistance services and training on improving access to public
29 contracting and purchasing opportunities for certified businesses.

30 (4) For purposes of this section, "certified business" means a
31 business that has been certified by the department of community, trade,
32 and economic development as a socially and economically disadvantaged
33 business enterprise, minority enterprise, or women's enterprise under
34 chapter 39.19 RCW.

1 NEW SECTION. **Sec. 173.** A new section is added to chapter 49.60
2 RCW to read as follows:

3 (1) The department of community, trade, and economic development
4 shall:

5 (a) Establish annual overall targets for participation by certified
6 businesses for state agencies and institutions of higher education to
7 be administered on a class-of-contracts basis. The targets shall
8 reflect the availability of certified businesses within that class of
9 contracts. These targets are to be integrated into each agency's
10 strategic plan;

11 (b) Adopt policies and procedures by June 30, 2004, governing the
12 establishment of overall targets;

13 (c) Submit a report each biennium commencing December 1, 2004,
14 describing each state agency's progress in achieving the targets; and

15 (d) Review each agency's strategic plan to see that it includes the
16 specific measures the agency will undertake to achieve its targets.

17 (2) For purposes of this section, "certified business" means a
18 business that has been certified by the department under chapter 39.19
19 RCW.

20 NEW SECTION. **Sec. 174.** The following acts or parts of acts are
21 each repealed:

22 (1) RCW 43.78.010 (Appointment of public printer) and 1981 c 338 s
23 6 & 1965 c 8 s 43.78.010;

24 (2) RCW 43.78.020 (Bond) and 1965 c 8 s 43.78.020; and

25 (3) RCW 43.78.110 (Securing printing from private sources--Farming
26 out) and 1993 c 379 s 107, 1982 c 164 s 3, 1969 c 79 s 1, & 1965 c 8 s
27 43.78.110.

28 NEW SECTION. **Sec. 175.** The following acts or parts of acts are
29 each repealed:

30 (1) RCW 41.06.030 (Department of personnel established) and 2002 c
31 354 s 201, 1993 c 281 s 20, & 1961 c 1 s 3;

32 (2) RCW 41.50.020 (Department of retirement systems--Created--
33 Director) and 1975-'76 2nd ex.s. c 105 s 4; and

34 (3) RCW 41.50.050 (Powers, duties, and functions of director) and
35 1995 c 239 s 317, 1993 c 61 s 1, 1987 c 505 s 24, 1981 c 3 s 33, 1977
36 ex.s. c 251 s 1, & 1975-'76 2nd ex.s. c 105 s 7.

1 NEW SECTION. **Sec. 176.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 9.46.0221 ("Commission.") and 1987 c 4 s 7;

4 (2) RCW 9.46.040 (Gambling commission--Members--Appointment--
5 Vacancies, filling) and 1974 ex.s. c 155 s 12, 1974 ex.s. c 135 s 12,
6 & 1973 1st ex.s. c 218 s 4;

7 (3) RCW 9.46.050 (Gambling commission--Chairman--Quorum--Meetings--
8 Compensation and travel expenses--Bond--Removal) and 1984 c 287 s 9,
9 1975-'76 2nd ex.s. c 34 s 7, & 1973 1st ex.s. c 218 s 5;

10 (4) RCW 9.46.085 (Gambling commission--Members and employees--
11 Activities prohibited) and 1986 c 4 s 1;

12 (5) RCW 67.16.012 (Washington horse racing commission--Creation--
13 Terms--Vacancies--Bonds--Oaths) and 1998 c 345 s 4, 1987 c 453 s 2,
14 1973 1st ex.s. c 216 s 1, 1969 ex.s. c 233 s 1, & 1933 c 55 s 2;

15 (6) RCW 67.16.014 (Washington horse racing commission--Ex officio
16 nonvoting members) and 1991 c 270 s 2 & 1987 c 453 s 3;

17 (7) RCW 67.16.015 (Washington horse racing commission--
18 Organization--Secretary--Records--Annual reports) and 1977 c 75 s 80 &
19 1933 c 55 s 3; and

20 (8) RCW 67.16.017 (Washington horse racing commission--Compensation
21 and travel expenses) and 1984 c 287 s 100, 1975-'76 2nd ex.s. c 34 s
22 155, & 1969 ex.s. c 233 s 2.

23 NEW SECTION. **Sec. 177.** The following acts or parts of acts are
24 each repealed:

25 (1) RCW 89.08.030 (Conservation commission) and 1987 c 180 s 1,
26 1983 c 248 s 13, 1973 1st ex.s. c 184 s 4, 1967 c 217 s 1, 1961 c 240
27 s 3, & 1955 c 304 s 3;

28 (2) RCW 89.08.040 (Members--Compensation and travel expenses--
29 Records, rules, hearings, etc.) and 1984 c 287 s 112, 1975-'76 2nd
30 ex.s. c 34 s 179, 1973 1st ex.s. c 184 s 5, 1961 c 240 s 4, & 1955 c
31 304 s 4;

32 (3) RCW 89.08.050 (Employees--Delegation--Quorum) and 1973 1st
33 ex.s. c 184 s 6, 1961 c 240 s 5, & 1955 c 304 s 5; and

34 (4) RCW 89.08.060 (Assistance of other state agencies and
35 institutions) and 1973 1st ex.s. c 184 s 7 & 1955 c 304 s 6.

1 NEW SECTION. **Sec. 178.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 39.19.041 (Ad hoc advisory committees) and 1995 c 269 s
4 1302;

5 (2) RCW 39.19.050 (Standard clauses required in requests for
6 proposals, advertisements, and bids) and 1983 c 120 s 5;

7 (3) RCW 39.19.060 (Compliance with public works and procurement
8 goals--Plan to maximize opportunity for minority and women-owned
9 businesses) and 1996 c 288 s 28, 1993 c 512 s 9, & 1983 c 120 s 6;

10 (4) RCW 39.19.170 (Prequalification of minority and women-owned
11 businesses--Waiver of performance bond) and 1993 c 512 s 10;

12 (5) RCW 39.19.210 (Businesses using the office--Fees) and 1993 c
13 195 s 2;

14 (6) RCW 39.19.220 (Political subdivisions--Fees) and 1993 c 195 s
15 3;

16 (7) RCW 39.19.230 (State agencies and educational institutions--
17 Fees) and 1993 c 195 s 4; and

18 (8) RCW 41.06.082 (Office of minority and women's business
19 enterprises--Certain personnel exempted from chapter) and 1983 c 120 s
20 14.

21 NEW SECTION. **Sec. 179.** RCW 39.19.200 (Minority and women's
22 business enterprises account--Created) and 2003 c . . . s 163 (section
23 163 of this act) & 1993 c 195 s 1 are each repealed.

24 NEW SECTION. **Sec. 180.** Sections 13 through 18 of this act
25 constitute a new chapter in Title 43 RCW.

26 NEW SECTION. **Sec. 181.** Sections 40 through 44 of this act
27 constitute a new chapter in Title 43 RCW.

28 NEW SECTION. **Sec. 182.** Sections 1 through 28, 174, and 175 of
29 this act take effect July 1, 2004.

30 NEW SECTION. **Sec. 183.** Sections 30 through 154, 176, and 177 of
31 this act are necessary for the immediate preservation of the public
32 peace, health, or safety, or support of the state government and its
33 existing public institutions, and take effect July 1, 2003.

1 NEW SECTION. **Sec. 184.** Section 179 of this act takes effect June
2 30, 2004.

3 NEW SECTION. **Sec. 185.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

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