

2SHB 2481 - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that the utilization  
4 of forest biomass materials located on state lands will assist in  
5 achieving the purposes of the forest biomass energy demonstration  
6 project under RCW 43.30.835, facilitate and support the emerging forest  
7 biomass market and clean energy economy, and enable the department to  
8 encourage biomass energy development on state trust lands for the trust  
9 land's potential long-term benefits to trust beneficiaries. The  
10 legislature finds that biomass utilization on state forest lands must  
11 be accomplished in a manner that retains organic components of the  
12 forest necessary to restore or sustain forest ecological functions.

13 NEW SECTION. **Sec. 2.** (1) The department may maintain a list of  
14 all potential sources of forest biomass on state lands for the purposes  
15 of identifying and making forest biomass, as defined in RCW 79.02.010,  
16 available for sale, exploration, collection, processing, storage,  
17 stockpiling, and conversion into energy, biofuels, for use in a  
18 biorefinery, or any other similar use. Prior to entering an agreement  
19 authorized by section 3(1) or 4 of this act, the department shall  
20 complete an inventory of the available biomass in the area that will be  
21 subject to the agreement, except that no inventory will be required as  
22 a prerequisite for demonstration projects authorized pursuant to RCW  
23 43.30.835. The inventory must contain, at a minimum, an estimated  
24 amount of the forest biomass available in the area that will be subject  
25 to the agreement and a determination of the ecological and operational  
26 sustainability of the volumetric limit established by the agreement  
27 under section 3(5) of this act.

28 (2) The data developed for each inventoried area will be compiled  
29 for the list authorized by this section. In order to utilize the list

1 to limit or terminate any agreement authorized under this act, the  
2 department must determine that the overall supply of forest biomass in  
3 a region or watershed has been reduced to a point such that further  
4 exploration and collection of forest biomass may not be ecologically or  
5 operationally sustainable or might otherwise threaten long-term forest  
6 health.

7 NEW SECTION. **Sec. 3.** (1) The department is authorized to enter  
8 forest biomass supply contracts on terms and conditions acceptable to  
9 the department for terms of up to five years, except as provided in  
10 subsection (4) of this section, for the purpose of providing a supply  
11 of forest biomass during the term of the contract except as the term of  
12 the contract may be limited under subsection (2) of this section,  
13 provided that such a contract must terminate automatically upon the  
14 removal of the agreed volume of biomass and the completion of other  
15 conditions of the contract.

16 (2) The department may authorize the sale of forest biomass in a  
17 contract for the sale of valuable materials under chapter 79.15 RCW  
18 provided that the department complies with the provisions of this  
19 chapter and: (a) Requires a separate bid and selects an apparent  
20 highest bidder for the forest biomass separately from the sale of  
21 valuable materials; (b) expressly includes forest biomass as an element  
22 of the sale of the valuable materials to be sold in the sales contract;  
23 or (c) a combination of (a) and (b) of this subsection. The term of  
24 the contract for the removal of biomass, if the sale is made in  
25 conformance with this subsection, must not exceed the term of the  
26 contract for valuable materials sold under chapter 79.15 RCW.

27 (3) The department may: (a) Enter into direct sales contracts for  
28 forest biomass, without public auction, based upon procedures adopted  
29 by the board to ensure competitive market prices and accountability; or  
30 (b) enter into contracts for forest biomass at public auction or by  
31 sealed bid to the highest bidder in a manner consistent with the sale  
32 procedures established for the sale of valuable materials in chapter  
33 79.15 RCW or as may be adopted by the board.

34 (4) In the event a contracting entity makes a qualifying capital  
35 investment of fifty million dollars or more, the department may enter  
36 into an agreement for up to fifteen years. Such an agreement must  
37 include provisions that are periodically adjusted for market

1 conditions. In addition, the conditions of the contract must include  
2 provisions that allow the department, when in the best interest of  
3 trust beneficiaries, to maintain the availability of biomass resources  
4 on state lands to existing pulp and paper operations or other existing  
5 biomass processing operations that are using such resources, in  
6 quantities typical for the period of five years preceding the effective  
7 date of this section. For the purposes of this section, "qualifying  
8 capital investment" means a planned and committed investment at the  
9 time the contract is set with the requirement that at least fifty  
10 million dollars be invested before the removal of any biomass under the  
11 contract.

12 (5) The department must specify in each contract an annual  
13 volumetric limit of the total cubic volume or tons of forest biomass to  
14 be supplied from a specific unit, geographically delineated area, or  
15 region within a watershed or watersheds on an ecologically and  
16 operationally sustainable basis. The department shall adopt general  
17 procedures for making the biomass supply availability determinations  
18 under this subsection. The procedures must be written to ensure that  
19 biomass utilization on forest lands managed by the department is  
20 accomplished in a manner that retains organic components of the forest  
21 necessary to restore or sustain forest ecological functions. The  
22 department shall develop utilization standards and operational methods  
23 in recognition of the variability of on-site conditions. The  
24 department may unilaterally amend the volume to be supplied by  
25 providing the contracting party with a minimum of six months notice  
26 prior to reducing the contract volume to be supplied if the department  
27 determines, under section 2 of this act, that the available supply has  
28 been reduced to a point such that further removal of forest biomass may  
29 not be ecologically or operationally sustainable or may adversely  
30 affect long-term forest health.

31 (6) At the expiration of the contract term, the department may  
32 renew the contract for up to three additional five year periods on  
33 terms and conditions acceptable to the department, if the department  
34 finds: (a) An ecologically and operationally sustainable supply of  
35 forest biomass is available for the term of the contract; (b) the  
36 payment under the contract represents the fair market value at the time  
37 of the renewal; and (c) the purchaser agrees to the estimated amount of  
38 biomass material available.

1 (7) Where the department sells forest biomass in a contract for  
2 sale of valuable materials under subsection (2) of this section, any  
3 valuable material conveyed as timber in such a contract must count  
4 toward the achievement of annual or decadal targets developed in the  
5 sustainable timber harvest calculation required by RCW 79.10.320, or  
6 similar targets for timber harvest volume, even where the purchaser  
7 uses that material as a biomass energy feedstock. All other biomass  
8 volume conveyed as authorized in this chapter must not be counted  
9 toward such sustainable timber harvest targets.

10 (8) All contractors and their operations authorized under this  
11 section shall comply with all applicable state and federal laws and  
12 regulations.

13 NEW SECTION. **Sec. 4.** The department is authorized to lease state  
14 lands for the purpose of the sale, exploration, collection, processing,  
15 storage, stockpiling, and conversion of biomass into energy or  
16 biofuels, the development of a biorefinery, or for any other resource  
17 use derived from biomass if the department is able to obtain a fair  
18 market rental return to the state or the appropriate constitutional or  
19 statutory trust and if the lease is in the best interest of the state  
20 and the affected trust, as follows:

21 (1) Leases authorized under this chapter may be entered into by  
22 public auction, in accordance with the provisions of RCW 79.13.140, or  
23 by negotiation.

24 (2) All leases must contain such terms and conditions as may be  
25 prescribed by the department in accordance with the provision of this  
26 act and to ensure that removal of forest biomass is ecologically and  
27 operationally sustainable. Leases authorized under this act may be for  
28 a term of no more than fifty years.

29 (3) For leases that involve the development of biomass processing,  
30 biofuel manufacturing, or biomass energy production facilities, the  
31 department may include provisions for reduced rent until an approved  
32 plan of development is completed and the facility is operational,  
33 provided that provisions are included to require: (a) Adequate  
34 assurances to protect the department's interest in a future rental  
35 income stream; (b) the demonstration of reasonable progress consistent  
36 with an approved plan of development; and (c) a lump sum payment to the

1 department in the amount of the difference between the fair market rent  
2 and the reduced rent, if the approved plan of development is not  
3 completed in the time required in the plan.

4 (4) The department may require the payment of production rent or  
5 other compensation for the use of the land and biomass materials on the  
6 land. If the department is not entering a supply contract under  
7 section 3 of this act for any forest biomass to be supplied for the  
8 lease purposes from the leased land, then the department must require  
9 a royalty payment for the contribution to value of any product created  
10 by the lessee that is associated with forest biomass removed from the  
11 leased land in an amount fixed by the board.

12 (5) All lessees and their operations authorized under this section  
13 shall comply with all applicable state and federal laws and  
14 regulations.

15 NEW SECTION. **Sec. 5.** (1) For the purpose of improving forest  
16 health on state trust lands, and to better clarify the relationship of  
17 forest biomass with the by-products of forest health and fuel reduction  
18 treatments that have been traditionally utilized for other products,  
19 the department of natural resources shall evaluate how the supply  
20 agreements in sections 3 and 4 of this act could be utilized to sustain  
21 or create rural jobs and timber manufacturing infrastructure, and to  
22 sell state timber to traditional types of timber purchasers. The  
23 department shall report its findings to the appropriate committees of  
24 the legislature by December 15, 2010, and the evaluation must at a  
25 minimum identify how such supply agreements could:

26 (a) Ensure the department of natural resources meets its fiduciary  
27 responsibility to the state's trust beneficiaries;

28 (b) Restore or sustain a competitive market for state timber sales;

29 (c) Generate returns for the trust that are commensurate with  
30 fluctuating market prices; and

31 (d) Ensure environmental compliance with all pertinent state and  
32 federal laws, and provide for ecologically and operationally  
33 sustainable biomass removal.

34 (2) For the purposes of proving the concepts evaluated in this  
35 section, the department may, in addition to the authorities granted in  
36 section 3 of this act, establish a five-year forest health and fuel  
37 reduction supply agreement demonstration project. Solicitation of

1 private industry partners for such a project must be competitive, must  
2 focus on areas where traditional forest products manufacturing  
3 infrastructure and rural jobs have been lost, and should consider  
4 prioritizing partners utilizing materials for both traditional forest  
5 products and biomass energy conversion.

6 **Sec. 6.** RCW 79.02.010 and 2004 c 199 s 201 are each amended to  
7 read as follows:

8 The definitions in this section apply throughout this title unless  
9 the context clearly requires otherwise.

10 (1) "Aquatic lands" means all state-owned tidelands, shorelands,  
11 harbor areas, and the beds of navigable waters as defined in (~~chapter~~  
12 ~~79.90~~) RCW 79.105.060 that are administered by the department.

13 (2) "Board" means the board of natural resources.

14 (3) "Commissioner" means the commissioner of public lands.

15 (4) "Community and technical college forest reserve lands" means  
16 lands managed under RCW 79.02.420.

17 (5) "Department" means the department of natural resources.

18 (6) "Improvements" means anything considered a fixture in law  
19 placed upon or attached to lands administered by the department that  
20 has changed the value of the lands or any changes in the previous  
21 condition of the fixtures that changes the value of the lands.

22 (7) "Land bank lands" means lands acquired under RCW 79.19.020.

23 (8) "Person" means an individual, partnership, corporation,  
24 association, organization, cooperative, public or municipal  
25 corporation, or agency of a federal, state, or local governmental unit,  
26 however designated.

27 (9) "Public lands" means lands of the state of Washington  
28 administered by the department including but not limited to state  
29 lands, state forest lands, and aquatic lands.

30 (10) "State forest lands" means lands acquired under RCW 79.22.010,  
31 79.22.040, and 79.22.020.

32 (11) "State lands" includes:

33 (a) School lands, that is, lands held in trust for the support of  
34 the common schools;

35 (b) University lands, that is, lands held in trust for university  
36 purposes;

1 (c) Agricultural college lands, that is, lands held in trust for  
2 the use and support of agricultural colleges;

3 (d) Scientific school lands, that is, lands held in trust for the  
4 establishment and maintenance of a scientific school;

5 (e) Normal school lands, that is, lands held in trust for state  
6 normal schools;

7 (f) Capitol building lands, that is, lands held in trust for the  
8 purpose of erecting public buildings at the state capital for  
9 legislative, executive, and judicial purposes;

10 (g) Institutional lands, that is, lands held in trust for state  
11 charitable, educational, penal, and reformatory institutions; and

12 (h) Land bank, escheat, donations, and all other lands, except  
13 aquatic lands, administered by the department that are not devoted to  
14 or reserved for a particular use by law.

15 (12) "Valuable materials" means any product or material on the  
16 lands, such as forest products, forage or agricultural crops, stone,  
17 gravel, sand, peat, and all other materials of value except: (a)  
18 Mineral, coal, petroleum, and gas as provided for under chapter 79.14  
19 RCW; and (b) forest biomass as provided for under chapter 79.-- RCW  
20 (the new chapter created in section 14 of this act).

21 (13)(a) "Forest biomass" means the by-products of: Current forest  
22 management activities; current forest protection treatments prescribed  
23 or permitted under chapter 76.04 RCW; or the by-products of forest  
24 health treatment prescribed or permitted under chapter 76.06 RCW.

25 (b) "Forest biomass" does not include wood pieces that have been  
26 treated \_\_ with \_\_ chemical \_\_ preservatives \_\_ such \_\_ as: Creosote,  
27 pentachlorophenol, or copper-chrome-arsenic; wood required to be left  
28 on-site under chapter 76.09 RCW, the state forest practices act; and  
29 implementing rules, and other legal and contractual requirements; or  
30 municipal solid waste.

31 **Sec. 7.** RCW 43.30.020 and 2009 c 163 s 6 are each amended to read  
32 as follows:

33 The definitions in this section apply throughout this chapter  
34 unless the context clearly requires otherwise.

35 (1) "Administrator" means the administrator of the department of  
36 natural resources.

1 (2) "Agency" and "state agency" means any branch, department, or  
2 unit of the state government, however designated or constituted.

3 (3) "Board" means the board of natural resources.

4 (4) "Commissioner" means the commissioner of public lands.

5 (5) "Department" means the department of natural resources.

6 (6) (~~("Forest biomass" means the by products of: Current forest  
7 practices prescribed or permitted under chapter 76.09 RCW; current  
8 forest protection treatments prescribed or permitted under chapter  
9 76.04 RCW; or the by products of forest health treatments prescribed or  
10 permitted under chapter 76.06 RCW. "Forest biomass" does not include  
11 wood pieces that have been treated with chemical preservatives such as:  
12 Creosote, pentachlorophenol, or copper-chrome-arsenic; wood from old  
13 growth forests, except wood removed for forest health treatments under  
14 chapter 76.06 RCW and RCW 79.15.540; wood required by chapter 76.09 RCW  
15 for large woody debris recruitment; or municipal solid waste.~~

16 (+7)) "Supervisor" means the supervisor of natural resources.

17 **Sec. 8.** RCW 76.06.180 and 2007 c 480 s 7 are each amended to read  
18 as follows:

19 (1) Prior to issuing a forest health hazard warning or forest  
20 health hazard order, the commissioner shall consider the findings and  
21 recommendations of the forest health technical advisory committee and  
22 shall consult with county government officials, forest landowners and  
23 forest land managers, consulting foresters, and other interested  
24 parties to gather information on the threat, opportunities or  
25 constraints on treatment options, and other information they may  
26 provide. The commissioner, or a designee, shall conduct a public  
27 hearing in a county within the geographical area being considered.

28 (2) The commissioner of public lands may issue a forest health  
29 hazard warning when he or she deems such action is necessary to manage  
30 the development of a threat to forest health or address an existing  
31 threat to forest health. A decision to issue a forest health hazard  
32 warning may be based on existing forest stand conditions and:

33 (a) The presence of an uncharacteristic insect or disease outbreak  
34 that has or is likely to (i) spread to multiple forest ownerships and  
35 cause extensive damage to forests; or (ii) significantly increase  
36 forest fuel that is likely to further the spread of uncharacteristic  
37 fire;



1 (b) When, due to extensive physical damage from wind or ice storm  
2 or other cause, there are (i) insect populations building up to large  
3 scale levels; or (ii) significantly increased forest fuels that are  
4 likely to further the spread of uncharacteristic fire; or

5 (c) When otherwise determined by the commissioner to be  
6 appropriate.

7 (3) The commissioner of public lands may issue a forest health  
8 hazard order when he or she deems such action is necessary to address  
9 a significant threat to forest health. A decision to issue a forest  
10 health hazard order may be based on existing forest stand conditions  
11 and:

12 (a) The presence of an uncharacteristic insect or disease outbreak  
13 that has (i) spread to multiple forest ownerships and has caused and is  
14 likely to continue to cause extensive damage to forests; or (ii)  
15 significantly increased forest fuels that are likely to further the  
16 spread of uncharacteristic fire;

17 (b) When, due to extensive physical damage from wind or ice storm  
18 or other cause (i) insect populations are causing extensive damage to  
19 forests; or (ii) significantly increased forest fuels are likely to  
20 further the spread of uncharacteristic fire;

21 (c) Insufficient landowner action under a forest health hazard  
22 warning; or

23 (d) When otherwise determined by the commissioner to be  
24 appropriate.

25 (4) A forest health hazard warning or forest health hazard order  
26 shall be issued by use of a commissioner's order. General notice of  
27 the commissioner's order shall be published in a newspaper of general  
28 circulation in each county within the area covered by the order and on  
29 the department's web site. The order shall specify the boundaries of  
30 the area affected, including federal and tribal lands, the forest stand  
31 conditions that would make a parcel subject to the provisions of the  
32 order, and the actions landowners or land managers should take to  
33 reduce the hazard. If the forest health hazard warning or order  
34 relates to land managed by the department, the warning or order may  
35 also contain provisions for the department's utilization of any forest  
36 biomass pursuant to chapter 79.-- RCW (the new chapter created in  
37 section 14 of this act).

1 (5) Written notice of a forest health hazard warning or forest  
2 health hazard order shall be provided to forest landowners of  
3 specifically affected property.

4 (a) The notice shall set forth:

5 (i) The reasons for the action;

6 (ii) The boundaries of the area affected, including federal and  
7 tribal lands;

8 (iii) Suggested actions that should be taken by the forest  
9 landowner under a forest health hazard warning or the actions that must  
10 be taken by a forest landowner under a forest health hazard order;

11 (iv) The time within which such actions should or must be taken;

12 (v) How to obtain information or technical assistance on forest  
13 health conditions and treatment options;

14 (vi) The right to request mitigation under subsection (6) of this  
15 section and appeal under subsection (7) of this section;

16 (vii) These requirements are advisory only for federal and tribal  
17 lands.

18 (b) The notice shall be served by personal service or by mail to  
19 the latest recorded real property owner, as shown by the records of the  
20 county recording officer as defined in RCW 65.08.060. Service by mail  
21 is effective on the date of mailing. Proof of service shall be by  
22 affidavit or declaration under penalty of perjury.

23 (6) Forest landowners who have been issued a forest health hazard  
24 order under subsection (5) of this section may apply to the department  
25 for the remission or mitigation of such order. The application shall  
26 be made to the department within fifteen days after notice of the order  
27 has been served. Upon receipt of the application, the department may  
28 remit or mitigate the order upon whatever terms the department in its  
29 discretion deems proper, provided the department deems the remission or  
30 mitigation to be in the best interests of carrying out the purposes of  
31 this chapter. The department may ascertain the facts regarding all  
32 such applications in such reasonable manner and under such rule as it  
33 deems proper.

34 (7) Forest landowners who have been issued a forest health hazard  
35 order under subsection (5) of this section may appeal the order to the  
36 forest practices appeals board.

37 (a) The appeal shall be filed within thirty days after notice of  
38 the order has been served, unless application for mitigation has been

1 made to the department. When such an application for mitigation is  
2 made, such appeal shall be filed within thirty days after notice of the  
3 disposition of the application for mitigation has been served.

4 (b) The appeal must set forth:

5 (i) The name and mailing address of the appellant;

6 (ii) The name and mailing address of the appellant's attorney, if  
7 any;

8 (iii) A duplicate copy of the forest health hazard order;

9 (iv) A separate and concise statement of each error alleged to have  
10 been committed;

11 (v) A concise statement of facts upon which the appellant relies to  
12 sustain the statement of error; and

13 (vi) A statement of the relief requested.

14 (8) A forest health hazard order issued under subsection (5) of  
15 this section is effective thirty days after date of service unless  
16 application for remission or mitigation is made or an appeal is filed.  
17 When an application for remission or mitigation is made, the order is  
18 effective thirty days after notice setting forth the disposition of the  
19 application is served unless an appeal is filed from such disposition.  
20 Whenever an appeal of the order is filed, the order shall become  
21 effective only upon completion of all administrative and judicial  
22 review proceedings and the issuance of a final decision confirming the  
23 order in whole or in part.

24 (9) Upon written request, the department may certify as adequate a  
25 forest health management plan developed by a forest landowner, before  
26 or in response to a forest health hazard warning or forest health  
27 hazard order, if the plan is likely to achieve the desired result and  
28 the terms of the plan are being diligently followed by the forest  
29 landowner. The certification of adequacy shall be determined by the  
30 department in its sole discretion, and be provided to the requestor in  
31 writing.

32 **Sec. 9.** RCW 79.15.100 and 2004 c 177 s 5 are each amended to read  
33 as follows:

34 (1) Valuable materials may be sold separately from the land as a  
35 "lump sum sale" or as a "scale sale."

36 (a) "Lump sum sale" means any sale offered with a single total  
37 price applying to all the material conveyed.

1 (b) "Scale sale" means any sale offered with per unit prices to be  
2 applied to the material conveyed.

3 (2) Payment for lump sum sales must be made as follows:

4 (a) Lump sum sales under five thousand dollars appraised value  
5 require full payment on the day of sale.

6 (b) Lump sum sales appraised at over five thousand dollars but  
7 under one hundred thousand dollars may require full payment on the day  
8 of sale.

9 (c) Lump sum sales requiring full payment on the day of sale may be  
10 paid in cash or by certified check, cashier's check, bank draft, or  
11 money order, all payable to the department.

12 (3) Except for sales paid in full on the day of sale or sales with  
13 adequate bid bonds, an initial deposit not to exceed twenty-five  
14 percent of the actual or projected purchase price shall be made on the  
15 day of sale.

16 (a) Sales with bid bonds are subject to the day of sale payment and  
17 replacement requirements prescribed by RCW 79.15.110.

18 (b) The initial deposit must be maintained until all contract  
19 obligations of the purchaser are satisfied. However, all or a portion  
20 of the initial deposit may be applied as the final payment for the  
21 valuable materials in the event the department determines that adequate  
22 security exists for the performance or fulfillment of any remaining  
23 obligations of the purchaser under the sale contract.

24 (4) Advance payments or other adequate security acceptable to the  
25 department is required for valuable materials sold on a scale sale  
26 basis or a lump sum sale not requiring full payment on the day of sale.

27 (a) The purchaser must notify the department before any operation  
28 takes place on the sale site.

29 (b) Upon notification as provided in (a) of this subsection, the  
30 department must require advanced payment or may allow purchasers to  
31 submit adequate security.

32 (c) The amount of advanced payments or security must be determined  
33 by the department and must at all times equal or exceed the value of  
34 timber cut and other valuable materials processed or removed until paid  
35 for.

36 (d) Security may be bank letters of credit, payment bonds,  
37 assignments of savings accounts, assignments of certificates of

1 deposit, or other methods acceptable to the department as adequate  
2 security.

3 (5) All valuable material must be removed from the sale area within  
4 the period specified in the contract.

5 (a) The specified period may not exceed five years from date of  
6 purchase except for stone, sand, gravel, fill material, or building  
7 stone.

8 (b) The specified period for stone, sand, gravel, fill material, or  
9 building stone may not exceed thirty years.

10 (c) In all cases, any valuable material not removed from the land  
11 within the period specified in the contract reverts to the state. The  
12 department may utilize any remaining forest biomass in accordance with  
13 chapter 79.-- RCW (the new chapter created in section 14 of this act).

14 (6) The department may extend a contract beyond the normal  
15 termination date specified in the sale contract as the time for removal  
16 of valuable materials when, in the department's judgment, the purchaser  
17 is acting in good faith and endeavoring to remove the materials. The  
18 extension is contingent upon payment of the fees specified below.

19 (a) The extended time for removal shall not exceed:

20 (i) Forty years from date of purchase for stone, sand, gravel, fill  
21 material, or building stone;

22 (ii) A total of ten years beyond the original termination date for  
23 all other valuable materials.

24 (b) An extension fee fixed by the department will be charged based  
25 on the estimated loss of income per acre to the state resulting from  
26 the granting of the extension plus interest on the unpaid portion of  
27 the contract. The board must periodically fix and adopt by rule the  
28 interest rate, which shall not be less than six percent per annum.

29 (c) The sale contract shall specify:

30 (i) The applicable rate of interest as fixed at the day of sale and  
31 the maximum extension payment; and

32 (ii) The method for calculating the unpaid portion of the contract  
33 upon which interest is paid.

34 (d) The minimum extension fee is fifty dollars per extension plus  
35 interest on the unpaid portion of the contract.

36 (e) Moneys received for any extension must be credited to the same  
37 fund in the state treasury as was credited the original purchase price  
38 of the valuable material sold.

1 (7) The department may, in addition to any other securities,  
2 require a performance security to guarantee compliance with all  
3 contract requirements. The security is limited to those types listed  
4 in subsection (4) of this section. The value of the performance  
5 security will, at all times, equal or exceed the value of work  
6 performed or to be performed by the purchaser.

7 (8) The department does not need to comply with the provisions of  
8 this chapter for forest biomass except as described in the provisions  
9 of chapter 79.-- RCW (the new chapter created in section 14 of this  
10 act). Forest biomass may not be included in any sales contract  
11 authorized under this chapter unless the department has complied with  
12 the provisions of chapter 79.-- RCW (the new chapter created in section  
13 14 of this act).

14 (9) The provisions of this section apply unless otherwise provided  
15 by statute.

16 **Sec. 10.** RCW 79.15.220 and 2001 c 250 s 14 are each amended to  
17 read as follows:

18 When the department finds valuable materials on state land that are  
19 damaged by fire, wind, flood, or from any other cause, it shall  
20 determine if the salvage of the damaged valuable materials is in the  
21 best interest of the trust for which the land is held, which may  
22 include the salvage of forest biomass under chapter 79.-- RCW (the new  
23 chapter created in section 14 of this act). If salvaging the valuable  
24 materials is in the best interest of the trust, the department shall  
25 proceed to offer the valuable materials for sale. The valuable  
26 materials, when offered for sale, must be sold in the most expeditious  
27 and efficient manner as determined by the department. In determining  
28 if the sale is in the best interest of the trust the department shall  
29 consider the net value of the valuable materials and relevant elements  
30 of the physical and social environment.

31 **Sec. 11.** RCW 79.15.510 and 2009 c 418 s 2 are each amended to read  
32 as follows:

33 (1) The department may establish a contract harvesting program for  
34 directly contracting for the removal of timber and other valuable  
35 materials from state lands and for conducting silvicultural treatments  
36 consistent with RCW 79.15.540.

1 (2) The contract requirements must be compatible with the office of  
2 financial management's guide to public service contracts.

3 (3) The department may not use contract harvesting for more than  
4 twenty percent of the total annual volume of timber offered for sale.  
5 However, volume removed primarily to address an identified forest  
6 health issue under RCW 79.15.540 may not be included in calculating the  
7 (~~ten~~~~[twenty]~~~~percent~~) annual limit of contract harvesting sales.  
8 Forest biomass resulting from harvesting to address an identified  
9 forest health issue under RCW 79.15.540 may be utilized in accordance  
10 with chapter 79.-- RCW (the new chapter created in section 14 of this  
11 act).

12 **Sec. 12.** RCW 79.15.510 and 2004 c 218 s 6 are each amended to read  
13 as follows:

14 (1) The department may establish a contract harvesting program for  
15 directly contracting for the removal of timber and other valuable  
16 materials from state lands and for conducting silvicultural treatments  
17 consistent with RCW 79.15.540.

18 (2) The contract requirements must be compatible with the office of  
19 financial management's guide to public service contracts.

20 (3) The department may not use contract harvesting for more than  
21 ten percent of the total annual volume of timber offered for sale.  
22 However, volume removed primarily to address an identified forest  
23 health issue under RCW 79.15.540 may not be included in calculating the  
24 (~~ten~~~~percent~~) annual limit of contract harvesting sales. Forest  
25 biomass resulting from harvesting to address an identified forest  
26 health issue under RCW 79.15.540 may be utilized in accordance with  
27 chapter 79.-- RCW (the new chapter created in section 14 of this act).

28 NEW SECTION. **Sec. 13.** The department of natural resources must  
29 conduct a survey of scientific literature regarding the carbon  
30 neutrality of forest biomass. The department must submit the survey  
31 results with any findings and recommendations to the appropriate  
32 committees of the legislature by December 15, 2010.

33 This section expires January 1, 2011.

34 NEW SECTION. **Sec. 14.** Sections 1 through 5 of this act constitute  
35 a new chapter in Title 79 RCW.

1        NEW SECTION.    **Sec. 15.**    Section 11 of this act expires January 1,  
2    2014.

3        NEW SECTION.    **Sec. 16.**    Section 12 of this act takes effect January  
4    1, 2014."

**2SHB 2481** - S COMM AMD

By Committee on Natural Resources, Ocean & Recreation

5        On page 1, line 2 of the title, after "agreements;" strike the  
6    remainder of the title and insert "amending RCW 79.02.010, 43.30.020,  
7    76.06.180, 79.15.100, 79.15.220, 79.15.510, and 79.15.510; adding a new  
8    chapter to Title 79 RCW; creating a new section; providing an effective  
9    date; and providing expiration dates."

EFFECT:    Allows the department to enter into contract terms up to  
15 years when an entity plans and commits to a capital investment of at  
least 50 million dollars prior to the contract and completes that  
investment prior to removal of biomass under the contract. Allows the  
department to include provisions in the agreement that are periodically  
adjusted for market conditions. Requires the contract to include  
provisions that allow the department, when it is in the best interest  
of the trust beneficiaries, to maintain access to existing users of  
biomass. Ensures that biomass volume conveyed under this chapter will  
not be counted toward the department's sustainable harvest target,  
except that appraised timber sold in a conventional timber sale will  
count toward the target whether individual trees are ultimately used by  
that purchaser for timber or biomass energy.

--- END ---