
SUBSTITUTE HOUSE BILL 2033

State of Washington

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2011 Regular Session

By House State Government & Tribal Affairs (originally sponsored by Representatives Darneille, Hunt, Roberts, Billig, Ryu, Jinkins, Hudgins, Ladenburg, McCoy, Appleton, Seaquist, Lias, Maxwell, Wilcox, Parker, Dammeier, and Finn)

READ FIRST TIME 04/08/11.

1 AN ACT Relating to consolidating arts and heritage programs for the
2 purpose of streamlining government and improving efficiency; amending
3 RCW 27.34.020, 43.07.129, 42.17.2401, 42.17A.705, 43.17.010, 43.17.020,
4 43.334.010, 43.334.020, 43.334.060, 43.334.070, 43.334.075, 43.334.077,
5 27.34.220, 27.34.230, 27.34.240, 27.34.270, 27.34.280, 27.34.415,
6 27.44.055, 27.53.020, 27.53.030, 27.53.060, 27.53.080, 27.53.090,
7 27.53.095, 27.53.100, 27.53.110, 27.53.120, 27.53.130, 27.53.140,
8 41.06.095, 43.360.010, 43.360.020, 43.360.030, 68.24.090, 68.50.645,
9 68.60.030, 68.60.050, 68.60.055, 68.60.060, 82.73.010, 82.73.050,
10 88.02.660, 90.48.366, 27.34.060, 27.34.330, 43.46.015, 43.46.030,
11 43.46.040, and 43.46.085; reenacting and amending RCW 27.53.070 and
12 35.100.020; adding new sections to chapter 43.334 RCW; creating new
13 sections; recodifying RCW 27.34.020, 43.07.129, 43.63A.750, 43.334.080,
14 27.34.200, 27.34.220, 27.34.230, 27.34.240, 27.34.250, 27.34.260,
15 27.34.270, 27.34.280, 27.34.400, 27.34.410, 27.34.415, 27.34.010,
16 27.34.060, 27.34.075, 27.34.080, 27.34.330, 27.34.350, 27.34.360,
17 27.34.365, 27.34.370, 27.34.375, 27.34.390, 27.34.395, 27.34.900,
18 27.34.906, 27.34.910, 27.34.915, and 27.34.916; repealing RCW
19 43.334.030, 43.334.040, 43.334.050, 43.334.900, and 27.34.380;
20 providing effective dates; providing an expiration date; and declaring
21 an emergency.

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

2 NEW SECTION. **Sec. 1.** It is the legislature's intent to promote
3 the arts, culture, and rich heritage of the state and to enhance
4 opportunities for collaboration and coordination by restructuring those
5 programs and departments that are inextricably linked by common
6 pursuits which are cultural in nature and deserve increased visibility
7 and recognition within state government. It is also the legislature's
8 intent to promote tourism and to work with public and private entities
9 to coordinate efforts to expand tourism in the state. Therefore, the
10 legislature is establishing the department of heritage, arts, and
11 culture consisting of archaeology and historic preservation, the
12 museums and historical societies, and the arts commission.

13 **PART I**

14 **DEPARTMENT OF HERITAGE, ARTS, AND CULTURE**

15 **Sec. 101.** RCW 27.34.020 and 2007 c 333 s 5 are each amended to
16 read as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter:

19 (1) "Advisory council" means the advisory council on historic
20 preservation.

21 (2) "Board of advisors" means the board of advisors to the women's
22 history consortium.

23 (3) "Cultural resource management plan" means a comprehensive plan
24 which identifies and organizes information on the state of Washington's
25 historic, archaeological, and architectural resources into a set of
26 management criteria, and which is to be used for producing reliable
27 decisions, recommendations, and advice relative to the identification,
28 evaluation, and protection of these resources.

29 (4) "Department" means the department of (~~archaeology and historic~~
30 preservation)) heritage, arts, and culture.

31 ~~((3))~~ (5) "Director" means the director of the department of
32 (~~archaeology and historic preservation~~) heritage, arts, and culture.

33 ~~((4))~~ (6) "Federal act" means the national historic preservation
34 act of 1966 (Public Law 89-655; 80 Stat. 915).

1 ~~((+5))~~ (7) "Heritage barn" means any large agricultural
2 outbuilding used to house animals, crops, or farm equipment, that is
3 over fifty years old and has been determined by the department to: (a)
4 Be eligible for listing on the Washington heritage register or the
5 national register of historic places; or (b) have been listed on a
6 local historic register and approved by the advisory council. In
7 addition to barns, "heritage barn" includes agricultural resources such
8 as milk houses, sheds, silos, or other outbuildings, that are
9 historically associated with the working life of the farm or ranch, if
10 these outbuildings are on the same property as a heritage barn.

11 ~~((+6)) "Heritage council" means the Washington state heritage~~
12 ~~council.~~

13 ~~(+7))~~ (8) "Historic preservation" includes the protection,
14 rehabilitation, restoration, identification, scientific excavation, and
15 reconstruction of districts, sites, buildings, structures, and objects
16 significant in American and Washington state history, architecture,
17 archaeology, or culture.

18 ~~((+8))~~ (9) "Office" means the office of archaeology and historic
19 preservation.

20 (10) "Preservation officer" means the state historic preservation
21 officer as provided for in RCW 43.334.020.

22 ~~((+9))~~ (11) "Project" means programs leading to the preservation
23 for public benefit of historical properties, whether by state and local
24 governments or other public bodies, or private organizations or
25 individuals, including the acquisition of title or interests in, and
26 the development of, any district, site, building, structure, or object
27 that is significant in American and Washington state history,
28 architecture, archaeology, or culture, and property used in connection
29 therewith, or for its development.

30 ~~((+10))~~ (12) "State historical agencies" means the state
31 historical societies and the department.

32 ~~((+11))~~ (13) "State historical societies" means the Washington
33 state historical society and the eastern Washington state historical
34 society.

35 ~~((+12)) "Cultural resource management plan" means a comprehensive~~
36 ~~plan which identifies and organizes information on the state of~~
37 ~~Washington's historic, archaeological, and architectural resources into~~

1 ~~a set of management criteria, and which is to be used for producing~~
2 ~~reliable decisions, recommendations, and advice relative to the~~
3 ~~identification, evaluation, and protection of these resources.))~~

4 NEW SECTION. **Sec. 102.** A new section is added to chapter 43.334
5 RCW to read as follows:

6 (1) The department of heritage, arts, and culture is created as an
7 executive branch agency. The department is vested with all powers and
8 duties transferred to it under this chapter and such other powers and
9 duties as may be authorized by law.

10 (2) The executive head and appointing authority of the department
11 is the director. The director is appointed by the governor, subject to
12 confirmation by the senate. The director serves at the pleasure of the
13 governor. The director is paid a salary fixed by the governor in
14 accordance with RCW 43.03.040. If a vacancy occurs in the position of
15 director while the senate is not in session, the governor shall make a
16 temporary appointment until the next meeting of the senate at which
17 time he or she shall present to that body his or her nomination for the
18 position.

19 NEW SECTION. **Sec. 103.** A new section is added to chapter 43.334
20 RCW to read as follows:

21 (1) The director of heritage, arts, and culture shall supervise and
22 administer the activities of the department of heritage, arts, and
23 culture and shall advise the governor and the legislature with respect
24 to matters under the jurisdiction of the department.

25 (2) In addition to other powers and duties granted to the director,
26 the director shall have the following powers and duties:

27 (a) Enter into contracts on behalf of the state to carry out the
28 purposes of this chapter;

29 (b) Accept and expend gifts and grants that are related to the
30 purposes of this chapter, whether such grants be of federal or other
31 funds;

32 (c) Appoint deputy and assistant directors and such other special
33 assistants as may be needed to administer the department. These
34 employees are exempt from the provisions of chapter 41.06 RCW;

35 (d) Adopt rules in accordance with chapter 34.05 RCW and perform

1 all other functions necessary and proper to carry out the purposes of
2 this chapter;

3 (e) Delegate powers, duties, and functions as the director deems
4 necessary for efficient administration, but the director shall be
5 responsible for the official acts of the officers and employees of the
6 department;

7 (f) Apply for grants from public and private entities, and receive
8 and administer any grant funding received for the purpose and intent of
9 this chapter;

10 (g) Assist and coordinate with public and private entities to
11 promote tourism in the state, and guide the direction of all activities
12 necessary to develop and market the state as a destination;

13 (h) Perform other duties as are necessary and consistent with law.

14 **Sec. 104.** RCW 43.07.129 and 2007 c 523 s 4 are each amended to
15 read as follows:

16 The Washington state heritage (~~center~~), arts, and culture account
17 is created in the custody of the state treasurer. All (~~moneys~~
18 ~~received under~~) receipts from RCW 36.18.010(11) and 43.07.128 must be
19 deposited in the account. Moneys in the account may be spent only
20 after appropriation. Expenditures from the account may be (~~made~~)
21 used only for (~~the following purposes:~~

22 ~~(1) Payment of the certificate of participation issued for the~~
23 ~~Washington state heritage center;~~

24 ~~(2) Capital maintenance of the Washington state heritage center;~~
25 ~~and~~

26 ~~(3) Program operations that serve the public, relate to the~~
27 ~~collections and exhibits housed in the Washington state heritage~~
28 ~~center, or fulfill the missions of the state archives, state library,~~
29 ~~and capital museum.~~

30 ~~Only the secretary of state or the secretary of state's designee~~
31 ~~may authorize expenditures from the account. An appropriation is not~~
32 ~~required for expenditures, but the account is subject to allotment~~
33 ~~procedures under chapter 43.88 RCW)) programs and activities that~~
34 ~~fulfill the missions of the department of heritage, arts, and culture.~~

35 **Sec. 105.** RCW 42.17.2401 and 2009 c 565 s 24 are each amended to
36 read as follows:

1 For the purposes of RCW 42.17.240, the term "executive state
2 officer" includes:

3 (1) The chief administrative law judge, the director of
4 agriculture, the administrator of the Washington basic health plan, the
5 director of heritage, arts, and culture, the director of the department
6 of services for the blind, the director of the state system of
7 community and technical colleges, the director of commerce, the
8 secretary of corrections, the director of early learning, the director
9 of ecology, the commissioner of employment security, the chair of the
10 energy facility site evaluation council, the secretary of the state
11 finance committee, the director of financial management, the director
12 of fish and wildlife, the executive secretary of the forest practices
13 appeals board, the director of the gambling commission, the director of
14 general administration, the secretary of health, the administrator of
15 the Washington state health care authority, the executive secretary of
16 the health care facilities authority, the executive secretary of the
17 higher education facilities authority, the executive secretary of the
18 horse racing commission, the executive secretary of the human rights
19 commission, the executive secretary of the indeterminate sentence
20 review board, the director of the department of information services,
21 the executive director of the state investment board, the director of
22 labor and industries, the director of licensing, the director of the
23 lottery commission, the director of the office of minority and women's
24 business enterprises, the director of parks and recreation, the
25 director of personnel, the executive director of the public disclosure
26 commission, the executive director of the Puget Sound partnership, the
27 director of the recreation and conservation office, the director of
28 retirement systems, the director of revenue, the secretary of social
29 and health services, the chief of the Washington state patrol, the
30 executive secretary of the board of tax appeals, the secretary of
31 transportation, the secretary of the utilities and transportation
32 commission, the director of veterans affairs, the president of each of
33 the regional and state universities and the president of The Evergreen
34 State College, and each district and each campus president of each
35 state community college;

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

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

1 (4) Central Washington University board of trustees, the boards of
2 trustees of each community college and each technical college, each
3 member of the state board for community and technical colleges, state
4 convention and trade center board of directors, committee for deferred
5 compensation, Eastern Washington University board of trustees,
6 Washington economic development finance authority, The Evergreen State
7 College board of trustees, executive ethics board, forest practices
8 appeals board, forest practices board, gambling commission, life
9 sciences discovery fund authority board of trustees, Washington health
10 care facilities authority, each member of the Washington health
11 services commission, higher education coordinating board, higher
12 education facilities authority, horse racing commission, state housing
13 finance commission, human rights commission, indeterminate sentence
14 review board, board of industrial insurance appeals, information
15 services board, recreation and conservation funding board, state
16 investment board, commission on judicial conduct, legislative ethics
17 board, liquor control board, lottery commission, marine oversight
18 board, Pacific Northwest electric power and conservation planning
19 council, parks and recreation commission, board of pilotage
20 commissioners, pollution control hearings board, public disclosure
21 commission, public pension commission, shorelines hearings board,
22 public employees' benefits board, salmon recovery funding board, board
23 of tax appeals, transportation commission, University of Washington
24 board of regents, utilities and transportation commission, Washington
25 state maritime commission, Washington personnel resources board,
26 Washington public power supply system executive board, Washington State
27 University board of regents, Western Washington University board of
28 trustees, and fish and wildlife commission.

29 **Sec. 106.** RCW 42.17A.705 and 2010 c 204 s 902 are each amended to
30 read as follows:

31 For the purposes of RCW 42.17A.700, "executive state officer"
32 includes:

33 (1) The chief administrative law judge, the director of
34 agriculture, the director of heritage, arts, and culture, the director
35 of the department of services for the blind, the director of the state
36 system of community and technical colleges, the director of commerce,
37 the secretary of corrections, the director of early learning, the

1 director of ecology, the commissioner of employment security, the chair
2 of the energy facility site evaluation council, the secretary of the
3 state finance committee, the director of financial management, the
4 director of fish and wildlife, the executive secretary of the forest
5 practices appeals board, the director of the gambling commission, the
6 director of general administration, the secretary of health, the
7 administrator of the Washington state health care authority, the
8 executive secretary of the health care facilities authority, the
9 executive secretary of the higher education facilities authority, the
10 executive secretary of the horse racing commission, the executive
11 secretary of the human rights commission, the executive secretary of
12 the indeterminate sentence review board, the director of the department
13 of information services, the executive director of the state investment
14 board, the director of labor and industries, the director of licensing,
15 the director of the lottery commission, the director of the office of
16 minority and women's business enterprises, the director of parks and
17 recreation, the director of personnel, the executive director of the
18 public disclosure commission, the executive director of the Puget Sound
19 partnership, the director of the recreation and conservation office,
20 the director of retirement systems, the director of revenue, the
21 secretary of social and health services, the chief of the Washington
22 state patrol, the executive secretary of the board of tax appeals, the
23 secretary of transportation, the secretary of the utilities and
24 transportation commission, the director of veterans affairs, the
25 president of each of the regional and state universities and the
26 president of The Evergreen State College, and each district and each
27 campus president of each state community college;

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

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

30 (4) Central Washington University board of trustees, the boards of
31 trustees of each community college and each technical college, each
32 member of the state board for community and technical colleges, state
33 convention and trade center board of directors, Eastern Washington
34 University board of trustees, Washington economic development finance
35 authority, Washington energy northwest executive board, The Evergreen
36 State College board of trustees, executive ethics board, fish and
37 wildlife commission, forest practices appeals board, forest practices
38 board, gambling commission, Washington health care facilities

1 authority, higher education coordinating board, higher education
2 facilities authority, horse racing commission, state housing finance
3 commission, human rights commission, indeterminate sentence review
4 board, board of industrial insurance appeals, information services
5 board, state investment board, commission on judicial conduct,
6 legislative ethics board, life sciences discovery fund authority board
7 of trustees, liquor control board, lottery commission, Pacific
8 Northwest electric power and conservation planning council, parks and
9 recreation commission, Washington personnel resources board, board of
10 pilotage commissioners, pollution control hearings board, public
11 disclosure commission, public employees' benefits board, recreation and
12 conservation funding board, salmon recovery funding board, shorelines
13 hearings board, board of tax appeals, transportation commission,
14 University of Washington board of regents, utilities and transportation
15 commission, Washington State University board of regents, and Western
16 Washington University board of trustees.

17 **Sec. 107.** RCW 43.17.010 and 2009 c 565 s 25 are each amended to
18 read as follows:

19 There shall be departments of the state government which shall be
20 known as (1) the department of social and health services, (2) the
21 department of ecology, (3) the department of labor and industries, (4)
22 the department of agriculture, (5) the department of fish and wildlife,
23 (6) the department of transportation, (7) the department of licensing,
24 (8) the department of general administration, (9) the department of
25 commerce, (10) the department of veterans affairs, (11) the department
26 of revenue, (12) the department of retirement systems, (13) the
27 department of corrections, (14) the department of health, (15) the
28 department of financial institutions, (16) the department of
29 (~~archaeology and historic preservation~~) heritage, arts, and culture,
30 (17) the department of early learning, and (18) the Puget Sound
31 partnership, which shall be charged with the execution, enforcement,
32 and administration of such laws, and invested with such powers and
33 required to perform such duties, as the legislature may provide.

34 **Sec. 108.** RCW 43.17.020 and 2009 c 565 s 26 are each amended to
35 read as follows:

36 There shall be a chief executive officer of each department to be

1 known as: (1) The secretary of social and health services, (2) the
2 director of ecology, (3) the director of labor and industries, (4) the
3 director of agriculture, (5) the director of fish and wildlife, (6) the
4 secretary of transportation, (7) the director of licensing, (8) the
5 director of general administration, (9) the director of commerce, (10)
6 the director of veterans affairs, (11) the director of revenue, (12)
7 the director of retirement systems, (13) the secretary of corrections,
8 (14) the secretary of health, (15) the director of financial
9 institutions, (16) the director of the department of (~~archaeology and~~
10 ~~historic preservation~~) heritage, arts, and culture, (17) the director
11 of early learning, and (18) the executive director of the Puget Sound
12 partnership.

13 Such officers, except the director of fish and wildlife, shall be
14 appointed by the governor, with the consent of the senate, and hold
15 office at the pleasure of the governor. The director of fish and
16 wildlife shall be appointed by the fish and wildlife commission as
17 prescribed by RCW 77.04.055.

18 NEW SECTION. **Sec. 109.** The following sections are recodified as
19 sections in chapter 43.334 RCW: RCW 27.34.020, 43.07.129, and
20 43.63A.750.

21 **PART II**
22 **OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION**

23 **Sec. 201.** RCW 43.334.010 and 2005 c 333 s 1 are each amended to
24 read as follows:

25 (~~(1)~~) There is created (~~a department of state government~~) an
26 office within the department of heritage, arts, and culture to be known
27 as the (~~department~~) office of archaeology and historic preservation.
28 The (~~department~~) office is vested with all powers and duties
29 transferred to it under this chapter and such other powers and duties
30 as may be authorized by law.

31 (~~(2) Unless the context clearly requires otherwise, the~~
32 ~~definitions in this section apply throughout this chapter.~~

33 (~~a) "Department" means the department of archaeology and historic~~
34 ~~preservation.~~

1 ~~(b) "Director" means the director of the department of archaeology~~
2 ~~and historic preservation.)~~)

3 **Sec. 202.** RCW 43.334.020 and 2005 c 333 s 2 are each amended to
4 read as follows:

5 ~~((The executive head and appointing authority of the department is~~
6 ~~the director.))~~ The ~~((director))~~ governor shall ~~((serve as))~~ appoint
7 the state historic preservation officer~~((, and))~~ subject to the
8 approval of the director. The director shall provide the governor with
9 a list of candidates for consideration. The preservation officer shall
10 report directly to the director. The preservation officer shall have
11 a background in program administration, an active involvement in
12 historic preservation, and a knowledge of the national, state, and
13 local preservation programs as they affect the state of Washington.
14 ~~((The director shall be appointed by the governor, with the consent of~~
15 ~~the senate, and serves at the pleasure of the governor. The director~~
16 ~~shall be paid a salary to be fixed by the governor in accordance with~~
17 ~~RCW 43.03.040. If a vacancy occurs in the position while the senate is~~
18 ~~not in session, the governor shall make a temporary appointment until~~
19 ~~the next meeting of the senate.))~~)

20 **Sec. 203.** RCW 43.334.060 and 2005 c 333 s 6 are each amended to
21 read as follows:

22 (1) The preservation officer shall supervise the operations of the
23 office of archaeology and historic preservation.

24 (2) Any power or duty vested in or transferred to the ((director))
25 preservation officer by law or executive order may be delegated by the
26 ~~((director to the deputy director or))~~ preservation officer to any
27 other assistant or subordinate; but the ~~((director))~~ preservation
28 officer is responsible for the official acts of the officers and
29 employees of the ~~((department))~~ office.

30 **Sec. 204.** RCW 43.334.070 and 2005 c 333 s 7 are each amended to
31 read as follows:

32 The director may appoint advisory committees or councils as
33 required by any federal legislation as a condition to the receipt of
34 federal funds by the department. The director may also appoint
35 statewide committees or councils on those subject matters as are or

1 come within the (~~department's~~) office's responsibilities. The
2 statewide committees and councils shall have representation from both
3 major political parties and shall have substantial consumer
4 representation. The committees or councils shall be constituted as
5 required by federal law or as the director may determine. The members
6 of the committees or councils shall hold office as follows: One-third
7 to serve one year; one-third to serve two years; and one-third to serve
8 three years. Upon expiration of the original terms, subsequent
9 appointments shall be for three years except in the case of a vacancy,
10 in which event appointment shall be only for the remainder of the
11 unexpired term for which the vacancy occurs. No member may serve more
12 than two consecutive terms.

13 Members of such state advisory committees or councils may be paid
14 their travel expenses in accordance with RCW 43.03.050 and 43.03.060.

15 **Sec. 205.** RCW 43.334.075 and 2008 c 275 s 4 are each amended to
16 read as follows:

17 (1) The (~~director~~) preservation officer shall appoint a state
18 physical anthropologist. At a minimum, the state physical
19 anthropologist must have a doctorate in either archaeology or
20 anthropology and have experience in forensic osteology or other
21 relevant aspects of physical anthropology and must have at least one
22 year of experience in laboratory reconstruction and analysis. A
23 medical degree with archaeological experience in addition to the
24 experience required may substitute for a doctorate in archaeology or
25 anthropology.

26 (2) The state physical anthropologist has the primary
27 responsibility of investigating, preserving, and, when necessary,
28 removing and reinterring discoveries of nonforensic skeletal human
29 remains. The state physical anthropologist is available to any local
30 governments or any federally recognized tribal government within the
31 boundaries of Washington to assist in determining whether discovered
32 skeletal human remains are forensic or nonforensic.

33 (3) The (~~director~~) preservation officer shall hire staff as
34 necessary to support the state physical anthropologist to meet the
35 objectives of this section.

36 (4) For the purposes of this section, "forensic remains" are those

1 that come under the jurisdiction of the coroner pursuant to RCW
2 68.50.010.

3 **Sec. 206.** RCW 43.334.077 and 2008 c 275 s 7 are each amended to
4 read as follows:

5 The skeletal human remains assistance account is created in the
6 custody of the state treasurer. All appropriations provided by the
7 legislature for this purpose as well as any reimbursement for services
8 provided pursuant to chapter 275, Laws of 2008 must be deposited in the
9 account. Expenditures from the account may be used only for
10 archaeological determinations and excavations of inadvertently
11 discovered skeletal human remains, and removal and reinterment of such
12 remains when necessary. Only the director (~~or the director's~~),
13 preservation officer, or preservation officer's designee may authorize
14 expenditures from the account. The account is subject to the allotment
15 procedures under chapter 43.88 RCW, but an appropriation is not
16 required for expenditures.

17 **Sec. 207.** RCW 27.34.220 and 1997 c 145 s 1 are each amended to
18 read as follows:

19 The (~~director or the director's~~) preservation officer or
20 preservation officer's designee is authorized:

21 (1) To promulgate and maintain the Washington heritage register of
22 districts, sites, buildings, structures, and objects significant in
23 American or Washington state history, architecture, archaeology, and
24 culture, and to prepare comprehensive statewide historic surveys and
25 plans and research and evaluation of surveyed resources for the
26 preparation of nominations to the Washington heritage register and the
27 national register of historic places, in accordance with criteria
28 approved by the advisory council established under RCW 27.34.250 (as
29 recodified by this act). Nominations to the national register of
30 historic places shall comply with any standards and regulations
31 promulgated by the United States secretary of the interior for the
32 preservation, acquisition, and development of such properties.
33 Nominations to the Washington heritage register shall comply with rules
34 adopted under this chapter.

35 (2) To establish a program of matching grants-in-aid to public
36 agencies, public or private organizations, or individuals for projects

1 having as their purpose the preservation for public benefit of
2 properties that are significant in American or Washington state
3 history, architecture, archaeology, and culture.

4 (3) To promote historic preservation efforts throughout the state,
5 including private efforts and those of city, county, and state
6 agencies.

7 (4) To enhance the effectiveness of the state preservation program
8 through the initiation of legislation, the use of varied funding
9 sources, the creation of special purpose programs, and contact with
10 state, county, and city officials, civic groups, and professionals.

11 (5) To spend funds, subject to legislative appropriation and the
12 availability of funds, where necessary to assist the Indian tribes of
13 Washington state in removing prehistoric human remains for scientific
14 examination and reburial, if the human remains have been unearthed
15 inadvertently or through vandalism and if no other public agency is
16 legally responsible for their preservation.

17 (6) To consult with the governor and the legislature on issues
18 relating to the conservation of the man-made environment and their
19 impact on the well-being of the state and its citizens.

20 (7) To charge fees for professional and clerical services provided
21 by the office.

22 (8) To adopt such rules, in accordance with chapter 34.05 RCW, as
23 are necessary to carry out RCW 27.34.200 through 27.34.280 (as
24 recodified by this act).

25 **Sec. 208.** RCW 27.34.230 and 2005 c 333 s 15 are each amended to
26 read as follows:

27 The director or the director's designee shall:
28 (1) Receive, administer, and disburse such gifts, grants, and
29 endowments from private sources as may be made in trust or otherwise
30 for the purposes of RCW 27.34.200 (~~through~~) and 27.34.220 (as
31 recodified by this act) or the federal act; and
32 (2) Develop and implement a cultural resource management plan.

33 **Sec. 209.** RCW 27.34.240 and 1986 c 266 s 13 are each amended to
34 read as follows:

35 The amounts made available for grants to the public agencies,
36 public or private organizations, or individuals for projects for each

1 fiscal year shall be apportioned among program applicants by the
2 (~~director or the director's~~) preservation officer or preservation
3 officer's designee, with the advice of the preservation officer, in
4 accordance with needs as contained in statewide archaeology and
5 historic preservation plans developed by the (~~department~~) office.

6 **Sec. 210.** RCW 27.34.270 and 1997 c 145 s 2 are each amended to
7 read as follows:

8 The advisory council shall:

9 (1) Advise the governor and the (~~department~~) office on matters
10 relating to historic preservation; recommend measures to coordinate
11 activities of state and local agencies, private institutions, and
12 individuals relating to historic preservation; and advise on the
13 dissemination of information pertaining to such activities; and

14 (2) Review and recommend nominations for the national register of
15 historic places to the preservation officer and the director.

16 **Sec. 211.** RCW 27.34.280 and 1986 c 266 s 15 are each amended to
17 read as follows:

18 The (~~department~~) office shall provide administrative and
19 financial services to the advisory council on historic preservation and
20 to the Washington state heritage council.

21 **Sec. 212.** RCW 27.34.415 and 2008 c 275 s 6 are each amended to
22 read as follows:

23 The (~~department of archaeology and historic preservation~~) office
24 shall develop and maintain a centralized database and geographic
25 information systems spatial layer of all known cemeteries and known
26 sites of burials of human remains in Washington state. The information
27 in the database is subject to public disclosure, except as provided in
28 RCW 42.56.300; exempt information is available by confidentiality
29 agreement to federal, state, and local agencies for purposes of
30 environmental review, and to tribes in order to participate in
31 environmental review, protect their ancestors, and perpetuate their
32 cultures.

33 Information provided to state and local agencies under this section
34 is subject to public disclosure, except as provided in RCW 42.56.300.

1 **Sec. 213.** RCW 27.44.055 and 2008 c 275 s 2 are each amended to
2 read as follows:

3 (1) Any person who discovers skeletal human remains must notify the
4 coroner and local law enforcement in the most expeditious manner
5 possible. Any person knowing of the existence of human remains and not
6 having good reason to believe that the coroner and local law
7 enforcement has notice thereof and who fails to give notice thereof is
8 guilty of a misdemeanor.

9 (2) Any person engaged in ground disturbing activity and who
10 encounters or discovers skeletal human remains in or on the ground
11 shall:

12 (a) Immediately cease any activity which may cause further
13 disturbance;

14 (b) Make a reasonable effort to protect the area from further
15 disturbance;

16 (c) Report the presence and location of the remains to the coroner
17 and local law enforcement in the most expeditious manner possible; and

18 (d) Be held harmless from criminal and civil liability arising
19 under the provisions of this section provided the following criteria
20 are met:

21 (i) The finding of the remains was based on inadvertent discovery;

22 (ii) The requirements of the subsection are otherwise met; and

23 (iii) The person is otherwise in compliance with applicable law.

24 (3) The coroner must make a determination whether the skeletal
25 human remains are forensic or nonforensic within five business days of
26 receiving notification of a finding of such remains provided that there
27 is sufficient evidence to make such a determination within that time
28 period. The coroner will retain jurisdiction over forensic remains.

29 (a) Upon determination that the remains are nonforensic, the
30 coroner must notify the (~~department of archaeology and historic~~
31 ~~preservation~~) office within two business days. The (~~department~~)
32 office will have jurisdiction over such remains until provenance of the
33 remains is established. A determination that remains are nonforensic
34 does not create a presumption of removal or nonremoval.

35 (b) Upon receiving notice from a coroner of a finding of
36 nonforensic skeletal human remains, the (~~department~~) office must
37 notify the appropriate local cemeteries, and all affected Indian tribes
38 via certified mail to the head of the appropriate tribal government,

1 and contact the appropriate tribal cultural resources staff within two
2 business days of the finding. The determination of what are
3 appropriate local cemeteries to be notified is at the discretion of the
4 ((department)) office. A notification to tribes of a finding of
5 nonforensic skeletal human remains does not create a presumption that
6 the remains are Indian.

7 (c) The state physical anthropologist must make an initial
8 determination of whether nonforensic skeletal human remains are Indian
9 or non-Indian to the extent possible based on the remains within two
10 business days of notification of a finding of such nonforensic remains.
11 If the remains are determined to be Indian, the ((department)) office
12 must notify all affected Indian tribes via certified mail to the head
13 of the appropriate tribal government within two business days and
14 contact the appropriate tribal cultural resources staff.

15 (d) The affected tribes have five business days to respond via
16 telephone or writing to the ((department)) office as to their interest
17 in the remains.

18 (4) For the purposes of this section:

19 (a) "Affected tribes" are:

20 (i) Those federally recognized tribes with usual and accustomed
21 areas in the jurisdiction where the remains were found;

22 (ii) Those federally recognized tribes that submit to the
23 ((department)) office maps that reflect the tribe's geographical area
24 of cultural affiliation; and

25 (iii) Other tribes with historical and cultural affiliation in the
26 jurisdiction where the remains were found.

27 (b) "Forensic remains" are those that come under the jurisdiction
28 of the coroner pursuant to RCW 68.50.010.

29 (c) "Inadvertent discovery" has the same meaning as used in RCW
30 27.44.040.

31 (5) Nothing in this section constitutes, advocates, or otherwise
32 grants, confers, or implies federal or state recognition of those
33 tribes that are not federally recognized pursuant to 25 C.F.R. part 83,
34 procedures for establishing that an American Indian group exists as an
35 Indian tribe.

36 **Sec. 214.** RCW 27.53.020 and 2005 c 333 s 19 are each amended to
37 read as follows:

1 The discovery, identification, excavation, and study of the state's
2 archaeological resources, the providing of information on
3 archaeological sites for their nomination to the state and national
4 registers of historic places, the maintaining of a complete inventory
5 of archaeological sites and collections, and the providing of
6 information to state, federal, and private construction agencies
7 regarding the possible impact of construction activities on the state's
8 archaeological resources, are proper public functions; and the
9 (~~department of archaeology and historic preservation~~) office, created
10 under the authority of chapter 43.334 RCW, is hereby designated as an
11 appropriate agency to carry out these functions. The (~~director~~)
12 preservation officer shall provide guidelines for the selection of
13 depositories designated by the state for archaeological resources. The
14 legislature directs that there shall be full cooperation amongst the
15 (~~department~~) office and other agencies of the state.

16 **Sec. 215.** RCW 27.53.030 and 2008 c 275 s 5 are each amended to
17 read as follows:

18 The definitions in this section apply throughout this chapter
19 unless the context clearly requires otherwise.

20 (1) "Archaeology" means systematic, scientific study of man's past
21 through material remains.

22 (2) "Archaeological object" means an object that comprises the
23 physical evidence of an indigenous and subsequent culture including
24 material remains of past human life including monuments, symbols,
25 tools, facilities, and technological by-products.

26 (3) "Archaeological site" means a geographic locality in
27 Washington, including but not limited to, submerged and submersible
28 lands and the bed of the sea within the state's jurisdiction, that
29 contains archaeological objects.

30 (4) "Department" means the department of (~~archaeology and historic~~
31 ~~preservation~~) heritage, arts, and culture, created in chapter 43.334
32 RCW.

33 (5) (~~"Director" means the director of the department of~~
34 ~~archaeology and historic preservation, created in chapter 43.334 RCW.~~

35 (+6)) "Historic" means peoples and cultures who are known through
36 written documents in their own or other languages. As applied to
37 underwater archaeological resources, the term historic shall include

1 only those properties which are listed in or eligible for listing in
2 the Washington State Register of Historic Places (RCW 27.34.220 (as
3 recodified by this act)) or the National Register of Historic Places as
4 defined in the National Historic Preservation Act of 1966 (Title 1,
5 Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now
6 or hereafter amended.

7 (6) "Office" means the office of archaeology and historic
8 preservation.

9 (7) "Prehistoric" means peoples and cultures who are unknown
10 through contemporaneous written documents in any language.

11 (8) "Preservation officer" means the state historic preservation
12 officer as provided for in RCW 43.334.020.

13 (9) "Professional archaeologist" means a person with qualifications
14 meeting the federal secretary of the interior's standards for a
15 professional archaeologist. Archaeologists not meeting this standard
16 may be conditionally employed by working under the supervision of a
17 professional archaeologist for a period of four years provided the
18 employee is pursuing qualifications necessary to meet the federal
19 secretary of the interior's standards for a professional archaeologist.
20 During this four-year period, the professional archaeologist is
21 responsible for all findings. The four-year period is not subject to
22 renewal.

23 ~~((+9))~~ (10) "Amateur society" means any organization composed
24 primarily of persons who are not professional archaeologists, whose
25 primary interest is in the archaeological resources of the state, and
26 which has been certified in writing by two professional archaeologists.

27 ~~((+10))~~ (11) "Historic archaeological resources" means those
28 properties which are listed in or eligible for listing in the
29 Washington State Register of Historic Places (RCW 27.34.220 (as
30 recodified by this act)) or the National Register of Historic Places as
31 defined in the National Historic Preservation Act of 1966 (Title 1,
32 Sec. 101, Public Law 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now
33 or hereafter amended.

34 **Sec. 216.** RCW 27.53.060 and 2002 c 211 s 3 are each amended to
35 read as follows:

36 (1) On the private and public lands of this state it shall be
37 unlawful for any person, firm, corporation, or any agency or

1 institution of the state or a political subdivision thereof to
2 knowingly remove, alter, dig into, or excavate by use of any
3 mechanical, hydraulic, or other means, or to damage, deface, or destroy
4 any historic or prehistoric archaeological resource or site, or remove
5 any archaeological object from such site, except for Indian graves or
6 cairns, or any glyptic or painted record of any tribe or peoples, or
7 historic graves as defined in chapter 68.05 RCW, disturbances of which
8 shall be a class C felony punishable under chapter 9A.20 RCW, without
9 having obtained a written permit from the ((~~director~~)) preservation
10 officer or the preservation officer's designee for such activities.

11 (2) The ((~~director~~)) preservation officer or the preservation
12 officer's designee must obtain the consent of the private or public
13 property owner or agency responsible for the management thereof, prior
14 to issuance of the permit. The property owner or agency responsible
15 for the management of such land may condition its consent on the
16 execution of a separate agreement, lease, or other real property
17 conveyance with the applicant as may be necessary to carry out the
18 legal rights or duties of the public property landowner or agency.

19 (3) The ((~~director~~)) preservation officer, in consultation with the
20 affected tribes, shall develop guidelines for the issuance and
21 processing of permits.

22 (4) Such written permit and any agreement or lease or other
23 conveyance required by any public property owner or agency responsible
24 for management of such land shall be physically present while any such
25 activity is being conducted.

26 (5) The provisions of this section shall not apply to the removal
27 of artifacts found exposed on the surface of the ground which are not
28 historic archaeological resources or sites.

29 (6) When determining whether to grant or condition a permit, the
30 ((~~director~~)) preservation officer or the preservation officer's
31 designee may give great weight to the final record of previous civil or
32 criminal penalties against either the applicant, the parties
33 responsible for conducting the work, or the parties responsible for
34 carrying out the terms and conditions of the permit, either under this
35 chapter or under comparable federal laws. If the director denies a
36 permit, the applicant may request a hearing as provided for in chapter
37 34.05 RCW. When the holder of a permit issued by the office requests

1 a hearing under this subsection, an administrative law judge assigned
2 by the office of administrative hearings shall conduct the hearing.
3 The decision of the administrative law judge is a final agency order.

4 **Sec. 217.** RCW 27.53.070 and 2005 c 333 s 21 and 2005 c 274 s 243
5 are each reenacted and amended to read as follows:

6 It is the declared intention of the legislature that field
7 investigations on privately owned lands should be discouraged except in
8 accordance with both the provisions and spirit of this chapter and
9 persons having knowledge of the location of archaeological sites or
10 resources are encouraged to communicate such information to the
11 ~~((department))~~ office. Such information shall not constitute a public
12 record which requires disclosure pursuant to the exception authorized
13 in chapter 42.56 RCW to avoid site depredation.

14 **Sec. 218.** RCW 27.53.080 and 2005 c 333 s 22 are each amended to
15 read as follows:

16 (1) Qualified or professional archaeologists, in performance of
17 their duties, may enter upon public lands of the state of Washington
18 and its political subdivisions after first notifying the entity
19 responsible for managing those public lands, at such times and in such
20 manner as not to interfere with the normal management thereof, for the
21 purposes of doing archaeological resource location and evaluation
22 studies, including site sampling activities. The results of such
23 studies shall be provided to the state agency or political subdivision
24 responsible for such lands and the ~~((department))~~ office and are
25 confidential unless the ~~((director))~~ preservation officer, in writing,
26 declares otherwise. Scientific excavations are to be carried out only
27 after appropriate agreement has been made between a professional
28 archaeologist or an institution of higher education and the agency or
29 political subdivision responsible for such lands. A copy of such
30 agreement shall be filed with the ~~((department))~~ office.

31 (2) Amateur societies may engage in such activities by submitting
32 and having approved by the responsible agency or political subdivision
33 a written proposal detailing the scope and duration of the activity.
34 Before approval, a proposal from an amateur society shall be submitted
35 to the ~~((department))~~ office for review and recommendation. The
36 approving agency or political subdivision shall impose conditions on

1 the scope and duration of the proposed activity necessary to protect
2 the archaeological resources and ensure compliance with applicable
3 federal, state, and local laws. The findings and results of activities
4 authorized under this section shall be made known to the approving
5 agency or political subdivision approving the activities and to the
6 ((department)) office.

7 **Sec. 219.** RCW 27.53.090 and 1986 c 266 s 20 are each amended to
8 read as follows:

9 Any person, firm, or corporation violating any of the provisions of
10 this chapter shall be guilty of a misdemeanor. Each day of continued
11 violation of any provision of this chapter shall constitute a distinct
12 and separate offense. Offenses shall be reported to the appropriate
13 law enforcement agency or to the ((director)) preservation officer.

14 **Sec. 220.** RCW 27.53.095 and 2005 c 333 s 23 are each amended to
15 read as follows:

16 (1) Persons found to have violated this chapter, either by a
17 knowing and willful failure to obtain a permit where required under RCW
18 27.53.060 or by a knowing and willful failure to comply with the
19 provisions of a permit issued by the ((director)) preservation officer
20 where required under RCW 27.53.060, in addition to other remedies as
21 provided for by law, may be subject to one or more of the following:

22 (a) Reasonable investigative costs incurred by a mutually agreed
23 upon independent professional archaeologist investigating the alleged
24 violation;

25 (b) Reasonable site restoration costs; and

26 (c) Civil penalties, as determined by the ((director)) preservation
27 officer, in an amount of not more than five thousand dollars per
28 violation.

29 (2) Any person incurring the penalty may file an application for an
30 adjudicative proceeding and may pursue subsequent review as provided in
31 chapter 34.05 RCW and applicable rules of the department. When the
32 department or a person incurring penalties arising out of activities
33 permitted by the office requests a hearing under this subsection, an
34 administrative law judge assigned by the office of administrative
35 hearings shall conduct the hearing. The decision of the administrative
36 law judge is a final agency order.

1 (3) Any penalty imposed by final order following an adjudicative
2 proceeding becomes due and payable upon service of the final order.

3 (4) The attorney general may bring an action in the name of the
4 department in the superior court of Thurston county or of any county in
5 which the violator may do business to collect any penalty imposed under
6 this chapter and to enforce subsection (5) of this section.

7 (5) Any and all artifacts in possession of a violator shall become
8 the property of the state until proper identification of artifact
9 ownership may be determined by the ((~~director~~)) preservation officer or
10 the preservation officer's designee.

11 (6) Penalties overturned on appeal entitle the appealing party to
12 fees and other expenses, including reasonable attorneys' fees, as
13 provided in RCW 4.84.350.

14 **Sec. 221.** RCW 27.53.100 and 1988 c 124 s 5 are each amended to
15 read as follows:

16 Persons, firms, corporations, institutions, or agencies which
17 discover a previously unreported historic archaeological resource on
18 state-owned aquatic lands and report the site or location of such
19 resource to the ((~~department~~)) office shall have a right of first
20 refusal to future salvage permits granted for the recovery of that
21 resource, subject to the provisions of RCW 27.53.110. Such right of
22 first refusal shall exist for five years from the date of the report.
23 Should another person, firm, corporation, institution, or agency apply
24 for a permit to salvage that resource, the reporting entity shall have
25 sixty days to submit its own permit application and exercise its first
26 refusal right, or the right shall be extinguished.

27 **Sec. 222.** RCW 27.53.110 and 1988 c 124 s 6 are each amended to
28 read as follows:

29 The ((~~director~~)) department is hereby authorized to enter into
30 contracts with ((~~other~~)) state agencies or institutions and with
31 qualified private institutions, persons, firms, or corporations for the
32 discovery and salvage of state-owned historic archaeological resources.
33 Such contracts shall include but are not limited to the following terms
34 and conditions:

35 (1) Historic shipwrecks:

1 (a) The contract shall provide for fair compensation to a salvor.
2 "Fair compensation" means an amount not less than ninety percent of the
3 appraised value of the objects recovered following successful
4 completion of the contract.

5 (b) The salvor may retain objects with a value of up to ninety
6 percent of the appraised value of the total objects recovered, or cash,
7 or a combination of objects and cash. In no event may the total of
8 objects and cash exceed ninety percent of the total appraised value of
9 the objects recovered. A salvor shall not be entitled to further
10 compensation from any state sources.

11 (c) The contract shall provide that the state will be given first
12 choice of which objects it may wish to retain for display purposes for
13 the people of the state from among all the objects recovered. The
14 state may retain objects with a value of up to ten percent of the
15 appraised value of the total objects recovered. If the state chooses
16 not to retain recovered objects with a value of up to ten percent of
17 the appraised value, the state shall be entitled to receive its share
18 in cash or a combination of recovered objects and cash so long as the
19 state's total share does not exceed ten percent of the appraised value
20 of the objects recovered.

21 (d) The contract shall provide that both the state and the salvor
22 shall have the right to select a single appraiser or joint appraisers.

23 (e) The contract shall also provide that title to the objects shall
24 pass to the salvor when the permit is issued. However, should the
25 salvor fail to fully perform under the terms of the contract, title to
26 all objects recovered shall revert to the state.

27 (2) Historic aircraft:

28 (a) The contract shall provide that historic aircraft belonging to
29 the state of Washington may only be recovered if the purpose of that
30 salvage operation is to recover the aircraft for a museum, historical
31 society, nonprofit organization, or governmental entity.

32 (b) Title to the aircraft may only be passed by the state to one of
33 the entities listed in (a) of this subsection.

34 (c) Compensation to the salvor shall only be derived from the sale
35 or exchange of the aircraft to one of the entities listed in (a) of
36 this subsection or such other compensation as one of the entities
37 listed in (a) of this subsection and the salvor may arrange. The
38 salvor shall not have a claim to compensation from state funds.

1 (3) Other historic archaeological resources: The ((~~director~~))
2 preservation officer, in his or her discretion, may negotiate the terms
3 of such contracts.

4 **Sec. 223.** RCW 27.53.120 and 1988 c 124 s 7 are each amended to
5 read as follows:

6 The salvor shall agree to mitigate any archaeological damage which
7 occurs during the salvage operation. The ((~~department~~)) office shall
8 have access to all property recovered from historic archaeological
9 sites for purposes of scholarly research and photographic documentation
10 for a period to be agreed upon by the parties following completion of
11 the salvage operation. The ((~~department~~)) office shall also have the
12 right to publish scientific papers concerning the results of all
13 research conducted as project mitigation.

14 The ((~~director~~)) preservation officer has the right to refuse to
15 issue a permit for salvaging an historic archaeological resource if
16 that resource would be destroyed beyond mitigation by the proposed
17 salvage operation. Any agency, institution, person, firm, or
18 corporation which has been denied a permit because the resource would
19 be destroyed beyond mitigation by their method of salvage shall have a
20 right of first refusal for that permit at a future date should
21 technology be found which would make salvage possible without
22 destroying the resource. Such right of first refusal shall be in
23 effect for sixty days after the ((~~director~~)) preservation officer has
24 determined that salvage can be accomplished by a subsequent applicant
25 without destroying the resource.

26 No person, firm, or corporation may conduct such salvage or
27 recovery operation herein described without first obtaining such
28 contract.

29 **Sec. 224.** RCW 27.53.130 and 1995 c 399 s 17 are each amended to
30 read as follows:

31 The department, in consultation with the preservation officer,
32 shall publish annually and update as necessary a list of those areas
33 where permits are required to protect historic archaeological sites on
34 aquatic lands.

1 **Sec. 225.** RCW 27.53.140 and 1995 c 399 s 18 are each amended to
2 read as follows:

3 The ((department)) office shall have such rule-making authority as
4 is necessary to carry out the provisions of this chapter.

5 **Sec. 226.** RCW 35.100.020 and 2010 c 30 s 2 are each reenacted and
6 amended to read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Community revitalization project" means:

10 (a) Health and safety improvements authorized to be publicly
11 financed under chapter 35.80 or 35.81 RCW;

12 (b) Publicly owned or leased facilities within the jurisdiction of
13 a local government which the sponsor has authority to provide; and

14 (c) Expenditure for any of the following purposes:

15 (i) Providing environmental analysis, professional management,
16 planning, and promotion within a downtown or neighborhood commercial
17 district including the management and promotion of retail trade
18 activities in the district;

19 (ii) Providing maintenance and security for common or public areas
20 in the downtown or neighborhood commercial district;

21 (iii) Historic preservation activities authorized under RCW
22 35.21.395; or

23 (iv) Project design and planning, land acquisition, site
24 preparation, construction, reconstruction, rehabilitation, improvement,
25 operation, and installation of a public facility; the costs of
26 financing, including interest during construction, legal and other
27 professional services, taxes, and insurance; the costs of complying
28 with this chapter and other applicable law; and the administrative
29 costs reasonably necessary and related to these costs.

30 (2) "Downtown or neighborhood commercial district" means (a) an
31 area or areas designated by the legislative authority of a city or town
32 with a population over one hundred thousand and that are typically
33 limited to the pedestrian core area or the central commercial district
34 and compact business districts that serve specific neighborhoods within
35 the city or town; or (b) commercial areas designated as main street
36 areas by the ((department)) office of archaeology and historic
37 preservation.

1 (3) "Local retail sales and use tax" means the tax levied by a city
2 or town under RCW 82.14.030, excluding that portion which a county is
3 entitled to receive under RCW 82.14.030.

4 (4) "Local retail sales and use tax increment revenue" means that
5 portion of the local retail sales and use tax collected in each year
6 upon any retail sale or any use of an article of tangible personal
7 property within a downtown or neighborhood commercial district that is
8 in excess of the amount of local retail sales and use tax collected on
9 sales or uses within the downtown or neighborhood commercial district
10 in the year preceding.

11 **Sec. 227.** RCW 41.06.095 and 2005 c 333 s 9 are each amended to
12 read as follows:

13 In addition to the exemptions under RCW 41.06.070, this chapter
14 does not apply in the ((department)) office of archaeology and historic
15 preservation to the ((director, the director's personal secretary, the
16 deputy director, all division directors and assistant directors,))
17 preservation officer and one confidential secretary for each of these
18 officers.

19 **Sec. 228.** RCW 43.360.010 and 2010 c 30 s 3 are each amended to
20 read as follows:

21 The definitions in this section apply throughout this chapter
22 unless the context clearly requires otherwise.

23 (1) "Area" means a geographic area within a local government that
24 is described by a closed perimeter boundary.

25 (2) (("Department")) "Office" means the ((department)) office of
26 archaeology and historic preservation.

27 (3) (("Director" means the director of the department.

28 (4)) "Local government" means a city, code city, or town.

29 (4) "Preservation officer" means the state historic preservation
30 officer of the office.

31 (5) "Qualified levels of participation" means a local downtown or
32 neighborhood commercial district revitalization program that has been
33 designated by the ((department)) office.

34 **Sec. 229.** RCW 43.360.020 and 2005 c 514 s 909 are each amended to
35 read as follows:

1 The Washington main street program is created within the
2 ((department)) office. In order to implement the Washington main
3 street program, the ((department)) office shall:

4 (1) Provide technical assistance to businesses, property owners,
5 organizations, and local governments undertaking a comprehensive
6 downtown or neighborhood commercial district revitalization initiative
7 and management strategy. Technical assistance may include, but is not
8 limited to, initial site evaluations and assessments, training for
9 local programs, training for local program staff, site visits and
10 assessments by technical specialists, local program design assistance
11 and evaluation, and continued local program on-site assistance;

12 (2) To the extent funds are made available, provide financial
13 assistance to local governments or local organizations to assist in
14 initial downtown or neighborhood commercial district revitalization
15 program start-up costs, specialized training, specific project
16 feasibility studies, market studies, and design assistance;

17 (3) Develop objective criteria for selecting recipients of
18 assistance under subsections (1) and (2) of this section, which shall
19 include priority for downtown or neighborhood commercial district
20 revitalization programs located in a rural county as defined in RCW
21 43.160.020(~~(+12)~~) (5), and provide for designation of local programs
22 under RCW 43.360.030;

23 (4) Operate the Washington main street program in accordance with
24 the plan developed by the ~~((department, in consultation with the
25 Washington main street advisory committee created under RCW
26 43.360.040))~~ office; and

27 (5) Consider other factors the department deems necessary for the
28 implementation of this chapter.

29 **Sec. 230.** RCW 43.360.030 and 2005 c 514 s 910 are each amended to
30 read as follows:

31 (1) The ((department)) office shall adopt criteria for the
32 designation of local downtown or neighborhood commercial district
33 revitalization programs and official local main street programs. In
34 establishing the criteria, the ((department)) office shall consider:

35 (a) The degree of interest and commitment to comprehensive downtown
36 or neighborhood commercial district revitalization and, where

1 applicable, historic preservation by both the public and private
2 sectors;

3 (b) The evidence of potential private sector investment in the
4 downtown or neighborhood commercial district;

5 (c) Where applicable, a downtown or neighborhood commercial
6 district with sufficient historic fabric to become a foundation for an
7 enhanced community image;

8 (d) The capacity of the organization to undertake a comprehensive
9 program and the financial commitment to implement a long-term downtown
10 or neighborhood commercial district revitalization program that
11 includes a commitment to employ a professional program manager and
12 maintain a sufficient operating budget;

13 (e) The ((~~department's~~)) office's existing downtown revitalization
14 program's tier system;

15 (f) The national main street center's criteria for designating
16 official main street cities; and

17 (g) Other factors the ((~~department~~)) office deems necessary for the
18 designation of a local program.

19 (2) The ((~~department~~)) office shall designate local downtown or
20 neighborhood commercial district revitalization programs and official
21 local main street programs. The programs shall be limited to three
22 categories of designation, one of which shall be the main street level.

23 (3) RCW ((~~82.73.010~~)) 43.360.020 does not apply to any local
24 downtown or neighborhood commercial district revitalization program
25 unless the boundaries of the program have been identified and approved
26 by the ((~~department~~)) office. The boundaries of a local downtown or
27 neighborhood commercial district revitalization program are typically
28 defined using the pedestrian core of a traditional commercial district.

29 (4) The ((~~department~~)) office may not designate a local downtown or
30 neighborhood commercial district revitalization program or official
31 local main street program if the program is undertaken by a local
32 government with a population of one hundred ninety thousand persons or
33 more.

34 **Sec. 231.** RCW 68.24.090 and 2009 c 102 s 13 are each amended to
35 read as follows:

36 Property dedicated to cemetery purposes shall be held and used
37 exclusively for cemetery purposes, unless and until the dedication is

1 removed from all or any part of it by an order and decree of the
2 superior court of the county in which the property is situated, in a
3 proceeding brought by the cemetery authority for that purpose and upon
4 notice of hearing and proof satisfactory to the court:

5 (1) That no placements of human remains were made in or that all
6 placements of human remains have been removed from that portion of the
7 property from which dedication is sought to be removed.

8 (2) That the portion of the property from which dedication is
9 sought to be removed is not being used for placement of human remains.

10 (3) That notice of the proposed removal of dedication has been
11 given in writing to both the funeral and cemetery board and the
12 (~~department~~) office of archaeology and historic preservation. This
13 notice must be given at least sixty days before filing the proceedings
14 in superior court. The notice of the proposed removal of dedication
15 shall be recorded with the auditor or recording officer of the county
16 where the cemetery is located at least sixty days before filing the
17 proceedings in superior court.

18 **Sec. 232.** RCW 68.50.645 and 2008 c 275 s 1 are each amended to
19 read as follows:

20 (1) It is the duty of every person who knows of the existence and
21 location of skeletal human remains to notify the coroner and local law
22 enforcement in the most expeditious manner possible, unless such person
23 has good reason to believe that such notice has already been given.
24 Any person knowing of the existence of skeletal human remains and not
25 having good reason to believe that the coroner and local law
26 enforcement has notice thereof and who fails to give notice to the
27 coroner and local law enforcement, is guilty of a misdemeanor.

28 (2) Any person engaged in ground disturbing activity and who
29 encounters or discovers skeletal human remains in or on the ground
30 shall:

31 (a) Immediately cease any activity which may cause further
32 disturbance;

33 (b) Make a reasonable effort to protect the area from further
34 disturbance;

35 (c) Report the presence and location of the remains to the coroner
36 and local law enforcement in the most expeditious manner possible; and

1 (d) Be held harmless from criminal and civil liability arising
2 under the provisions of this section provided the following criteria
3 are met:

- 4 (i) The finding of the remains was based on inadvertent discovery;
- 5 (ii) The requirements of the subsection are otherwise met; and
- 6 (iii) The person is otherwise in compliance with applicable law.

7 (3) The coroner must make a determination of whether the skeletal
8 human remains are forensic or nonforensic within five business days of
9 receiving notification of a finding of such human remains provided that
10 there is sufficient evidence to make such a determination within that
11 time period. The coroner will retain jurisdiction over forensic
12 remains.

13 (a) Upon determination that the remains are nonforensic, the
14 coroner must notify the ((department)) office of archaeology and
15 historic preservation within two business days. The ((department))
16 office will have jurisdiction over such remains until provenance of the
17 remains is established. A determination that remains are nonforensic
18 does not create a presumption of removal or nonremoval.

19 (b) Upon receiving notice from a coroner of a finding of
20 nonforensic skeletal human remains, the ((department)) office must
21 notify the appropriate local cemeteries, and all affected Indian tribes
22 via certified mail to the head of the appropriate tribal government,
23 and contact the appropriate tribal cultural resources staff within two
24 business days of the finding. The determination of what are
25 appropriate local cemeteries to be notified is at the discretion of the
26 ((department)) office. A notification to tribes of a finding of such
27 nonforensic skeletal human remains does not create a presumption that
28 the remains are Indian.

29 (c) The state physical anthropologist must make an initial
30 determination of whether nonforensic skeletal human remains are Indian
31 or non-Indian to the extent possible based on the remains within two
32 business days of notification of a finding of nonforensic remains. If
33 the remains are determined to be Indian, the ((department)) office must
34 notify all affected Indian tribes via certified mail to the head of the
35 appropriate tribal government within two business days and contact the
36 appropriate tribal cultural resources staff.

37 (d) The affected tribes have five business days to respond via

1 telephone or writing to the ((department)) office as to their interest
2 in the remains.

3 (4) For the purposes of this section:

4 (a) "Affected tribes" are:

5 (i) Those federally recognized tribes with usual and accustomed
6 areas in the jurisdiction where the remains were found;

7 (ii) Those federally recognized tribes that submit to the
8 ((department)) office maps that reflect the tribe's geographical area
9 of cultural affiliation; and

10 (iii) Other tribes with historical and cultural affiliation in the
11 jurisdiction where the remains were found.

12 (b) "Forensic remains" are those that come under the jurisdiction
13 of the coroner pursuant to RCW 68.50.010.

14 (c) "Inadvertent discovery" has the same meaning as used in RCW
15 27.44.040.

16 (5) Nothing in this section constitutes, advocates, or otherwise
17 grants, confers, or implies federal or state recognition of those
18 tribes that are not federally recognized pursuant to 25 C.F.R. part 83,
19 procedures for establishing that an American Indian group exists as an
20 Indian tribe.

21 **Sec. 233.** RCW 68.60.030 and 2009 c 102 s 21 are each amended to
22 read as follows:

23 (1)(a) The ((department)) office of archaeology and historic
24 preservation may grant by nontransferable certificate authority to
25 maintain and protect an abandoned cemetery upon application made by a
26 preservation organization which has been incorporated for the purpose
27 of restoring, maintaining, and protecting an abandoned cemetery. Such
28 authority shall be limited to the care, maintenance, restoration,
29 protection, and historical preservation of the abandoned cemetery, and
30 shall not include authority to make burials. In order to activate a
31 historical cemetery for burials, an applicant must apply for a
32 certificate of authority to operate a cemetery from the funeral and
33 cemetery board.

34 (b) Those preservation and maintenance corporations that are
35 granted authority to maintain and protect an abandoned cemetery shall
36 be entitled to hold and possess burial records, maps, and other
37 historical documents as may exist. Maintenance and preservation

1 corporations that are granted authority to maintain and protect an
2 abandoned cemetery shall not be liable to those claiming burial rights,
3 ancestral ownership, or to any other person or organization alleging to
4 have control by any form of conveyance not previously recorded at the
5 county auditor's office within the county in which the abandoned
6 cemetery exists. Such organizations shall not be liable for any
7 reasonable alterations made during restoration work on memorials,
8 roadways, walkways, features, plantings, or any other detail of the
9 abandoned cemetery.

10 (c) Should the maintenance and preservation corporation be
11 dissolved, the ((department)) office of archaeology and historic
12 preservation shall revoke the certificate of authority.

13 (d) Maintenance and preservation corporations that are granted
14 authority to maintain and protect an abandoned cemetery may establish
15 care funds.

16 (2) Except as provided in subsection (1) of this section, the
17 ((department)) office of archaeology and historic preservation may, in
18 its sole discretion, authorize any Washington nonprofit corporation
19 that is not expressly incorporated for the purpose of restoring,
20 maintaining, and protecting an abandoned cemetery, to restore,
21 maintain, and protect one or more abandoned cemeteries. The
22 authorization may include the right of access to any burial records,
23 maps, and other historical documents, but shall not include the right
24 to be the permanent custodian of original records, maps, or documents.
25 This authorization shall be granted by a nontransferable certificate of
26 authority. Any nonprofit corporation authorized and acting under this
27 subsection is immune from liability to the same extent as if it were a
28 preservation organization holding a certificate of authority under
29 subsection (1) of this section.

30 (3) The ((department)) office of archaeology and historic
31 preservation shall establish standards and guidelines for granting
32 certificates of authority under subsections (1) and (2) of this section
33 to assure that any restoration, maintenance, and protection activities
34 authorized under this subsection are conducted and supervised in an
35 appropriate manner.

36 **Sec. 234.** RCW 68.60.050 and 2009 c 102 s 22 are each amended to
37 read as follows:

1 (1) Any person who knowingly removes, mutilates, defaces, injures,
2 or destroys any historic grave shall be guilty of a class C felony
3 punishable under chapter 9A.20 RCW. Persons disturbing historic graves
4 through inadvertence, including disturbance through construction, shall
5 reinter the human remains under the supervision of the ((department))
6 office of archaeology and historic preservation. Expenses to reinter
7 such human remains are to be provided by the ((department)) office of
8 archaeology and historic preservation to the extent that funds for this
9 purpose are appropriated by the legislature.

10 (2) This section does not apply to actions taken in the performance
11 of official law enforcement duties.

12 (3) It shall be a complete defense in a prosecution under
13 subsection (1) of this section if the defendant can prove by a
14 preponderance of evidence that the alleged acts were accidental or
15 inadvertent and that reasonable efforts were made to preserve the
16 remains accidentally disturbed or discovered, and that the accidental
17 discovery or disturbance was properly reported.

18 **Sec. 235.** RCW 68.60.055 and 2008 c 275 s 3 are each amended to
19 read as follows:

20 (1) Any person who discovers skeletal human remains shall notify
21 the coroner and local law enforcement in the most expeditious manner
22 possible. Any person knowing of the existence of skeletal human
23 remains and not having good reason to believe that the coroner and
24 local law enforcement has notice thereof and who fails to give notice
25 thereof is guilty of a misdemeanor.

26 (2) Any person engaged in ground disturbing activity and who
27 encounters or discovers skeletal human remains in or on the ground
28 shall:

29 (a) Immediately cease any activity which may cause further
30 disturbance;

31 (b) Make a reasonable effort to protect the area from further
32 disturbance;

33 (c) Report the presence and location of the remains to the coroner
34 and local law enforcement in the most expeditious manner possible; and

35 (d) Be held harmless from criminal and civil liability arising
36 under the provisions of this section provided the following criteria
37 are met:

- 1 (i) The finding of the remains was based on inadvertent discovery;
2 (ii) The requirements of the subsection are otherwise met; and
3 (iii) The person is otherwise in compliance with applicable law.

4 (3) The coroner must make a determination whether the skeletal
5 human remains are forensic or nonforensic within five business days of
6 receiving notification of a finding of such remains provided that there
7 is sufficient evidence to make such a determination within that time
8 period. The coroner will retain jurisdiction over forensic remains.

9 (a) Upon determination that the remains are nonforensic, the
10 coroner must notify the ((department)) office of archaeology and
11 historic preservation within two business days. The ((department))
12 office will have jurisdiction over such remains until provenance of the
13 remains is established. A determination that remains are nonforensic
14 does not create a presumption of removal or nonremoval.

15 (b) Upon receiving notice from a coroner of a finding of
16 nonforensic skeletal human remains, the ((department)) office must
17 notify the appropriate local cemeteries, and all affected Indian tribes
18 via certified mail to the head of the appropriate tribal government,
19 and contact the appropriate tribal cultural resources staff within two
20 business days of the finding. The determination of what are
21 appropriate local cemeteries to be notified is at the discretion of the
22 ((department)) office. A notification to tribes of a finding of such
23 nonforensic skeletal human remains does not create a presumption that
24 the remains are Indian.

25 (c) The state physical anthropologist must make an initial
26 determination of whether nonforensic skeletal human remains are Indian
27 or non-Indian to the extent possible based on the remains within two
28 business days of notification of a finding of such nonforensic remains.
29 If the remains are determined to be Indian, the ((department)) office
30 must notify all affected Indian tribes via certified mail to the head
31 of the appropriate tribal government within two business days and
32 contact the appropriate tribal cultural resources staff.

33 (d) The affected tribes have five business days to respond via
34 telephone or writing to the ((department)) office as to their interest
35 in the remains.

36 (4) For the purposes of this section:

37 (a) "Affected tribes" are:

1 (i) Those federally recognized tribes with usual and accustomed
2 areas in the jurisdiction where the remains were found;

3 (ii) Those federally recognized tribes that submit to the
4 ((department)) office maps that reflect the tribe's geographical area
5 of cultural affiliation; and

6 (iii) Other tribes with historical and cultural affiliation in the
7 jurisdiction where the remains were found.

8 (b) "Forensic remains" are those that come under the jurisdiction
9 of the coroner pursuant to RCW 68.50.010.

10 (c) "Inadvertent discovery" has the same meaning as used in RCW
11 27.44.040.

12 (5) Nothing in this section constitutes, advocates, or otherwise
13 grants, confers, or implies federal or state recognition of those
14 tribes that are not federally recognized pursuant to 25 C.F.R. part 83,
15 procedures for establishing that an American Indian group exists as an
16 Indian tribe.

17 **Sec. 236.** RCW 68.60.060 and 2009 c 102 s 23 are each amended to
18 read as follows:

19 Any person who violates any provision of this chapter is liable in
20 a civil action by and in the name of the ((department)) office of
21 archaeology and historic preservation to pay all damages occasioned by
22 their unlawful acts. The sum recovered shall be applied in payment for
23 the repair and restoration of the property injured or destroyed and to
24 the care fund if one is established.

25 **Sec. 237.** RCW 82.73.010 and 2010 c 30 s 4 are each amended to read
26 as follows:

27 Unless the context clearly requires otherwise, the definitions in
28 this section apply throughout this chapter.

29 (1) "Applicant" means a person applying for a tax credit under this
30 chapter.

31 (2) "Contribution" means cash contributions.

32 (3) "Department" means the department of revenue.

33 (4) "Main street trust fund" means the Washington main street trust
34 fund account under RCW 43.360.050.

35 (5) "Person" has the meaning given in RCW 82.04.030.

1 (6) "Program" means a nonprofit organization under internal revenue
2 code sections 501(c)(3) or 501(c)(6), with the sole mission of
3 revitalizing a downtown or neighborhood commercial district area, that
4 is designated by the ((department)) office of archaeology and historic
5 preservation as described in RCW 43.360.010 through 43.360.050.

6 **Sec. 238.** RCW 82.73.050 and 2010 c 30 s 5 are each amended to read
7 as follows:

8 The ((department)) office of archaeology and historic preservation
9 shall provide information to the department to administer this chapter,
10 including a list of designated programs that shall be updated as
11 necessary.

12 **Sec. 239.** RCW 88.02.660 and 2010 c 161 s 1031 are each amended to
13 read as follows:

14 (1) The maritime historic restoration and preservation account is
15 created in the custody of the state treasurer. All receipts from the
16 voluntary donations made simultaneously with the registration of
17 vessels under this chapter must be deposited into this account. These
18 deposits are not public funds and are not subject to allotment
19 procedures under chapter 43.88 RCW.

20 (2) At the end of each fiscal year, the state treasurer shall pay
21 from this account to the department of natural resources an amount
22 equal to the reasonable administrative expenses of ((that agency)) the
23 office of archaeology and historic preservation for that fiscal year
24 for collecting the voluntary donations and transmitting them to the
25 state treasurer and shall pay to the state treasurer an amount equal to
26 the reasonable administrative expenses of that agency for that fiscal
27 year for maintaining the account and disbursing funds from the account.

28 (3) At the end of each fiscal year, the state treasurer shall pay
29 one-half of the balance of the funds in the account after payment of
30 the administrative costs provided in subsection (2) of this section, to
31 the Grays Harbor historical seaport or its corporate successor and the
32 remainder to the Steamer Virginia V foundation or its corporate
33 successor.

34 (4) If either the Grays Harbor historical seaport and its corporate
35 successors or the Steamer Virginia V foundation and its corporate

1 successors legally ceases to exist, the state treasurer shall, at the
2 end of each fiscal year, pay the balance of the funds in the account to
3 the remaining organization.

4 (5) If both the Grays Harbor historical seaport and its corporate
5 successors and the Steamer Virginia V foundation and its corporate
6 successors legally cease to exist, the (~~department~~) office of
7 archaeology and historic preservation shall discontinue the collection
8 of the voluntary donations in conjunction with the registration of
9 vessels under RCW 88.02.580, and the balance of the funds in the
10 account escheat to the state. If funds in the account escheat to the
11 state, one-half of the fund balance must be provided to the
12 (~~department~~) office of archaeology and historic preservation, and the
13 remainder must be deposited into the parks renewal and stewardship
14 account.

15 (6) The secretary of state, the directors of the state historical
16 societies, the (~~director~~) preservation office of the (~~department~~)
17 office of archaeology and historic preservation within the department
18 of (~~commerce~~) natural resources, and two members representing the
19 recreational boating community appointed by the secretary of state(~~(7)~~)
20 shall review the success of the voluntary donation program for maritime
21 historic restoration and preservation established under RCW 88.02.580.

22 **Sec. 240.** RCW 90.48.366 and 2007 c 347 s 1 are each amended to
23 read as follows:

24 The department, in consultation with the departments of fish and
25 wildlife and natural resources, and the parks and recreation
26 commission, shall adopt rules establishing a compensation schedule for
27 the discharge of oil in violation of this chapter and chapter 90.56
28 RCW. The amount of compensation assessed under this schedule shall be
29 no less than one dollar per gallon of oil spilled and no greater than
30 one hundred dollars per gallon of oil spilled. The compensation
31 schedule shall reflect adequate compensation for unquantifiable damages
32 or for damages not quantifiable at reasonable cost for any adverse
33 environmental, recreational, aesthetic, or other effects caused by the
34 spill and shall take into account:

35 (1) Characteristics of any oil spilled, such as toxicity,
36 dispersibility, solubility, and persistence, that may affect the

1 severity of the effects on the receiving environment, living organisms,
2 and recreational and aesthetic resources;

3 (2) The sensitivity of the affected area as determined by such
4 factors as: (a) The location of the spill; (b) habitat and living
5 resource sensitivity; (c) seasonal distribution or sensitivity of
6 living resources; (d) areas of recreational use or aesthetic
7 importance; (e) the proximity of the spill to important habitats for
8 birds, aquatic mammals, fish, or to species listed as threatened or
9 endangered under state or federal law; (f) significant archaeological
10 resources as determined by the (~~department~~) office of archaeology and
11 historic preservation; and (g) other areas of special ecological or
12 recreational importance, as determined by the department; and

13 (3) Actions taken by the party who spilled oil or any party liable
14 for the spill that: (a) Demonstrate a recognition and affirmative
15 acceptance of responsibility for the spill, such as the immediate
16 removal of oil and the amount of oil removed from the environment; or
17 (b) enhance or impede the detection of the spill, the determination of
18 the quantity of oil spilled, or the extent of damage, including the
19 unauthorized removal of evidence such as injured fish or wildlife.

20 NEW SECTION. Sec. 241. The following sections are recodified as
21 sections in chapter 43.334 RCW: RCW 43.334.080, 27.34.200, 27.34.220,
22 27.34.230, 27.34.240, 27.34.250, 27.34.260, 27.34.270, 27.34.280,
23 27.34.400, 27.34.410, and 27.34.415.

24 NEW SECTION. Sec. 242. The following acts or parts of acts are
25 each repealed:

- 26 (1) RCW 43.334.030 (Director powers and duties) and 2005 c 333 s 3;
- 27 (2) RCW 43.334.040 (Departmental divisions) and 2005 c 333 s 4;
- 28 (3) RCW 43.334.050 (Deputy director--Department personnel
29 director--Assistant directors) and 2005 c 333 s 5; and
- 30 (4) RCW 43.334.900 (Transfer of powers, duties, and functions) and
31 2005 c 333 s 12.

32 **PART III**
33 **HISTORICAL SOCIETIES**

1 **Sec. 301.** RCW 27.34.060 and 1983 c 91 s 6 are each amended to read
2 as follows:

3 Each state historical society shall submit its budget requests to
4 the (~~heritage council~~) director of the department of heritage, arts,
5 and culture for review and comment.

6 **Sec. 302.** RCW 27.34.330 and 2006 c 371 s 232 are each amended to
7 read as follows:

8 The Washington state historical society shall establish a
9 competitive process to solicit proposals for and prioritize heritage
10 capital projects for potential funding in the state capital budget.
11 The society shall adopt rules governing project eligibility and
12 evaluation criteria. Application for funding of specific projects may
13 be made to the society by local governments, public development
14 authorities, nonprofit corporations, tribal governments, and other
15 entities, as determined by the society. The society, with the advice
16 of leaders in the heritage field, including but not limited to
17 representatives from the office of the secretary of state, the eastern
18 Washington state historical society, and the (~~department~~) office of
19 archaeology and historic preservation, shall establish and submit a
20 prioritized list of heritage capital projects to the governor and the
21 legislature in the society's biennial capital budget request. The list
22 shall include a description of each project, the amount of recommended
23 state funding, and documentation of nonstate funds to be used for the
24 project. The total amount of recommended state funding for projects on
25 a biennial project list shall not exceed ten million dollars. The
26 prioritized list shall be developed through open and public meetings
27 and the amount of state funding shall not exceed thirty-three percent
28 of the total cost of the project. The nonstate portion of the total
29 project cost may include cash, the value of real property when acquired
30 solely for the purpose of the project, and in-kind contributions. The
31 department shall not sign contracts or otherwise financially obligate
32 funds under this section until the legislature has approved a specific
33 list of projects. In contracts for grants authorized under this
34 section, the society shall include provisions requiring that capital
35 improvements be held by the grantee for a specified period of time
36 appropriate to the amount of the grant and that facilities be used for
37 the express purpose of the grant. If the grantee is found to be out of

1 compliance with provisions of the contract, the grantee shall repay to
2 the state general fund the principal amount of the grant plus interest
3 calculated at the rate of interest on state of Washington general
4 obligation bonds issued most closely to the date of authorization of
5 the grant.

6 NEW SECTION. **Sec. 303.** The following sections are recodified as
7 sections in chapter 43.334 RCW: RCW 27.34.010, 27.34.060, 27.34.075,
8 27.34.080, 27.34.330, 27.34.350, 27.34.360, 27.34.365, 27.34.370,
9 27.34.375, 27.34.390, 27.34.395, 27.34.900, 27.34.906, 27.34.910,
10 27.34.915, and 27.34.916.

11 NEW SECTION. **Sec. 304.** RCW 27.34.380 (Women's history
12 consortium--Report to the legislature) and 2005 c 391 s 6 are each
13 repealed.

14 **PART IV**
15 **ARTS**

16 **Sec. 401.** RCW 43.46.015 and 1999 c 241 s 1 are each amended to
17 read as follows:

18 There is established a Washington state arts commission within the
19 department of heritage, arts, and culture. The department shall be the
20 state's art agency. The commission consists of ~~((nineteen))~~ thirteen
21 members appointed by the ~~((governor and four members of the~~
22 ~~legislature, one from each caucus in the senate and appointed by the~~
23 ~~president of the senate and one from each caucus in the house of~~
24 ~~representatives and appointed by the speaker of the house of~~
25 ~~representatives))~~ director. The ~~((governor))~~ director shall appoint
26 citizens representing the various disciplines within the visual,
27 performing and literary arts, and other citizens active in the arts
28 community. The ~~((governor))~~ director shall consider nominations for
29 membership from individuals actively involved in cultural, state or
30 community organizations. The ~~((governor))~~ director shall also consider
31 geographical distribution of the membership in the appointment of new
32 members.

1 culture. All references to the director or the department of
2 archaeology and historic preservation in the Revised Code of Washington
3 shall be construed to mean the director or the department of heritage,
4 arts, and culture.

5 (2)(a) All reports, documents, surveys, books, records, files,
6 papers, or written material in the possession of the department of
7 archaeology and historic preservation shall be delivered to the custody
8 of the department of heritage, arts, and culture. All cabinets,
9 furniture, office equipment, motor vehicles, and other tangible
10 property employed by the department of archaeology and historic
11 preservation shall be made available to the department of heritage,
12 arts, and culture. All funds, credits, or other assets held by the
13 department of archaeology and historic preservation shall be assigned
14 to the department of heritage, arts, and culture for use by the office
15 of archaeology and historic preservation.

16 (b) Any appropriations made to the department of archaeology and
17 historic preservation shall, on the effective date of this section, be
18 transferred and credited to the department of heritage, arts, and
19 culture.

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

26 (3) All employees of the department of archaeology and historic
27 preservation are transferred to the jurisdiction of the department of
28 heritage, arts, and culture. All employees classified under chapter
29 41.06 RCW, the state civil service law, are assigned to the department
30 of heritage, arts, and culture to perform their usual duties upon the
31 same terms as formerly, without any loss of rights, subject to any
32 action that may be appropriate thereafter in accordance with the laws
33 and rules governing state civil service.

34 (4) All rules and all pending business before the department of
35 archaeology and historic preservation shall be continued and acted upon
36 by the department of heritage, arts, and culture. All existing
37 contracts and obligations shall remain in full force and shall be
38 performed by the department of heritage, arts, and culture.

1 (5) The transfer of the powers, duties, functions, and personnel of
2 the department of archaeology and historic preservation shall not
3 affect the validity of any act performed before the effective date of
4 this section.

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

11 (7) The bargaining unit of employees at the department of
12 archaeology and historic preservation existing on the effective date of
13 this section shall be considered an appropriate unit at the department
14 of heritage, arts, and culture and will be so certified by the public
15 employment relations commission. The exclusive bargaining
16 representative recognized as representing the bargaining unit of
17 employees at the department of archaeology and historic preservation
18 existing on the effective date of this section shall continue as the
19 exclusive bargaining representative of the transferred bargaining unit
20 without the necessity of an election.

21 NEW SECTION. **Sec. 502.** (1) The Washington state arts commission
22 is hereby transferred to the department of heritage, arts, and culture.

23 (2)(a) All reports, documents, surveys, books, records, files,
24 papers, or written material in the possession of the Washington state
25 arts commission shall be delivered to the custody of the department of
26 heritage, arts, and culture. All cabinets, furniture, office
27 equipment, motor vehicles, and other tangible property employed by the
28 Washington state arts commission shall be made available to the
29 department of heritage, arts, and culture. All funds, credits, or
30 other assets held by the Washington state arts commission shall be
31 assigned to the department of heritage, arts, and culture.

32 (b) Any appropriations made to the Washington state arts commission
33 shall, on the effective date of this section, be transferred and
34 credited to the department of heritage, arts, and culture.

35 (c) If any question arises as to the transfer of any personnel,
36 funds, books, documents, records, papers, files, equipment, or other
37 tangible property used or held in the exercise of the powers and the

1 performance of the duties and functions transferred, the director of
2 financial management shall make a determination as to the proper
3 allocation and certify the same to the state agencies concerned.

4 (3) All employees of the Washington state arts commission are
5 transferred to the jurisdiction of the department of heritage, arts,
6 and culture. All employees classified under chapter 41.06 RCW, the
7 state civil service law, are assigned to the department of heritage,
8 arts, and culture to perform their usual duties upon the same terms as
9 formerly, without any loss of rights, subject to any action that may be
10 appropriate thereafter in accordance with the laws and rules governing
11 state civil service.

12 (4) All rules and all pending business before the Washington state
13 arts commission shall be continued and acted upon by the Washington
14 state arts commission within the department of heritage, arts, and
15 culture. All existing contracts and obligations shall remain in full
16 force and shall be performed by the Washington state arts commission
17 within the department of heritage, arts, and culture.

18 (5) The transfer of the powers, duties, functions, and personnel of
19 the Washington state arts commission shall not affect the validity of
20 any act performed before the effective date of this section.

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

27 (7) The bargaining unit of employees at the Washington state arts
28 commission existing on the effective date of this section shall be
29 considered an appropriate unit at the department of heritage, arts, and
30 culture and will be so certified by the public employment relations
31 commission. The exclusive bargaining representative recognized as
32 representing the bargaining unit of employees at the Washington state
33 arts commission existing on the effective date of this section shall
34 continue as the exclusive bargaining representative of the transferred
35 bargaining unit without the necessity of an election.

36 NEW SECTION. **Sec. 503.** (1) The state historical societies are
37 hereby transferred to the department of heritage, arts, and culture.

1 (2)(a) All reports, documents, surveys, books, records, files,
2 papers, or written material in the possession of the state historical
3 societies shall be delivered to the custody of the department of
4 heritage, arts, and culture. All cabinets, furniture, office
5 equipment, motor vehicles, and other tangible property employed by the
6 state historical societies shall be made available to the department of
7 heritage, arts, and culture. All funds, credits, or other assets held
8 by the state historical societies shall be assigned to the department
9 of heritage, arts, and culture for use by the state historical
10 societies.

11 (b) Any appropriations made to the state historical societies
12 shall, on the effective date of this section, be transferred and
13 credited to the department of heritage, arts, and culture.

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

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

28 (4) All rules and all pending business before the state historical
29 societies shall be continued and acted upon by the state historical
30 societies within the department of heritage, arts, and culture. All
31 existing contracts and obligations shall remain in full force and shall
32 be performed by the state historical societies within the department of
33 heritage, arts, and culture.

34 (5) The transfer of the powers, duties, functions, and personnel of
35 the state historical societies shall not affect the validity of any act
36 performed before the effective date of this section.

37 (6) If apportionments of budgeted funds are required because of the
38 transfers directed by this section, the director of financial

1 management shall certify the apportionments to the agencies affected,
2 the state auditor, and the state treasurer. Each of these shall make
3 the appropriate transfer and adjustments in funds and appropriation
4 accounts and equipment records in accordance with the certification.

5 (7) The bargaining unit of employees at the state historical
6 societies existing on the effective date of this section shall be
7 considered an appropriate unit at the department of heritage, arts, and
8 culture and will be so certified by the public employment relations
9 commission. The exclusive bargaining representative recognized as
10 representing the bargaining unit of employees at the state historical
11 societies existing on the effective date of this section shall continue
12 as the exclusive bargaining representative of the transferred
13 bargaining unit without the necessity of an election.

14 NEW SECTION. **Sec. 504.** The code reviser must develop and submit
15 legislation for the 2012 legislative session that updates and corrects
16 statutes to reflect the changes in this act.

17 NEW SECTION. **Sec. 505.** Except for section 106 of this act, this
18 act is necessary for the immediate preservation of the public peace,
19 health, or safety, or support of the state government and its existing
20 public institutions, and takes effect July 1, 2011.

21 NEW SECTION. **Sec. 506.** Section 105 of this act expires January 1,
22 2012.

23 NEW SECTION. **Sec. 507.** Section 106 of this act takes effect
24 January 1, 2012.

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