

2 ESSB 5756 - H AMD
3 By Representative Grant

4

5 Strike everything after the enacting clause and insert the
6 following:

7

8 "NEW SECTION. Sec. 1. State and national policy directs that
9 the management of low-level radioactive waste be accomplished by a
10 system of interstate compacts and the development of regional disposal
11 sites. The Northwest regional compact, comprised of the states of
12 Alaska, Hawaii, Idaho, Montana, Oregon, Utah, and Washington, has as
13 its disposal facility the low-level radioactive waste disposal site
14 located near Richland, Washington. This site is expected to be the
15 sole site for disposal of low-level radioactive waste for compact
16 members effective January 1, 1993. Future closure of this site will
17 require significant financial resources.

18 Low-level radioactive waste is generated by essential activities
19 and services that benefit the citizens of the state. Washington
20 state's low-level radioactive waste disposal site has been used by the
21 nation and the Northwest compact as a disposal site since 1965. The
22 public has come to rely on access to this site for disposal of low-
23 level radioactive waste, which requires separate handling from other
24 solid and hazardous wastes. The price of disposing of low-level
25 radioactive waste at the Washington state low-level radioactive waste
26 disposal site is anticipated to increase when the federal low-level
27 radioactive waste policy amendments act of 1985 is implemented and
28 waste generated outside the Northwest compact states is excluded.

1 When these events occur, to protect Washington and other Northwest
2 compact states' businesses and services, such as electrical production,
3 medical and university research, and private industries, upon which the
4 public relies, there will be a need to regulate the rates charged by
5 the operator of Washington's low-level radioactive waste disposal site.
6 This chapter is adopted pursuant to section 8, chapter 21, Laws of
7 1990."

8 "NEW SECTION. **Sec. 2.** Definitions in this section apply
9 throughout this chapter unless the context clearly requires otherwise.

10 (1) "Commission" means the Washington utilities and transportation
11 commission.

12 (2) "Effective rate" means the highest permissible rate, calculated
13 as the lowest contract rate plus an administrative fee, if applicable,
14 determined pursuant to section 5 of this act.

15 (3) "Extraordinary volume" means volumes of low-level radioactive
16 waste delivered to a site caused by nonrecurring events, outside normal
17 operations of a generator, that are in excess of twenty thousand cubic
18 feet or twenty percent of the preceding year's total volume at such
19 site, whichever is less.

20 (4) "Extraordinary volume adjustment" means a mechanism that
21 allocates the potential rate reduction benefits of an extraordinary
22 volume between all generators and the generator responsible for such
23 extraordinary volume as described in section 8 of this act.

24 (5) "Generator" means a person, partnership, association,
25 corporation, or any other entity whatsoever that, as a part of its
26 activities, produces low-level radioactive waste.

27 (6) "Inflation adjustment" means a mechanism that adjusts the
28 maximum disposal rate by a percentage equal to the change in price

1 levels in the preceding period, as measured by a common, verifiable
2 price index as determined in section 5 of this act.

3 (7) "Initial rate proceeding" means the proceeding described in
4 section 5 of this act.

5 (8) "Maximum disposal rate" means the rate described in section 6
6 of this act.

7 (9) "Site" means a location, structure, or property used or to be
8 used for the storage, treatment, or disposal of low-level radioactive
9 waste for compensation within the state of Washington.

10 (10) "Site operator" means a low-level radioactive waste site
11 operating company as defined in RCW 81.04.010.

12 (11) "Volume adjustment" means a mechanism that adjusts the maximum
13 disposal rate in response to material changes in volumes of waste
14 deposited at the site during the preceding period so as to provide a
15 level of total revenues sufficient to recover the costs to operate and
16 maintain the site."

17 **"Sec. 3.** RCW 81.04.010 and 1981 c 13 s 2 are each amended to read
18 as follows:

19 As used in this title, unless specially defined otherwise or unless the
20 context indicates otherwise:

21 "Commission" means the utilities and transportation commission.

22 "Commissioner" means one of the members of such commission.

23 "Corporation" includes a corporation, company, association or joint
24 stock association.

25 "Low-level radioactive waste site operating company" includes every
26 corporation, company, association, joint stock association,
27 partnership, and person, their lessees, trustees, or receivers
28 appointed by any court whatsoever, owning, operating, controlling, or

1 managing a low-level radioactive waste disposal site or sites located
2 within the state of Washington.

3 "Low-level radioactive waste" means low-level waste as defined by
4 RCW 43.145.010.

5 "Person" includes an individual, a firm or copartnership.

6 "Street railroad" includes every railroad by whatsoever power
7 operated, or any extension or extensions, branch or branches thereof,
8 for public use in the conveyance of persons or property for hire, being
9 mainly upon, along, above or below any street, avenue, road, highway,
10 bridge or public place within any one city or town, and includes all
11 equipment, switches, spurs, tracks, bridges, right of trackage,
12 subways, tunnels, stations, terminals and terminal facilities of every
13 kind used, operated, controlled or owned by or in connection with any
14 such street railroad, within this state.

15 "Street railroad company" includes every corporation, company,
16 association, joint stock association, partnership and person, their
17 lessees, trustees or receivers appointed by any court whatsoever, and
18 every city or town, owning, controlling, operating or managing any
19 street railroad or any cars or other equipment used thereon or in
20 connection therewith within this state.

21 "Railroad" includes every railroad, other than street railroad, by
22 whatsoever power operated for public use in the conveyance of persons
23 or property for hire, with all bridges, ferries, tunnels, equipment,
24 switches, spurs, tracks, stations and terminal facilities of every kind
25 used, operated, controlled or owned by or in connection with any such
26 railroad.

27 "Railroad company" includes every corporation, company,
28 association, joint stock association, partnership or person, their
29 lessees, trustees or receivers appointed by any court whatsoever,
30 owning, operating, controlling or managing any railroad or any cars or

1 other equipment used thereon or in connection therewith within this
2 state.

3 "Express company" includes every corporation, company, association,
4 joint stock association, partnership and person, their lessees,
5 trustees or receivers appointed by any court whatsoever, who shall
6 engage in or transact the business of carrying any freight, merchandise
7 or property for hire on the line of any common carrier operated in this
8 state.

9 "Common carrier" includes all railroads, railroad companies, street
10 railroads, street railroad companies, steamboat companies, express
11 companies, car companies, sleeping car companies, freight companies,
12 freight line companies, and every corporation, company, association,
13 joint stock association, partnership and person, their lessees,
14 trustees or receivers appointed by any court whatsoever, and every city
15 or town, owning, operating, managing or controlling any such agency for
16 public use in the conveyance of persons or property for hire within
17 this state.

18 "Vessel" includes every species of watercraft, by whatsoever power
19 operated, for public use in the conveyance of persons or property for
20 hire over and upon the waters within this state, excepting all
21 towboats, tugs, scows, barges, and lighters, and excepting rowboats and
22 sailing boats under twenty gross tons burden, open steam launches of
23 five tons gross and under, and vessels under five tons gross propelled
24 by gas, fluid, naphtha or electric motors.

25 "Steamboat company" includes every corporation, company,
26 association, joint stock association, partnership and person, their
27 lessees, trustees or receivers, appointed by any court whatsoever,
28 owning, controlling, leasing, operating or managing any vessel over and
29 upon the waters of this state.

1 "Transportation of property" includes any service in connection
2 with the receiving, delivery, elevation, transfer in transit,
3 ventilation, refrigeration, icing, storage and handling of the property
4 transported, and the transmission of credit.

5 "Transportation of persons" includes any service in connection with
6 the receiving, carriage and delivery of the person transported and his
7 baggage and all facilities used, or necessary to be used in connection
8 with the safety, comfort and convenience of the person transported.

9 "Public service company" includes every common carrier.

10 The term "service" is used in this title in its broadest and most
11 inclusive sense."

12 NEW SECTION. Sec. 4. (1) The commission shall have
13 jurisdiction over the sites and site operators as set forth in this
14 chapter.

15 (2)(a) The commission shall establish rates to be charged by site
16 operators. In establishing the rates, the commission shall assure that
17 they are fair, just, reasonable, and sufficient considering the value
18 of the site operator's leasehold and license interests, the unique
19 nature of its business operations, the site operator's liability
20 associated with the site, its investment incurred over the term of its
21 operations, and the rate of return equivalent to that earned by
22 comparable enterprises. The rates shall only take effect following a
23 finding that the site operator is a monopoly pursuant to section 11 of
24 this act.

25 (b) In exercising the power in this subsection the commission may
26 use any standard, formula, method, or theory of valuation reasonably
27 calculated to arrive at the objective of prescribing and authorizing
28 fair, just, reasonable, and sufficient rates. The relation of site

1 operator expenses to site operator revenues may be deemed the proper
2 test of a reasonable return.

3 (3) In all respects in which the commission has power and authority
4 under this chapter, applications and complaints may be made and filed
5 with it, process issued, hearings held, opinions, orders, and decisions
6 made and filed, petitions for rehearing filed and acted upon, and
7 petitions for review to the superior court filed therewith, appeals
8 filed with the appellate courts of this state, considered and disposed
9 of by said courts in the manner, under the conditions, and subject to
10 the limitations, and with the effect specified in this title for public
11 service companies generally.

12 (4) At any time after January 1, 1992, the commission may: (a)
13 Prescribe a system of accounts for site operators using as a starting
14 point the existing system used by site operators; (b) audit the books
15 of site operators; (c) obtain books and records from site operators;
16 (d) assess penalties; and (e) require semiannual reports regarding the
17 results of operations for the site.

18 (5) The commission may adopt rules necessary to carry out its
19 functions under this chapter."

20 "NEW SECTION. Sec. 5. (1) On or before March 1, 1992, site
21 operators shall file a request with the commission to establish an
22 initial maximum disposal rate. The filing shall include, at a minimum,
23 testimony, exhibits, workpapers, summaries, annual reports, cost
24 studies, proposed tariffs, and other documents as required by the
25 commission in rate cases generally under its jurisdiction.

26 (2) After receipt of a request, the commission shall set the
27 request for a hearing and require the site operator to provide for
28 notice to all known customers that ship or deliver waste to the site.
29 The proceedings before the commission shall be conducted in accordance

1 with chapter 34.05 RCW and rules of procedure established by the
2 commission.

3 (3) No later than January 1, 1993, the commission shall establish
4 the initial maximum disposal rates that may be charged by site
5 operators.

6 (4) In the initial rate proceeding the commission also shall
7 determine the factors necessary to calculate the inflation, volume, and
8 extraordinary volume adjustments.

9 (5) The commission also shall determine the administrative fee,
10 which shall be a percentage or an amount that represents increased
11 administrative costs associated with acceptance of small volumes of
12 waste by a site operator. The administrative fee may be revised by the
13 commission from time to time upon its own motion or upon the petition
14 of an interested person.

15 (6) The rates specified in this section shall only take effect
16 following a finding that the site operator is a monopoly pursuant to
17 section 11 of this act."

18 "NEW SECTION. Sec. 6. (1) The maximum disposal rates that a
19 site operator may charge generators shall be determined in accordance
20 with this section. The rates shall include all charges for disposal
21 services at the site.

22 (2) Initially, the maximum disposal rates shall be the initial
23 rates established pursuant to section 5 of this act.

24 (3) Subsequently, the maximum disposal rates shall be adjusted
25 semiannually in January and July of each year to incorporate inflation
26 and volume adjustments. Such adjustments shall take effect thirty days
27 after filing with the commission unless the commission authorizes that
28 the adjustments take effect earlier, or the commission contests the
29 calculation of the adjustments, in which case the commission may

1 suspend the filing. A site operator shall provide notice to its
2 customers concurrent with the filing.

3 (4)(a) Subsequently, a site operator may also file for revisions to
4 the maximum disposal rates due to:

5 (i) Changes in any governmentally imposed fee, surcharge, or tax
6 assessed on a volume or a gross revenue basis against or collected by
7 the site operator, including site closure fees, perpetual care and
8 maintenance fees, business and occupation taxes, site surveillance
9 fees, leasehold excise taxes, commission regulatory fees, municipal
10 taxes, and a tax or payment in lieu of taxes authorized by the state to
11 compensate the county in which a site is located for that county's
12 legitimate costs arising out of the presence of that site within that
13 county; or

14 (ii) Factors outside the control of the site operator such as a
15 material change in regulatory requirements regarding the physical
16 operation of the site.

17 (b) Revisions to the maximum disposal rate shall take effect thirty
18 days after filing with the commission unless the commission suspends
19 the filing or authorizes the proposed adjustments to take effect
20 earlier.

21 (5) Upon establishment of a contract rate pursuant to section 7 of
22 this act for a disposal fee, the site operator may not collect a
23 disposal fee that is greater than the effective rate. The effective
24 rate shall be in effect so long as such contract rate remains in
25 effect. Adjustments to the maximum disposal rates may be made during
26 the time an effective rate is in place. Contracts for disposal of
27 extraordinary volumes pursuant to section 8 of this act shall not be
28 considered in determining the effective rate.

29 (6) The site operator may petition the commission for new maximum
30 disposal rates at any time. Upon receipt of such a petition, the

1 commission shall set the matter for hearing and shall issue an order
2 within seven months of the filing of the petition. The petition shall
3 be accompanied by the documents required to accompany the filing for
4 initial rates. The hearing on the petition shall be conducted in
5 accordance with the commission's rules of practice and procedure.

6 (7) This section shall only take effect following a finding that
7 the site operator is a monopoly pursuant to section 11 of this act."

8 "NEW SECTION. Sec. 7. (1) At any time, a site operator may
9 contract with any person to provide a contract disposal rate lower than
10 the maximum disposal rate.

11 (2) A contract or contract amendment shall be submitted to the
12 commission for approval at least thirty days before its effective date.
13 The commission may approve the contract or suspend the contract and set
14 it for hearing. If the commission takes no action within thirty days
15 of filing, the contract or amendment shall go into effect according to
16 its terms. Each contract filing shall be accompanied with
17 documentation to show that the contract does not result in
18 discrimination between generators receiving like and contemporaneous
19 service under substantially similar circumstances and provides for the
20 recovery of all costs associated with the provision of the service.

21 (3) This section shall only take effect following a finding that
22 the site operator is a monopoly pursuant to section 11 of this act."

23 "NEW SECTION. Sec. 8. (1) In establishing the extraordinary
24 volume adjustment, unless the site operator and generator of the
25 extraordinary volume agree to a contract disposal rate, one-half of the
26 extraordinary volume delivery shall be priced at the maximum disposal
27 rate and one-half shall be priced at the site operator's incremental

1 cost to receive the delivery. Such incremental cost shall be
2 determined in the initial rate proceeding.

3 (2) For purposes of the subsequent calculation of the volume
4 adjustment, one-half of the total extraordinary volume shall be
5 included in the calculation.

6 (3) This section shall only take effect following a finding that
7 the site operator is a monopoly pursuant to section 11 of this act."

8 "NEW SECTION. Sec. 9. (1) At any time, the commission or an
9 interested person may file a complaint against a site operator alleging
10 that the rates established pursuant to section 5 or 6 of this act are
11 not in conformity with the standards set forth in section 4 of this act
12 or that the site operator is otherwise not acting in conformity with
13 the requirements of this chapter. Upon filing of the complaint, the
14 commission shall cause a copy of the complaint to be served upon the
15 site operator. The complaining party shall have the burden of proving
16 that the maximum disposal rates determined pursuant to section 6 of
17 this act are not just, fair, reasonable, or sufficient. The hearing
18 shall conform to the rules of practice and procedure of the commission
19 for other complaint cases.

20 (2) The commission shall encourage alternate forms of dispute
21 resolution to resolve disputes between a site operator and any other
22 person regarding matters covered by this chapter."

23 "NEW SECTION. Sec. 10. (1) A site operator shall, on or before
24 May 1, 1992, and each year thereafter, file with the commission a
25 statement showing its gross operating revenue from intrastate
26 operations for the preceding calendar year, or portion thereof, and pay
27 to the commission a fee equal to one percent of the amount of the gross
28 operating revenue, exclusive of site surveillance fees, perpetual care

1 and maintenance fees, site closure fees, and state or federally imposed
2 out-of-region surcharges.

3 (2) Fees collected under this chapter shall reasonably approximate
4 the cost of supervising and regulating site operators. The commission
5 may order a decrease in fees by March 1st of any year in which it
6 determines that the moneys then in the radioactive waste disposal
7 companies account of the public service revolving fund and the fees
8 currently to be paid will exceed the reasonable cost of supervising and
9 regulating site operators.

10 (3) Fees collected under this section or under any other provision
11 of this chapter shall be paid to the commission and shall be
12 transmitted to the state treasurer within thirty days to be deposited
13 to the credit of the public service revolving fund."

14 "NEW SECTION. Sec. 11. (1) A low-level waste disposal site
15 operator is exempt as specified in sections 4(2)(a), 5(6), 6(7), 7(3),
16 and 8(3) of this act unless a monopoly situation exists with respect to
17 the site operated by such site operator. A monopoly situation exists
18 if either of the following is present:

19 (a) No disposal facility is available to Northwest compact
20 generators of low-level radioactive waste other than the site or sites
21 operated by such site operator or its affiliates; or

22 (b) Disposal rates at other sites are not reasonable alternatives
23 for Northwest compact generators, considering: Disposal rates at other
24 facilities; current disposal rates charged by the site operator;
25 historic relationships between the site operator's rates and rates at
26 other facilities; and changes in the operator's rates considering
27 changes in waste volumes, taxes, and fees. A monopoly situation does
28 not exist if either of the following facilities operates or is
29 projected to operate after December 31, 1992:

1 (i) Any existing low-level radioactive waste disposal site outside
2 the state of Washington, other than facilities operated by affiliates
3 of a site operator, provided that such site or sites do not charge
4 disposal rates that discriminate against Northwest compact generators,
5 except to the extent, through December 31, 1994, such discrimination is
6 authorized by amendment of current federal law.

7 (ii) An existing facility within the Northwest compact not
8 receiving low-level radioactive waste offers to receive such waste
9 under substantially similar terms and conditions.

10 (2) The exemption shall be in effect until such time as the
11 commission finds, after notice and hearing, upon motion by the
12 commission or upon petition by any interested party, that a monopoly
13 situation exists or will exist as of January 1, 1993. The finding
14 shall be based upon application of the criteria set forth in this
15 section. The commission may assess a site operator for all of the
16 commission's costs of supervision and regulation prior to and relative
17 to determining whether the exemption applies to the site operator. If
18 the commission determines that a site operator is not subject to the
19 exemption, it shall collect its costs of supervision and regulation
20 under section 10 of this act.

21 (3) When an exemption is in effect, any increase in the rates
22 charged by the operator effective January 1, 1993, for services other
23 than the base rate for disposal of solid material in packages of twelve
24 cubic feet or less shall be no more than the percentage increase in the
25 base rate in effect on January 1, 1993."

26 "NEW SECTION. Sec. 12. (1) At any time after this chapter has
27 been implemented with respect to a site operator, such site operator
28 may petition the commission to be classified as competitive. The
29 commission may initiate classification proceedings on its own motion.

1 The commission shall enter its final order with respect to
2 classification within seven months from the date of filing of a
3 company's petition or the commission's motion.

4 (2) The commission shall classify a site operator as a competitive
5 company if the commission finds, after notice and hearing, that the
6 disposal services offered are subject to competition because the
7 company's customers have reasonably available alternatives. In
8 determining whether a company is competitive, the commission's
9 consideration shall include, but not be limited to:

10 (a) Whether the system of interstate compacts and regional disposal
11 sites established by federal law has been implemented so that the
12 Northwest compact site located near Richland, Washington is the
13 exclusive site option for disposal by customers within the Northwest
14 compact states;

15 (b) Whether waste generated outside the Northwest compact states is
16 excluded; and

17 (c) The ability of alternative disposal sites to make functionally
18 equivalent services readily available at competitive rates, terms, and
19 conditions.

20 (3) The commission may reclassify a competitive site operator if
21 reclassification would protect the public interest as set forth in this
22 section.

23 (4) Competitive low-level radioactive waste disposal companies
24 shall be exempt from commission regulation and fees during the time
25 they are so classified."

26 "NEW SECTION. **Sec. 13.** Nothing in this chapter shall be
27 construed to affect the jurisdiction of another state agency."

1 **"Sec. 14.** RCW 82.16.010 and 1989 c 302 s 203 are each amended to
2 read as follows:

3 For the purposes of this chapter, unless otherwise required by the
4 context:

5 (1) "Railroad business" means the business of operating any
6 railroad, by whatever power operated, for public use in the conveyance
7 of persons or property for hire. It shall not, however, include any
8 business herein defined as an urban transportation business.

9 (2) "Express business" means the business of carrying property for
10 public hire on the line of any common carrier operated in this state,
11 when such common carrier is not owned or leased by the person engaging
12 in such business.

13 (3) "Railroad car business" means the business of renting, leasing
14 or operating stock cars, furniture cars, refrigerator cars, fruit cars,
15 poultry cars, tank cars, sleeping cars, parlor cars, buffet cars,
16 tourist cars, or any other kinds of cars used for transportation of
17 property or persons upon the line of any railroad operated in this
18 state when such railroad is not owned or leased by the person engaging
19 in such business.

20 (4) "Water distribution business" means the business of operating
21 a plant or system for the distribution of water for hire or sale.

22 (5) "Light and power business" means the business of operating a
23 plant or system for the generation, production or distribution of
24 electrical energy for hire or sale and/or for the wheeling of
25 electricity for others.

26 (6) "Telegraph business" means the business of affording
27 telegraphic communication for hire.

28 (7) "Gas distribution business" means the business of operating a
29 plant or system for the production or distribution for hire or sale of
30 gas, whether manufactured or natural.

1 (8) "Motor transportation business" means the business (except
2 urban transportation business) of operating any motor propelled vehicle
3 by which persons or property of others are conveyed for hire, and
4 includes, but is not limited to, the operation of any motor propelled
5 vehicle as an auto transportation company (except urban transportation
6 business), common carrier or contract carrier as defined by RCW
7 81.68.010 and 81.80.010: PROVIDED, That "motor transportation
8 business" shall not mean or include the transportation of logs or other
9 forest products exclusively upon private roads or private highways.

10 (9) "Urban transportation business" means the business of operating
11 any vehicle for public use in the conveyance of persons or property for
12 hire, insofar as (a) operating entirely within the corporate limits of
13 any city or town, or within five miles of the corporate limits thereof,
14 or (b) operating entirely within and between cities and towns whose
15 corporate limits are not more than five miles apart or within five
16 miles of the corporate limits of either thereof. Included herein, but
17 without limiting the scope hereof, is the business of operating
18 passenger vehicles of every type and also the business of operating
19 cartage, pickup, or delivery services, including in such services the
20 collection and distribution of property arriving from or destined to a
21 point within or without the state, whether or not such collection or
22 distribution be made by the person performing a local or interstate
23 line-haul of such property.

24 (10) "Public service business" means any of the businesses defined
25 in subdivisions (1), (2), (3), (4), (5), (6), (7), (8), and (9) or any
26 business subject to control by the state, or having the powers of
27 eminent domain and the duties incident thereto, or any business
28 hereafter declared by the legislature to be of a public service nature,
29 except telephone business as defined in RCW 82.04.065 and low-level
30 radioactive waste site operating companies as redefined in RCW

1 81.04.010. It includes, among others, without limiting the scope
2 hereof: Airplane transportation, boom, dock, ferry, log patrol, pipe
3 line, toll bridge, toll logging road, water transportation and wharf
4 businesses.

5 (11) "Tugboat business" means the business of operating tugboats,
6 towboats, wharf boats or similar vessels in the towing or pushing of
7 vessels, barges or rafts for hire.

8 (12) "Gross income" means the value proceeding or accruing from the
9 performance of the particular public service or transportation business
10 involved, including operations incidental thereto, but without any
11 deduction on account of the cost of the commodity furnished or sold,
12 the cost of materials used, labor costs, interest, discount, delivery
13 costs, taxes, or any other expense whatsoever paid or accrued and
14 without any deduction on account of losses.

15 (13) The meaning attributed, in chapter 82.04 RCW, to the term "tax
16 year," "person," "value proceeding or accruing," "business," "engaging
17 in business," "in this state," "within this state," "cash discount" and
18 "successor" shall apply equally in the provisions of this chapter."

19 **"Sec. 15.** RCW 82.04.260 and 1990 c 21 s 2 are each amended to read
20 as follows:

21 (1) Upon every person engaging within this state in the business of
22 buying wheat, oats, dry peas, dry beans, lentils, triticale, corn, rye
23 and barley, but not including any manufactured or processed products
24 thereof, and selling the same at wholesale; the tax imposed shall be
25 equal to the gross proceeds derived from such sales multiplied by the
26 rate of one one-hundredth of one percent.

27 (2) Upon every person engaging within this state in the business of
28 manufacturing wheat into flour, barley into pearl barley, soybeans into
29 soybean oil, or sunflower seeds into sunflower oil; as to such persons

1 the amount of tax with respect to such business shall be equal to the
2 value of the flour, pearl barley, or oil manufactured, multiplied by
3 the rate of one-eighth of one percent.

4 (3) Upon every person engaging within this state in the business of
5 splitting or processing dried peas; as to such persons the amount of
6 tax with respect to such business shall be equal to the value of the
7 peas split or processed, multiplied by the rate of one-quarter of one
8 percent.

9 (4) Upon every person engaging within this state in the business of
10 manufacturing seafood products which remain in a raw, raw frozen, or
11 raw salted state at the completion of the manufacturing by that person;
12 as to such persons the amount of tax with respect to such business
13 shall be equal to the value of the products manufactured, multiplied by
14 the rate of one-eighth of one percent.

15 (5) Upon every person engaging within this state in the business of
16 manufacturing by canning, preserving, freezing or dehydrating fresh
17 fruits and vegetables; as to such persons the amount of tax with
18 respect to such business shall be equal to the value of the products
19 canned, preserved, frozen or dehydrated multiplied by the rate of
20 three-tenths of one percent.

21 (6) Upon every nonprofit corporation and nonprofit association
22 engaging within this state in research and development, as to such
23 corporations and associations, the amount of tax with respect to such
24 activities shall be equal to the gross income derived from such
25 activities multiplied by the rate of forty-four one-hundredths of one
26 percent.

27 (7) Upon every person engaging within this state in the business
28 of slaughtering, breaking and/or processing perishable meat products
29 and/or selling the same at wholesale only and not at retail; as to such
30 persons the tax imposed shall be equal to the gross proceeds derived

1 from such sales multiplied by the rate of twenty-five one-hundredths of
2 one percent through June 30, 1986, and one-eighth of one percent
3 thereafter.

4 (8) Upon every person engaging within this state in the business
5 of making sales, at retail or wholesale, of nuclear fuel assemblies
6 manufactured by that person, as to such persons the amount of tax with
7 respect to such business shall be equal to the gross proceeds of sales
8 of the assemblies multiplied by the rate of twenty-five one-hundredths
9 of one percent.

10 (9) Upon every person engaging within this state in the business
11 of manufacturing nuclear fuel assemblies, as to such persons the amount
12 of tax with respect to such business shall be equal to the value of the
13 products manufactured multiplied by the rate of twenty-five one-
14 hundredths of one percent.

15 (10) Upon every person engaging within this state in the business
16 of acting as a travel agent; as to such persons the amount of the tax
17 with respect to such activities shall be equal to the gross income
18 derived from such activities multiplied by the rate of twenty-five one-
19 hundredths of one percent.

20 (11) Upon every person engaging within this state in business as
21 an international steamship agent, international customs house broker,
22 international freight forwarder, vessel and/or cargo charter broker in
23 foreign commerce, and/or international air cargo agent; as to such
24 persons the amount of the tax with respect to only international
25 activities shall be equal to the gross income derived from such
26 activities multiplied by the rate of thirty-three one-hundredths of one
27 percent.

28 (12) Upon every person engaging within this state in the business
29 of stevedoring and associated activities pertinent to the movement of
30 goods and commodities in waterborne interstate or foreign commerce; as

1 to such persons the amount of tax with respect to such business shall
2 be equal to the gross proceeds derived from such activities multiplied
3 by the rate of thirty-three one hundredths of one percent. Persons
4 subject to taxation under this subsection shall be exempt from payment
5 of taxes imposed by chapter 82.16 RCW for that portion of their
6 business subject to taxation under this subsection. Stevedoring and
7 associated activities pertinent to the conduct of goods and commodities
8 in waterborne interstate or foreign commerce are defined as all
9 activities of a labor, service or transportation nature whereby cargo
10 may be loaded or unloaded to or from vessels or barges, passing over,
11 onto or under a wharf, pier, or similar structure; cargo may be moved
12 to a warehouse or similar holding or storage yard or area to await
13 further movement in import or export or may move to a consolidation
14 freight station and be stuffed, unstuffed, containerized, separated or
15 otherwise segregated or aggregated for delivery or loaded on any mode
16 of transportation for delivery to its consignee. Specific activities
17 included in this definition are: Wharfage, handling, loading,
18 unloading, moving of cargo to a convenient place of delivery to the
19 consignee or a convenient place for further movement to export mode;
20 documentation services in connection with the receipt, delivery,
21 checking, care, custody and control of cargo required in the transfer
22 of cargo; imported automobile handling prior to delivery to consignee;
23 terminal stevedoring and incidental vessel services, including but not
24 limited to plugging and unplugging refrigerator service to containers,
25 trailers, and other refrigerated cargo receptacles, and securing ship
26 hatch covers.

27 (13) Upon every person engaging within this state in the business
28 of disposing of low-level waste, as defined in RCW 43.145.010; as to
29 such persons the amount of the tax with respect to such business shall
30 be equal to the gross income of the business, excluding any fees

1 imposed under chapter 43.200 RCW, multiplied by the rate of fifteen
2 percent.

3 (a) The rate specified in this subsection shall be reduced to ten
4 percent (~~((upon the effective date of legislation adopted pursuant to
5 RCW 81.04.520 governing regulation of the business of low-level
6 radioactive waste disposal))~~ on the effective date of this section.

7 (b) The rate specified in this subsection shall be further reduced
8 to five percent on January 1, 1992(~~(, if (a) of this subsection has
9 taken effect))~~).

10 (c) The rate specified in this subsection shall be further reduced
11 to three percent on July 1, 1993.

12 If the gross income of the taxpayer is attributable to activities
13 both within and without this state, the gross income attributable to
14 this state shall be determined in accordance with the methods of
15 apportionment required under RCW 82.04.460.

16 (14) Upon every person engaging within this state as an insurance
17 agent, insurance broker, or insurance solicitor licensed under chapter
18 48.17 RCW; as to such persons, the amount of the tax with respect to
19 such licensed activities shall be equal to the gross income of such
20 business multiplied by the rate of one percent."

21 "NEW SECTION. Sec. 16. A new section is added to chapter 43.200
22 RCW to read as follows:

23 The director of the department of ecology shall require that
24 generators of waste pay a fee for each cubic foot of waste disposed at
25 any facility in the state equal to six dollars and fifty cents. The
26 fee shall be imposed specifically on the generator of the waste and
27 shall not be considered to apply in any way to the low-level site
28 operator's disposal activities. The fee shall be allocated in
29 accordance with sections 17 and 18 of this act."

1 "NEW SECTION. **Sec. 17.** A new section is added to chapter 43.200
2 RCW to read as follows:

3 A portion of the surcharge received under section 16 of this act
4 shall be remitted monthly to the county in which the low-level
5 radioactive waste disposal facility is located in the following manner:

6 (1) During 1993, six dollars and fifty cents per cubic foot of
7 waste;

8 (2) During 1994, three dollars and twenty-five cents per cubic foot
9 of waste; and

10 (3) During 1995 and thereafter, two dollars per cubic foot of
11 waste."

12 "NEW SECTION. **Sec. 18.** A new section is added to chapter 43.200
13 RCW to read as follows:

14 Except for moneys that may be remitted to a county in which a low-
15 level radioactive waste disposal facility is located, all surcharges
16 authorized under section 16 of this act shall be deposited in the fund
17 created in section 19 of this act."

18 "NEW SECTION. **Sec. 19.** A new section is added to chapter 43.31
19 RCW to read as follows:

20 The Hanford area economic investment fund is established in the
21 custody of the state treasurer. Moneys in the fund shall only be used
22 pursuant to the recommendations of the committee created in section 20
23 of this act and the approval of the director of the department of trade
24 and economic development for Hanford area revolving loan funds, Hanford
25 area infrastructure projects, or other Hanford area economic
26 development and diversification projects, but may not be used for
27 government or nonprofit organization operating expenses. Up to five
28 percent of moneys in the fund may be used for program administration.

1 For the purpose of this chapter "Hanford area" means Benton and
2 Franklin counties. Disbursements from the fund shall be on the
3 authorization of the director of trade and economic development or the
4 director's designee after an affirmative vote of at least nine members
5 of the committee created in section 20 of this act on any
6 recommendations by the committee created in section 20 of this act.
7 The fund is subject to the allotment procedures under chapter 43.88
8 RCW, but no appropriation is required for disbursements. The
9 legislature intends to establish similar economic investment funds for
10 areas that develop low-level radioactive waste disposal facilities."

11 "NEW SECTION. Sec. 20. A new section is added to chapter 43.31
12 RCW to read as follows:

13 The Hanford area economic investment fund committee staffed by the
14 local associate development organization is hereby established.

15 (1) The committee shall have eleven members. The governor shall
16 appoint the members, in consultation with the Hanford area associate
17 development organization and Hanford area elected officials, subject to
18 the following requirements:

19 (a) All members shall either reside or be employed within the
20 Hanford area;

21 (b) The committee shall have a balanced membership representing
22 one member each from the elected leadership of Benton county, Franklin
23 county, the city of Richland, the city of Kennewick, the city of Pasco,
24 a Hanford area port district, the labor community, and four members
25 from the Hanford area business and financial community.

26 (c) Careful consideration shall be given to assure minority
27 representation on the committee.

28 (2) Each member appointed by the governor shall serve a term of
29 three years, except that of the members first appointed, four shall

1 serve two-year terms and four shall serve one-year terms. A person
2 appointed to fill a vacancy of a member shall be appointed in a like
3 manner and shall serve for only the unexpired term. A member is
4 eligible for reappointment. A member may be removed by the governor
5 for cause.

6 (3) The governor shall designate a member of the committee as its
7 chairperson. The committee may elect such other officers as it deems
8 appropriate. Nine members of the committee constitute a quorum and
9 nine affirmative votes are necessary for the transaction of business or
10 the exercise of any power or function of the committee.

11 (4) The members shall serve without compensation, but are entitled
12 to reimbursement for actual and necessary expenses incurred in the
13 performance of official duties in accordance with RCW 43.03.050 and
14 43.03.060.

15 (5) Members shall not be liable to the state, to the fund, or to
16 any other person as a result of their activities, whether ministerial
17 or discretionary, as members except for willful dishonesty or
18 intentional violations of law. The department may purchase liability
19 insurance for members and may indemnify these persons against the
20 claims of others."

21 "NEW SECTION. Sec. 21. A new section is added to Chapter 43.31
22 RCW to read as follows:

23 The Hanford area economic investment fund committee created under
24 section 20 of this act may:

25 (1) Adopt bylaws for the regulation of its affairs and the conduct
26 of its business;

27 (2) Utilize the services of other governmental agencies;

1 (3) Accept from any federal or state agency loans or grants for the
2 purposes of funding Hanford area revolving loan funds, Hanford area
3 infrastructure projects, or Hanford area economic development projects;

4 (4) Recommend to the director rules for the administration of the
5 program, including the terms and rates pertaining to its loans, and
6 criteria for awarding grants, loans, and financial guarantees;

7 (5) Recommend to the director a spending strategy for the moneys in
8 the fund created in section 19 of this act. The strategy shall include
9 five and ten year goals for economic development and diversification
10 for use of the moneys in the Hanford area; and

11 (6) Recommend to the director no more than two allocations eligible
12 for funding per calendar year, with a first priority on Hanford area
13 revolving loan projects, and Hanford area infrastructure allocations
14 followed by other Hanford area economic development and diversification
15 projects if the committee finds that there are no suitable allocations
16 in the priority allocations described in this section."

17 "NEW SECTION. Sec. 22. Sections 1, 2, and 4 through 13 of this
18 act shall constitute a new chapter in Title 81 RCW."

19 **"Sec. 23.** RCW 82.29A.020 and 1986 c 285 s 1 are each amended to
20 read as follows:

21 As used in this chapter the following terms shall be defined as
22 follows, unless the context otherwise requires:

23 (1) "Leasehold interest" shall mean an interest in publicly owned
24 real or personal property which exists by virtue of any lease, permit,
25 license, or any other agreement, written or verbal, between the public
26 owner of the property and a person who would not be exempt from
27 property taxes if that person owned the property in fee, granting
28 possession and use, to a degree less than fee simple ownership:

1 PROVIDED, That no interest in personal property (excluding land or
2 buildings) which is owned by the United States, whether or not as
3 trustee, or by any foreign government shall constitute a leasehold
4 interest hereunder when the right to use such property is granted
5 pursuant to a contract solely for the manufacture or production of
6 articles for sale to the United States or any foreign government. The
7 term "leasehold interest" shall include the rights of use or occupancy
8 by others of property which is owned in fee or held in trust by a
9 public corporation, commission, or authority created under RCW
10 35.21.730 or 35.21.660 if the property is listed on or is within a
11 district listed on any federal or state register of historical sites.
12 The term "leasehold interest" shall not include road or utility
13 easements or rights of access, occupancy or use granted solely for the
14 purpose of removing materials or products purchased from a public owner
15 or the lessee of a public owner.

16 (2) "Taxable rent" shall mean contract rent as defined in
17 subsection (a) of this subsection in all cases where the lease or
18 agreement has been established or renegotiated through competitive
19 bidding, or negotiated or renegotiated in accordance with statutory
20 requirements regarding the rent payable, or negotiated or renegotiated
21 under circumstances, established by public record, clearly showing that
22 the contract rent was the maximum attainable by the lessor: PROVIDED,
23 That after January 1, 1986, with respect to any lease which has been in
24 effect for ten years or more without renegotiation, taxable rent may be
25 established by procedures set forth in subsection (b) of this
26 subsection. All other leasehold interests shall be subject to the
27 determination of taxable rent under the terms of subsection (b) of this
28 subsection.

29 For purposes of determining leasehold excise tax on any lands on
30 the Hanford reservation subleased to a private or public entity by the

1 department of ecology, taxable rent shall include only the annual cash
2 rental payment made by such entity to the department of ecology
3 pursuant to RCW 43.200.080 and shall not include any other fees,
4 assessments, or charges imposed on or collected by such entity.

5 (a) "Contract rent" shall mean the amount of consideration due as
6 payment for a leasehold interest, including: The total of cash
7 payments made to the lessor or to another party for the benefit of the
8 lessor according to the requirements of the lease or agreement,
9 including any rents paid by a sublessee; expenditures for the
10 protection of the lessor's interest when required by the terms of the
11 lease or agreement; and expenditures for improvements to the property
12 to the extent that such improvements become the property of the lessor.
13 Where the consideration conveyed for the leasehold interest is made in
14 combination with payment for concession or other rights granted by the
15 lessor, only that portion of such payment which represents
16 consideration for the leasehold interest shall be part of contract
17 rent.

18 "Contract rent" shall not include: (i) Expenditures made by the
19 lessee, which under the terms of the lease or agreement, are to be
20 reimbursed by the lessor to the lessee or expenditures for improvements
21 and protection made pursuant to a lease or an agreement which requires
22 that the use of the improved property be open to the general public and
23 that no profit will inure to the lessee from the lease; (ii)
24 expenditures made by the lessee for the replacement or repair of
25 facilities due to fire or other casualty including payments for
26 insurance to provide reimbursement for losses or payments to a public
27 or private entity for protection of such property from damage or loss
28 or for alterations or additions made necessary by an action of
29 government taken after the date of the execution of the lease or
30 agreement; (iii) improvements added to publicly owned property by a

1 sublessee under an agreement executed prior to January 1, 1976, which
2 have been taxed as personal property of the sublessee prior to January
3 1, 1976, or improvements made by a sublessee of the same lessee under
4 a similar agreement executed prior to January 1, 1976, and such
5 improvements shall be taxable to the sublessee as personal property;
6 (iv) improvements added to publicly owned property if such improvements
7 are being taxed as personal property to any person.

8 Any prepaid contract rent shall be considered to have been paid in
9 the year due and not in the year actually paid with respect to
10 prepayment for a period of more than one year. Expenditures for
11 improvements with a useful life of more than one year which are
12 included as part of contract rent shall be treated as prepaid contract
13 rent and prorated over the useful life of the improvement or the
14 remaining term of the lease or agreement if the useful life is in
15 excess of the remaining term of the lease or agreement. Rent prepaid
16 prior to January 1, 1976, shall be prorated from the date of
17 prepayment.

18 With respect to a "product lease", the value of agricultural
19 products received as rent shall be the value at the place of delivery
20 as of the fifteenth day of the month of delivery; with respect to all
21 other products received as contract rent, the value shall be that value
22 determined at the time of sale under terms of the lease.

23 (b) If it shall be determined by the department of revenue, upon
24 examination of a lessee's accounts or those of a lessor of publicly
25 owned property, that a lessee is occupying or using publicly owned
26 property in such a manner as to create a leasehold interest and that
27 such leasehold interest has not been established through competitive
28 bidding, or negotiated in accordance with statutory requirements
29 regarding the rent payable, or negotiated under circumstances,
30 established by public record, clearly showing that the contract rent

1 was the maximum attainable by the lessor, the department may establish
2 a taxable rent computation for use in determining the tax payable under
3 authority granted in this chapter based upon the following criteria:
4 (i) Consideration shall be given to rental being paid to other lessors
5 by lessees of similar property for similar purposes over similar
6 periods of time; (ii) consideration shall be given to what would be
7 considered a fair rate of return on the market value of the property
8 leased less reasonable deductions for any restrictions on use, special
9 operating requirements or provisions for concurrent use by the lessor,
10 another person or the general public.

11 (3) "Product lease" as used in this chapter shall mean a lease of
12 property for use in the production of agricultural or marine products
13 to the extent that such lease provides for the contract rent to be paid
14 by the delivery of a stated percentage of the production of such
15 agricultural or marine products to the credit of the lessor or the
16 payment to the lessor of a stated percentage of the proceeds from the
17 sale of such products.

18 (4) "Renegotiated" means a change in the lease agreement which
19 changes the agreed time of possession, restrictions on use, the rate of
20 the cash rental or of any other consideration payable by the lessee to
21 or for the benefit of the lessor, other than any such change required
22 by the terms of the lease or agreement. In addition "renegotiated"
23 shall mean a continuation of possession by the lessee beyond the date
24 when, under the terms of the lease agreement, the lessee had the right
25 to vacate the premises without any further liability to the lessor.

26 (5) "City" means any city or town."

27 "NEW SECTION. Sec. 24. (1) Sections 1 through 15 and 22 of this
28 act are necessary for the immediate preservation of the public peace,
29 health, or safety, or support of the state government and its existing

1 public institutions. Sections 1 through 14 and 22 of this act shall
2 take effect July 1, 1991, and section 15 of this act shall take effect
3 immediately.

4 (2) Sections 16 through 21 and 23 of this act shall take effect
5 January 1, 1993."

6 **ESSB 5756** - H AMD
7 By Representative Grant

8
9 On page 1, line 1 of the title, after "sites;" strike the remainder
10 of the title and insert "amending RCW 81.04.010, 82.16.010, 82.04.260,
11 and 82.29A.020; adding a new chapter to Title 81 RCW; adding new
12 sections to chapter 43.200 RCW; adding new sections to chapter 43.31
13 RCW; providing effective dates; and declaring an emergency."