

HB 1059 - H AMD 128

By Representative Goodman

ADOPTED 03/05/2009

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

3 "**Sec. 1.** RCW 13.40.210 and 2007 c 203 s 1 and 2007 c 199 s 13 are
4 each reenacted and amended to read as follows:

5 (1) The secretary shall set a release date for each juvenile
6 committed to its custody. The release date shall be within the
7 prescribed range to which a juvenile has been committed under RCW
8 13.40.0357 or 13.40.030 except as provided in RCW 13.40.320 concerning
9 offenders the department determines are eligible for the juvenile
10 offender basic training camp program. Such dates shall be determined
11 prior to the expiration of sixty percent of a juvenile's minimum term
12 of confinement included within the prescribed range to which the
13 juvenile has been committed. The secretary shall release any juvenile
14 committed to the custody of the department within four calendar days
15 prior to the juvenile's release date or on the release date set under
16 this chapter. Days spent in the custody of the department shall be
17 tolled by any period of time during which a juvenile has absented
18 himself or herself from the department's supervision without the prior
19 approval of the secretary or the secretary's designee.

20 (2) The secretary shall monitor the average daily population of the
21 state's juvenile residential facilities. When the secretary concludes
22 that in-residence population of residential facilities exceeds one
23 hundred five percent of the rated bed capacity specified in statute, or
24 in absence of such specification, as specified by the department in
25 rule, the secretary may recommend reductions to the governor. On
26 certification by the governor that the recommended reductions are
27 necessary, the secretary has authority to administratively release a
28 sufficient number of offenders to reduce in-residence population to one
29 hundred percent of rated bed capacity. The secretary shall release
30 those offenders who have served the greatest proportion of their

1 sentence. However, the secretary may deny release in a particular case
2 at the request of an offender, or if the secretary finds that there is
3 no responsible custodian, as determined by the department, to whom to
4 release the offender, or if the release of the offender would pose a
5 clear danger to society. The department shall notify the committing
6 court of the release at the time of release if any such early releases
7 have occurred as a result of excessive in-residence population. In no
8 event shall an offender adjudicated of a violent offense be granted
9 release under the provisions of this subsection.

10 (3)(a) Following the release of any juvenile under subsection (1)
11 of this section, the secretary may require the juvenile to comply with
12 a program of parole to be administered by the department in his or her
13 community which shall last no longer than eighteen months, except that
14 in the case of a juvenile sentenced for rape in the first or second
15 degree, rape of a child in the first or second degree, child
16 molestation in the first degree, or indecent liberties with forcible
17 compulsion, the period of parole shall be twenty-four months and, in
18 the discretion of the secretary, may be up to thirty-six months when
19 the secretary finds that an additional period of parole is necessary
20 and appropriate in the interests of public safety or to meet the
21 ongoing needs of the juvenile. A parole program is mandatory for
22 offenders released under subsection (2) of this section and for
23 offenders who receive a juvenile residential commitment sentence of
24 theft of a motor vehicle ((±)), possession of a stolen motor vehicle,
25 or taking a motor vehicle without permission 1. The decision to place
26 an offender on parole shall be based on an assessment by the department
27 of the offender's risk for reoffending upon release. The department
28 shall prioritize available parole resources to provide supervision and
29 services to offenders at moderate to high risk for reoffending.

30 (b) The secretary shall, for the period of parole, facilitate the
31 juvenile's reintegration into his or her community and to further this
32 goal shall require the juvenile to refrain from possessing a firearm or
33 using a deadly weapon and refrain from committing new offenses and may
34 require the juvenile to: (i) Undergo available medical, psychiatric,
35 drug and alcohol, sex offender, mental health, and other offense-
36 related treatment services; (ii) report as directed to a parole officer
37 and/or designee; (iii) pursue a course of study, vocational training,
38 or employment; (iv) notify the parole officer of the current address

1 where he or she resides; (v) be present at a particular address during
2 specified hours; (vi) remain within prescribed geographical boundaries;
3 (vii) submit to electronic monitoring; (viii) refrain from using
4 illegal drugs and alcohol, and submit to random urinalysis when
5 requested by the assigned parole officer; (ix) refrain from contact
6 with specific individuals or a specified class of individuals; (x) meet
7 other conditions determined by the parole officer to further enhance
8 the juvenile's reintegration into the community; (xi) pay any court-
9 ordered fines or restitution; and (xii) perform community restitution.
10 Community restitution for the purpose of this section means compulsory
11 service, without compensation, performed for the benefit of the
12 community by the offender. Community restitution may be performed
13 through public or private organizations or through work crews.

14 (c) The secretary may further require up to twenty-five percent of
15 the highest risk juvenile offenders who are placed on parole to
16 participate in an intensive supervision program. Offenders
17 participating in an intensive supervision program shall be required to
18 comply with all terms and conditions listed in (b) of this subsection
19 and shall also be required to comply with the following additional
20 terms and conditions: (i) Obey all laws and refrain from any conduct
21 that threatens public safety; (ii) report at least once a week to an
22 assigned community case manager; and (iii) meet all other requirements
23 imposed by the community case manager related to participating in the
24 intensive supervision program. As a part of the intensive supervision
25 program, the secretary may require day reporting.

26 (d) After termination of the parole period, the juvenile shall be
27 discharged from the department's supervision.

28 (4)(a) The department may also modify parole for violation thereof.
29 If, after affording a juvenile all of the due process rights to which
30 he or she would be entitled if the juvenile were an adult, the
31 secretary finds that a juvenile has violated a condition of his or her
32 parole, the secretary shall order one of the following which is
33 reasonably likely to effectuate the purpose of the parole and to
34 protect the public: (i) Continued supervision under the same
35 conditions previously imposed; (ii) intensified supervision with
36 increased reporting requirements; (iii) additional conditions of
37 supervision authorized by this chapter; (iv) except as provided in
38 (a)(v) and (vi) of this subsection, imposition of a period of

1 confinement not to exceed thirty days in a facility operated by or
2 pursuant to a contract with the state of Washington or any city or
3 county for a portion of each day or for a certain number of days each
4 week with the balance of the days or weeks spent under supervision; (v)
5 the secretary may order any of the conditions or may return the
6 offender to confinement for the remainder of the sentence range if the
7 offense for which the offender was sentenced is rape in the first or
8 second degree, rape of a child in the first or second degree, child
9 molestation in the first degree, indecent liberties with forcible
10 compulsion, or a sex offense that is also a serious violent offense as
11 defined by RCW 9.94A.030; and (vi) the secretary may order any of the
12 conditions or may return the offender to confinement for the remainder
13 of the sentence range if the youth has completed the basic training
14 camp program as described in RCW 13.40.320.

15 (b) The secretary may modify parole and order any of the conditions
16 or may return the offender to confinement for up to twenty-four weeks
17 if the offender was sentenced for a sex offense as defined under RCW
18 9A.44.130 and is known to have violated the terms of parole.
19 Confinement beyond thirty days is intended to only be used for a small
20 and limited number of sex offenders. It shall only be used when other
21 graduated sanctions or interventions have not been effective or the
22 behavior is so egregious it warrants the use of the higher level
23 intervention and the violation: (i) Is a known pattern of behavior
24 consistent with a previous sex offense that puts the youth at high risk
25 for reoffending sexually; (ii) consists of sexual behavior that is
26 determined to be predatory as defined in RCW 71.09.020; or (iii)
27 requires a review under chapter 71.09 RCW, due to a recent overt act.
28 The total number of days of confinement for violations of parole
29 conditions during the parole period shall not exceed the number of days
30 provided by the maximum sentence imposed by the disposition for the
31 underlying offense pursuant to RCW 13.40.0357. The department shall
32 not aggregate multiple parole violations that occur prior to the parole
33 revocation hearing and impose consecutive twenty-four week periods of
34 confinement for each parole violation. The department is authorized to
35 engage in rule making pursuant to chapter 34.05 RCW, to implement this
36 subsection, including narrowly defining the behaviors that could lead
37 to this higher level intervention.

1 (c) If the department finds that any juvenile in a program of
2 parole has possessed a firearm or used a deadly weapon during the
3 program of parole, the department shall modify the parole under (a) of
4 this subsection and confine the juvenile for at least thirty days.
5 Confinement shall be in a facility operated by or pursuant to a
6 contract with the state or any county.

7 (5) A parole officer of the department of social and health
8 services shall have the power to arrest a juvenile under his or her
9 supervision on the same grounds as a law enforcement officer would be
10 authorized to arrest the person.

11 (6) If so requested and approved under chapter 13.06 RCW, the
12 secretary shall permit a county or group of counties to perform
13 functions under subsections (3) through (5) of this section.

14 **Sec. 2.** RCW 46.09.170 and 2007 c 522 s 953 and 2007 c 241 s 16 are
15 each reenacted to read as follows:

16 (1) From time to time, but at least once each year, the state
17 treasurer shall refund from the motor vehicle fund one percent of the
18 motor vehicle fuel tax revenues collected under chapter 82.36 RCW,
19 based on a tax rate of: (a) Nineteen cents per gallon of motor vehicle
20 fuel from July 1, 2003, through June 30, 2005; (b) twenty cents per
21 gallon of motor vehicle fuel from July 1, 2005, through June 30, 2007;
22 (c) twenty-one cents per gallon of motor vehicle fuel from July 1,
23 2007, through June 30, 2009; (d) twenty-two cents per gallon of motor
24 vehicle fuel from July 1, 2009, through June 30, 2011; and (e) twenty-
25 three cents per gallon of motor vehicle fuel beginning July 1, 2011,
26 and thereafter, less proper deductions for refunds and costs of
27 collection as provided in RCW 46.68.090.

28 (2) The treasurer shall place these funds in the general fund as
29 follows:

30 (a) Thirty-six percent shall be credited to the ORV and nonhighway
31 vehicle account and administered by the department of natural resources
32 solely for acquisition, planning, development, maintenance, and
33 management of ORV, nonmotorized, and nonhighway road recreation
34 facilities, and information programs and maintenance of nonhighway
35 roads;

36 (b) Three and one-half percent shall be credited to the ORV and
37 nonhighway vehicle account and administered by the department of fish

1 and wildlife solely for the acquisition, planning, development,
2 maintenance, and management of ORV, nonmotorized, and nonhighway road
3 recreation facilities and the maintenance of nonhighway roads;

4 (c) Two percent shall be credited to the ORV and nonhighway vehicle
5 account and administered by the parks and recreation commission solely
6 for the acquisition, planning, development, maintenance, and management
7 of ORV, nonmotorized, and nonhighway road recreation facilities; and

8 (d) Fifty-eight and one-half percent shall be credited to the
9 nonhighway and off-road vehicle activities program account to be
10 administered by the board for planning, acquisition, development,
11 maintenance, and management of ORV, nonmotorized, and nonhighway road
12 recreation facilities and for education, information, and law
13 enforcement programs. The funds under this subsection shall be
14 expended in accordance with the following limitations:

15 (i) Not more than thirty percent may be expended for education,
16 information, and law enforcement programs under this chapter;

17 (ii) Not less than seventy percent may be expended for ORV,
18 nonmotorized, and nonhighway road recreation facilities. Except as
19 provided in (d)(iii) of this subsection, of this amount:

20 (A) Not less than thirty percent, together with the funds the board
21 receives under RCW 46.09.110, may be expended for ORV recreation
22 facilities;

23 (B) Not less than thirty percent may be expended for nonmotorized
24 recreation facilities. Funds expended under this subsection
25 (2)(d)(ii)(B) shall be known as Ira Spring outdoor recreation
26 facilities funds; and

27 (C) Not less than thirty percent may be expended for nonhighway
28 road recreation facilities;

29 (iii) The board may waive the minimum percentage cited in (d)(ii)
30 of this subsection due to insufficient requests for funds or projects
31 that score low in the board's project evaluation. Funds remaining
32 after such a waiver must be allocated in accordance with board policy.

33 (3) On a yearly basis an agency may not, except as provided in RCW
34 46.09.110, expend more than ten percent of the funds it receives under
35 this chapter for general administration expenses incurred in carrying
36 out this chapter.

37 (4) During the 2007-09 fiscal biennium, the legislature may
38 appropriate such amounts as reflect the excess fund balance in the NOVA

1 account to the department of natural resources for planning and
2 designing consistent off-road vehicle signage at department-managed
3 recreation sites, and for planning recreation opportunities on
4 department-managed lands in the Reiter block and Ahtanum state forest.
5 This appropriation is not required to follow the specific distribution
6 specified in subsection (2) of this section.

7 **Sec. 3.** RCW 49.60.040 and 2007 c 317 s 2 and 2007 c 187 s 4 are
8 each reenacted to read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Person" includes one or more individuals, partnerships,
12 associations, organizations, corporations, cooperatives, legal
13 representatives, trustees and receivers, or any group of persons; it
14 includes any owner, lessee, proprietor, manager, agent, or employee,
15 whether one or more natural persons; and further includes any political
16 or civil subdivisions of the state and any agency or instrumentality of
17 the state or of any political or civil subdivision thereof.

18 (2) "Commission" means the Washington state human rights
19 commission.

20 (3) "Employer" includes any person acting in the interest of an
21 employer, directly or indirectly, who employs eight or more persons,
22 and does not include any religious or sectarian organization not
23 organized for private profit.

24 (4) "Employee" does not include any individual employed by his or
25 her parents, spouse, or child, or in the domestic service of any
26 person.

27 (5) "Labor organization" includes any organization which exists for
28 the purpose, in whole or in part, of dealing with employers concerning
29 grievances or terms or conditions of employment, or for other mutual
30 aid or protection in connection with employment.

31 (6) "Employment agency" includes any person undertaking with or
32 without compensation to recruit, procure, refer, or place employees for
33 an employer.

34 (7) "Marital status" means the legal status of being married,
35 single, separated, divorced, or widowed.

36 (8) "National origin" includes "ancestry".

1 (9) "Full enjoyment of" includes the right to purchase any service,
2 commodity, or article of personal property offered or sold on, or by,
3 any establishment to the public, and the admission of any person to
4 accommodations, advantages, facilities, or privileges of any place of
5 public resort, accommodation, assemblage, or amusement, without acts
6 directly or indirectly causing persons of any particular race, creed,
7 color, sex, sexual orientation, national origin, or with any sensory,
8 mental, or physical disability, or the use of a trained dog guide or
9 service animal by a person with a disability, to be treated as not
10 welcome, accepted, desired, or solicited.

11 (10) "Any place of public resort, accommodation, assemblage, or
12 amusement" includes, but is not limited to, any place, licensed or
13 unlicensed, kept for gain, hire, or reward, or where charges are made
14 for admission, service, occupancy, or use of any property or
15 facilities, whether conducted for the entertainment, housing, or
16 lodging of transient guests, or for the benefit, use, or accommodation
17 of those seeking health, recreation, or rest, or for the burial or
18 other disposition of human remains, or for the sale of goods,
19 merchandise, services, or personal property, or for the rendering of
20 personal services, or for public conveyance or transportation on land,
21 water, or in the air, including the stations and terminals thereof and
22 the garaging of vehicles, or where food or beverages of any kind are
23 sold for consumption on the premises, or where public amusement,
24 entertainment, sports, or recreation of any kind is offered with or
25 without charge, or where medical service or care is made available, or
26 where the public gathers, congregates, or assembles for amusement,
27 recreation, or public purposes, or public halls, public elevators, and
28 public washrooms of buildings and structures occupied by two or more
29 tenants, or by the owner and one or more tenants, or any public library
30 or educational institution, or schools of special instruction, or
31 nursery schools, or day care centers or children's camps: PROVIDED,
32 That nothing contained in this definition shall be construed to include
33 or apply to any institute, bona fide club, or place of accommodation,
34 which is by its nature distinctly private, including fraternal
35 organizations, though where public use is permitted that use shall be
36 covered by this chapter; nor shall anything contained in this
37 definition apply to any educational facility, columbarium, crematory,

1 mausoleum, or cemetery operated or maintained by a bona fide religious
2 or sectarian institution.

3 (11) "Real property" includes buildings, structures, dwellings,
4 real estate, lands, tenements, leaseholds, interests in real estate
5 cooperatives, condominiums, and hereditaments, corporeal and
6 incorporeal, or any interest therein.

7 (12) "Real estate transaction" includes the sale, appraisal,
8 brokering, exchange, purchase, rental, or lease of real property,
9 transacting or applying for a real estate loan, or the provision of
10 brokerage services.

11 (13) "Dwelling" means any building, structure, or portion thereof
12 that is occupied as, or designed or intended for occupancy as, a
13 residence by one or more families, and any vacant land that is offered
14 for sale or lease for the construction or location thereon of any such
15 building, structure, or portion thereof.

16 (14) "Sex" means gender.

17 (15) "Sexual orientation" means heterosexuality, homosexuality,
18 bisexuality, and gender expression or identity. As used in this
19 definition, "gender expression or identity" means having or being
20 perceived as having a gender identity, self-image, appearance,
21 behavior, or expression, whether or not that gender identity, self-
22 image, appearance, behavior, or expression is different from that
23 traditionally associated with the sex assigned to that person at birth.

24 (16) "Aggrieved person" means any person who: (a) Claims to have
25 been injured by an unfair practice in a real estate transaction; or (b)
26 believes that he or she will be injured by an unfair practice in a real
27 estate transaction that is about to occur.

28 (17) "Complainant" means the person who files a complaint in a real
29 estate transaction.

30 (18) "Respondent" means any person accused in a complaint or
31 amended complaint of an unfair practice in a real estate transaction.

32 (19) "Credit transaction" includes any open or closed end credit
33 transaction, whether in the nature of a loan, retail installment
34 transaction, credit card issue or charge, or otherwise, and whether for
35 personal or for business purposes, in which a service, finance, or
36 interest charge is imposed, or which provides for repayment in
37 scheduled payments, when such credit is extended in the regular course
38 of any trade or commerce, including but not limited to transactions by

1 banks, savings and loan associations or other financial lending
2 institutions of whatever nature, stock brokers, or by a merchant or
3 mercantile establishment which as part of its ordinary business permits
4 or provides that payment for purchases of property or service therefrom
5 may be deferred.

6 (20) "Families with children status" means one or more individuals
7 who have not attained the age of eighteen years being domiciled with a
8 parent or another person having legal custody of such individual or
9 individuals, or with the designee of such parent or other person having
10 such legal custody, with the written permission of such parent or other
11 person. Families with children status also applies to any person who
12 is pregnant or is in the process of securing legal custody of any
13 individual who has not attained the age of eighteen years.

14 (21) "Covered multifamily dwelling" means: (a) Buildings
15 consisting of four or more dwelling units if such buildings have one or
16 more elevators; and (b) ground floor dwelling units in other buildings
17 consisting of four or more dwelling units.

18 (22) "Premises" means the interior or exterior spaces, parts,
19 components, or elements of a building, including individual dwelling
20 units and the public and common use areas of a building.

21 (23) "Dog guide" means a dog that is trained for the purpose of
22 guiding blind persons or a dog that is trained for the purpose of
23 assisting hearing impaired persons.

24 (24) "Service animal" means an animal that is trained for the
25 purpose of assisting or accommodating a sensory, mental, or physical
26 disability of a person with a disability.

27 (25)(a) "Disability" means the presence of a sensory, mental, or
28 physical impairment that:

- 29 (i) Is medically cognizable or diagnosable; or
- 30 (ii) Exists as a record or history; or
- 31 (iii) Is perceived to exist whether or not it exists in fact.

32 (b) A disability exists whether it is temporary or permanent,
33 common or uncommon, mitigated or unmitigated, or whether or not it
34 limits the ability to work generally or work at a particular job or
35 whether or not it limits any other activity within the scope of this
36 chapter.

37 (c) For purposes of this definition, "impairment" includes, but is
38 not limited to:

1 (i) Any physiological disorder, or condition, cosmetic
2 disfigurement, or anatomical loss affecting one or more of the
3 following body systems: Neurological, musculoskeletal, special sense
4 organs, respiratory, including speech organs, cardiovascular,
5 reproductive, digestive, genitor-urinary, hemic and lymphatic, skin,
6 and endocrine; or

7 (ii) Any mental, developmental, traumatic, or psychological
8 disorder, including but not limited to cognitive limitation, organic
9 brain syndrome, emotional or mental illness, and specific learning
10 disabilities.

11 (d) Only for the purposes of qualifying for reasonable
12 accommodation in employment, an impairment must be known or shown
13 through an interactive process to exist in fact and:

14 (i) The impairment must have a substantially limiting effect upon
15 the individual's ability to perform his or her job, the individual's
16 ability to apply or be considered for a job, or the individual's access
17 to equal benefits, privileges, or terms or conditions of employment; or

18 (ii) The employee must have put the employer on notice of the
19 existence of an impairment, and medical documentation must establish a
20 reasonable likelihood that engaging in job functions without an
21 accommodation would aggravate the impairment to the extent that it
22 would create a substantially limiting effect.

23 (e) For purposes of (d) of this subsection, a limitation is not
24 substantial if it has only a trivial effect.

25 (26) "Honorably discharged veteran or military status" means a
26 person who is:

27 (a) A veteran, as defined in RCW 41.04.007; or

28 (b) An active or reserve member in any branch of the armed forces
29 of the United States, including the national guard, coast guard, and
30 armed forces reserves.

31 **Sec. 4.** RCW 66.20.310 and 2008 c 94 s 11 and 2008 c 41 s 3 are
32 each reenacted to read as follows:

33 (1)(a) There shall be an alcohol server permit, known as a class 12
34 permit, for a manager or bartender selling or mixing alcohol, spirits,
35 wines, or beer for consumption at an on-premises licensed facility.

36 (b) There shall be an alcohol server permit, known as a class 13

1 permit, for a person who only serves alcohol, spirits, wines, or beer
2 for consumption at an on-premises licensed facility.

3 (c) As provided by rule by the board, a class 13 permit holder may
4 be allowed to act as a bartender without holding a class 12 permit.

5 (2)(a) Effective January 1, 1997, except as provided in (d) of this
6 subsection, every alcohol server employed, under contract or otherwise,
7 at a retail licensed premise shall have issued to them a class 12 or
8 class 13 permit.

9 (b) Every class 12 and class 13 permit issued shall be issued in
10 the name of the applicant and no other person may use the permit of
11 another permit holder. The holder shall present the permit upon
12 request to inspection by a representative of the board or a peace
13 officer. The class 12 or class 13 permit shall be valid for employment
14 at any retail licensed premises described in (a) of this subsection.

15 (c) Except as provided in (d) of this subsection, no licensee
16 holding a license as authorized by RCW 66.24.320, 66.24.330, 66.24.350,
17 66.24.400, 66.24.425, 66.24.450, and 66.24.570 may employ or accept the
18 services of any person without the person first having a valid class 12
19 or class 13 permit.

20 (d) Within sixty days of initial employment, every person whose
21 duties include the compounding, sale, service, or handling of liquor
22 shall have a class 12 or class 13 permit.

23 (e) No person may perform duties that include the sale or service
24 of alcoholic beverages on a retail licensed premises without possessing
25 a valid alcohol server permit.

26 (3) A permit issued by a training entity under this section is
27 valid for employment at any retail licensed premises described in
28 subsection (2)(a) of this section for a period of five years unless
29 suspended by the board.

30 (4) The board may suspend or revoke an existing permit if any of
31 the following occur:

32 (a) The applicant or permittee has been convicted of violating any
33 of the state or local intoxicating liquor laws of this state or has
34 been convicted at any time of a felony; or

35 (b) The permittee has performed or permitted any act that
36 constitutes a violation of this title or of any rule of the board.

37 (5) The suspension or revocation of a permit under this section
38 does not relieve a licensee from responsibility for any act of the

1 employee or agent while employed upon the retail licensed premises.
2 The board may, as appropriate, revoke or suspend either the permit of
3 the employee who committed the violation or the license of the licensee
4 upon whose premises the violation occurred, or both the permit and the
5 license.

6 (6)(a) After January 1, 1997, it is a violation of this title for
7 any retail licensee or agent of a retail licensee as described in
8 subsection (2)(a) of this section to employ in the sale or service of
9 alcoholic beverages, any person who does not have a valid alcohol
10 server permit or whose permit has been revoked, suspended, or denied.

11 (b) It is a violation of this title for a person whose alcohol
12 server permit has been denied, suspended, or revoked to accept
13 employment in the sale or service of alcoholic beverages.

14 (7) Grocery stores licensed under RCW 66.24.360, the primary
15 commercial activity of which is the sale of grocery products and for
16 which the sale and service of beer and wine for on-premises consumption
17 with food is incidental to the primary business, and employees of such
18 establishments, are exempt from RCW 66.20.300 through 66.20.350.

19 **Sec. 5.** RCW 70.105D.070 and 2008 c 329 s 921, 2008 c 329 s 920,
20 2008 c 329 s 919, and 2008 c 328 s 6009 are each reenacted and amended
21 to read as follows:

22 (1) The state toxics control account and the local toxics control
23 account are hereby created in the state treasury.

24 (2) The following moneys shall be deposited into the state toxics
25 control account: (a) Those revenues which are raised by the tax
26 imposed under RCW 82.21.030 and which are attributable to that portion
27 of the rate equal to thirty-three one-hundredths of one percent; (b)
28 the costs of remedial actions recovered under this chapter or chapter
29 70.105A RCW; (c) penalties collected or recovered under this chapter;
30 and (d) any other money appropriated or transferred to the account by
31 the legislature. Moneys in the account may be used only to carry out
32 the purposes of this chapter, including but not limited to the
33 following activities:

34 (i) The state's responsibility for hazardous waste planning,
35 management, regulation, enforcement, technical assistance, and public
36 education required under chapter 70.105 RCW;

1 (ii) The state's responsibility for solid waste planning,
2 management, regulation, enforcement, technical assistance, and public
3 education required under chapter 70.95 RCW;

4 (iii) The hazardous waste cleanup program required under this
5 chapter;

6 (iv) State matching funds required under the federal cleanup law;

7 (v) Financial assistance for local programs in accordance with
8 chapters 70.95, 70.95C, 70.95I, and 70.105 RCW;

9 (vi) State government programs for the safe reduction, recycling,
10 or disposal of hazardous wastes from households, small businesses, and
11 agriculture;

12 (vii) Hazardous materials emergency response training;

13 (viii) Water and environmental health protection and monitoring
14 programs;

15 (ix) Programs authorized under chapter 70.146 RCW;

16 (x) A public participation program, including regional citizen
17 advisory committees;

18 (xi) Public funding to assist potentially liable persons to pay for
19 the costs of remedial action in compliance with cleanup standards under
20 RCW 70.105D.030(2)(e) but only when the amount and terms of such
21 funding are established under a settlement agreement under RCW
22 70.105D.040(4) and when the director has found that the funding will
23 achieve both (A) a substantially more expeditious or enhanced cleanup
24 than would otherwise occur, and (B) the prevention or mitigation of
25 unfair economic hardship; and

26 (xii) Development and demonstration of alternative management
27 technologies designed to carry out the hazardous waste management
28 priorities of RCW 70.105.150.

29 (3) The following moneys shall be deposited into the local toxics
30 control account: Those revenues which are raised by the tax imposed
31 under RCW 82.21.030 and which are attributable to that portion of the
32 rate equal to thirty-seven one-hundredths of one percent.

33 (a) Moneys deposited in the local toxics control account shall be
34 used by the department for grants or loans to local governments for the
35 following purposes in descending order of priority:

36 (i) Remedial actions;

37 (ii) Hazardous waste plans and programs under chapter 70.105 RCW;

1 (iii) Solid waste plans and programs under chapters 70.95, 70.95C,
2 70.95I, and 70.105 RCW;

3 (iv) Funds for a program to assist in the assessment and cleanup of
4 sites of methamphetamine production, but not to be used for the initial
5 containment of such sites, consistent with the responsibilities and
6 intent of RCW 69.50.511; and

7 (v) Cleanup and disposal of hazardous substances from abandoned or
8 derelict vessels, defined for the purposes of this section as vessels
9 that have little or no value and either have no identified owner or
10 have an identified owner lacking financial resources to clean up and
11 dispose of the vessel, that pose a threat to human health or the
12 environment.

13 (b) Funds for plans and programs shall be allocated consistent with
14 the priorities and matching requirements established in chapters
15 70.105, 70.95C, 70.95I, and 70.95 RCW, except that any applicant that
16 is a Puget Sound partner, as defined in RCW 90.71.010, along with any
17 project that is referenced in the action agenda developed by the Puget
18 Sound partnership under RCW 90.71.310, shall, except as conditioned by
19 RCW 70.105D.120, receive priority for any available funding for any
20 grant or funding programs or sources that use a competitive bidding
21 process. During the 2007-2009 fiscal biennium, moneys in the account
22 may also be used for grants to local governments to retrofit public
23 sector diesel equipment and for storm water planning and implementation
24 activities.

25 ~~(c) ((Funds may also be appropriated to the department of health to
26 implement programs to reduce testing requirements under the federal
27 safe drinking water act for public water systems. The department of
28 health shall reimburse the account from fees assessed under RCW
29 70.119A.115 by June 30, 1995.~~

30 ~~(d))~~ To expedite cleanups throughout the state, the department
31 shall partner with local communities and liable parties for cleanups.
32 The department is authorized to use the following additional strategies
33 in order to ensure a healthful environment for future generations:

34 (i) The director may alter grant-matching requirements to create
35 incentives for local governments to expedite cleanups when one of the
36 following conditions exists:

37 (A) Funding would prevent or mitigate unfair economic hardship
38 imposed by the clean-up liability;

1 (B) Funding would create new substantial economic development,
2 public recreational, or habitat restoration opportunities that would
3 not otherwise occur; or

4 (C) Funding would create an opportunity for acquisition and
5 redevelopment of vacant, orphaned, or abandoned property under RCW
6 70.105D.040(5) that would not otherwise occur;

7 (ii) The use of outside contracts to conduct necessary studies;

8 (iii) The purchase of remedial action cost-cap insurance, when
9 necessary to expedite multiparty clean-up efforts.

10 (4) Except for unanticipated receipts under RCW 43.79.260 through
11 43.79.282, moneys in the state and local toxics control accounts may be
12 spent only after appropriation by statute.

13 (5) One percent of the moneys deposited into the state and local
14 toxics control accounts shall be allocated only for public
15 participation grants to persons who may be adversely affected by a
16 release or threatened release of a hazardous substance and to not-for-
17 profit public interest organizations. The primary purpose of these
18 grants is to facilitate the participation by persons and organizations
19 in the investigation and remedying of releases or threatened releases
20 of hazardous substances and to implement the state's solid and
21 hazardous waste management priorities. (~~However, during the 1999-2001~~
22 ~~fiscal biennium, funding may not be granted to entities engaged in~~
23 ~~lobbying activities, and applicants may not be awarded grants if their~~
24 ~~cumulative grant awards under this section exceed two hundred thousand~~
25 ~~dollars.)) No grant may exceed sixty thousand dollars. Grants may be
26 renewed annually. Moneys appropriated for public participation from
27 either account which are not expended at the close of any biennium
28 shall revert to the state toxics control account.~~

29 (6) No moneys deposited into either the state or local toxics
30 control account may be used for solid waste incinerator feasibility
31 studies, construction, maintenance, or operation, or, after January 1,
32 2010, for projects designed to address the restoration of Puget Sound,
33 funded in a competitive grant process, that are in conflict with the
34 action agenda developed by the Puget Sound partnership under RCW
35 90.71.310.

36 (7) The department shall adopt rules for grant or loan issuance and
37 performance.

1 (8) During the 2007-2009 fiscal biennium, the legislature may
2 transfer from the local toxics control account to the state toxics
3 control account such amounts as reflect excess fund balance in the
4 account.

5 (9) During the 2007-2009 fiscal biennium, the local toxics control
6 account may also be used for a standby rescue tug at Neah Bay.

7 **Sec. 6.** RCW 79A.55.020 and 1999 c 249 s 802 and 1999 c 151 s 1702
8 are each reenacted and amended to read as follows:

9 (1) The commission shall develop and adopt management policies for
10 publicly owned or leased land on the rivers designated by the
11 legislature as being a part of the state's scenic river system and
12 within the associated river areas. The commission may adopt rules
13 identifying river classifications which reflect the characteristics
14 common to various segments of scenic rivers and may adopt management
15 policies consistent with local government's shoreline management master
16 plans appropriate for each such river classification. All such
17 policies shall be adopted by the commission in accordance with the
18 provisions of chapter 34.05 RCW, as now or hereafter amended. Any
19 variance with such a policy by any public agency shall be authorized
20 only by the approval of the (~~department~~) commission and shall be made
21 only to alleviate unusual hardships unique to a given segment of the
22 system.

23 (2) Any policies developed pursuant to subsection (1) of this
24 section shall include management plans for protecting ecological,
25 economic, recreational, aesthetic, botanical, scenic, geological,
26 hydrological, fish and wildlife, historical, cultural, archaeological,
27 and scientific features of the rivers designated as being in the
28 system. Such policies shall also include management plans to encourage
29 any nonprofit group, organization, association, person, or corporation
30 to develop and adopt programs for the purpose of increasing fish
31 propagation.

32 (3) The (~~department~~) commission shall identify on a river by
33 river basis any publicly owned or leased lands which could be included
34 in a river area of the system but which are developed in a manner
35 unsuitable for land to be managed as part of the system. The
36 commission shall exclude lands so identified from the provisions of any
37 management policies implementing the provisions of this chapter.

