

2 ESB 5613 - H COMM AMD  
3 By Committee on Natural Resources

4

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

7 "Sec. 1. RCW 75.46.005 and 1998 c 246 s 1 are each amended to read  
8 as follows:

9 The legislature finds that repeated attempts to improve salmonid  
10 fish runs throughout the state of Washington have failed to avert  
11 listings of salmon and steelhead runs as threatened or endangered under  
12 the federal endangered species act (16 U.S.C. Sec. 1531 et seq.).  
13 These listings threaten the sport, commercial, and tribal fishing  
14 industries as well as the economic well-being and vitality of vast  
15 areas of the state. It is the intent of the legislature to begin  
16 activities required for the recovery of salmon stocks as soon as  
17 possible, although the legislature understands that successful recovery  
18 efforts may not be realized for many years because of the life cycle of  
19 salmon and the complex array of natural and human-caused problems they  
20 face.

21 The legislature finds that it is in the interest of the citizens of  
22 the state of Washington for the state to retain primary responsibility  
23 for managing the natural resources of the state, rather than abdicate  
24 those responsibilities to the federal government, and that the state  
25 may best accomplish this objective by integrating local and regional  
26 recovery activities into a state-wide plan that can make the most  
27 effective use of provisions of federal laws allowing for a state lead  
28 in salmon recovery. The legislature also finds that a state-wide  
29 salmon recovery plan must be developed and implemented through an  
30 active public involvement process in order to ensure public  
31 participation in, and support for, salmon recovery. The legislature  
32 also finds that there is a substantial link between the provisions of  
33 the federal endangered species act and the federal clean water act (33  
34 U.S.C. Sec. 1251 et seq.). The legislature further finds that habitat  
35 restoration is a vital component of salmon recovery efforts.  
36 Therefore, it is the intent of the legislature to specifically address

1 salmon habitat restoration in a coordinated manner and to develop a  
2 structure that allows for the coordinated delivery of federal, state,  
3 and local assistance to communities for habitat projects that will  
4 assist in the recovery and enhancement of salmon stocks.

5 The legislature also finds that credible scientific review and  
6 oversight is essential for any salmon recovery effort to be successful.  
7 The legislature finds that it is important to monitor the overall  
8 health of the salmon resource to determine if recovery efforts are  
9 providing expected returns. It is also important to monitor the  
10 effectiveness of the state's overall salmon recovery efforts to secure  
11 federal acceptance of the state's approach to salmon recovery. In  
12 addition, it is important to monitor salmon restoration projects to  
13 determine their effectiveness. Adaptive management cannot exist  
14 without monitoring. For these reasons, the legislature believes that  
15 a coordinated and integrated monitoring process should be developed in  
16 the salmon recovery office for use by local recovery efforts. The role  
17 of the salmon recovery office should be to develop and provide to  
18 entities involved in salmon recovery, data quality objectives, a range  
19 of acceptable parameters to monitor, acceptable data formats, data  
20 calibration and coordination, a method of storing and retrieving data,  
21 and analysis and interpretation of data. The role of local recovery  
22 efforts should be to collect monitoring data in compliance with the  
23 recommended data quality objectives, parameters, and formats, and to  
24 provide such data to the state salmon recovery office for storage.

25 The legislature therefore finds that a coordinated framework for  
26 responding to the salmon crisis is needed immediately. To that end,  
27 the salmon recovery office should be created within the governor's  
28 office to provide overall coordination of the state's response; an  
29 independent science team is needed to provide scientific review and  
30 oversight; the appropriate local or tribal government should provide  
31 local leadership in identifying and sequencing habitat restoration  
32 projects to be funded by state agencies; habitat restoration projects  
33 should be implemented without delay; and a strong locally based effort  
34 to restore salmon habitat should be established by providing a  
35 framework to allow citizen volunteers to work effectively.

36 **Sec. 2.** RCW 75.46.010 and 1998 c 246 s 2 are each amended to read  
37 as follows:

1 The definitions in this section apply throughout this chapter  
2 unless the context clearly requires otherwise.

3 (1) "Adaptive management" means reliance on scientific methods to  
4 test the results of actions taken so that the management and related  
5 policy can be changed promptly and appropriately.

6 (2) "Critical pathways methodology" means a project scheduling and  
7 management process for examining interactions between habitat projects  
8 and salmonid species, prioritizing habitat projects, and assuring  
9 positive benefits from habitat projects.

10 (3) "Habitat project list" is the list of projects resulting from  
11 the critical pathways methodology under RCW 75.46.070(2). Each project  
12 on the list must have a written agreement from the landowner on whose  
13 land the project will be implemented. Projects include habitat  
14 restoration projects, habitat protection projects, habitat projects  
15 that improve water quality, habitat projects that protect water  
16 quality, habitat-related mitigation projects, fish passage projects,  
17 fish screening projects, and habitat project corrective maintenance and  
18 monitoring activities. Projects also include construction of side  
19 channels, offstream rearing enhancement, improvement in overwintering  
20 habitat, and creation of acclimation ponds.

21 (4) "Habitat work schedule" means those projects from the habitat  
22 project list that will be implemented during the current funding cycle.  
23 The schedule shall also include a list of the entities and individuals  
24 implementing projects, the start date, duration, estimated date of  
25 completion, estimated cost, and funding sources for the projects.

26 (5) "Limiting factors" means conditions that limit the ability of  
27 habitat to fully sustain populations of salmon. These factors are  
28 primarily fish passage barriers and degraded estuarine areas, riparian  
29 corridors, stream channels, and wetlands.

30 (6) "Project sponsor" is a county, city, special district, tribal  
31 government, a combination of such governments through interlocal  
32 agreements provided under chapter 39.34 RCW, a nonprofit organization,  
33 or one or more private citizens.

34 (7) "Salmon" includes all species of the family Salmonidae which  
35 are capable of self-sustaining, natural production.

36 (8) "Salmon recovery plan" means a state plan developed in response  
37 to a proposed or actual listing under the federal endangered species  
38 act that addresses limiting factors including, but not limited to  
39 harvest, hatchery, hydropower, habitat, and other factors of decline.

1 (9) "Tribe" or "tribes" means federally recognized Indian tribes.

2 (10) "WRIA" means a water resource inventory area established in  
3 chapter 173-500 WAC as it existed on January 1, 1997.

4 (11) "Owner" means the person holding title to the land or the  
5 person under contract with the owner to lease or manage the legal  
6 owner's property.

7 **Sec. 3.** RCW 75.46.040 and 1998 c 246 s 5 are each amended to read  
8 as follows:

9 (1) The salmon recovery office is created within the office of the  
10 governor to coordinate state strategy to allow for salmon recovery to  
11 healthy sustainable population levels with productive commercial and  
12 recreational fisheries. The primary purpose of the office is to  
13 coordinate and assist in the development of salmon recovery plans for  
14 evolutionarily significant units, ~~((and))~~ to submit those plans to the  
15 appropriate tribal governments, and to submit a consolidated plan to  
16 the appropriate federal agencies ((in response to the federal  
17 endangered species act)). The salmon recovery office is also  
18 responsible for collecting, storing, and sharing data in accordance  
19 with RCW 75.46.050(5). The salmon recovery office shall track the  
20 expenditure of funds for salmon habitat projects and activities in  
21 accordance with section 12 of this act. The governor's salmon recovery  
22 office may also:

23 (a) Act as liaison to local governments, the state congressional  
24 delegation, the United States congress, federally recognized tribes,  
25 and the federal executive branch agencies for issues related to the  
26 state's endangered species act salmon recovery plans; and

27 (b) Provide the biennial state of the salmon report to the  
28 legislature pursuant to RCW 75.46.030.

29 (2) This section expires June 30, 2006.

30 **Sec. 4.** RCW 75.46.050 and 1998 c 246 s 6 are each amended to read  
31 as follows:

32 (1) The governor shall request the national academy of sciences,  
33 the American fisheries society, or a comparable institution to screen  
34 candidates to serve as members on the independent science panel. The  
35 institution that conducts the screening of the candidates shall submit  
36 a list of the nine most qualified candidates to the governor, the  
37 speaker of the house of representatives, and the majority leader of the

1 senate. The candidates shall reflect expertise in habitat requirements  
2 of salmon, protection and restoration of salmon populations, artificial  
3 propagation of salmon, hydrology, or geomorphology.

4 (2) The speaker of the house of representatives and the majority  
5 leader in the senate shall each remove one name from the nomination  
6 list. The governor shall consult with tribal representatives and the  
7 governor shall appoint five scientists from the remaining names on the  
8 nomination list.

9 (3) The members of the independent science panel shall serve four-  
10 year terms. Vacant positions on the panel shall be filled in the same  
11 manner as the original appointments. Members shall serve no more than  
12 two full terms. The independent science panel members shall elect the  
13 chair of the panel among themselves every two years. (~~The members of~~  
14 ~~the independent science panel shall be compensated as provided in RCW~~  
15 ~~43.03.250 and reimbursed for travel expenses in accordance with RCW~~  
16 ~~43.03.050 and 43.03.060.)) Based upon available funding, the  
17 governor's salmon recovery office may contract for services with  
18 members of the independent science panel for compensation under chapter  
19 39.29 RCW.~~

20 (4) The independent science panel shall be governed by generally  
21 accepted guidelines and practices governing the activities of  
22 independent science boards such as the national academy of sciences.  
23 The purpose of the independent science panel is to help ensure that  
24 sound science is used in salmon recovery efforts. The governor's  
25 salmon recovery office shall request review of salmon recovery plans by  
26 the science review panel. The science review panel does not have the  
27 authority to review individual projects or project lists developed  
28 under RCW 75.46.060, 75.46.070, and 75.46.080 or to make policy  
29 decisions.

30 (5) The independent science panel, in conjunction with the salmon  
31 recovery office, shall recommend standardized monitoring indicators and  
32 data quality guidelines for use by entities involved in salmon recovery  
33 activities across the state. The panel shall also recommend electronic  
34 formats that will allow data to be provided to the state salmon  
35 recovery office for storage and to be shared across the state in a  
36 salmon monitoring network.

37 (6) State salmon monitoring data provided by lead entities,  
38 regional fisheries enhancement groups, and others, shall be included in  
39 the salmon and steelhead inventory and assessment project.

1       (7) The independent science panel, in conjunction with the salmon  
2 recovery office, shall also recommend criteria for the systematic and  
3 periodic evaluation of monitoring data in order for the state to be  
4 able to answer critical questions about the effectiveness of the  
5 state's salmon recovery efforts.

6       (8) The recommendations on monitoring as required in this section  
7 shall be provided in a report to the governor and to the legislature by  
8 the independent science panel, in conjunction with the salmon recovery  
9 office, by December 31, 2000. The report shall also include  
10 recommendations on the level of effort needed to sustain monitoring of  
11 salmon projects and other recovery efforts, and any other  
12 recommendations on monitoring deemed important by the independent  
13 science panel, in conjunction with the salmon recovery office.

14       (9) The independent science panel shall submit its findings to the  
15 legislature and the governor.

16       **Sec. 5.** RCW 75.46.060 and 1998 c 246 s 7 are each amended to read  
17 as follows:

18       (1)(a) Counties, cities, and tribal governments must jointly  
19 designate, by ~~((official))~~ resolution or by letters of support, the  
20 area for which a habitat ~~((restoration))~~ project list is to be  
21 developed and the lead entity that is to be responsible for submitting  
22 the habitat ~~((restoration))~~ project list. No project included on a  
23 habitat ~~((restoration))~~ project list shall be considered mandatory in  
24 nature and no private landowner may be forced or coerced into  
25 participation in any respect. The lead entity may be a county, city,  
26 conservation district, special district, tribal government, or other  
27 entity.

28       (b) The lead entity shall establish a committee that consists of  
29 representative interests of counties, cities, conservation districts,  
30 tribes, environmental groups, business interests, landowners, citizens,  
31 volunteer groups, regional fish enhancement groups, and other  
32 ~~((restoration))~~ habitat interests. The purpose of the committee is to  
33 provide a citizen-based evaluation of the projects proposed to promote  
34 salmon habitat ~~((restoration))~~. The interagency review team may  
35 provide the lead entity with organizational models that may be used in  
36 establishing the committees.

37       (c) The committee shall compile a list of habitat ~~((restoration))~~  
38 projects, establish priorities for individual projects, define the

1 sequence for project implementation, and submit these activities as the  
2 habitat (~~restoration~~) project list. The committee shall also  
3 identify potential federal, state, local, and private funding sources.

4 (2) The area covered by the habitat project list must be based, at  
5 a minimum, on a WRIA, combination of WRIsAs, (~~an evolutionarily~~  
6 ~~significant unit,~~) or any other area as agreed to by the counties,  
7 cities, and tribes in resolutions or in letters of support meeting the  
8 requirements of this subsection. Preference will be given to projects  
9 in an area that contain a salmon species that is listed or proposed for  
10 listing under the federal endangered species act.

11 **Sec. 6.** RCW 75.46.070 and 1998 c 246 s 8 are each amended to read  
12 as follows:

13 (1) Critical pathways methodology shall be used to develop a  
14 habitat project list and a habitat work schedule that ensures salmon  
15 (~~restoration~~) recovery activities will be prioritized and implemented  
16 in a logical sequential manner that produces habitat capable of  
17 sustaining healthy populations of salmon.

18 (2) The critical pathways methodology shall:

19 (a) Include a limiting factors analysis for salmon in streams,  
20 rivers, tributaries, estuaries, and subbasins in the region. The  
21 technical advisory group shall have responsibility for the limiting  
22 factors analysis;

23 (b) Identify local habitat projects that sponsors are willing to  
24 undertake. The projects identified must have a written agreement from  
25 the landowner on which the project is to be implemented. Project  
26 sponsors shall have the lead responsibility for this task;

27 (c) Identify how projects will be monitored and evaluated. The  
28 project sponsor, in consultation with the technical advisory group and  
29 the appropriate landowner, shall have responsibility for this task;  
30 (~~and~~)

31 (d) Include a review of monitoring data, evaluate project  
32 performance, and make recommendations to the committee established  
33 under RCW 75.46.060 and to the interagency review team. The technical  
34 advisory group has responsibility for this task; and

35 (e) Describe the adaptive management strategy that will be used.  
36 The committee established under RCW 75.46.060 shall have responsibility  
37 for this task. If a committee has not been formed, the technical  
38 advisory group shall have the responsibility for this task.

1 (3) The habitat work (~~(list)~~) schedule shall include all projects  
2 developed pursuant to subsection (2) of this section as well as any  
3 other salmon habitat (~~(restoration)~~) project implemented in the region,  
4 including habitat preservation projects funded through the Washington  
5 wildlife and recreation program, the conservation reserve enhancement  
6 program, and other conservancy programs. The habitat work (~~(list)~~)  
7 schedule shall also include the start date, duration, estimated date of  
8 completion, estimated cost, and, if appropriate, the affected salmonid  
9 species of each project. Each schedule shall be updated on an annual  
10 basis to depict new activities.

11 **Sec. 7.** RCW 75.46.080 and 1998 c 246 s 9 are each amended to read  
12 as follows:

13 (1) Representatives from the conservation commission, the  
14 department of transportation, the interagency committee on outdoor  
15 recreation, the department of ecology, the department of natural  
16 resources, and the department of fish and wildlife shall establish an  
17 interagency review team. Except as provided in subsection (~~((6))~~) (7)  
18 of this section, habitat (~~(restoration)~~) project lists shall be  
19 submitted to the interagency review team by January 1st (~~(and July~~  
20 ~~1st))~~) of each year beginning in 1999. All projects submitted for  
21 funding must have been selected through a watershed-wide scientific  
22 evaluation. No projects required as mitigation or a condition of  
23 permitting are eligible for funding.

24 (2) If no lead entity has been formed under RCW 75.46.060, the  
25 interagency review team shall rank, prioritize, and dispense funds for  
26 habitat (~~(restoration)~~) projects by giving preference to the projects  
27 that:

28 (a) Are based upon the limiting factors analysis identified under  
29 RCW 75.46.070;

30 (b) Provide a greater benefit to salmon recovery based upon the  
31 information contained in the department of fish and wildlife salmonid  
32 stock inventory and any comparable science-based assessment;

33 (~~((b))~~) (c) Will be implemented in a more critical area based upon  
34 the stock status information contained in the department of fish and  
35 wildlife salmonid stock inventory and any comparable science-based  
36 assessment;

37 (~~((e))~~) (d) Will benefit listed species and other fish species;



1        (e) Will preserve high quality salmonid habitat through less than  
2 fee simple acquisition;

3        (f) Are the most cost-effective;

4        ~~((d))~~ (g) Have the greatest matched, or in-kind funding; and

5        ~~((e))~~ (h) Will be implemented by a sponsor with a successful  
6 record of project implementation.

7        (3) If a lead entity established under RCW 75.46.060 has been  
8 formed, the interagency review team shall evaluate the habitat project  
9 list((s—and)) for funding based upon the criteria contained in  
10 subsection (2) of this section. The interagency review team may  
11 remove, but not add, projects from a habitat project list. The  
12 interagency review team shall give preference to projects that are on  
13 a project list submitted by a lead entity. The interagency review team  
14 may also provide block grants to the lead entity subject to available  
15 funding.

16        (4) The interagency review team shall apply the criteria  
17 established in subsection (2) of this section in a manner that results  
18 in the highest priority being given to critical fish stocks. The  
19 criteria shall be applied in this manner in areas where there is a lead  
20 entity established and in areas where no lead entity has been  
21 established.

22        (5) The interagency review team shall provide a summary of funding  
23 for ~~((habitat))~~ restoration project lists to the governor and to the  
24 legislature by December 1st of each year.

25        ~~((5))~~ (6) The interagency review team may annually establish a  
26 maximum amount of funding available for any individual project, subject  
27 to available funding. The interagency review team shall attempt to  
28 assure a geographical balance in assigning priorities to projects.

29        ~~((6))~~ (7) For fiscal year 1998, the department of fish and  
30 wildlife, the conservation commission, and the department of  
31 transportation may authorize, subject to appropriations, expenditures  
32 for projects that have been developed to restore salmon habitat before  
33 completion of the project lists required in RCW 75.46.060(2).

34        ~~((7) Where a lead entity has been established pursuant to RCW~~  
35 ~~75.46.060, the interagency review team may provide block grants to the~~  
36 ~~lead entity, subject to available funding.))~~

37        **Sec. 8.** RCW 75.46.100 and 1998 c 246 s 11 are each amended to read  
38 as follows:

1 The sea grant program at the University of Washington is authorized  
2 to provide technical assistance to volunteer groups and other project  
3 sponsors in designing and ~~((performing))~~ implementing habitat  
4 ~~((restoration))~~ projects that address the limiting factors analysis  
5 ~~((of regional habitat work plans))~~ required under RCW 75.46.070. The  
6 cost for such assistance may be covered on a fee-for-service basis.

7 **Sec. 9.** RCW 75.46.130 and 1998 c 246 s 17 are each amended to read  
8 as follows:

9 Only those funds appropriated for the habitat ~~((restoration))~~  
10 projects under this chapter are subject to the requirements of RCW  
11 75.46.080.

12 NEW SECTION. **Sec. 10.** The salmon recovery account is created in  
13 the state treasury. Funds shall be deposited into the account as the  
14 legislature directs or appropriates to the account. Any federal money,  
15 the primary purpose of which is for restoration and recovery of  
16 salmonid stocks that have been listed or are proposed for listing under  
17 the federal endangered species act (16 U.S.C. Sec. 1531 et seq.), shall  
18 be deposited into the account. Moneys in the account may be spent only  
19 after appropriation and may be used only for funding salmon habitat  
20 projects as provided in RCW 75.46.080.

21 NEW SECTION. **Sec. 11.** All grant recipients receiving allocations  
22 from the interagency review team under RCW 75.46.080 shall report to  
23 the salmon recovery office. The salmon recovery office shall determine  
24 appropriate reporting dates. The reports required under this section  
25 shall include project and program outcomes based on objective criteria  
26 established by the salmon recovery office to enable it to review  
27 whether the goals and objectives of salmon restoration and recovery are  
28 being met.

29 NEW SECTION. **Sec. 12.** (1) The salmon recovery office shall track  
30 the expenditure of all funds of any kind appropriated by the  
31 legislature for salmon habitat projects and activities, including funds  
32 appropriated to state agencies or allocated by federal agencies for  
33 salmon restoration and recovery. In order to track expenditures in the  
34 most economical manner, the salmon recovery office shall use a tracking  
35 model currently in general use by state agencies. The tracking model

1 shall use, to the extent practicable, information and data presently  
2 available to state agencies. The tracking model shall include, to the  
3 extent practicable, multibenefit state capital projects that have  
4 multiple purposes, including features that benefit salmon habitat. The  
5 salmon recovery office's review of all allocations and expenditures  
6 made under this chapter shall include:

7 (a) Detail on the purpose of the expenditure, recipients, work  
8 performed, or projects undertaken;

9 (b) An explanation of how the work or projects relate to identified  
10 limiting factors or a proposed or adopted recovery plan for the area;

11 (c) Other data related to salmon restoration that is produced from  
12 the review and a description of data that would be helpful to collect  
13 in the future; and

14 (d) Recommendations for changes in funding levels, data collection,  
15 priorities, or other matters related to salmon recovery.

16 (2) The salmon recovery office shall prepare a report detailing the  
17 results of the review and shall submit it to the fiscal committees of  
18 the senate and house of representatives by January 1, 2001, and  
19 thereafter each January 1st in odd-numbered years.

20 (3) The report required under subsection (2) of this section shall  
21 be included in the state of the salmon report required under RCW  
22 75.46.030.

23 **Sec. 13.** RCW 76.12.110 and 1998 c 347 s 55 are each amended to  
24 read as follows:

25 There is created a forest development account in the state  
26 treasury. The state treasurer shall keep an account of all sums  
27 deposited therein and expended or withdrawn therefrom. Any sums placed  
28 in the account shall be pledged for the purpose of paying interest and  
29 principal on the bonds issued by the department, and for the purchase  
30 of land for growing timber. Any bonds issued shall constitute a first  
31 and prior claim and lien against the account for the payment of  
32 principal and interest. No sums for the above purposes shall be  
33 withdrawn or paid out of the account except upon approval of the  
34 department.

35 Appropriations may be made by the legislature from the forest  
36 development account to the department for the purpose of carrying on  
37 the activities of the department on state forest lands, lands managed  
38 on a sustained yield basis as provided for in RCW 79.68.040, and for

1 reimbursement of expenditures that have been made or may be made from  
2 the resource management cost account in the management of state forest  
3 lands. ((For the 1997-99 fiscal biennium, moneys from the account  
4 shall be distributed as directed in the omnibus appropriations act to  
5 the beneficiaries of the revenues derived from state forest lands.  
6 Funds that accrue to the state from such a distribution shall be  
7 deposited into the salmon recovery account, hereby created in the state  
8 treasury. Funds appropriated from the salmon recovery account shall be  
9 used for efforts to restore endangered anadromous fish stocks.))

10 NEW SECTION. **Sec. 14.** Sections 10 through 12 of this act are each  
11 added to chapter 75.46 RCW.

12 NEW SECTION. **Sec. 15.** This act is necessary for the immediate  
13 preservation of the public peace, health, or safety, or support of the  
14 state government and its existing public institutions, and takes effect  
15 immediately."

16 Correct the title.

--- END ---