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SENATE BILL 5818

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State of Washington

57th Legislature

2001 Regular Session

By Senators Patterson and McDonald; by request of Office of Financial Management

Read first time 02/05/2001. Referred to Committee on State & Local Government.

1 AN ACT Relating to reports to the legislature; amending RCW  
2 34.05.328, 43.20B.030, 43.79.460, 43.88.110, 74.09.310, 74.09.320, and  
3 84.33.200; and repealing RCW 15.58.420, 17.21.350, 43.41.220,  
4 43.41.230, 43.88.510, 71.36.020, and 82.08.0201.

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

6 **Sec. 1.** RCW 34.05.328 and 1997 c 430 s 1 are each amended to read  
7 as follows:

8 (1) Before adopting a rule described in subsection (5) of this  
9 section, an agency shall:

10 (a) Clearly state in detail the general goals and specific  
11 objectives of the statute that the rule implements;

12 (b) Determine that the rule is needed to achieve the general goals  
13 and specific objectives stated under (a) of this subsection, and  
14 analyze alternatives to rule making and the consequences of not  
15 adopting the rule;

16 (c) Determine that the probable benefits of the rule are greater  
17 than its probable costs, taking into account both the qualitative and  
18 quantitative benefits and costs and the specific directives of the  
19 statute being implemented;

1 (d) Determine, after considering alternative versions of the rule  
2 and the analysis required under (b) and (c) of this subsection, that  
3 the rule being adopted is the least burdensome alternative for those  
4 required to comply with it that will achieve the general goals and  
5 specific objectives stated under (a) of this subsection;

6 (e) Determine that the rule does not require those to whom it  
7 applies to take an action that violates requirements of another federal  
8 or state law;

9 (f) Determine that the rule does not impose more stringent  
10 performance requirements on private entities than on public entities  
11 unless required to do so by federal or state law;

12 (g) Determine if the rule differs from any federal regulation or  
13 statute applicable to the same activity or subject matter and, if so,  
14 determine that the difference is justified by the following:

15 (i) A state statute that explicitly allows the agency to differ  
16 from federal standards; or

17 (ii) Substantial evidence that the difference is necessary to  
18 achieve the general goals and specific objectives stated under (a) of  
19 this subsection; and

20 (h) Coordinate the rule, to the maximum extent practicable, with  
21 other federal, state, and local laws applicable to the same activity or  
22 subject matter.

23 (2) In making its determinations pursuant to subsection (1)(b)  
24 through (g) of this section, the agency shall place in the rule-making  
25 file documentation of sufficient quantity and quality so as to persuade  
26 a reasonable person that the determinations are justified.

27 (3) Before adopting rules described in subsection (5) of this  
28 section, an agency shall place in the rule-making file a rule  
29 implementation plan for rules filed under each adopting order. The  
30 plan shall describe how the agency intends to:

31 (a) Implement and enforce the rule, including a description of the  
32 resources the agency intends to use;

33 (b) Inform and educate affected persons about the rule;

34 (c) Promote and assist voluntary compliance; and

35 (d) Evaluate whether the rule achieves the purpose for which it was  
36 adopted, including, to the maximum extent practicable, the use of  
37 interim milestones to assess progress and the use of objectively  
38 measurable outcomes.

1 (4) After adopting a rule described in subsection (5) of this  
2 section regulating the same activity or subject matter as another  
3 provision of federal or state law, an agency shall do all of the  
4 following:

5 ~~(a) ((Provide to the business assistance center a list citing by  
6 reference the other federal and state laws that regulate the same  
7 activity or subject matter;~~

8 ~~(b))~~ Coordinate implementation and enforcement of the rule with  
9 the other federal and state entities regulating the same activity or  
10 subject matter by making every effort to do one or more of the  
11 following:

12 (i) Deferring to the other entity;

13 (ii) Designating a lead agency; or

14 (iii) Entering into an agreement with the other entities specifying  
15 how the agency and entities will coordinate implementation and  
16 enforcement.

17 If the agency is unable to comply with this subsection (4)~~((b))~~  
18 (a), the agency shall report to the legislature pursuant to ~~((e))~~ (b)  
19 of this subsection;

20 ~~((e))~~ (b) Report to the joint administrative rules review  
21 committee:

22 (i) The existence of any overlap or duplication of other federal or  
23 state laws, any differences from federal law, and any known overlap,  
24 duplication, or conflict with local laws; and

25 (ii) Make recommendations for any legislation that may be necessary  
26 to eliminate or mitigate any adverse effects of such overlap,  
27 duplication, or difference.

28 (5)(a) Except as provided in (b) of this subsection, this section  
29 applies to:

30 (i) Significant legislative rules of the departments of ecology,  
31 labor and industries, health, revenue, social and health services, and  
32 natural resources, the employment security department, the forest  
33 practices board, the office of the insurance commissioner, and to the  
34 legislative rules of the department of fish and wildlife implementing  
35 chapter ~~((75.20))~~ 77.55 RCW; and

36 (ii) Any rule of any agency, if this section is voluntarily made  
37 applicable to the rule by the agency, or is made applicable to the rule  
38 by a majority vote of the joint administrative rules review committee

1 within forty-five days of receiving the notice of proposed rule making  
2 under RCW 34.05.320.

3 (b) This section does not apply to:

4 (i) Emergency rules adopted under RCW 34.05.350;

5 (ii) Rules relating only to internal governmental operations that  
6 are not subject to violation by a nongovernment party;

7 (iii) Rules adopting or incorporating by reference without material  
8 change federal statutes or regulations, Washington state statutes,  
9 rules of other Washington state agencies, shoreline master programs  
10 other than those programs governing shorelines of statewide  
11 significance, or, as referenced by Washington state law, national  
12 consensus codes that generally establish industry standards, if the  
13 material adopted or incorporated regulates the same subject matter and  
14 conduct as the adopting or incorporating rule;

15 (iv) Rules that only correct typographical errors, make address or  
16 name changes, or clarify language of a rule without changing its  
17 effect;

18 (v) Rules the content of which is explicitly and specifically  
19 dictated by statute;

20 (vi) Rules that set or adjust fees or rates pursuant to legislative  
21 standards; or

22 (vii) Rules of the department of social and health services  
23 relating only to client medical or financial eligibility and rules  
24 concerning liability for care of dependents.

25 (c) For purposes of this subsection:

26 (i) A "procedural rule" is a rule that adopts, amends, or repeals  
27 (A) any procedure, practice, or requirement relating to any agency  
28 hearings; (B) any filing or related process requirement for making  
29 application to an agency for a license or permit; or (C) any policy  
30 statement pertaining to the consistent internal operations of an  
31 agency.

32 (ii) An "interpretive rule" is a rule, the violation of which does  
33 not subject a person to a penalty or sanction, that sets forth the  
34 agency's interpretation of statutory provisions it administers.

35 (iii) A "significant legislative rule" is a rule other than a  
36 procedural or interpretive rule that (A) adopts substantive provisions  
37 of law pursuant to delegated legislative authority, the violation of  
38 which subjects a violator of such rule to a penalty or sanction; (B)  
39 establishes, alters, or revokes any qualification or standard for the

1 issuance, suspension, or revocation of a license or permit; or (C)  
2 adopts a new, or makes significant amendments to, a policy or  
3 regulatory program.

4 (d) In the notice of proposed rule making under RCW 34.05.320, an  
5 agency shall state whether this section applies to the proposed rule  
6 pursuant to (a)(i) of this subsection, or if the agency will apply this  
7 section voluntarily.

8 ~~((6) By January 31, 1996, and by January 31st of each even-~~  
9 ~~numbered year thereafter, the office of financial management, after~~  
10 ~~consulting with state agencies, counties, and cities, and business,~~  
11 ~~labor, and environmental organizations, shall report to the governor~~  
12 ~~and the legislature regarding the effects of this section on the~~  
13 ~~regulatory system in this state. The report shall document:~~

14 ~~(a) The rules proposed to which this section applied and to the~~  
15 ~~extent possible, how compliance with this section affected the~~  
16 ~~substance of the rule, if any, that the agency ultimately adopted;~~

17 ~~(b) The costs incurred by state agencies in complying with this~~  
18 ~~section;~~

19 ~~(c) Any legal action maintained based upon the alleged failure of~~  
20 ~~any agency to comply with this section, the costs to the state of such~~  
21 ~~action, and the result;~~

22 ~~(d) The extent to which this section has adversely affected the~~  
23 ~~capacity of agencies to fulfill their legislatively prescribed mission;~~

24 ~~(e) The extent to which this section has improved the acceptability~~  
25 ~~of state rules to those regulated; and~~

26 ~~(f) Any other information considered by the office of financial~~  
27 ~~management to be useful in evaluating the effect of this section.)~~

28 **Sec. 2.** RCW 43.20B.030 and 1997 c 130 s 5 are each amended to read  
29 as follows:

30 (1) Except as otherwise provided by law, there will be no  
31 collection of overpayments and other debts due the department after the  
32 expiration of six years from the date of notice of such overpayment or  
33 other debt unless the department has commenced recovery action in a  
34 court of law or unless an administrative remedy authorized by statute  
35 is in place. However, any amount due in a case thus extended shall  
36 cease to be a debt due the department at the expiration of ten years  
37 from the date of the notice of the overpayment or other debt unless a  
38 court-ordered remedy would be in effect for a longer period.

1       (2)((~~(a)~~)) The department, at any time, may accept offers of  
2 compromise of disputed claims or may grant partial or total write-off  
3 of any debt due the department if it is no longer cost-effective to  
4 pursue. The department shall adopt rules establishing the  
5 considerations to be made in the granting or denial of a partial or  
6 total write-off of debts.

7       (~~(b)~~ Beginning December 1, 1997, the department shall report by  
8 December 1 each year to the commerce and labor committees of the senate  
9 and house of representatives, the senate ways and means committee, and  
10 the house appropriations committee, or successor committees, the  
11 following information:

12       (i) ~~The cumulative amount of debt due the department;~~

13       (ii) ~~The cumulative amount of debt that has been written off by the~~  
14 ~~department as no longer cost-effective to pursue;~~

15       (iii) ~~The amount of debt due the department that has accrued in~~  
16 ~~each of the previous five fiscal years; and~~

17       (iv) ~~The amount of debt that has been written off in each of the~~  
18 ~~previous five fiscal years as no longer cost-effective to pursue.)~~

19       **Sec. 3.** RCW 43.79.460 and 1998 c 302 s 1 are each amended to read  
20 as follows:

21       (1) The savings incentive account is created in the custody of the  
22 state treasurer. The account shall consist of all moneys appropriated  
23 to the account by the legislature. The account is subject to the  
24 allotment procedures under chapter 43.88 RCW, but no appropriation is  
25 required for expenditures from the account.

26       (2) Within the savings incentive account, the state treasurer may  
27 create subaccounts to be credited with incentive savings attributable  
28 to individual state agencies, as determined by the office of financial  
29 management in consultation with the legislative fiscal committees.  
30 Moneys deposited in the subaccounts may be expended only on the  
31 authorization of the agency's executive head or designee and only for  
32 the purpose of one-time expenditures to improve the quality,  
33 efficiency, and effectiveness of services to customers of the state,  
34 such as one-time expenditures for employee training, employee  
35 incentives, technology improvements, new work processes, or performance  
36 measurement. Funds may not be expended from the account to establish  
37 new programs or services, expand existing programs or services, or  
38 incur ongoing costs that would require future expenditures.

1 (3) For purposes of this section, "incentive savings" means state  
2 general fund appropriations that are unspent as of June 30th of a  
3 fiscal year, excluding any amounts included in across-the-board  
4 reductions under RCW 43.88.110 and excluding unspent appropriations  
5 for:

6 (a) Caseload and enrollment in entitlement programs, except to the  
7 extent that an agency has clearly demonstrated that efficiencies have  
8 been achieved in the administration of the entitlement program.  
9 "Entitlement program," as used in this section, includes programs for  
10 which specific sums of money are appropriated for pass-through to third  
11 parties or other entities;

12 (b) Enrollments in state institutions of higher education;

13 (c) A specific amount contained in a condition or limitation to an  
14 appropriation in the biennial appropriations act, if the agency did not  
15 achieve the specific purpose or objective of the condition or  
16 limitation;

17 (d) Debt service on state obligations; and

18 (e) State retirement system obligations.

19 (4) The office of (~~fiscal~~ ~~[financial]~~) financial management,  
20 after consulting with the legislative fiscal committees, shall report  
21 to the treasurer the amount of savings incentives achieved. (~~By~~  
22 ~~December 1, 1998, and each December 1st thereafter, the office of~~  
23 ~~financial management shall submit a report to the fiscal committees of~~  
24 ~~the legislature on the implementation of this section. The report~~  
25 ~~shall (a) evaluate the impact of this section on agency reversions and~~  
26 ~~end of biennium expenditure patterns, and (b) itemize agency~~  
27 ~~expenditures from the savings recovery account.))~~

28 **Sec. 4.** RCW 43.88.110 and 1997 c 96 s 6 are each amended to read  
29 as follows:

30 This section sets forth the expenditure programs and the allotment  
31 and reserve procedures to be followed by the executive branch for  
32 public funds.

33 (1) Allotments of an appropriation for any fiscal period shall  
34 conform to the terms, limits, or conditions of the appropriation.

35 (2) The director of financial management shall provide all agencies  
36 with a complete set of operating and capital instructions for preparing  
37 a statement of proposed expenditures at least thirty days before the

1 beginning of a fiscal period. The set of instructions need not include  
2 specific appropriation amounts for the agency.

3 (3) Within forty-five days after the beginning of the fiscal period  
4 or within forty-five days after the governor signs the omnibus biennial  
5 appropriations act, whichever is later, all agencies shall submit to  
6 the governor a statement of proposed expenditures at such times and in  
7 such form as may be required by the governor.

8 (4) The office of financial management shall develop a method for  
9 monitoring capital appropriations and expenditures that will capture at  
10 least the following elements:

11 (a) Appropriations made for capital projects including  
12 transportation projects;

13 (b) Estimates of total project costs including past, current,  
14 ensuing, and future biennial costs;

15 (c) Comparisons of actual costs to estimated costs;

16 (d) Comparisons of estimated construction start and completion  
17 dates with actual dates;

18 (e) Documentation of fund shifts between projects.

19 This data may be incorporated into the existing accounting system  
20 or into a separate project management system, as deemed appropriate by  
21 the office of financial management.

22 (5) The office of financial management shall publish agency annual  
23 maintenance summary reports beginning in October 1997. State agencies  
24 shall submit a separate report for each major campus or site, as  
25 defined by the office of financial management. Reports shall be  
26 prepared in a format prescribed by the office of financial management  
27 and shall include, but not be limited to: Information describing the  
28 number, size, and condition of state-owned facilities; facility  
29 maintenance, repair, and operating expenses paid from the state  
30 operating and capital budgets, including maintenance staffing levels;  
31 the condition of major infrastructure systems; and maintenance  
32 management initiatives undertaken by the agency over the prior year.  
33 Agencies shall submit their annual maintenance summary reports to the  
34 office of financial management by September 1st each year.

35 (6) The office of financial management, prior to approving  
36 allotments for major capital construction projects valued over five  
37 million dollars, shall institute procedures for reviewing such projects  
38 at the predesign stage that will reduce long-term costs and increase



1 facility efficiency. The procedures shall include, but not be limited  
2 to, the following elements:

3 (a) Evaluation of facility program requirements and consistency  
4 with long-range plans;

5 (b) Utilization of a system of cost, quality, and performance  
6 standards to compare major capital construction projects; and

7 (c) A requirement to incorporate value-engineering analysis and  
8 constructability review into the project schedule.

9 (7) No expenditure may be incurred or obligation entered into for  
10 such major capital construction projects including, without exception,  
11 land acquisition, site development, predesign, design, construction,  
12 and equipment acquisition and installation, until the allotment of the  
13 funds to be expended has been approved by the office of financial  
14 management. This limitation does not prohibit the continuation of  
15 expenditures and obligations into the succeeding biennium for projects  
16 for which allotments have been approved in the immediate prior  
17 biennium.

18 (8) If at any time during the fiscal period the governor projects  
19 a cash deficit in a particular fund or account as defined by RCW  
20 43.88.050, the governor shall make across-the-board reductions in  
21 allotments for that particular fund or account so as to prevent a cash  
22 deficit, unless the legislature has directed the liquidation of the  
23 cash deficit over one or more fiscal periods. Except for the  
24 legislative and judicial branches and other agencies headed by elective  
25 officials, the governor shall review the statement of proposed  
26 operating expenditures for reasonableness and conformance with  
27 legislative intent. Once the governor approves the statements of  
28 proposed operating expenditures, further revisions shall be made only  
29 at the beginning of the second fiscal year and must be initiated by the  
30 governor. However, changes in appropriation level authorized by the  
31 legislature, changes required by across-the-board reductions mandated  
32 by the governor, changes caused by executive increases to spending  
33 authority, and changes caused by executive decreases to spending  
34 authority for failure to comply with the provisions of chapter 36.70A  
35 RCW may require additional revisions. Revisions shall not be made  
36 retroactively. Revisions caused by executive increases to spending  
37 authority shall not be made after June 30, 1987. However, the governor  
38 may assign to a reserve status any portion of an agency appropriation  
39 withheld as part of across-the-board reductions made by the governor

1 and any portion of an agency appropriation conditioned on a contingent  
2 event by the appropriations act. The governor may remove these amounts  
3 from reserve status if the across-the-board reductions are subsequently  
4 modified or if the contingent event occurs. The director of financial  
5 management shall enter approved statements of proposed expenditures  
6 into the state budgeting, accounting, and reporting system within  
7 forty-five days after receipt of the proposed statements from the  
8 agencies. If an agency or the director of financial management is  
9 unable to meet these requirements, the director of financial management  
10 shall provide a timely explanation in writing to the legislative fiscal  
11 committees.

12 (9) It is expressly provided that all agencies shall be required to  
13 maintain accounting records and to report thereon in the manner  
14 prescribed in this chapter and under the regulations issued pursuant to  
15 this chapter. Within ninety days of the end of the fiscal year, all  
16 agencies shall submit to the director of financial management their  
17 final adjustments to close their books for the fiscal year. Prior to  
18 submitting fiscal data, written or oral, to committees of the  
19 legislature, it is the responsibility of the agency submitting the data  
20 to reconcile it with the budget and accounting data reported by the  
21 agency to the director of financial management.

22 (10) The director of financial management shall monitor agency  
23 operating expenditures against the approved statement of proposed  
24 expenditures ~~((and shall provide the legislature with quarterly  
25 explanations of major variances))~~.

26 (11) The director of financial management may exempt certain public  
27 funds from the allotment controls established under this chapter if it  
28 is not practical or necessary to allot the funds. Allotment control  
29 exemptions expire at the end of the fiscal biennium for which they are  
30 granted. The director of financial management shall report any  
31 exemptions granted under this subsection to the legislative fiscal  
32 committees.

33 **Sec. 5.** RCW 74.09.310 and 1998 c 314 s 34 are each amended to read  
34 as follows:

35 The department may make available, or cause to be made available,  
36 pharmaceutical birth control services, information, and counseling to  
37 any person who enters chemical dependency treatment under section 20 or  
38 21 of this act. Within available funds, the department may pay for any

1 tubal ligations requested under section 19 of this act if the mother's  
2 income is less than two hundred percent of the federal poverty level.  
3 (~~The department shall report by December 1st of each year to the~~  
4 ~~governor and legislature:—(1) The number of tubal ligations performed~~  
5 ~~as a result of chapter 314, Laws of 1998; (2) the number of women who~~  
6 ~~decline to undergo the surgery; (3) the number of women who obtain~~  
7 ~~pharmaceutical birth control, by type of birth control; and (4) the~~  
8 ~~number of women who are reported to the department.))~~

9       **Sec. 6.** RCW 74.09.320 and 1998 c 314 s 35 are each amended to read  
10 as follows:

11       The department may make available, or cause to be made available,  
12 pharmaceutical birth control services, information, and counseling to  
13 any person who enters chemical dependency treatment under section 27 of  
14 this act. Within available funds, the department may pay for any tubal  
15 ligations requested under section 26 of this act if the mother's income  
16 is less than two hundred percent of the federal poverty level. (~~The~~  
17 ~~department shall report by December 1st of each year to the governor~~  
18 ~~and legislature:—(1) The number of tubal ligations performed as a~~  
19 ~~result of chapter 314, Laws of 1998; (2) the number of women who~~  
20 ~~decline to undergo the surgery; (3) the number of women who obtain~~  
21 ~~pharmaceutical birth control, by type of birth control; and (4) the~~  
22 ~~number of women who are reported to the department.))~~

23       **Sec. 7.** RCW 84.33.200 and 1998 c 245 s 170 are each amended to  
24 read as follows:

25       (1) The legislature shall review the system of distribution and  
26 allocation of all timber excise tax revenues in January 1975 and each  
27 year thereafter to provide a uniform and equitable distribution and  
28 allocation of such revenues to the state and local taxing districts.

29       (2) In order to allow legislative review of the rules to be adopted  
30 by the department of revenue establishing the stumpage values provided  
31 for in RCW 84.33.091, such rules shall be effective not less than sixty  
32 days after transmitting to the staffs of the senate and house ways and  
33 means committees (or their successor committees) the same proposed  
34 rules as have been previously filed with the office of the code reviser  
35 pursuant to RCW 34.05.320.

36       (3) The department of revenue and the department of natural  
37 resources shall make available to the revenue committees of the senate

1 and house of representatives of the state legislature information and  
2 data, as it may be available, pertaining to the status of forest land  
3 grading throughout the state, the collection of timber excise tax  
4 revenues, the distribution and allocation of timber excise tax revenues  
5 to the state and local taxing districts, and any other information as  
6 may be necessary for the proper legislative review and implementation  
7 of the timber excise tax system(~~(, and in addition, the departments~~  
8 ~~shall provide an annual report of such matters in January of each year~~  
9 ~~to such committees))).~~

10 NEW SECTION. **Sec. 8.** The following acts or parts of acts are each  
11 repealed:

12 (1) RCW 15.58.420 (Report to legislature) and 1997 c 242 s 9 & 1989  
13 c 380 s 30;

14 (2) RCW 17.21.350 (Report to legislature) and 1997 c 242 s 19 &  
15 1989 c 380 s 64;

16 (3) RCW 43.41.220 (Review of boards and commissions by governor--  
17 Report--Termination--Transfers) and 1994 sp.s. c 9 s 873;

18 (4) RCW 43.41.230 (Boards and commissions reviewed--Exceptions) and  
19 1994 sp.s. c 9 s 874;

20 (5) RCW 43.88.510 (State boards, commissions, councils, and  
21 committees--Submission of list and data to legislature) and 1996 c 288  
22 s 42, 1987 c 505 s 37, 1979 c 151 s 144, & 1977 c 23 s 3;

23 (6) RCW 71.36.020 (Inventory of mental health programs for  
24 children--Plan for early periodic screening, diagnosis, and treatment  
25 services) and 1991 c 326 s 13; and

26 (7) RCW 82.08.0201 (Rental cars--Estimate of tax revenue) and 1992  
27 c 194 s 10.

--- END ---