

CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 2723**

Chapter 114, Laws of 2002

57th Legislature  
2002 Regular Session

PUBLIC-PRIVATE TRANSPORTATION INITIATIVES

EFFECTIVE DATE: 6/13/02

Passed by the House February 4, 2002  
Yeas 52 Nays 44

FRANK CHOPP  
**Speaker of the House of Representatives**

Passed by the Senate March 13, 2002  
Yeas 42 Nays 6

BRAD OWEN  
**President of the Senate**

Approved March 22, 2002

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

I, Cynthia Zehnder, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2723** as passed by the House of Representatives and the Senate on the dates hereon set forth.

CYNTHIA ZEHNDER  
**Chief Clerk**

FILED

March 22, 2002 - 2:12 p.m.

**Secretary of State  
State of Washington**

---

ENGROSSED HOUSE BILL 2723

---

Passed Legislature - 2002 Regular Session

State of Washington

57th Legislature

2002 Regular Session

By Representatives Ogden, Rockefeller, Lantz, Jackley, Eickmeyer, Haigh and Chase

Read first time 01/25/2002. Referred to Committee on Transportation.

1 AN ACT Relating to modifying the Public-Private Transportation  
2 Initiatives Act by authorizing state financing and administration of  
3 toll facilities; amending RCW 47.56.010, 47.46.030, 47.46.040,  
4 47.46.050, 47.46.060, 47.56.030, 47.56.270, 47.56.271, 39.46.070, and  
5 47.56.245; reenacting and amending RCW 43.84.092; adding new sections  
6 to chapter 47.46 RCW; and creating new sections.

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

8 NEW SECTION. **Sec. 1.** INTENT. The legislature finds that greater  
9 flexibility to provide state financing for projects developed under  
10 chapter 47.46 RCW will result in better use of public resources, lower  
11 financing costs, and potential savings to taxpayers. The legislature  
12 intends to: Clarify the ability of the department of transportation to  
13 use public and private financing for projects selected and developed  
14 under chapter 47.46 RCW; provide the department with specific means of  
15 state financing where that financing is in the public's best interest;  
16 provide citizens living in the impacted areas a statutory mechanism to  
17 review proposed toll rates and provide input before adoption of toll  
18 schedules by the toll authority; and prevent unreasonable delay of

1 critical transportation projects that are essential for public safety  
2 and welfare.

3 **Sec. 2.** RCW 47.56.010 and 1984 c 7 s 246 are each amended to read  
4 as follows:

5 PROVIDING DEFINITION FOR 1950 TACOMA NARROWS BRIDGE. As used in  
6 this chapter:

7 (1) "Toll bridge" means a bridge constructed or acquired under this  
8 chapter, upon which tolls are charged, together with all appurtenances,  
9 additions, alterations, improvements, and replacements thereof, and the  
10 approaches thereto, and all lands and interests used therefor, and  
11 buildings and improvements thereon.

12 (2) "Toll road" means any express highway, superhighway, or  
13 motorway at such locations and between such termini as may be  
14 established by law, and constructed or to be constructed as a limited  
15 access highway under the provisions of this chapter by the department,  
16 and shall include, but not be limited to, all bridges, tunnels,  
17 overpasses, underpasses, interchanges, entrance plazas, approaches,  
18 toll houses, service areas, service facilities, communications  
19 facilities, and administration, storage, and other buildings that the  
20 department may deem necessary for the operation of the project,  
21 together with all property, rights, easements, and interests that may  
22 be acquired by the department for the construction or the operation of  
23 the project, all of which shall be conducted in the same manner and  
24 under the same procedure as provided for the establishing,  
25 constructing, operating, and maintaining of toll bridges by the  
26 department, insofar as those procedures are reasonably consistent and  
27 applicable.

28 (3) "1950 Tacoma Narrows bridge" means the bridge crossing the  
29 Tacoma Narrows that was opened to vehicle travel in 1950.

30 **Sec. 3.** RCW 47.46.030 and 1996 c 280 s 1 are each amended to read  
31 as follows:

32 DEMONSTRATION PROJECTS--SELECTION--PUBLIC INVOLVEMENT. (1) The  
33 secretary or a designee shall solicit proposals from, and negotiate and  
34 enter into agreements with, private entities to undertake as  
35 appropriate, together with the department and other public entities,  
36 all or a portion of the study, planning, design, construction,

1 operation, and maintenance of transportation systems and facilities,  
2 using in whole or in part public or private sources of financing.

3 The public-private initiatives program may develop up to six  
4 demonstration projects. Each proposal shall be weighed on its own  
5 merits, and each of the six agreements shall be negotiated  
6 individually, and as a stand-alone project.

7 (2) If project proposals selected prior to September 1, 1994, are  
8 terminated by the public or private sectors, the department shall not  
9 select any new projects, including project proposals submitted to the  
10 department prior to September 1, 1994, and designated by the  
11 transportation commission as placeholder projects, after June 16, 1995,  
12 until June 30, 1997.

13 The department, in consultation with the legislative transportation  
14 committee, shall conduct a program and fiscal audit of the public-  
15 private initiatives program for the biennium ending June 30, 1997. The  
16 department shall submit a progress report to the legislative  
17 transportation committee on the program and fiscal audit by June 30,  
18 1996, with preliminary and final audit reports due December 1, 1996,  
19 and June 30, 1997, respectively.

20 The department shall develop and submit a proposed public  
21 involvement plan to the 1997 legislature to identify the process for  
22 selecting new potential projects and the associated costs of  
23 implementing the plan. The legislature must adopt the public  
24 involvement plan before the department may proceed with any activity  
25 related to project identification and selection. Following legislative  
26 adoption of the public involvement plan, the department is authorized  
27 to implement the plan and to identify potential new projects.

28 The public involvement plan for projects selected after June 30,  
29 1997, shall, at a minimum, identify projects that: (a) Have the  
30 potential of achieving overall public support among users of the  
31 projects, residents of communities in the vicinity of the projects, and  
32 residents of communities impacted by the projects; (b) meet a state  
33 transportation need; (c) provide a significant state benefit; and (d)  
34 provide competition among proposers and maximum cost benefits to users.  
35 Prospective projects may include projects identified by the department  
36 or submitted by the private sector.

37 Projects that meet the minimum criteria established under this  
38 section and the requirements of the public involvement plan developed  
39 by the department and approved by the legislature shall be submitted to

1 the Washington state transportation commission for its review. The  
2 commission, in turn, shall submit a list of eligible projects to the  
3 legislative transportation committee for its consideration. Forty-five  
4 days after the submission to the legislative transportation committee  
5 of the list of eligible projects, the secretary is authorized to  
6 solicit proposals for the eligible project.

7 (3) Prior to entering into agreements with private entities under  
8 the requirements of RCW 47.46.040 for any project proposal selected  
9 before September 1, 1994, or after June 30, 1997, except as provided  
10 for in subsections (~~((11) and~~) (12) and (13) of this section, the  
11 department shall require an advisory vote as provided under subsections  
12 (5) through (10) of this section.

13 (4) The advisory vote shall apply to project proposals selected  
14 prior to September 1, 1994, or after June 30, 1997, that receive public  
15 opposition as demonstrated by the submission to the department of  
16 original petitions bearing at least five thousand signatures of  
17 individuals opposing the project collected and submitted in accordance  
18 with the dates established in subsections (12) and (13) of this  
19 section. The advisory vote shall be on the preferred alternative  
20 identified under the requirements of chapter 43.21C RCW and, if  
21 applicable, the national environmental policy act, 42 U.S.C. 4321 et  
22 seq. The execution by the department of the advisory vote process  
23 established in this section is subject to the prior appropriation of  
24 funds by the legislature for the purpose of conducting environmental  
25 impact studies, a public involvement program, local involvement  
26 committee activities, traffic and economic impact analyses, engineering  
27 and technical studies, and the advisory vote.

28 (5) In preparing for the advisory vote, the department shall  
29 conduct a comprehensive analysis of traffic patterns and economic  
30 impact to define the geographical boundary of the project area that is  
31 affected by the imposition of tolls or user fees authorized under this  
32 chapter. The area so defined is referred to in this section as the  
33 affected project area. In defining the affected project area, the  
34 department shall, at a minimum, undertake: (a) A comparison of the  
35 estimated percentage of residents of communities in the vicinity of the  
36 project and in other communities impacted by the project who could be  
37 subject to tolls or user fees and the estimated percentage of other  
38 users and transient traffic that could be subject to tolls or user  
39 fees; (b) an analysis of the anticipated traffic diversion patterns;

1 (c) an analysis of the potential economic impact resulting from  
2 proposed toll rates or user fee rates imposed on residents, commercial  
3 traffic, and commercial entities in communities in the vicinity of and  
4 impacted by the project; (d) an analysis of the economic impact of  
5 tolls or user fees on the price of goods and services generally; and  
6 (e) an analysis of the relationship of the project to state  
7 transportation needs and benefits.

8 (6)(a) After determining the definition of the affected project  
9 area, the department shall establish a committee comprised of  
10 individuals who represent cities and counties in the affected project  
11 area; organizations formed to support or oppose the project; and users  
12 of the project. The committee shall be named the public-private local  
13 involvement committee, and be known as the local involvement committee.

14 (b) The members of the local involvement committee shall be: (i)  
15 An elected official from each city within the affected project area;  
16 (ii) an elected official from each county within the affected project  
17 area; (iii) two persons from each county within the affected project  
18 area who represent an organization formed in support of the project, if  
19 the organization exists; (iv) two persons from each county within the  
20 affected project area who represent an organization formed to oppose  
21 the project, if the organization exists; and (v) four public members  
22 active in a statewide transportation organization. If the committee  
23 makeup results in an even number of committee members, there shall be  
24 an additional appointment of an elected official from the county in  
25 which all, or the greatest portion of the project is located.

26 (c) City and county elected officials shall be appointed by a  
27 majority of the members of the city or county legislative authorities  
28 of each city or county within the affected project area, respectively.  
29 The county legislative authority of each county within the affected  
30 project area shall identify and validate organizations officially  
31 formed in support of or in opposition to the project and shall make the  
32 appointments required under this section from a list submitted by the  
33 chair of the organizations. Public members shall be appointed by the  
34 governor. All appointments to the local involvement committee shall be  
35 made and submitted to the department of transportation no later than  
36 January 1, 1996, for projects selected prior to September 1, 1994, and  
37 no later than thirty days after the affected project area is defined  
38 for projects selected after June 30, 1997. Vacancies in the membership  
39 of the local involvement committee shall be filled by the appointing

1 authority under (b)(i) through (v) of this subsection for each position  
2 on the committee.

3 (d) The local involvement committee shall serve in an advisory  
4 capacity to the department on all matters related to the execution of  
5 the advisory vote.

6 (e) Members of the local involvement committee serve without  
7 compensation and may not receive subsistence, lodging expenses, or  
8 travel expenses.

9 (7) The department shall conduct a minimum thirty-day public  
10 comment period on the definition of the geographical boundary of the  
11 project area. The department, in consultation with the local  
12 involvement committee, shall make adjustments, if required, to the  
13 definition of the geographical boundary of the affected project area,  
14 based on comments received from the public. Within fourteen calendar  
15 days after the public comment period, the department shall set the  
16 boundaries of the affected project area in units no smaller than a  
17 precinct as defined in RCW 29.01.120.

18 (8) The department, in consultation with the local involvement  
19 committee, shall develop a description for selected project proposals.  
20 After developing the description of the project proposal, the  
21 department shall publish the project proposal description in newspapers  
22 of general circulation for seven calendar days in the affected project  
23 area. Within fourteen calendar days after the last day of the  
24 publication of the project proposal description, the department shall  
25 transmit a copy of the map depicting the affected project area and the  
26 description of the project proposal to the county auditor of the county  
27 in which any portion of the affected project area is located.

28 (9) The department shall provide the legislative transportation  
29 committee with progress reports on the status of the definition of the  
30 affected project area and the description of the project proposal.

31 (10) Upon receipt of the map and the description of the project  
32 proposal, the county auditor shall, within thirty days, verify the  
33 precincts that are located within the affected project area. The  
34 county auditor shall prepare the text identifying and describing the  
35 affected project area and the project proposal using the definition of  
36 the geographical boundary of the affected project area and the project  
37 description submitted by the department and shall set an election date  
38 for the submission of a ballot proposition authorizing the imposition  
39 of tolls or user fees to implement the proposed project within the

1 affected project area, which date may be the next succeeding general  
2 election to be held in the state, or at a special election, if  
3 requested by the department. The text of the project proposal must  
4 appear in a voter's pamphlet for the affected project area. The  
5 department shall pay the costs of publication and distribution. The  
6 special election date must be the next date for a special election  
7 provided under RCW 29.13.020 that is at least sixty days but, if  
8 authorized under RCW 29.13.020, no more than ninety days after the  
9 receipt of the final map and project description by the auditor. The  
10 department shall pay the cost of an election held under this section.

11 (11) Notwithstanding any other provision of law, the department may  
12 contract with a private developer of a selected project proposal to  
13 conduct environmental impact studies, a public involvement program, and  
14 engineering and technical studies funded by the legislature. For  
15 projects subject to this subsection, the department shall not enter  
16 into an agreement under RCW 47.46.040 prior to the advisory vote on the  
17 preferred alternative.

18 (12) Subsections (5) through (10) of this section shall not apply  
19 to project proposals selected prior to September 1, 1994, that have no  
20 organized public opposition as demonstrated by the submission to the  
21 department of original petitions bearing at least five thousand  
22 signatures of individuals opposing the project, collected and submitted  
23 after September 1, 1994, and by thirty calendar days after June 16,  
24 1995.

25 (13) Subsections (5) through (10) of this section shall not apply  
26 to project proposals selected after June 30, 1997, that have no  
27 organized public opposition as demonstrated by the submission to the  
28 department of original petitions bearing at least five thousand  
29 signatures of individuals opposing the project, collected and submitted  
30 by ninety calendar days after project selection.

31 NEW SECTION. **Sec. 4.** A new section is added to chapter 47.46 RCW  
32 to read as follows:

33 USE OF STATE BONDS ON CERTAIN PROJECTS. (1) To the extent that the  
34 legislature specifically appropriates funding for a project developed  
35 under this chapter using the proceeds of bonds issued by the state, an  
36 agreement for the design or construction of the project entered into by  
37 the secretary must incorporate provisions that are consistent with the  
38 use of the state financing provided by the appropriation.



1 (2) The secretary shall amend existing agreements or execute new  
2 agreements to comply with subsection (1) of this section.

3 (3) If the secretary is unable to reach agreement with other  
4 parties on contractual provisions providing for state financing, the  
5 secretary shall not enter into an agreement, or shall take no action  
6 with respect to an agreement, or shall exercise termination provisions,  
7 whichever option in the secretary's determination will result in the  
8 lowest net cost to the state.

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 47.46 RCW  
10 to read as follows:

11 STATE TOLL FACILITIES AUTHORIZED FOR PPI PROJECTS. The department  
12 may provide for the establishment and construction of state toll bridge  
13 facilities upon any public highways of this state together with  
14 approaches to them under agreements entered into under this chapter to  
15 develop such facilities. A state toll bridge facility authorized under  
16 this section includes, but is not limited to, the construction of an  
17 additional toll bridge, including approaches, adjacent to and within  
18 two miles of an existing bridge, the imposition of tolls on both  
19 bridges, and the operation of both bridges as one toll facility.

20 NEW SECTION. **Sec. 6.** A new section is added to chapter 47.46 RCW  
21 to read as follows:

22 CITIZEN ADVISORY COMMITTEE CREATED. (1) A citizen advisory  
23 committee must be created for any project developed under this chapter  
24 that imposes toll charges for use of a transportation facility. The  
25 governor shall appoint nine members to the committee, all of whom must  
26 be permanent residents of the affected project area, as that term is  
27 used in RCW 47.46.030.

28 (2) The citizen advisory committee shall serve in an advisory  
29 capacity to the commission on all matters related to the imposition of  
30 tolls. Members of the committee shall serve without compensation.

31 (3) No toll charge may be imposed or modified unless the citizen  
32 advisory committee has been given at least twenty days to review and  
33 comment on any proposed toll charge schedule. In setting toll rates,  
34 the commission shall give consideration to any recommendations of the  
35 citizen advisory committee.

1        NEW SECTION.    **Sec. 7.**    A new section is added to chapter 47.46 RCW  
2 to read as follows:

3        COMMISSION TO ESTABLISH TOLL CHARGES.    (1) The commission shall fix  
4 the rates of toll and other charges for all toll bridges built under  
5 this chapter that are financed primarily by bonds issued by the state.  
6 Subject to section 6 of this act, the commission may impose and modify  
7 toll charges from time to time as conditions warrant.

8        (2) In establishing toll charges, the commission shall give due  
9 consideration to any required costs for operating and maintaining the  
10 toll bridge or toll bridges, including the cost of insurance, and to  
11 any amount required by law to meet the redemption of bonds and interest  
12 payments on them.

13        (3) The toll charges must be imposed in amounts sufficient to:

14        (a) Provide annual revenue sufficient to provide for annual  
15 operating and maintenance expenses, except as provided in RCW  
16 47.56.245;

17        (b) Make payments required under sections 11 and 12 of this act,  
18 including insurance costs and the payment of principal and interest on  
19 bonds issued for any particular toll bridge or toll bridges; and

20        (c) Repay the motor vehicle fund under sections 8, 11, and 12 of  
21 this act.

22        (4) The bond principal and interest payments, including repayment  
23 of the motor vehicle fund for amounts transferred from that fund to  
24 provide for such principal and interest payments, constitute a first  
25 direct and exclusive charge and lien on all tolls and other revenues  
26 from the toll bridge concerned, subject to operating and maintenance  
27 expenses.

28        NEW SECTION.    **Sec. 8.**    A new section is added to chapter 47.46 RCW  
29 to read as follows:

30        TERM OF TOLLS.    (1) The commission shall retain toll charges on any  
31 existing and future facilities constructed under this chapter and  
32 financed primarily by bonds issued by the state until:

33        (a) All costs of investigation, financing, acquisition of property,  
34 and construction advanced from the motor vehicle fund have been fully  
35 repaid, except as provided in subsection (2)(b) of this section;

36        (b) Obligations incurred in constructing that facility have been  
37 fully paid; and

1 (c) The motor vehicle fund is fully repaid under section 12 of this  
2 act.

3 (2) This section does not:

4 (a) Prohibit the use of toll revenues to fund maintenance,  
5 operations, or management of facilities constructed under this chapter  
6 except as prohibited by RCW 47.56.245;

7 (b) Require repayment of funds specifically appropriated as a  
8 nonreimbursable state financial contribution to a project.

9 (3) Notwithstanding the provisions of subsection (2)(a) of this  
10 section, upon satisfaction of the conditions enumerated in subsection  
11 (1) of this section:

12 (a) The facility must be operated as a toll-free facility; and

13 (b) The operation, maintenance, upkeep, and repair of the facility  
14 must be paid from funds appropriated for the use of the department for  
15 the construction and maintenance of the primary state highways of the  
16 state of Washington.

17 NEW SECTION. **Sec. 9.** A new section is added to chapter 47.46 RCW  
18 to read as follows:

19 TOLL INCREASES IN EXCESS OF FISCAL GROWTH FACTOR. Pursuant to RCW  
20 43.135.055, the legislature authorizes the transportation commission to  
21 increase bridge tolls in excess of the fiscal growth factor.

22 NEW SECTION. **Sec. 10.** A new section is added to chapter 47.46 RCW  
23 to read as follows:

24 USE OF STATE BOND PROCEEDS. Proceeds of the sale of bonds issued  
25 by the state for projects constructed under this chapter must be  
26 deposited in the state treasury to the credit of a special account  
27 designated for those purposes. Those proceeds must be expended only  
28 for the purposes enumerated in this chapter, for payment of the expense  
29 incurred in the issuance and sale of any such bonds, and to repay the  
30 motor vehicle fund for any sums advanced to pay the cost of surveys,  
31 location, design, development, right-of-way, and other activities  
32 related to the financing and construction of the bridge and its  
33 approaches.

34 NEW SECTION. **Sec. 11.** TACOMA NARROWS TOLL BRIDGE ACCOUNT CREATED.  
35 A special account to be known as the Tacoma Narrows toll bridge account  
36 is created in the motor vehicle fund in the state treasury.

1 (1) Deposits to the account must include:

2 (a) All proceeds of bonds issued for construction of the Tacoma  
3 Narrows public-private initiative project, including any capitalized  
4 interest;

5 (b) All of the toll charges and other revenues received from the  
6 operation of the Tacoma Narrows bridge as a toll facility, to be  
7 deposited at least monthly; and

8 (c) Any interest that may be earned from the deposit or investment  
9 of those revenues.

10 (2) Proceeds of bonds shall be used consistent with section 10 of  
11 this act, including the reimbursement of expenses and fees incurred  
12 under agreements entered into under RCW 47.46.040 as required by those  
13 agreements.

14 (3) Toll charges, other revenues, and interest may be used to:

15 (a) Pay any required costs of financing, operation, maintenance,  
16 and management and necessary repairs of the facility; and

17 (b) Repay amounts to the motor vehicle fund as required under  
18 section 12 of this act.

19 (4) When repaying the motor vehicle fund under section 12 of this  
20 act, the state treasurer shall transfer funds from the Tacoma Narrows  
21 toll bridge account to the motor vehicle fund on or before each debt  
22 service date for bonds issued for the Tacoma Narrows public-private  
23 initiative project in an amount sufficient to repay the motor vehicle  
24 fund for amounts transferred from that fund to the highway bond  
25 retirement fund to provide for any bond principal and interest due on  
26 that date. The state treasurer may establish subaccounts for the  
27 purpose of segregating toll charges, bond sale proceeds, and other  
28 revenues.

29 NEW SECTION. **Sec. 12.** A new section is added to chapter 47.46 RCW  
30 to read as follows:

31 TOLL CHARGES REMAIN ON FACILITY TO REPAY MOTOR VEHICLE FUND. Toll  
32 charges must be used to repay the motor vehicle fund consistent with  
33 section 11 of this act for any amounts transferred from the motor  
34 vehicle fund to the highway bond retirement fund under RCW 47.10.847 to  
35 provide for bond retirement and interest on bonds issued for the Tacoma  
36 Narrows public-private initiative project. Toll charges must remain on  
37 any facility financed by bonds issued by the state for a length of time  
38 necessary to repay the motor vehicle fund for any amounts expended from

1 that fund for the design, development, right-of-way, financing,  
2 construction, maintenance, repair, or operation of the toll facility or  
3 for amounts transferred from the motor vehicle fund to the highway bond  
4 retirement fund under RCW 47.10.847 to provide for bond retirement and  
5 interest on bonds issued for the Tacoma Narrows public-private  
6 initiative project. Funds specifically appropriated as a  
7 nonreimbursable state financial contribution to the project do not  
8 require repayment.

9 NEW SECTION. **Sec. 13.** A new section is added to chapter 47.46 RCW  
10 to read as follows:

11 ALTERATION DOES NOT CONSTITUTE NEW PROPOSAL. If a proposal is or  
12 has been selected for the design, development, construction,  
13 maintenance, or operation of transportation systems or facilities under  
14 this chapter, subsequent agreements may be made to implement portions  
15 of the proposal that modify the proposal or that do not incorporate all  
16 the features of the proposal. Any such modified agreement does not  
17 require the solicitation or consideration of additional proposals for  
18 all or any portion of the services rendered under that modified  
19 agreement. Modified agreements may provide for the reimbursement of  
20 expenses and fees incurred under earlier agreements.

21 NEW SECTION. **Sec. 14.** A new section is added to chapter 47.46 RCW  
22 to read as follows:

23 APPLICABLE RULES AND STATUTES. All projects designed, constructed,  
24 and operated under this chapter must comply with all applicable rules  
25 and statutes in existence at the time the agreement is executed,  
26 including but not limited to the following provisions: Chapter 39.12  
27 RCW, this title, RCW 41.06.380, chapter 47.64 RCW, RCW 49.60.180, and  
28 49 C.F.R. Part 21.

29 NEW SECTION. **Sec. 15.** A new section is added to chapter 47.46 RCW  
30 to read as follows:

31 APPLICATION OF RCW 47.46.040 AND 47.46.050. RCW 47.46.040 and  
32 47.46.050 apply only to those agreements that include private sources  
33 of financing in whole or in part.

34 **Sec. 16.** RCW 47.46.040 and 2001 c 64 s 14 are each amended to read  
35 as follows:

1 DEMONSTRATION PROJECTS--TERMS OF AGREEMENTS--PUBLIC PARTICIPATION.

2 (~~(1)~~) (~~(All projects designed, constructed, and operated under this~~  
3 ~~authority must comply with all applicable rules and statutes in~~  
4 ~~existence at the time the agreement is executed, including but not~~  
5 ~~limited to the following provisions: Chapter 39.12 RCW, this title,~~  
6 ~~RCW 41.06.380, chapter 47.64 RCW, RCW 49.60.180, and 49 C.F.R. Part 21.~~

7 ~~(2))~~) The secretary or a designee shall consult with legal,  
8 financial, and other experts within and outside state government in the  
9 negotiation and development of the agreements.

10 ~~((3))~~) (2) Agreements ~~((shall))~~) may provide for private ownership  
11 of the projects during the construction period. After completion and  
12 final acceptance of each project or discrete segment thereof, the  
13 agreement ~~((shall))~~) may provide for state ownership of the  
14 transportation systems and facilities and lease to the private entity  
15 unless the state elects to provide for ownership of the facility by the  
16 private entity during the term of the agreement.

17 The state ~~((shall))~~) may lease each of the demonstration projects,  
18 or applicable project segments, to the private entities for operating  
19 purposes for up to fifty years.

20 ~~((4))~~) (3) The department may exercise any power possessed by it  
21 to facilitate the development, construction, financing operation, and  
22 maintenance of transportation projects under this ~~((chapter))~~) section.  
23 Agreements for maintenance services entered into under this section  
24 shall provide for full reimbursement for services rendered by the  
25 department or other state agencies. Agreements for police services for  
26 projects, involving state highway routes, developed under agreements  
27 shall be entered into with the Washington state patrol. The agreement  
28 for police services shall provide that the state patrol will be  
29 reimbursed for costs on a comparable basis with the costs incurred for  
30 comparable service on other state highway routes. The department may  
31 provide services for which it is reimbursed, including but not limited  
32 to preliminary planning, environmental certification, and preliminary  
33 design of the demonstration projects.

34 ~~((5))~~) (4) The plans and specifications for each project  
35 constructed under this section shall comply with the department's  
36 standards for state projects. A facility constructed by and leased to  
37 a private entity is deemed to be a part of the state highway system for  
38 purposes of identification, maintenance, and enforcement of traffic  
39 laws and for the purposes of applicable sections of this title. Upon

1 reversion of the facility to the state, the project must meet all  
2 applicable state standards. Agreements shall address responsibility  
3 for reconstruction or renovations that are required in order for a  
4 facility to meet all applicable state standards upon reversion of the  
5 facility to the state.

6 ((+6)) (5) For the purpose of facilitating these projects and to  
7 assist the private entity in the financing, development, construction,  
8 and operation of the transportation systems and facilities, the  
9 agreements may include provisions for the department to exercise its  
10 authority, including the lease of facilities, rights of way, and  
11 airspace, exercise of the power of eminent domain, granting of  
12 development rights and opportunities, granting of necessary easements  
13 and rights of access, issuance of permits and other authorizations,  
14 protection from competition, remedies in the event of default of either  
15 of the parties, granting of contractual and real property rights,  
16 liability during construction and the term of the lease, authority to  
17 negotiate acquisition of rights of way in excess of appraised value,  
18 and any other provision deemed necessary by the secretary.

19 ((+7)) (6) The agreements entered into under this section may  
20 include provisions authorizing the state to grant necessary easements  
21 and lease to a private entity existing rights of way or rights of way  
22 subsequently acquired with public or private financing. The agreements  
23 may also include provisions to lease to the entity airspace above or  
24 below the right of way associated or to be associated with the private  
25 entity's transportation facility. In consideration for the reversion  
26 rights in these privately constructed facilities, the department may  
27 negotiate a charge for the lease of airspace rights during the term of  
28 the agreement for a period not to exceed fifty years. If, after the  
29 expiration of this period, the department continues to lease these  
30 airspace rights to the private entity, it shall do so only at fair  
31 market value. The agreement may also provide the private entity the  
32 right of first refusal to undertake projects utilizing airspace owned  
33 by the state in the vicinity of the public-private project.

34 ((+8)) (7) Agreements under this section may include any  
35 contractual provision that is necessary to protect the project revenues  
36 required to repay the costs incurred to study, plan, design, finance,  
37 acquire, build, install, operate, enforce laws, and maintain toll  
38 highways, bridges, and tunnels and which will not unreasonably inhibit  
39 or prohibit the development of additional public transportation systems

1 and facilities. Agreements under this section must secure and maintain  
2 liability insurance coverage in amounts appropriate to protect the  
3 project's viability and may address state indemnification of the  
4 private entity for design and construction liability where the state  
5 has approved relevant design and construction plans.

6 ~~((+9))~~ (8) Agreements entered into under this section shall  
7 include a process that provides for public involvement in decision  
8 making with respect to the development of the projects.

9 ~~((+10))~~ (9)(a) In carrying out the public involvement process  
10 required in subsection ~~((+9))~~ (8) of this section, the private entity  
11 shall proactively seek public participation through a process  
12 appropriate to the characteristics of the project that assesses and  
13 demonstrates public support among: Users of the project, residents of  
14 communities in the vicinity of the project, and residents of  
15 communities impacted by the project.

16 (b) The private entity shall conduct a comprehensive public  
17 involvement process that provides, periodically throughout the  
18 development and implementation of the project, users and residents of  
19 communities in the affected project area an opportunity to comment upon  
20 key issues regarding the project including, but not limited to: (i)  
21 Alternative sizes and scopes; (ii) design; (iii) environmental  
22 assessment; (iv) right of way and access plans; (v) traffic impacts;  
23 (vi) tolling or user fee strategies and tolling or user fee ranges;  
24 (vii) project cost; (viii) construction impacts; (ix) facility  
25 operation; and (x) any other salient characteristics.

26 (c) If the affected project area has not been defined, the private  
27 entity shall define the affected project area by conducting, at a  
28 minimum: (i) A comparison of the estimated percentage of residents of  
29 communities in the vicinity of the project and in other communities  
30 impacted by the project who could be subject to tolls or user fees and  
31 the estimated percentage of other users and transient traffic that  
32 could be subject to tolls or user fees; (ii) an analysis of the  
33 anticipated traffic diversion patterns; (iii) an analysis of the  
34 potential economic impact resulting from proposed toll rates or user  
35 fee rates imposed on residents, commercial traffic, and commercial  
36 entities in communities in the vicinity of and impacted by the project;  
37 (iv) an analysis of the economic impact of tolls or user fees on the  
38 price of goods and services generally; and (v) an analysis of the  
39 relationship of the project to state transportation needs and benefits.



1 The agreement may require an advisory vote by users of and  
2 residents in the affected project area.

3 (d) In seeking public participation, the private entity shall  
4 establish a local involvement committee or committees comprised of  
5 residents of the affected project area, individuals who represent  
6 cities and counties in the affected project area, organizations formed  
7 to support or oppose the project, if such organizations exist, and  
8 users of the project. The private entity shall, at a minimum,  
9 establish a committee as required under the specifications of RCW  
10 47.46.030(6)(b) (ii) and (iii) and appointments to such committee shall  
11 be made no later than thirty days after the project area is defined.

12 (e) Local involvement committees shall act in an advisory capacity  
13 to the department and the private entity on all issues related to the  
14 development and implementation of the public involvement process  
15 established under this section.

16 (f) The department and the private entity shall provide the  
17 legislative transportation committee and local involvement committees  
18 with progress reports on the status of the public involvement process  
19 including the results of an advisory vote, if any occurs.

20 (~~((11))~~) (10) Nothing in this chapter limits the right of the  
21 secretary and his or her agents to render such advice and to make such  
22 recommendations as they deem to be in the best interests of the state  
23 and the public.

24 **Sec. 17.** RCW 47.46.050 and 1995 2nd sp.s. c 19 s 4 are each  
25 amended to read as follows:

26 FINANCIAL ARRANGEMENTS. (1) The department may enter into  
27 agreements using federal, state, and local financing in connection with  
28 the projects, including without limitation, grants, loans, and other  
29 measures authorized by section 1012 of ISTEPA, and to do such things as  
30 necessary and desirable to maximize the funding and financing,  
31 including the formation of a revolving loan fund to implement this  
32 section.

33 (2) Agreements entered into under this section (~~shall~~) may  
34 authorize the private entity to lease the facilities within a  
35 designated area or areas from the state and to impose user fees or  
36 tolls within the designated area to allow a reasonable rate of return  
37 on investment, as established through a negotiated agreement between  
38 the state and the private entity. The negotiated agreement shall

1 determine a maximum development fee and, where appropriate, a maximum  
2 rate of return on investment, based on project and financing  
3 characteristics. If the negotiated rate of return on investment or  
4 development fee is not affected, the private entity may establish and  
5 modify toll rates and user fees.

6 (3) Agreements that include a maximum rate of return may establish  
7 "incentive" rates of return beyond the negotiated maximum rate of  
8 return on investment. The incentive rates of return shall be designed  
9 to provide financial benefits to the affected public jurisdictions and  
10 the private entity, given the attainment of various safety,  
11 performance, or transportation demand management goals. The incentive  
12 rates of return shall be negotiated in the agreement.

13 (4) Agreements shall require that over the term of the ownership or  
14 lease the user fees or toll revenues be applied only to payment of  
15 ~~((the private entity's))~~:

16 (a) The capital outlay costs for the project, including ((project  
17 development costs, interest expense,)) the costs associated with  
18 planning, design, development, financing, construction, improvement,  
19 operations, toll collection, maintenance, and administration of the  
20 project(( ));

21 (b) The reimbursement to the state for all costs associated with an  
22 election as required under RCW 47.46.030, the costs of project review  
23 and oversight, and technical and law enforcement services(( ));

24 (c) The establishment of a fund to assure the adequacy of  
25 maintenance expenditures(( ));

26 (d) A reasonable return on investment to the private entity. A  
27 negotiated agreement shall not extend the term of the ownership or  
28 lease beyond the period of time required for payment of the private  
29 entity's capital outlay costs for the project under this subsection.

30 **Sec. 18.** RCW 47.46.060 and 1998 c 179 s 4 are each amended to read  
31 as follows:

32 DEFERRAL OF TAXES. (1) Any person, including the department of  
33 transportation and any private entity ((that is party to an agreement  
34 under this chapter)) or entities, may apply for deferral of taxes on  
35 the site preparation for, the construction of, the acquisition of any  
36 related machinery and equipment which will become a part of, and the  
37 rental of equipment for use in the state route number 16 corridor  
38 improvements project under this chapter. Application shall be made to

1 the department of revenue in a form and manner prescribed by the  
2 department of revenue. The application shall contain information  
3 regarding estimated or actual costs, time schedules for completion and  
4 operation, and other information required by the department of revenue.  
5 The department of revenue shall approve the application within sixty  
6 days if it meets the requirements of this section.

7 (2) The department of revenue shall issue a sales and use tax  
8 deferral certificate for state and local sales and use taxes due under  
9 chapters 82.08, 82.12, and 82.14 RCW on the project. (~~The use of the~~  
10 ~~certificate shall be governed by rules established by the department of~~  
11 ~~revenue.~~)

12 (3) The department of transportation or a private entity granted a  
13 tax deferral under this section shall begin paying the deferred taxes  
14 in the fifth year after the date certified by the department of revenue  
15 as the date on which the project is operationally complete. The first  
16 payment is due on December 31st of the fifth calendar year after such  
17 certified date, with subsequent annual payments due on December 31st of  
18 the following nine years. Each payment shall equal ten percent of the  
19 deferred tax. The project is operationally complete under this section  
20 when the collection of tolls is commenced for the state route number 16  
21 improvements covered by the deferral.

22 (4) The department of revenue may authorize an accelerated  
23 repayment schedule upon request of the department of transportation or  
24 a private entity granted a deferral under this section.

25 (5) Interest shall not be charged on any taxes deferred under this  
26 section for the period of deferral, although all other penalties and  
27 interest applicable to delinquent excise taxes may be assessed and  
28 imposed for delinquent payments under this section. The debt for  
29 deferred taxes is not extinguished by insolvency or other failure of  
30 the private entity. Transfer of ownership does not terminate the  
31 deferral.

32 (6) Applications and any other information received by the  
33 department of revenue under this section are not confidential and are  
34 subject to disclosure. Chapter 82.32 RCW applies to the administration  
35 of this section.

36 **Sec. 19.** RCW 47.56.030 and 2001 c 59 s 1 are each amended to read  
37 as follows:

DEPARTMENT'S POWERS AND DUTIES REGARDING TOLL FACILITIES. (1)

Except as permitted under chapter 47.46 RCW:

(a) The department of transportation shall have full charge of the construction of all toll bridges and other toll facilities including the Washington state ferries, and the operation and maintenance thereof.

(b) The transportation commission shall determine and establish the tolls and charges thereon, and shall perform all duties and exercise all powers relating to the financing, refinancing, and fiscal management of all toll bridges and other toll facilities including the Washington state ferries, and bonded indebtedness in the manner provided by law.

(c) The department shall have full charge of design of all toll facilities.

(d) Except as provided in this section, the department shall proceed with the construction of such toll bridges and other facilities and the approaches thereto by contract in the manner of state highway construction immediately upon there being made available funds for such work and shall prosecute such work to completion as rapidly as practicable. The department is authorized to negotiate contracts for any amount without bid under ~~((a))~~ (d)(i) and ~~((b))~~ (ii) of this subsection:

~~((a))~~ (i) Emergency contracts, in order to make repairs to ferries or ferry terminal facilities or removal of such facilities whenever continued use of ferries or ferry terminal facilities constitutes a real or immediate danger to the traveling public or precludes prudent use of such ferries or facilities; and

~~((b))~~ (ii) Single source contracts for vessel dry dockings, when there is clearly and legitimately only one available bidder to conduct dry dock-related work for a specific class or classes of vessels. The contracts may be entered into for a single vessel dry docking or for multiple vessel dry dockings for a period not to exceed two years.

(2) The department shall proceed with the procurement of materials, supplies, services, and equipment needed for the support, maintenance, and use of a ferry, ferry terminal, or other facility operated by Washington state ferries, in accordance with chapter 43.19 RCW except as follows:

(a) Except as provided in (d) of this subsection, when the secretary of the department of transportation determines in writing

1 that the use of invitation for bid is either not practicable or not  
2 advantageous to the state and it may be necessary to make competitive  
3 evaluations, including technical or performance evaluations among  
4 acceptable proposals to complete the contract award, a contract may be  
5 entered into by use of a competitive sealed proposals method, and a  
6 formal request for proposals solicitation. Such formal request for  
7 proposals solicitation shall include a functional description of the  
8 needs and requirements of the state and the significant factors.

9 (b) When purchases are made through a formal request for proposals  
10 solicitation the contract shall be awarded to the responsible proposer  
11 whose competitive sealed proposal is determined in writing to be the  
12 most advantageous to the state taking into consideration price and  
13 other evaluation factors set forth in the request for proposals. No  
14 significant factors may be used in evaluating a proposal that are not  
15 specified in the request for proposals. Factors that may be considered  
16 in evaluating proposals include but are not limited to: Price;  
17 maintainability; reliability; commonality; performance levels; life  
18 cycle cost if applicable under this section; cost of transportation or  
19 delivery; delivery schedule offered; installation cost; cost of spare  
20 parts; availability of parts and service offered; and the following:

21 (i) The ability, capacity, and skill of the proposer to perform the  
22 contract or provide the service required;

23 (ii) The character, integrity, reputation, judgment, experience,  
24 and efficiency of the proposer;

25 (iii) Whether the proposer can perform the contract within the time  
26 specified;

27 (iv) The quality of performance of previous contracts or services;

28 (v) The previous and existing compliance by the proposer with laws  
29 relating to the contract or services;

30 (vi) Objective, measurable criteria defined in the request for  
31 proposal. These criteria may include but are not limited to items such  
32 as discounts, delivery costs, maintenance services costs, installation  
33 costs, and transportation costs; and

34 (vii) Such other information as may be secured having a bearing on  
35 the decision to award the contract.

36 (c) When purchases are made through a request for proposal process,  
37 proposals received shall be evaluated based on the evaluation factors  
38 set forth in the request for proposal. When issuing a request for  
39 proposal for the procurement of propulsion equipment or systems that

1 include an engine, the request for proposal must specify the use of a  
2 life cycle cost analysis that includes an evaluation of fuel  
3 efficiency. When a life cycle cost analysis is used, the life cycle  
4 cost of a proposal shall be given at least the same relative importance  
5 as the initial price element specified in the request of proposal  
6 documents. The department may reject any and all proposals received.  
7 If the proposals are not rejected, the award shall be made to the  
8 proposer whose proposal is most advantageous to the department,  
9 considering price and the other evaluation factors set forth in the  
10 request for proposal.

11 (d) If the department is procuring large equipment or systems  
12 (e.g., electrical, propulsion) needed for the support, maintenance, and  
13 use of a ferry operated by Washington state ferries, the department  
14 shall proceed with a formal request for proposal solicitation under  
15 this subsection (2) without a determination of necessity by the  
16 secretary.

17 **Sec. 20.** RCW 47.56.270 and 1983 c 3 s 129 are each amended to read  
18 as follows:

19 LAKE WASHINGTON AND 1950 TACOMA NARROWS BRIDGE MADE PART OF PRIMARY  
20 HIGHWAYS. The Lake Washington bridge and the 1950 Tacoma Narrows  
21 bridge in chapter 47.17 RCW made a part of the primary state highways  
22 of the state of Washington, shall, upon completion, be operated,  
23 maintained, kept up, and repaired by the department in the manner  
24 provided in this chapter, and the cost of such operation, maintenance,  
25 upkeep, and repair shall be paid from funds appropriated for the use of  
26 the department for the construction and maintenance of the primary  
27 state highways of the state of Washington. This section does not apply  
28 to that portion of the Tacoma Narrows bridge facility first opened to  
29 traffic after the effective date of this act.

30 **Sec. 21.** RCW 47.56.271 and 1983 c 3 s 130 are each amended to read  
31 as follows:

32 1950 TACOMA NARROWS BRIDGE TO REMAIN TOLL-FREE--EXCEPTION. Except  
33 as otherwise provided in this section, the 1950 Tacoma Narrows bridge  
34 hereinbefore by the provisions of RCW 47.17.065 and 47.56.270 made a  
35 part of the primary state highways of the state shall be operated and  
36 maintained by the department as a toll-free facility at such time as  
37 the ((present)) bonded indebtedness relating ((thereto)) to the

1 construction of the 1950 Tacoma Narrows bridge is wholly retired and  
2 tolls equaling the ~~((present))~~ indebtedness of the toll bridge  
3 authority incurred for the construction of the 1950 Tacoma Narrows  
4 bridge to the county of Pierce have been collected. ~~((It is the~~  
5 ~~express intent of the legislature that the provisions of RCW 47.56.245~~  
6 ~~(section 47.56.245, chapter 13, Laws of 1961) shall not be applicable~~  
7 ~~to the Tacoma Narrows bridge.))~~ Toll charges may be imposed upon the  
8 1950 Tacoma Narrows bridge only if that bridge is included as part of  
9 a public toll bridge facility that includes an additional toll bridge  
10 adjacent to the 1950 Tacoma Narrows bridge and constructed under  
11 section 5 of this act.

12 **Sec. 22.** RCW 39.46.070 and 1983 c 167 s 7 are each amended to read  
13 as follows:

14 BONDS--PAYMENT OF COSTS OF ISSUANCE AND SALE. (1) Except as  
15 provided in subsection (2) of this section, the proceeds of any bonds  
16 issued by the state or a local government may be used to pay incidental  
17 costs and costs related to the sale and issuance of the bonds. Such  
18 costs include payments for fiscal and legal expenses, obtaining bond  
19 ratings, printing, engraving, advertising, establishing and funding  
20 reserve accounts and other accounts, an amount for working capital,  
21 capitalized interest for up to six months after completion of  
22 construction, necessary and related engineering, architectural,  
23 planning, and inspection costs, and other similar activities or  
24 purposes.

25 (2) In addition to the costs enumerated in subsection (1) of this  
26 section, costs authorized under this section include capitalized  
27 interest for up to seventy-two months from the date of issuance for  
28 bonds issued by the state for the construction of a public toll bridge  
29 under chapter 47.46 RCW.

30 **Sec. 23.** RCW 47.56.245 and 1984 c 7 s 267 are each amended to read  
31 as follows:

32 TOLL CHARGES RETAINED UNTIL COSTS PAID. The department shall  
33 retain toll charges on all existing and future facilities until all  
34 costs of investigation, financing, acquisition of property, and  
35 construction advanced from the motor vehicle fund, and obligations  
36 incurred under RCW 47.56.250 and chapter 16, Laws of 1945 have been  
37 fully paid.

1       (1) Except as provided in subsection (2) of this section, with  
2 respect to every facility completed after March 19, 1953, costs of  
3 maintenance(~~(, management,)~~) and operation shall be paid periodically  
4 out of the revenues of the facility in which such costs were incurred.

5       (2) Where a state toll facility is constructed under chapter 47.46  
6 RCW adjacent to or within two miles of an existing bridge that was  
7 constructed under this chapter, revenue from the toll facility may not  
8 be used to pay for costs of maintenance on the existing bridge.

9       **Sec. 24.** RCW 43.84.092 and 2001 2nd sp.s. c 14 s 608, 2001 c 273  
10 s 6, 2001 c 141 s 3, and 2001 c 80 s 5 are each reenacted and amended  
11 to read as follows:

12       (1) All earnings of investments of surplus balances in the state  
13 treasury shall be deposited to the treasury income account, which  
14 account is hereby established in the state treasury.

15       (2) The treasury income account shall be utilized to pay or receive  
16 funds associated with federal programs as required by the federal cash  
17 management improvement act of 1990. The treasury income account is  
18 subject in all respects to chapter 43.88 RCW, but no appropriation is  
19 required for refunds or allocations of interest earnings required by  
20 the cash management improvement act. Refunds of interest to the  
21 federal treasury required under the cash management improvement act  
22 fall under RCW 43.88.180 and shall not require appropriation. The  
23 office of financial management shall determine the amounts due to or  
24 from the federal government pursuant to the cash management improvement  
25 act. The office of financial management may direct transfers of funds  
26 between accounts as deemed necessary to implement the provisions of the  
27 cash management improvement act, and this subsection. Refunds or  
28 allocations shall occur prior to the distributions of earnings set  
29 forth in subsection (4) of this section.

30       (3) Except for the provisions of RCW 43.84.160, the treasury income  
31 account may be utilized for the payment of purchased banking services  
32 on behalf of treasury funds including, but not limited to, depository,  
33 safekeeping, and disbursement functions for the state treasury and  
34 affected state agencies. The treasury income account is subject in all  
35 respects to chapter 43.88 RCW, but no appropriation is required for  
36 payments to financial institutions. Payments shall occur prior to  
37 distribution of earnings set forth in subsection (4) of this section.



1 (4) Monthly, the state treasurer shall distribute the earnings  
2 credited to the treasury income account. The state treasurer shall  
3 credit the general fund with all the earnings credited to the treasury  
4 income account except:

5 (a) The following accounts and funds shall receive their  
6 proportionate share of earnings based upon each account's and fund's  
7 average daily balance for the period: The capitol building  
8 construction account, the Cedar River channel construction and  
9 operation account, the Central Washington University capital projects  
10 account, the charitable, educational, penal and reformatory  
11 institutions account, the common school construction fund, the county  
12 criminal justice assistance account, the county sales and use tax  
13 equalization account, the data processing building construction  
14 account, the deferred compensation administrative account, the deferred  
15 compensation principal account, the department of retirement systems  
16 expense account, the drinking water assistance account, the drinking  
17 water assistance administrative account, the drinking water assistance  
18 repayment account, the Eastern Washington University capital projects  
19 account, the education construction fund, the emergency reserve fund,  
20 the federal forest revolving account, the health services account, the  
21 public health services account, the health system capacity account, the  
22 personal health services account, the state higher education  
23 construction account, the higher education construction account, the  
24 highway infrastructure account, the industrial insurance premium refund  
25 account, the judges' retirement account, the judicial retirement  
26 administrative account, the judicial retirement principal account, the  
27 local leasehold excise tax account, the local real estate excise tax  
28 account, the local sales and use tax account, the medical aid account,  
29 the mobile home park relocation fund, the multimodal transportation  
30 account, the municipal criminal justice assistance account, the  
31 municipal sales and use tax equalization account, the natural resources  
32 deposit account, the oyster reserve land account, the perpetual  
33 surveillance and maintenance account, the public employees' retirement  
34 system plan 1 account, the public employees' retirement system combined  
35 plan 2 and plan 3 account, the public health supplemental account, the  
36 Puyallup tribal settlement account, the resource management cost  
37 account, the site closure account, the special wildlife account, the  
38 state employees' insurance account, the state employees' insurance  
39 reserve account, the state investment board expense account, the state

1 investment board commingled trust fund accounts, the supplemental  
2 pension account, the Tacoma Narrows toll bridge account, the teachers'  
3 retirement system plan 1 account, the teachers' retirement system  
4 combined plan 2 and plan 3 account, the tobacco prevention and control  
5 account, the tobacco settlement account, the transportation  
6 infrastructure account, the tuition recovery trust fund, the University  
7 of Washington bond retirement fund, the University of Washington  
8 building account, the volunteer fire fighters' and reserve officers'  
9 relief and pension principal fund, the volunteer fire fighters' and  
10 reserve officers' administrative fund, the Washington fruit express  
11 account, the Washington judicial retirement system account, the  
12 Washington law enforcement officers' and fire fighters' system plan 1  
13 retirement account, the Washington law enforcement officers' and fire  
14 fighters' system plan 2 retirement account, the Washington school  
15 employees' retirement system combined plan 2 and 3 account, the  
16 Washington state health insurance pool account, the Washington state  
17 patrol retirement account, the Washington State University building  
18 account, the Washington State University bond retirement fund, the  
19 water pollution control revolving fund, and the Western Washington  
20 University capital projects account. Earnings derived from investing  
21 balances of the agricultural permanent fund, the normal school  
22 permanent fund, the permanent common school fund, the scientific  
23 permanent fund, and the state university permanent fund shall be  
24 allocated to their respective beneficiary accounts. All earnings to be  
25 distributed under this subsection (4)(a) shall first be reduced by the  
26 allocation to the state treasurer's service fund pursuant to RCW  
27 43.08.190.

28 (b) The following accounts and funds shall receive eighty percent  
29 of their proportionate share of earnings based upon each account's or  
30 fund's average daily balance for the period: The aeronautics account,  
31 the aircraft search and rescue account, the county arterial  
32 preservation account, the department of licensing services account, the  
33 essential rail assistance account, the ferry bond retirement fund, the  
34 grade crossing protective fund, the high capacity transportation  
35 account, the highway bond retirement fund, the highway safety account,  
36 the motor vehicle fund, the motorcycle safety education account, the  
37 pilotage account, the public transportation systems account, the Puget  
38 Sound capital construction account, the Puget Sound ferry operations  
39 account, the recreational vehicle account, the rural arterial trust

1 account, the safety and education account, the special category C  
2 account, the state patrol highway account, the transportation equipment  
3 fund, the transportation fund, the transportation improvement account,  
4 the transportation improvement board bond retirement account, and the  
5 urban arterial trust account.

6 (5) In conformance with Article II, section 37 of the state  
7 Constitution, no treasury accounts or funds shall be allocated earnings  
8 without the specific affirmative directive of this section.

9 NEW SECTION. **Sec. 25.** A new section is added to chapter 47.46 RCW  
10 to read as follows:

11 LEGISLATIVE OVERSIGHT COMMITTEE. A legislative oversight committee  
12 is established to monitor and report on the progress, execution, and  
13 efficiency of design-build contracts issued under this chapter. The  
14 legislative oversight committee will be comprised of one legislator  
15 from each caucus of each chamber of the legislature. The leadership of  
16 each caucus shall appoint one member from his or her respective caucus  
17 to serve on the legislative oversight committee authorized by this  
18 section.

19 NEW SECTION. **Sec. 26.** CAPTIONS. Captions used in this act do not  
20 constitute any part of the law.

Passed the House February 4, 2002.

Passed the Senate March 13, 2002.

Approved by the Governor March 22, 2002.

Filed in Office of Secretary of State March 22, 2002.