

**RCW 47.46.050 Financial arrangements.** (1) The department may enter into agreements using federal, state, and local financing in connection with the projects, including without limitation, grants, loans, and other measures authorized by section 1012 of ISTEA, and to do such things as necessary and desirable to maximize the funding and financing, including the formation of a revolving loan fund to implement this section.

(2) Agreements entered into under this section may authorize the private entity to lease the facilities within a designated area or areas from the state and to impose user fees or tolls within the designated area to allow a reasonable rate of return on investment, as established through a negotiated agreement between the state and the private entity. The negotiated agreement shall determine a maximum development fee and, where appropriate, a maximum rate of return on investment, based on project and financing characteristics. If the negotiated rate of return on investment or development fee is not affected, the private entity may establish and modify toll rates and user fees.

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

(4) Agreements shall require that over the term of the ownership or lease the user fees or toll revenues be applied only to payment of:

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

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

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

(d) A reasonable return on investment to the private entity. A negotiated agreement shall not extend the term of the ownership or lease beyond the period of time required for payment of the private entity's capital outlay costs for the project under this subsection. [2002 c 114 § 17; 1995 2nd sp.s. c 19 § 4; 1993 c 370 § 5.]

**Finding—Intent—2002 c 114:** See RCW 47.46.011.

**Captions not law—2002 c 114:** See note following RCW 47.46.011.

**Effective date—1995 2nd sp.s. c 19:** See note following RCW 47.46.010.