

WSR 06-17-075
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed August 14, 2006, 9:15 a.m., effective September 14, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The rule implements HB 2304 (legislation adopted by 2005 legislature) by giving the department further authority to: (1) File a lien against the real property of a living resident of a nursing home or other medical institution (known as Tax Equity and Fiscal Responsibility Act, or TEFRA liens) if it determines, after notice and opportunity for a hearing, that the individual cannot reasonably be expected to be discharged from the medical institution and return home; (2) expand the statute of limitations from ten years to twenty years for Medicaid liens placed for collections of debts due the department; (3) broaden the eligibility class of who may be entitled to deferred recovery when the recovery would cause an undue hardship. By broadening the eligible class for the exemption, the department is addressing the issue for all similarly affected citizens of the state and avoiding unintended adverse consequences of recovery; and (4) revise the chapter using "Plain Talk" as directed by the Governor's Executive Order 05-03, dated March 24, 2005.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-527-2792 and 388-527-2795; and amending WAC 388-527-2700, 388-527-2730, 388-527-2737, 388-527-2742, 388-527-2750, and 388-527-2790.

Statutory Authority for Adoption: Chapter 292, Laws of 2005 (SHB 2304).

Other Authority: RCW 43.20B.080, 74.39A.170, 42 U.S.C. Section 1396p.

Adopted under notice filed as WSR 06-03-046 on January 10, 2006.

Changes Other than Editing from Proposed to Adopted Version: Changes to the final rule compared to the proposed rule (strikeouts and underlined text indicate deleted or added language since the proposal).

AMENDED SECTIONS

WAC 388-527-2730 Definitions.

"Estate"

(3) For a client who died on or after ~~XXXXX (the effective date of this rule):~~ September 14, 2006.

~~(a) Any property and other assets to which the individual had any legal title or interest at the time of death (to the extent of such interest). This includes assets conveyed by the client to a survivor, heir, or assignee of the deceased through joint tenancy, tenancy in common survivorship, life estate, living trust, or other arrangement; and~~

~~(b) nonprobate assets as defined by RCW 11.02.005. and any life estate interest held by the recipient immediately before death.~~

"Joint Tenancy" means ownership of property held under circumstances that entitle one or more owners to the whole of the property on the death of the other owner(s), including but not limited to, joint tenancy with right of survivorship ~~and tenants by the entirety.~~

"Qualified Individual" - means an heir or an unmarried individual who, immediately prior to the client's death, was eighteen years of age or older, shared the same regular and permanent residence with the client and with whom the client had an exclusive relationship of mutual support, caring, and commitment.

WAC 388-527-2737 Deferring recovery.

(2) The department ~~places a lien to secure the department's interest in the estate while the conditions in subsection (1) of this section exist~~ may place a lien against property to evidence the department's right to recover after the deferral period specified in subsection (1) of this section.

WAC 388-527-2750 Delay of recovery for undue hardship.

The department delays recovery under this section when the department determines that recovery would cause an undue hardship for ~~the heir(s)~~ a qualified individual(s). This delay is limited to the period during which the undue hardship exists. ~~The undue hardship must exist at the time of the client's death in order to be considered for a delay of recovery.~~ The department limits an heir to one request for a delay of recovery due to undue hardship for each estate subject to recovery action.

(1) Undue hardship exists when:

(a) The estate subject to the adjustment or recovery is the sole income-producing asset of one or more of the ~~heirs~~ qualified individuals and income is limited; or

(b) Recovery would ~~cause the heir, who would otherwise be eligible for public assistance, to become homeless~~ deprive a qualified individual(s) of shelter and the qualified individual lacks the financial means to obtain and maintain alternative shelter.

(2) Undue hardship does not exist when:

(a) The adjustment or recovery of the decedent's cost of assistance would merely cause the ~~heir~~ qualified individual inconvenience or restrict his or her lifestyle; or

(b) The undue hardship was created as a result of estate planning methods by which the ~~heir~~ qualified individual or deceased client divested, transferred or otherwise encumbered assets, in whole or in part, to avoid recovery from the estate.

(4) When a delay of recovery is granted, the department may revoke the delay of recovery if the ~~heir(s)~~ qualified individual(s):

~~(a) (i)~~ (a) (i) Fails to supply timely information and resource declaration when requested by the department;

~~(b) (ii)~~ (b) (ii) Sells, transfers, or encumbers title to the property;

~~(c) (iii)~~ (c) (iii) Fails to reside full-time on the premises;

~~(d) (iv)~~ (d) (iv) Fails to pay property taxes and utilities when due;

~~(e) (v)~~ (e) (v) Fails to keep the property maintained and in good repair;

~~(vi) Fails to establish and continuously maintain adequate fire/casualty insurance in the amount equal to the state's lien interest. The insurance policies must identify the State of Washington as the primary payee on the property insurance policies.~~ The person granted the delay of recovery must provide the department with documentation of the coverage status on an annual basis.

(f) (vii) Have a change in any circumstances under subsection (1) of this section for which the delay of recovery due to undue hardship was granted; or

(g) (viii) Dies.

WAC 388-527-2790 Filing liens.

(4)(b) Whether the decedent had legal title to the property; and

(c) Whether a lien is allowed under the provisions of 42 USC 1396p (a) and (b).

WAC 388-527-2810 Life estates and joint tenancy.

(1) The department may enforce a lien authorized under this section against a decedent's life estate or joint tenancy interest in real property held by the decedent immediately prior to his or her death until the lien is satisfied. The department will not apply a lien against a decedent's life estate interest providing the decedent had not previously transferred an interest in the property while retaining a life estate.

(a) The value of the life estate subject to the lien is the fair market value of the decedent's interest in the property subject to the life estate immediately prior to death.

(2) The department's methodology for calculating the value of the life estate is determined using the fair market value of the property.

(a) To determine the value of the life estate....

(b) To determine the value of the asset that was transferred for less than fair market value, the department subtracts the value of the life estate from the fair market value of the property. If the life estate is jointly owned, the department determines the decedent's proportionate share.

WAC 388-527-2820 Liens prior to death.

(1) Subject to the requirements of 42 USC Section 1396p(a)....

(1)(b) The department determines, after notice and opportunity for a hearing, that the client cannot reasonably be expected to be discharged from the medical institution and return home; and

(c) None of the following are lawfully residing in the client's home:

(i) The client's spouse;

(ii) The client's child who is under age twenty-one, or is blind or permanently and totally disabled as defined in Title 42 USC Section 1382c; or

(iii) A sibling of the client (who has an equity interest in such income and who was residing in the client's home for a period of a least one year immediately before the date of the client's admission to the medical institution).

WAC 388-527-2860 Interest assessed on past due debt.

(1) The recovery debt becomes past due and accrues interest at a rate of one percent per month on recoverable estate assets beginning nine months after the earlier of:

A final cost-benefit analysis is available by contacting Bill Ward, DSHS-Office of Financial Recovery (OFR), P.O. Box 45862, Olympia, WA 98504-5862, phone (360) 664-5501, e-mail wardbr@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 7, Amended 6, Repealed 2.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 7, Amended 6, Repealed 2.

Date Adopted: August 14, 2006.

Liz Begert Dunbar
for Robin Arnold-Williams
Secretary

AMENDATORY SECTION (Amending WSR 04-10-060, filed 4/30/04, effective 6/1/04)

WAC 388-527-2700 Purpose. This chapter describes the requirements, limitations, and procedures that apply when the department recovers the cost of medical care from the estate of a deceased client and when the department files liens prior to the client's death.

AMENDATORY SECTION (Amending WSR 04-10-060, filed 4/30/04, effective 6/1/04)

WAC 388-527-2730 ((Estate recovery)) Definitions. ~~((For estate recovery purposes))~~ The following definitions apply to this chapter:

"Contract health service delivery area (CHSDA)" means the geographic area within which contract health services will be made available by the Indian Health Service to members of an identified Indian community who reside in the area as identified in 42 C.F.R. Sec. 136.21(d) and 136.22.

"Estate" means all ~~((real and personal))~~ property and any other assets that pass upon the client's death under the client's will or by intestate succession pursuant to chapter 11.04 RCW or under chapter 11.62 RCW. The value of the estate will be reduced by any valid liability against the ~~((deceased client's))~~ decedent's property at the time of death. An estate also includes:

(1) For a client who died after June 30, 1995 and before July 27, 1997, nonprobate assets as defined by RCW 11.02.-005, except property passing through a community property agreement; or

(2) For a client who died after July 26, 1997 and before September 14, 2006, nonprobate assets as defined by RCW 11.02.005.

(3) For a client who died on or after September 14, 2006, nonprobate assets as defined by RCW 11.02.005 and any life estate interest held by the recipient immediately before death.

"Heir" means the decedent's surviving spouse and children (natural and adopted); or those persons who are entitled to inherit the decedent's property under a will properly executed under RCW 11.12.020 and accepted by the probate court as a valid will.

"Joint tenancy" means ownership of property held under circumstances that entitle one or more owners to the whole of the property on the death of the other owner(s), including, but not limited to, joint tenancy with right of survivorship.

"Life estate" means an ownership interest in a property only during the lifetime of the person(s) owning the life estate. In some cases, the ownership interest lasts only until the occurrence of some specific event, such as remarriage of the life estate owner. A life estate owner may not have the legal title or deed to the property, but may have rights to possession, use, income and/or selling their life estate interest in the property.

"Lis pendens" means a notice filed in public records warning that title to certain real property is in litigation and ~~(this)~~ the outcome of the litigation may affect the title.

"Long-term care services" means, for the purposes of this chapter only, the services administered directly or through contract by the department of social and health services for clients of the home and community services division and division of developmental disabilities including, but not limited to, nursing facility care and home and community services.

"Medicaid" means the state and federally funded program that provides medical services under Title XIX of the Federal Social Security Act.

"Medical assistance" means both Medicaid and medical care services.

"Medicare Savings programs" means the programs described in WAC 388-517-0300 that help a client pay some of the costs that Medicare does not cover.

"Property": Examples include, but are not limited to, personal property, real property, title property, and trust property as described below:

(1) **"Personal property"** means any property that is not classified as real, title, or trust property in the definitions provided here;

(2) **"Qualified individual"** means an heir or an unmarried individual who, immediately prior to the client's death, was eighteen years of age or older, shared the same regular and permanent residence with the client and with whom the client had an exclusive relationship of mutual support, caring, and commitment.

(3) **"Real property"** means land and anything growing on, attached to, or erected thereon;

~~((3))~~ (4) **"Title property"** means, for the purposes of this chapter only, property with a title such as motor homes, mobile homes, boats, motorcycles, and vehicles.

~~((4))~~ (5) **"Trust property"** means any type of property interest titled in, or held by, a trustee for the benefit of another person or entity.

"State-only funded long-term care" means the long-term care services that are financed with state funds only.

AMENDATORY SECTION (Amending WSR 99-11-076, filed 5/18/99, effective 6/18/99)

WAC 388-527-2737 Deferring recovery. ~~((When))~~ (1) For a client who died after June 30, 1994 ~~((and received ser-~~

~~vice after June 30, 1994)), the department defers recovery from the estate ~~((is deferred))~~ until:~~

- ~~((1))~~ (a) The death of the surviving spouse, if any; and
- ~~((2))~~ (b) There is no surviving child who is:
 - ~~((a))~~ (i) Under twenty-one years of age, or
 - ~~((b))~~ (ii) Blind or disabled as defined under chapter 388-511 WAC.

(2) The department may place a lien against property to evidence the department's right to recover after the deferral period specified in subsection (1) of this section.

AMENDATORY SECTION (Amending WSR 04-10-060, filed 4/30/04, effective 6/1/04)

WAC 388-527-2742 Services subject to recovery. The department considers the medical services the client received and the dates when the services were provided to the client, in order to determine~~((s))~~ whether the client's estate is liable for the cost of medical services provided. Subsection (1) of this section covers liability for Medicaid services and subsection (2) covers liability for state-only funded long-term care services. An estate can be liable under both subsections.

(1) The client's estate is liable for:

(a) All Medicaid services provided from July 26, 1987 through June 30, 1994;

(b) The following Medicaid services provided after June 30, 1994 and before July 1, 1995:

- (i) Nursing facility services;
- (ii) Home and community-based services; and
- (iii) Hospital and prescription drug services provided to a client while receiving nursing facility services or home and community-based services.

(c) The following Medicaid services provided after June 30, 1995 and before June 1, 2004:

- (i) Nursing facility services;
- (ii) Home and community-based services;
- (iii) Adult day health;
- (iv) Medicaid personal care;
- (v) Private duty nursing administered by the aging and disability services administration of the department; and

(vi) Hospital and prescription drug services provided to a client while receiving services described under (c)(i), (ii), (iii), (iv), or (v) of this subsection.

(d) The following services provided on and after June 1, 2004:

- (i) All Medicaid services;
- (ii) Medicare savings programs services for individuals also receiving Medicaid;
- (iii) Medicare premiums only for individuals also receiving Medicaid; and
- (iv) Premium payments to managed care organizations.

(2) The client's estate is liable for all state-only funded long-term care services and related hospital and prescription drug services provided to:

(a) Home and community services' clients on and after July 1, 1995; and

(b) Division of developmental disabilities' clients on and after June 1, 2004.

AMENDATORY SECTION (Amending WSR 04-10-060, filed 4/30/04, effective 6/1/04)

WAC 388-527-2750 (~~(Waiver)~~) Delay of recovery ((if) for undue hardship. The department delays recovery ((is waived)) under this section when the department determines that recovery would cause an undue hardship(~~(, except as provided in subsection (3) of this section)) for a qualified individual(s).~~ This (~~(waiver)~~) delay is limited to the period during which the undue hardship exists. The undue hardship must exist at the time of the client's death in order to be considered for a delay of recovery.

(1) Undue hardship exists when:

(a) The estate subject to adjustment or recovery is the sole income-producing asset of one or more (~~(of the heirs))~~ qualified individuals and income is limited; or

(b) Recovery would deprive (~~(an heir))~~ a qualified individual of shelter and the (~~(heir))~~ qualified individual lacks the financial means to obtain and maintain alternative shelter.

(2) Undue hardship does not exist when:

(a) The adjustment or recovery of the (~~(client's))~~ decedent's cost of assistance would merely cause the (~~(client's family members))~~ qualified individual inconvenience or restrict (~~((the family's))~~ his or her lifestyle (-); or

(b) (~~(The heir divests assets to qualify under the undue hardship provision))~~ The undue hardship was created as a result of estate planning methods by which the qualified individual or deceased client divested, transferred or otherwise encumbered assets, in whole or in part, to avoid recovery from the estate.

(3) (~~(When a deceased client's assets were disregarded in connection with a long-term care insurance policy or contract under chapter 48.85 RCW, recovery is not waived.~~

(4)) When ((a waiver)) a delay in recovery is not granted, the department ((with)) provides notice to the person who requested the ((waiver)) delay of recovery. The ((denial of a waiver must state:)) department's notice includes information on how to request an administrative hearing to contest the department's denial.

~~((a) The requirements of an application for an adjudicative proceeding to contest the department's decision to deny the waiver; and~~

~~(b) Where assistance may be obtained to make such application;))~~

(4) When a delay of recovery is granted, the department may revoke the delay of recovery if the qualified individual(s):

(a) Fails to supply timely information and resource declaration when requested by the department;

(b) Sells, transfers, or encumbers title to the property;

(c) Fails to reside full-time on the premises;

(d) Fails to pay property taxes and utilities when due;

(e) Fails to identify the State of Washington as the primary payee on the property insurance policies. The person granted the delay of recovery must provide the department with documentation of the coverage status on an annual basis.

(f) Have a change in circumstances under subsection (1) of this section for which the delay of recovery due to undue hardship was granted; or

(g) Dies.

(5) When a delay of recovery is granted due to undue hardship, the department has the option to:

(a) Apply a lien; and/or

(b) Accept a payment plan.

(6) A person may request an administrative hearing to contest the department's ((decision in an adjudicative proceeding)) denial of delay of recovery due to undue hardship when that person ((requested the department waive recovery, and)) suffered a loss because ((that request)) the delay was not granted.

~~((6) An application))~~ (7) A request for an ((adjudicative proceeding)) administrative hearing under this section must:

(a) Be in writing;

(b) State the basis for contesting the department's denial of the request ((to waive recovery)) for a delay of recovery due to an undue hardship;

(c) Include a copy of the department's denial ((of the request to waive recovery));

(d) Be signed by the ((applicant)) requester and include the ((applicant's)) requester's address and telephone number; and

(e) Be served, as described in WAC 388-527-2870, on the office of financial recovery (OFR) within twenty-eight calendar days of the date that the ((applicant received the department's)) department sent the decision denying the request for ((a waiver)) a delay of recovery. ((If the applicant shows good cause, the application may be filed up to thirty days late; and

~~(f) Be served on OFR as described in WAC 388-527-2795.~~

~~(7))~~ (8) Upon receiving a request for an administrative hearing, the department notifies persons known to have title to the property and other assets of the time and place of the administrative hearing.

(9) An adjudicative proceeding held under this section is governed by chapters 34.05 RCW and 388-02 WAC and this section. If a provision in this section conflicts with a provision in chapter 388-02 WAC, the provision in this section governs.

AMENDATORY SECTION (Amending WSR 04-10-060, filed 4/30/04, effective 6/1/04)

WAC 388-527-2790 Filing ((a lien against real property)) liens. (1) The department files liens, seeks adjustments, and ~~((effects other recoveries for))~~ uses other means to recover the cost of medical assistance or state-only funded long-term care services, or both, correctly paid on behalf of a client consistent with 42 U.S.C. 1396p and chapters 43.20B RCW and 388-527 WAC.

(2) ~~((When the department seeks to recover from a client's estate the cost of medical assistance or state-only funded long-term care services, or both, provided to the client, prior to filing a lien against the deceased client's real property, notice shall be given to))~~ Prior to the department filing a lien under this section, the department sends a notice via first class mail to:

(a) The address of the property and other assets subject to the lien;

(b) The probate estate's personal representative, if any;
(~~or~~)

~~(b))~~ (c) Any other person known to have title to the affected property and/or to the decedent's heir(s) as defined by WAC 388-527-2730; and

(d) The decedent's last known address or the address listed on the title, if any.

(3) ~~((Prior to filing a lien against any of the deceased client's real or titled property, a person known to have title to the property will be notified and have an opportunity for an adjudicative proceeding as follows:~~

~~(a) Any person known to have title to the property will be served with a notice of intent to file lien, which will state:~~

~~(i))~~ The notice in subsection (2) of this section includes:

~~(a) The ((deceased client's)) decedent's name, ((social security number, if known)) identification number, date of birth, and date of death;~~

~~((ii))~~ (b) The amount of medical assistance or state-only funded long-term care services, or both, correctly paid on behalf of the deceased client that the department seeks to recover;

~~((iii))~~ (c) The department's intent to file a lien against the deceased client's property and other assets to recover the amount of medical assistance or state-only funded long-term care services, or both, correctly paid on behalf of the deceased client;

~~((iv))~~ (d) The county in which the property ~~((is))~~ and other assets are located; and

~~((v))~~ (e) The ~~((right of the person known to have title to the property))~~ procedures to contest the department's decision to file a lien by applying for an ~~((adjudicative proceeding with the office of financial recovery (OFR)))~~ administrative hearing.

~~((b))~~ (4) An ~~((adjudicative proceeding can determine whether))~~ administrative hearing only determines:

~~((i))~~ (a) Whether the ~~((amount of))~~ medical assistance or state-only funded long-term care services, or both, correctly paid on behalf of the ~~((deceased client))~~ decedent alleged by the department's notice ~~((of intent to file a lien))~~ is correct; ~~((and))~~

~~((ii))~~ (b) Whether the ~~((deceased client))~~ decedent had legal title to the property ~~((at the time of the client's death));~~ and

(c) Whether a lien is allowed under the provisions of Title 42 USC Section 1396p (a) and (b).

~~((4) An application))~~ (5) A request for an ~~((adjudicative proceeding))~~ administrative hearing must:

(a) Be in writing;

(b) State the basis for contesting the ~~((department's notice of intent to file the))~~ lien;

(c) Be signed by the ~~((applicant))~~ requester and ~~((state))~~ must include the ((applicant's)) requester's address and telephone number; and

(d) Be served ~~((on OFR))~~ to the office of financial recovery (OFR) as described in WAC 388-527-2870, within twenty-eight calendar days of the date the ~~((applicant received the department's notice of intent to file the lien. An application filed up to thirty days late may be treated as timely filed if the applicant shows good cause for filing late; and~~

~~(e) Be served on OFR as described in WAC 388-527-2795))~~ department mailed the notice.

~~((5))~~ (6) Upon receiving a request for an administrative hearing, the department notifies persons known to have title to the property ~~((will be notified))~~ and other assets of the time and place of the ~~((adjudicative proceeding by the department when it receives an application for the same))~~ administrative hearing.

~~((6))~~ (7) An ~~((adjudicative proceeding))~~ administrative hearing under this section is governed by chapters 34.05 RCW and 388-02 WAC and this section. If a provision in this section conflicts with a provision in chapter 388-02 WAC, the provision in this section governs.

~~((7) If no known title holder requests an adjudicative proceeding, a lien will be filed by the department twenty-eight days after the date that the notice of intent to file the lien letter was mailed. The lien will be filed against the deceased client's real property in the amount of the correctly paid medical assistance or state-only funded long-term care services, or both.))~~

(8) If an ~~((adjudicative proceeding))~~ administrative hearing is conducted in accordance with this regulation, ~~((when))~~ and the final agency decision is issued, the department ~~((will))~~ only files a lien against the ~~((deceased client's real))~~ decedent's property ~~((for the amount of the correctly paid medical assistance or state-only funded long-term care services, or both, as established by that final agency decision))~~ and other assets if upheld by the final agency decision.

(9) If no known title holder requests an administrative hearing, the department files a lien twenty-eight calendar days after the date the department mailed the notice described in subsection (2) of this section.

NEW SECTION

WAC 388-527-2810 Life estates and joint tenancy.

(1) The department may enforce a lien authorized under this section against a decedent's life estate or joint tenancy interest in real property held by the decedent immediately prior to his or her death until the lien is satisfied. The department will not apply a lien against a decedent's life estate interest providing the decedent had not previously transferred an interest in the property while retaining a life estate.

(a) The value of the life estate subject to the lien is the fair market value of the decedent's interest in the property subject to the life estate immediately prior to death.

(b) The value of the joint tenancy interest subject to the lien is the value of the decedent's fractional interest he or she would have owned in the jointly held interest in the property had the decedent and the surviving joint tenants held title to the property as tenants in common immediately prior to death.

(2) The department's methodology for calculating the value of the life estate is determined using fair market value of the property. To determine the value of the life estate, the department multiplies the current fair market value of the property by the life estate factor in the life estate table. (The Centers for Medicare and Medicaid Services based table is found in the department's Eligibility A-Z Manual, Long Term

Care, Appendix II and is available on-line at: <http://www1.dshs.wa.gov/esa/eazmanual/>.)

NEW SECTION

WAC 388-527-2820 Liens prior to death. (1) Subject to the requirements of 42 USC Section 1396p and the conditions of this section, the department is authorized to file a lien against the property of a medical assistance client prior to his or her death, and to seek adjustment and recovery from the client's estate or sale of the property subject to the lien if:

(a) The client is permanently an inpatient in a nursing facility, intermediate care facility for individuals with mental retardation, or other medical institution as described in WAC 388-500-0005;

(b) The department determines, after notice and opportunity for a hearing, that the client cannot reasonably be expected to be discharged from the medical institution and return home; and

(c) None of the following are lawfully residing, in the client's home:

(i) The client's spouse;

(ii) The client's child who is under age twenty-one, or is blind or permanently and totally disabled as defined in Title 42 USC Section 1382c; or

(iii) A sibling of the client (who has an equity interest in such home and who was residing in the client's home for a period of at least one year immediately before the date of the client's admission to the medical institution).

(2) If the client is discharged from the medical facility and returns home, the department dissolves the lien.

(3) Prior to the department filing a lien under this section, the department sends a notice via first class mail to:

(a) The address of the property and other assets subject to the lien;

(b) The client's known address;

(c) Any other person known to have title to the affected property and the client's authorized representative, if any.

(4) The notice in subsection (3) of this section includes:

(a) The client's name, and the date the client began to receive services;

(b) The department's intent to file a lien against the client's property to recover the amount of medical assistance or state-only funded long-term care services, or both correctly paid on behalf of the client;

(c) The county in which the property and other assets are located; and

(d) The procedures to contest the department's decision to file a lien by applying for an administrative hearing.

(5) An administrative hearing only determines:

(a) Whether the medical assistance or state-only funded long-term care services, or both, on behalf of the decedent alleged by the department's notice is correct; and

(b) Whether the decedent had legal title to the identified property.

(6) A request for an administrative hearing must:

(a) Be in writing;

(b) State the basis for contesting the lien;

(c) Be signed by the requester and must include the requester's address and telephone number; and

(d) Be served to the office of financial recovery (OFR) as described in WAC 388-527-2870, within twenty-eight calendar days of the date the department mailed the notice.

(7) Upon receiving a request for an administrative hearing, the department notifies persons known to have title to the property of the time and place of the administrative hearing.

(8) An administrative hearing under this subsection is governed by chapters 34.05 RCW and 388-02 WAC and this section. If a provision in this section conflicts with a provision in chapter 388-02 WAC, the provision in this section governs.

(9) If an administrative hearing is conducted in accordance with this regulation, and the final agency decision is issued, the department only files a lien against the client's property and other assets if upheld by the final agency decision.

(10) If no known title holder requests an administrative hearing, the department files a lien twenty-eight calendar days after the date the department mailed the notice described in subsection (3) of this section.

NEW SECTION

WAC 388-527-2830 Request for notice of transfer or encumbrance. (1) When a client receives medical assistance subject to recovery under this chapter and the client is the holder of record title to real property or the purchaser under a land sale contract, the department files a request for notice of transfer or encumbrance [DSHS form 18-664 Notice of Possible Debt] with the county auditor for recording in the deed and mortgage records.

(2) The request for notice of transfer or encumbrance [DSHS 18-664] complies with the requirements for recording in RCW 36.18.010, and, at a minimum, contains the:

(a) Client's name and case identifier;

(b) Legal description of the real property, including parcel number; and

(c) Mailing address for the department to receive the notice of transfer or encumbrance.

(3) The request for notice of transfer or encumbrance [18-664] described in subsection (1) of this section does not affect title to real property and is not a lien on, encumbrance of, or other interest in the real property.

(4) When filing a request for notice of transfer or encumbrance [DSHS 18-664] with the county auditor, the department gives the opportunity to request an administrative hearing as follows:

(a) Any person known to have title to the property is served with a copy of the notice. The notice states:

(i) The department's intent to recover from the client's estate the amount of medical assistance or state-only funded long-term care services, or both, correctly paid on behalf of the client;

(ii) The county in which the property is located; and

(iii) The right of the person known to have title in the property to contest the department's decision to file the notice by applying for an administrative hearing with the office of financial recovery (OFR).

(b) An administrative hearing only determines:

(i) Whether the amount of medical assistance or state-only funded long-term care services, or both, correctly paid on behalf of the client alleged by the department's notice is correct; and

(ii) Whether the client has legal title to the identified property.

(5) A request for an administrative hearing must:

(a) Be in writing;

(b) State the basis for contesting the department's notice;

(c) Be signed by the requester and state the requester's address and telephone number; and

(d) Be served on OFR as described in WAC 388-527-2870, within twenty-eight calendar days of the date the individual received the department's notice.

(6) Upon receiving a request for an administrative hearing, the department notifies the persons known to have title to the property of the time and place of the administrative hearing.

(7) An administrative hearing under this section is governed by chapters 388-05 RCW and 388-02 WAC, and this section. If a provision of this section conflicts with a provision in chapter 388-02 WAC, the provision of this section governs.

(8) A title insurance company or agent that discovers the presence of a request for notice of transfer or encumbrance [DSHS 18-664] when performing a title search on real property must disclose the presence of the request for notice of transfer or encumbrance of real property in any report preliminary to, or commitment to offer, a certificate of title insurance for the real property.

(9) If the department has filed a request for notice of transfer or encumbrance [DSHS 18-664], any individual who transfers or encumbers real property must provide the department with a notice of transfer or encumbrance (DSHS 18-663] as described in WAC 388-527-2850.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 388-527-2840 Termination of request for notice of transfer or encumbrance. (1) The department files a termination of prior notice [DSHS 18-662] of transfer or encumbrance, with the county auditor for recording when, in the judgment of the department, it is no longer necessary or appropriate for the department to monitor transfers or encumbrances related to the real property.

(2) The termination of prior notice [DSHS 18-662] request for notice of transfer or encumbrance complies with the requirements for recording in RCW 36.18.010, and, at a minimum, contains the:

(a) Client's name and case identifier;

(b) Legal description of the real property, including parcel number; and

(c) Mailing address for the department to receive the notice of transfer or encumbrance.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 388-527-2850 Notice of transfer or encumbrance. (1) If the department has filed a request for notice of transfer or encumbrance [DSHS 18-664 Notice of Possible Debt], any individual who transfers or encumbers real property must provide the department with a notice of transfer or encumbrance [DSHS 18-663] or a substantially similar notice as required by chapter 43.20B RCW.

(2) The department's notice of transfer or encumbrance [DSHS 18-663] is available on-line at <http://www1.dshs.wa.gov/msa/forms/eforms.html> or by writing to Forms and Records Management Services, PO Box 45805, Olympia, WA 98504-5805.

(3) The notice of transfer or encumbrance [DSHS 18-663] must comply with the requirements for recording in RCW 36.18.010, and, at a minimum, contain the:

(a) Client's name and case identifier as listed on the department's request for notice of transfer or encumbrance;

(b) Recording date and recording reference as listed on the department's request for notice of transfer or encumbrance;

(c) Legal description of the real property as listed on the department's request for notice of transfer or encumbrance; and

(d) Type of instrument; and

(e) Recording date and recording reference.

(3) The notice of transfer or encumbrance [DSHS 18-663] or a similar notice and copy of the transfer or encumbrance related to the real property must be sent to the department as specified in WAC 388-527-2870.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

WAC 388-527-2860 Interest assessed on past due debt. (1) The recovery debt becomes past due and accrues interest at a rate of one percent per month on recoverable estate assets beginning nine months after the earlier of:

(a) The filing of the department's creditor's claim in the probate of the deceased client's estate; or

(b) The recording of the department's lien against the property of the deceased client in the county where the property is located.

(2) The department may waive interest if: (a) Insufficient cash, accounts, or stock exist to satisfy the department's claim and no sales of estate property has occurred despite its continuous listing or marketing for sale in a commercially reasonable manner for a reasonable fair market value; or

(b) Suit filed in the probate of the deceased client's estate resulted in the filing of a lis pendens or order prohibiting the personal representative from selling the estate property. However, this section does not apply to such suite contesting

the department's assessment of interest or claim for reimbursement of medical assistance or state-only funded long-term care services debt.

NEW SECTION

WAC 388-527-2870 Serving notices on the office of financial recovery (OFR). Serving legal notice on the office of financial recovery (OFR) requires the notice to be served either:

(1) In person at the Blake Office Park, 4450 10th Ave SE, Lacey, Washington; or

(2) By certified mail, return receipt requested, to Office of Financial Recovery, PO Box 9501, Olympia, WA 98507-9501.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-527-2792	Interest assessed on past due debt.
WAC 388-527-2795	Serving notices on office of financial recovery (OFR).

WSR 06-17-114

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed August 18, 2006, 10:01 a.m., effective September 18, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Multiple sections of chapter 388-865 WAC are no longer accurate because the changes made to chapters 71.24 and 71.05 RCW by ESSB [ESHB] 1290, ESSB 5763 and 2SSB 6793 (chapter 503 and 504, Laws of 2005, and chapter 333, Laws of 2006 respectively). Amended rules are needed to be consistent with the statutes.

The statutes changed the definition from "county designated mental health professional" to "designated mental health professional" removing the reference to county. This is consistent with the other statutory changes that created the structure for allowing private entities to act as regional support networks (RSN). The rule changes removed the term county from designated mental health professional. The changes also implement the goal of allowing a private entity to become certified as an RSN.

Citation of Existing Rules Affected by this Order: Amending WAC 388-865-0105, 388-865-0150, 388-865-0205, 388-865-0245, 388-865-0275, 388-865-0430, 388-865-0440, 388-865-0452, 388-865-0466, 388-865-0468, and 388-865-0575.

Statutory Authority for Adoption: RCW 71.24.035 and 71.05.560.

Other Authority: Chapters 71.24 and 71.05 RCW as amended by chapters 503 and 504, Laws of 2005, and chapter 333, Laws of 2006.

Adopted under notice filed as WSR 06-12-085 on June 6, 2006.

Changes Other than Editing from Proposed to Adopted Version: DSHS updated references to chapter 71.34 RCW in WAC 388-865-0575. Chapter 71.34 RCW was recodified in 2005 making the references in WAC 388-865-0575 incorrect.

A final cost-benefit analysis is available by contacting J. Paul DesJardien, P.O. Box 45320, Olympia, WA 98504-5320, phone (360) 902-0873, fax (360) 902-0809, e-mail desjapp@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 11, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 11, Repealed 0.

Date Adopted: August 18, 2006.

Robin Arnold-Williams
Secretary

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

WAC 388-865-0105 What the mental health division does and how it is organized. (1) The department of social and health services is designated by the legislature as the state mental health authority, and has designated the mental health division to administer the state mental health program.

(2) To request an organizational chart, contact the mental health division at 1-888-713-6010 or (360) 902-8070, or write to the Mental Health Division Director, PO Box 45320, Olympia, WA 98504.

(3) Local services are administered by regional support networks (RSN), (~~which are a county, or combination of counties,~~) whose telephone number is located in the local telephone directory and can also be obtained by calling the mental health division at the above telephone number.

AMENDATORY SECTION (Amending WSR 05-17-156, filed 8/22/05, effective 9/22/05)

WAC 388-865-0150 Definitions. "Adult" means a person on or after their eighteenth birthday. For persons eligible for the Medicaid program, adult means a person on or after his/her twenty-first birthday.

"Certified peer counselor" is defined as a consumer of mental health services who has met the registration, experi-

ence, and training requirements, has satisfactorily passed the examination, and has been issued a certificate by the mental health division as specified in WAC 388-865-0107.

"Child" means a person who has not reached his/her eighteenth birthday. For persons eligible for the Medicaid program, child means a person who has not reached his/her twenty-first birthday.

"Clinical services" means those direct age and culturally appropriate consumer services which either:

- (1) Assess a consumer's condition, abilities or problems;
- (2) Provide therapeutic interventions which are designed to ameliorate psychiatric symptoms and improve a consumer's functioning.

"Consumer" means a person who has applied for, is eligible for or who has received mental health services. For a child, under the age of thirteen, or for a child age thirteen or older whose parents or legal guardians are involved in the treatment plan, the definition of consumer includes parents or legal guardians.

"Consultation" means the clinical review and development of recommendations regarding the job responsibilities, activities, or decisions of, clinical staff, contracted employees, volunteers, or students by persons with appropriate knowledge and experience to make recommendations.

"Cultural competence" means a set of congruent behaviors, attitudes, and policies that come together in a system or agency and enable that system or agency to work effectively in cross-cultural situations. A culturally competent system of care acknowledges and incorporates at all levels the importance of language and culture, assessment of cross-cultural relations, knowledge and acceptance of dynamics of cultural differences, expansion of cultural knowledge and adaptation of services to meet culturally unique needs.

"Ethnic minority" or **"racial/ethnic groups"** means, for the purposes of this chapter, any of the following general population groups:

- (1) African American;
- (2) An American Indian or Alaskan native, which includes:
 - (a) A person who is a member or considered to be a member in a federally recognized tribe;
 - (b) A person determined eligible to be found Indian by the secretary of interior, and
 - (c) An Eskimo, Aleut, or other Alaskan native.
 - (d) A Canadian Indian, meaning a person of a treaty tribe, Metis community, or nonstatus Indian community from Canada.
 - (e) An unenrolled Indian meaning a person considered Indian by a federally or nonfederally recognized Indian tribe or off reservation Indian/Alaskan native community organization.
- (3) Asian/Pacific Islander; or
- (4) Hispanic.

"Medical necessity" or **"medically necessary"** - A term for describing a requested service which is reasonably calculated to prevent, diagnose, correct, cure, alleviate or prevent the worsening of conditions in the recipient that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause or

physical deformity or malfunction, and there is no other equally effective, more conservative or substantially less costly course of treatment available or suitable for the person requesting service. For the purpose of this chapter "course of treatment" may include mere observation or, where appropriate, no treatment at all.

"Mental health division" means the mental health division of the Washington state department of social and health services (DSHS). DSHS has designated the mental health division as the state mental health authority to administer the state and Medicaid funded mental health program authorized by chapters 71.05, 71.24, and 71.34 RCW.

"Mental health professional" means:

- (1) A psychiatrist, psychologist, psychiatric nurse or social worker as defined in chapters 71.05 and 71.34 RCW;
- (2) A person with a masters degree or further advanced degree in counseling or one of the social sciences from an accredited college or university. Such person shall have, in addition, at least two years of experience in direct treatment of persons with mental illness or emotional disturbance, such experience gained under the supervision of a mental health professional;
- (3) A person who meets the waiver criteria of RCW 71.24.260, which was granted prior to 1986;
- (4) A person who had an approved waiver to perform the duties of a mental health profession that was requested by the regional support network and granted by the mental health division prior to July 1, 2001; or
- (5) A person who has been granted a time-limited exception of the minimum requirements of a mental health professional by the mental health division consistent with WAC (~~388-865-265~~) 388-865-0265 [388-865-0265].

"Mental health specialist" means:

- (1) A **"child mental health specialist"** is defined as a mental health professional with the following education and experience:
 - (a) A minimum of one hundred actual hours (not quarter or semester hours) of special training in child development and the treatment of children and youth with serious emotional disturbance and their families; and
 - (b) The equivalent of one year of full-time experience in the treatment of seriously emotionally disturbed children and youth and their families under the supervision of a child mental health specialist.
- (2) A **"geriatric mental health specialist"** is defined as a mental health professional who has the following education and experience:
 - (a) A minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to the mental health problems and treatment of persons sixty years of age or older; and
 - (b) The equivalent of one year of full-time experience in the treatment of persons sixty years of age or older, under the supervision of a geriatric mental health specialist.
- (3) An **"ethnic minority mental health specialist"** is defined as a mental health professional who has demonstrated cultural competence attained through major commitment, ongoing training, experience and/or specialization in serving ethnic minorities, including evidence of one year of service specializing in serving the ethnic minority group

under the supervision of an ethnic minority mental health specialist; and

(a) Evidence of support from the ethnic minority community attesting to the person's commitment to that community; or

(b) A minimum of one hundred actual hours (not quarter or semester hours) of specialized training devoted to ethnic minority issues and treatment of ethnic minority consumers.

(4) A "**disability mental health specialist**" is defined as a mental health professional with special expertise in working with an identified disability group. For purposes of this chapter only, "**disabled**" means an individual with a disability other than a mental illness, including a developmental disability, serious physical handicap, or sensory impairment.

(a) If the consumer is deaf, the specialist must be a mental health professional with:

(i) Knowledge about the deaf culture and psychosocial problems faced by people who are deaf; and

(ii) Ability to communicate fluently in the preferred language system of the consumer.

(b) The specialist for consumers with developmental disabilities must be a mental health professional who:

(i) Has at least one year's experience working with people with developmental disabilities; or

(ii) Is a developmental disabilities professional as defined in RCW 71.05.020.

"**Older person**" means an adult who is sixty years of age or older.

"**Regional Support Network (RSN)**" means a county, a combination of counties, or a private non-profit entity that administers and provides publicly funded mental health services for a designated geographic area within the state.

"**Service recipient**" means for the purposes of a mental health prepaid health plan, a consumer eligible for the Title XIX Medicaid program.

"**Substantial hardship**" means that a consumer will not be billed for emergency involuntary treatment if he or she meets the eligibility standards of the psychiatric indigent inpatient program that is administered by the DSHS economic services administration.

"**Supervision**" means monitoring of the administrative, clinical, or clerical work performance of staff, students, volunteers, or contracted employees by persons with the authority to give direction and require change.

"**Underserved**" means consumers who are:

- (1) Minorities;
- (2) Children;
- (3) Older adults;
- (4) Disabled; or
- (5) Low-income persons.

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

WAC 388-865-0205 Initial certification of a regional support network. ~~((A regional support network is a county authority or group of county authorities that have a joint operating agreement))~~ An entity is initially certified if it is

selected to be a regional support network for a designated geographic area through a Request for Proposal process. In order to gain certification as a regional support network under circumstances other than through a Request for Proposal, ((a county or group of counties)) an entity must submit to the department:

(1) A statement of intent to become a regional support network;

(2) ~~((Documentation that the total population in the county or group of counties is not less than forty thousand;~~

~~(3) A joint operating agreement if the proposed regional support network is more than one county or includes a tribal authority. The agreement must include the following:~~

~~(a) Identification of a single authority with final responsibility for all available resources and performance of the contract with the department consistent with chapters 71.05, 71.24, and 71.34 RCW;~~

~~(b) Assignment of all responsibilities required by RCW 71.24.300; and~~

~~(c) Participation of tribal authorities in the agreement at the request of the tribal authorities.~~

~~(d)) A preliminary operating plan ((completed according to)) which meets departmental guidelines and complies with the requirements of RCW 71.24.045 and 71.24.300.~~

(3) If the entity proposes to serve more than one county or the designated geographic area includes a tribal authority, the entity must also include a joint operating agreement that includes the following:

(a) Identification of a single authority with final responsibility for all available resources and performance of the contract with the department consistent with chapters 71.05, 71.24, and 71.34 RCW;

(b) Assignment of all responsibilities required by RCW 71.24.300; and

(c) Participation of tribal authorities in the agreement at the request of the tribal authorities.

(4) Within thirty days of the submission the department will provide a written response either:

(a) Certifying the regional support network; or

(b) Denying certification because the requirements are not met.

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

WAC 388-865-0245 Administration of the Involuntary Treatment Act. The regional support network must establish policies and procedures for administration of the involuntary treatment program, including investigation, detention, transportation, court related and other services required by chapters 71.05 and 71.34 RCW. This includes:

(1) Designating mental health professionals to perform the duties of involuntary investigation and detention in accordance with the requirements of chapters 71.05 and 71.34 RCW.

(2) Documenting consumer compliance with the conditions of less restrictive alternative court orders by:

(a) Ensuring periodic evaluation of each committed consumer for release from or continuation of an involuntary treatment order. Evaluations must be recorded in the clinical

record, and must occur at least monthly for ninety and one hundred eighty-day commitments.

(b) Notifying the ((~~county~~)) designated mental health professional if noncompliance with the less restrictive order impairs the individual sufficiently to warrant detention or evaluation for detention and petitioning for revocation of the less restrictive alternative court order.

(3) Ensuring that when a peace officer or ((~~county~~)) designated mental health professional escorts a consumer to a facility, the ((~~county~~)) designated mental health professional must take reasonable precautions to safeguard the consumer's property including:

(a) Safeguarding the consumer's property in the immediate vicinity of the point of apprehension;

(b) Safeguarding belongings not in the immediate vicinity if there may be possible danger to those belongings;

(c) Taking reasonable precautions to lock and otherwise secure the consumer's home or other property as soon as possible after the consumer's initial detention.

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

WAC 388-865-0275 Management information system. The regional support network must be able to demonstrate that it collects and manages information that shows the effectiveness and cost effectiveness of mental health services. The regional support network must:

(1) Operate an information system and ensure that information about consumers who receive publicly funded mental health services is reported to the state mental health information system according to mental health division guidelines.

(2) Ensure that the information reported is:

(a) Sufficient to produce accurate regional support network reports; and

(b) Adequate to locate case managers in the event that a consumer requires treatment by a service provider that would not normally have access to treatment information about the consumer.

(3) Ensure that information about consumers is shared or released between service providers only in compliance with state statutes (see chapters 70.02, 71.05, and 71.34 RCW) and this chapter. Information about consumers and their individualized crisis plans must be available:

(a) Twenty-four hours a day, seven days a week to ((~~county~~)) designated mental health professionals and inpatient evaluation and treatment facilities, as consistent with confidentiality statutes; and

(b) To the state and regional support network staff as required for management information and program review.

(4) Maintain on file a statement signed by regional support network, county or service provider staff having access to the mental health information systems acknowledging that they understand the rules on confidentiality and will follow the rules.

(5) Take appropriate action if a subcontractor or regional support network employee willfully releases confidential information, as required by chapter 71.05 RCW.

AMENDATORY SECTION (Amending WSR 05-14-082, filed 6/30/05, effective 7/31/05)

WAC 388-865-0430 Clinical record. The community support service provider must maintain a clinical record for each consumer and safeguard the record against loss, defacement, tampering, or use by unauthorized persons. The clinical record must contain:

(1) An intake evaluation;

(2) Evidence that the consumer rights statement was provided to the consumer;

(3) A copy of any advance directives, powers of attorney or letters of guardianship provided by the consumer;

(4) The crisis treatment plan when appropriate;

(5) The individualized service plan and all changes in the plan;

(6) Documentation that services are provided by or under the clinical supervision of a mental health professional;

(7) Documentation that services are provided by, or under the clinical supervision, or the clinical consultation of a mental health specialist. Consultation must occur within thirty days of admission and periodically thereafter as specified by the mental health specialist;

(8) Periodic documentation of the course of treatment and objective progress toward established goals for rehabilitation, recovery and reintegration into the mainstream of social, employment and educational choices;

(9) A notation of extraordinary events affecting the consumer;

(10) Documentation of mandatory reporting of abuse, neglect, or exploitation of consumers consistent with chapters 26.44 and 74.34 RCW;

(11) Documentation that the department of corrections was notified by the provider when a consumer on an less restrictive alternative or department of corrections order mental health treatment informs them that they are under supervision by department of corrections. Notification can be either written or oral. If oral notification, it must be confirmed by a written notice, including e-mail and fax. The disclosure to department of corrections does not require the person's consent;

(12) If the consumer has been given relief by the committing court it must be confirmed in writing;

(13) When the mental health provider becomes aware of a violation that relates to public safety of court ordered treatment of a consumer who is both in a less restrictive alternative and is being supervised by the department of corrections, documentation that an evaluation by a ((~~county~~)) designated mental health professional was requested;

(14) Documentation of informed consent to treatment and medications by the consumer or legally responsible other;

(15) Documentation of confidential information that has been released without the consent of the consumer including, but not limited to provisions in RCW 70.02.050, 71.05.390 and 71.05.630.

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

WAC 388-865-0440 Availability of consumer information. (1) Consumer individualized crisis plans as provided by the consumer must be available twenty-four hours a day, seven days a week to ((~~county~~)) designated mental health professionals, crisis teams, and voluntary and involuntary inpatient evaluation and treatment facilities, as consistent with confidentiality statutes; and

(2) Consumer information must be available to the state and regional support network staff as required for management information, quality management and program review.

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

WAC 388-865-0452 Emergency crisis intervention services—Additional standards. The community support service provider that is licensed for emergency crisis intervention services must assure that required general minimum standards for community support services are met, plus the additional minimum requirements:

(1) Availability of staff to respond to crises twenty-four hours a day, seven days a week, including:

(a) Bringing services to the person in crisis when clinically indicated;

(b) Requiring that staff remain with the consumer in crisis to stabilize and support him/her until the crisis is resolved or a referral to another service is accomplished;

(c) Resolving the crisis in the least restrictive manner possible;

(d) A process to include family members, significant others, and other relevant treatment providers as necessary to provide support to the person in crisis; and

(e) Written procedures for managing assaultive and/or self-injurious patient behavior.

(2) Crisis telephone screening;

(3) Mobile outreach and stabilization services with trained staff available to provide in-home or in-community stabilization services, including flexible supports to the person where he/she lives.

(4) Provide access to necessary services including:

(a) Medical services, which means at least emergency services, preliminary screening for organic disorders, prescription services, and medication administration;

(b) Interpretive services to enable staff to communicate with consumers who have limited ability to communicate in English, or have sensory disabilities;

(c) Mental health specialists for children, elderly, ethnic minorities or consumers who are deaf or developmentally disabled;

(d) Voluntary and involuntary inpatient evaluation and treatment services, including a written protocol to assure that consumers who require involuntary inpatient services are transported in a safe and timely manner;

(e) Investigation and detention to involuntary services under chapter 71.05 RCW for adults and chapter 71.34 RCW for children who are thirteen years of age or older, including written protocols for contacting the ((~~county~~)) designated mental health professional.

(5) Document all telephone and face-to-face crisis response contacts, including:

(a) Source of referral;

(b) Nature of crisis;

(c) Time elapsed from the initial contact to face-to-face response; and

(d) Outcomes, including basis for decision not to respond in person, follow-up contacts made, and referrals made.

(6) The provider must have a written protocol for referring consumers to a voluntary or involuntary inpatient evaluation and treatment facility for admission on a seven-day-a-week, twenty-four-hour-a-day basis, including arrangements for contacting the ((~~county~~)) designated mental health professional and transporting consumers.

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

WAC 388-865-0466 Community support outpatient certification—Additional standards. In order to provide services to consumers on a less restrictive alternative court order, providers must be licensed to provide the psychiatric and medical service component of community support services and be certified by the mental health division to provide involuntary treatment services consistent with WAC 388-865-0484. In addition, the provider must:

(1) Document in the consumer clinical record and otherwise ensure:

(a) Detained and committed consumers are advised of their rights under chapter 71.05 or 71.34 RCW and as follows:

(i) To receive adequate care and individualized treatment;

(ii) To make an informed decision regarding the use of antipsychotic medication and to refuse medication beginning twenty-four hours before any court proceeding that the consumer has the right to attend;

(iii) To maintain the right to be presumed competent and not lose any civil rights as a consequence of receiving evaluation and treatment for a mental disorder;

(iv) Of access to attorneys, courts, and other legal redress;

(v) To have the right to be told statements the consumer makes may be used in the involuntary proceedings; and

(vi) To have the right to have all information and records compiled, obtained, or maintained in the course of treatment kept confidential as defined in chapters 71.05 and 71.34 RCW.

(b) A copy of the less restrictive alternative court order and any subsequent modifications are included in the clinical record;

(c) Development and implementation of an individual service plan which addresses the conditions of the less restrictive alternative court order and a plan for transition to voluntary treatment;

(d) That the consumer receives psychiatric treatment including medication management for the assessment and prescription of psychotropic medications appropriate to the needs of the consumer. Such services must be provided:

- (i) At least weekly during the fourteen-day period;
 - (ii) Monthly during the ninety-day and one-hundred eighty day periods of involuntary treatment unless the attending physician determines another schedule is more appropriate, and they record the new schedule and the reasons for it in the consumer's clinical record.
- (2) Maintain written procedures for managing assaultive and/or self-destructive patient behavior, and provide training to staff in these interventions;
- (3) Have a written protocol for referring consumers to an inpatient evaluation and treatment facility for admission on a seven-day-a-week, twenty-four-hour-a-day basis;
- (4) For consumers who require involuntary detention the protocol must also include procedures for:
- (a) Contacting the ((~~county~~)) designated mental health professional regarding revocations and extension of less restrictive alternatives, and
 - (b) Transporting consumers.

AMENDATORY SECTION (Amending WSR 01-12-047, filed 5/31/01, effective 7/1/01)

WAC 388-865-0468 Emergency crisis intervention services certification—Additional standards. In order to provide emergency services to a consumer who may need to be detained or who has been detained, the service provider must be licensed for emergency crisis intervention services and be certified by the mental health division to provide involuntary treatment services consistent with WAC 388-865-0484. In addition, the provider must:

- (1) Be available seven-days-a-week, twenty-four-hours-per-day;
- (2) Follow a written protocol for holding a consumer and contacting the ((~~county~~)) designated mental health professional;
- (3) Provide or have access to necessary medical services;
- (4) Have a written agreement with a certified inpatient evaluation and treatment facility for admission on a seven day a week, twenty four hour per day basis; and
- (5) Follow a written protocol for transporting individuals to inpatient evaluation and treatment facilities.

AMENDATORY SECTION (Amending WSR 04-07-014, filed 3/4/04, effective 4/4/04)

WAC 388-865-0575 Special considerations for serving children. Inpatient evaluation and treatment facilities serving children must develop policies and procedures to address special considerations for serving children, including:

- (1) Adults must be separated from children who are not yet thirteen years of age;
- (2) Children who have had their thirteenth birthday, but are under the age of eighteen, may be served with adults only if the child's clinical record contains a professional judgment saying that placement in an adult facility will not be harmful to the child or adult.
- (3) Examination and evaluation by a children's mental health specialist within twenty-four hours of admission.
- (4) Provisions for evaluation of children brought to the facility for evaluation by their parents.

(5) Procedures to notify child protective services any time the facility has reasonable cause to believe that abuse, neglect, financial exploitation or abandonment of a child has occurred.

(6) For a child thirteen years or older who is brought to an inpatient evaluation and treatment facility or hospital for immediate mental health services, the professional person in charge of the facility must evaluate the child's mental condition, determine a mental disorder, need for inpatient treatment, and willingness to obtain voluntary treatment. The facility may detain or arrange for the detention of the child up to twelve hours for evaluation by a ((~~county~~)) designated mental health professional to commence detention proceedings.

(7) Admission of children thirteen years or older admitted without parental consent must have concurrence of the professional person in charge of the facility and written review and documentation no less than every one hundred eighty days.

(8) Notice must be provided to parents when a child is voluntarily admitted to inpatient treatment without parental consent within twenty four hours of admission in accordance with the requirements of RCW ((~~71.34.044~~)) 71.34.510.

(9) Children who have been admitted on the basis of a ((~~county~~)) designated mental health professional petition for detention must be evaluated by the facility providing seventy two hour evaluation and treatment to determine the child's condition and either admit or release the child. If the child is not approved for admission, the facility must make recommendations and referral for further care and treatment as necessary.

(10) Examination and evaluation of a child approved for inpatient admission to include:

- (a) The needs to be served by placement in a chemical dependency facility;
- (b) Restricting the right to associate or communicate with parents; and
- (c) Advising the child of rights in accordance with chapter 71.34 RCW.

(11) Petition for fourteen-day commitment in accordance with the requirements of RCW ((~~71.34.070~~)) 71.34.730.

(12) Commitment hearing requirements and release from further inpatient treatment which may be subject to reasonable conditions if appropriate in accordance with RCW ((~~71.34.080~~)) 71.34.740.

(13) Discharge and conditional release of a child in accordance with RCW ((~~71.34.120~~)) 71.34.770, provided that the professional person in charge gives the court written notice of the release within three days of the release. If the child is on a one hundred eighty-day commitment, the children's long-term inpatient program administrator must also be notified.

(14) Rights of children undergoing treatment and posting of such rights must be in accordance with RCW ((~~71.34.160~~)) 71.34.355, ((~~71.34.162~~)) 71.34.620, and ((~~71.34.290~~)) 71.34.370.

(15) Release of a child who is not accepted for admission or who is released by an inpatient evaluation and treatment facility in accordance with RCW ((~~71.34.170~~)) 71.34.365.

(16) Information concerning treatment of children and all information obtained through treatment under this chapter may be disclosed only in accordance with RCW ((~~71.34.200~~) 71.34.340).

(17) Availability of court records and files in accordance with RCW ((~~71.34.210~~) 71.34.335).

(18) Mental health services information must only be released in accordance with RCW ((~~71.34.225~~) 71.34.345) and other applicable state and federal statutes.

WSR 06-18-002

PERMANENT RULES

GAMBLING COMMISSION

[Order 461-A—Filed August 23, 2006, 2:03 p.m., effective September 23, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Manufacturers and distributors may now base rental/lease fees for electronic bingo card daubers on the number of player selection games sold to a device.

Citation of Existing Rules Affected by this Order: Amending WAC 230-20-244.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 06-10-011 on April 21, 2006, with a published date of May 17, 2006.

Changes Other than Editing from Proposed to Adopted Version: After the petition was filed (amendments to WAC 230-12-340 and 230-20-244), the commission voted to repeal WAC 230-12-340 effective August 17, 2006. As such, an amendment to accomplish the petitioner's request is only needed in WAC 230-20-244. The language in WAC 230-20-244 was clarified after the CR-102 was filed to specifically allow lease/rent fees for electronic bingo daubers to be based on the number of player selection games sold to an electronic bingo card dauber.

CORRECTION FILING: An older version of this rule was inadvertently filed under WSR 06-17-086. This version accurately reflects the language the commission adopted at their August 2006, commission meeting. This version contains the words "as described in" WAC 230-20-244, rather than having parentheses around WAC 230-20-244.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 22, 2006.

Susan Arland
Rules Coordinator

AMENDATORY SECTION (Amending Order 409, filed 2/22/02, effective 7/1/02)

WAC 230-20-244 Electronic bingo card daubers—Definition—Operating restrictions—Standards. The commission deems that any device, apparatus, or scheme that allows a player in any gambling activity a material advantage over other players is against public policy and restriction of such is in the public's interest. Electronic bingo card marking devices or daubers are deemed to provide a player a material advantage unless operated in accordance with subsection (2) of this section. For purposes of this title, the following definitions, restrictions, and standards apply to such devices:

Definition.

(1) Electronic bingo card daubers are defined as electronic appliances used by players to identify bingo cards that contain numbers or symbols input by a player. These devices electronically store preprinted bingo cards purchased by a player, provide a means for players to input numbers or symbols called by the operator, compare the numbers or symbols input by the player to bingo cards previously stored in an electronic data base, and identify to the player those stored bingo cards that contain the numbers or symbols input by the player: Provided, That player-owned devices, which are not directly interfaced with or connected to equipment used to conduct bingo games or the electronic data base in which electronically generated bingo cards are stored in any manner, are not "electronic bingo card daubers" for purposes of this title;

Operating restrictions.

(2) Electronic bingo card daubers will not be deemed to provide players a material advantage and may be used by players in bingo games when operated in the following manner:

Player responsibilities.

(a) The player must perform at least the following functions:

(i) Input each number or symbol called by the operator into the memory of the dauber unit by use of a separate input function for each number symbol. Automatic or global marking of numbers or symbols is prohibited;

(ii) Notify the operator when a winning pattern or "bingo" occurs by means that do not utilize the dauber unit or the associated system; and

(iii) Identify the winning card and display the card to the operator;

Maximum number of cards to be played during each game.

(b) Each electronic dauber unit shall not allow a player to play more than sixty-six cards at one time.

(c) Each player shall not use more than one electronic dauber at any point in time. Provided, That a player can play

an unlimited amount of disposable or hard bingo cards in addition to using one electronic dauber unit.

Reserving electronic bingo card daubers.

(d) Operators shall not reserve electronic daubers for any player. An operator must devise and disclose to players a scheme for assignment of dauber units to players during each session. Such schemes shall allow all players an equal opportunity to utilize the available dauber units. If a drawing is used to assign dauber units to players, the operator shall ensure that each player participating in the drawing has an equal chance to win: Provided, That operators that offer electronic dauber units shall reserve at least one device for players with disabilities that would restrict their ability to mark cards and such disabilities are consistent with definitions set forth in the Americans with Disabilities Act (ADA). If there are no requests for use of this unit prior to fifteen minutes before the scheduled start of the session, it may be made available for use by any players;

Fees.

(e) If operators charge players a fee for use of the electronic daubers, such fees must be a flat fee and shall not be based on the number or dollar value of cards purchased. Rental fees shall be considered bingo receipts for purposes of WAC 230-12-020: Provided, That players with disabilities that would restrict their ability to mark cards and such disabilities are consistent with the ADA shall not be required to pay a rental fee or to comply with minimum purchase requirements imposed on all players utilizing electronic daubers. Such players are required to comply with any minimum purchase requirement imposed on all players by an operator;

Card requirements.

(f) Each player utilizing an electronic dauber must have in their possession cards that meet all requirements of WAC 230-20-240 and 230-20-106. Electronic images of cards or faces stored in such devices are for player convenience only and are not bingo cards for purposes of this title;

Leasing by an operator.

(g) If the electronic daubers are leased to an operator, the lease cannot be based in whole or part on the amount of bingo card sales or rental income derived from such devices. Except that fees may be based on the number of cards sold to a device only for player selection games as described in WAC 230-20-241; and

Discounts and marketing schemes.

(h) The use of electronic daubers is prohibited when a licensee utilizes any marketing scheme for cards that results in a decrease in the per unit price of each card as the number of cards purchased increases: Provided, That a single discount level is authorized for each type of card sold if:

- (i) The licensee has a minimum purchase requirement;
- (ii) The discount applies to all additional cards purchased; and
- (iii) "All you can play" schemes are prohibited;

Standards.

(3) Electronic bingo card daubers must meet the following standards:

- (a) Be manufactured by licensed manufacturers;
- (b) Be sold, leased, and serviced by licensed distributors or manufacturers: Provided, That operators may perform routine maintenance on devices under their control;
- (c) Not be capable of accessing the electronic computer system in any manner that would allow modification of the program which operates and controls the dauber units or the cards stored in the electronic data base; and
- (d) Be capable of complying with applicable requirements of WAC 230-20-106.

WSR 06-18-006

PERMANENT RULES

DEPARTMENT OF

RETIREMENT SYSTEMS

[Filed August 24, 2006, 10:30 a.m., effective September 24, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department has been reviewing and rewriting the teachers' retirement system rules to reflect current policy and clear-writing standards. This is the third and final phase of the project. Phases 1 and 2 were completed in 2005.

Citation of Existing Rules Affected by this Order: Repealing WAC 415-112-200, 415-112-210, 415-112-220, 415-112-230, 415-112-260, 415-112-530, 415-112-810, 415-112-820, 415-112-830, 415-112-835; and new sections WAC 415-112-255, 415-112-256, 415-112-295, 415-112-332, 415-112-432, 415-112-434, 415-112-435, 415-112-474, 415-112-509 and 415-112-715; and amending WAC 415-112-520.

Statutory Authority for Adoption: For WAC 415-112-255, 415-112-256, 415-112-295, 415-112-332, 415-112-474, 415-112-509, 415-112-520, and 415-112-715, 415-112-200, 415-112-210, 415-112-220, 415-112-230, 415-112-260, 415-112-530, 415-112-810, 415-112-820, 415-112-830 and 415-112-835 is RCW 41.50.050(5); and for WAC 415-112-432, 415-112-434 and 415-112-435 is RCW 41.32.345.

Other Authority: For WAC 415-112-255 is RCW 41.32.310; for WAC 415-112-256 is RCW 41.32.762, [41.32.]810, [41.32.]825, [41.32.]865, [41.32.]870; for WAC 415-112-295 is RCW 41.32.065; for WAC 415-112-332 is RCW 41.32.010 (26)(b); for WAC 415-112-432, 415-112-434 and 415-112-435 is RCW 41.32.345; and for WAC 415-112-474 is RCW 41.04.660.

Adopted under notice filed as WSR 06-15-013 on July 6, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New [10], Amended 11 [1], Repealed 10.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New [10], Amended 11 [1], Repealed 10.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New [10], Amended 11 [1], Repealed 10.

Date Adopted: August 23, 2006.

S. J. Matheson
Director

NEW SECTION

WAC 415-112-255 How do I purchase or restore Plan 1 service credit? This section applies to Plan 1 members who qualify by this chapter or chapter 41.32 RCW to purchase credit for previous service, or to restore service credit after withdrawing contributions or taking a lump sum payment in lieu of benefits. This section does not apply to service credit for substitute teaching. See WAC 415-112-140.

(1) Do I qualify to purchase or restore service credit? In addition to meeting the statutory requirements for the specific type of service you performed:

(a) You must be an active TRS member at the time you apply to purchase or restore service credit;

(b) If purchasing credit for previous service, you must return to TRS service for twenty or more full-time days or the equivalent within a fiscal year after providing that service; and

(c) You must purchase or restore the service credit according to the provisions of this section.

(2) How do I apply to purchase or restore service credit? You may apply to purchase service credit by submitting satisfactory proof of your service to the department.

(3) What are the time limits for paying for service credit? You must make payment according to this subsection or before retirement, whichever is sooner. You may make payment in full in one payment or make annual installment payments, consistent with the following deadlines:

(a) If you make payment in full in one payment, the entire amount is due no later than the end of the fifth fiscal year after which you return to TRS service. For example, if you return to service in April 2004, the deadline is June 30, 2008.

(b) If you make payment in annual installments:

(i) The first annual installment is due no later than the end of the fifth fiscal year after which you return to TRS service; and

(ii) The final annual installment is due no later than June 30 of the fourth year following the first annual installment. See RCW 41.32.310.

(4) Does the deadline in subsection (3) of this section change if I separate from service before making full payment?

(a) If you separate and withdraw your contributions (terminate membership) before making full payment, the deadline for purchasing service credit and for restoring service credit differ as follows:

(i) **Purchasing service credit for a previous period of service.** You must reestablish membership and then make payment in full by the original deadline.

(ii) **Restoring service credit after withdrawal of contributions or receipt of a lump sum payment taken in lieu of benefits.** The time limit will start over each time you reestablish membership if:

(A) You did not make any payments for the service credit and you withdrew from TRS before the first annual installment was due (see subsection (2)(a)(ii)(B) of this section); or

(B) You made at least the initial annual installment and withdrew before the end of the fourth fiscal year after the initial installment.

In cases other than (a)(ii)(A) or (B) of this subsection the original deadlines remain in place.

(b) If you separate, but do not withdraw your contributions, the original deadline applies. You may, however, continue to make payments while you are separated from service.

(5) What happens if I do not make payment in full by the deadline?

(a) If you were eligible to purchase or restore service credit and did not begin to do so prior to the deadline, you may purchase or restore the service credit at any time prior to retirement as long as you do not withdraw your contributions. You must pay the full actuarial value of the resulting increase in benefits. See RCW 41.50.165, WAC 415-02-370, and chapter 415-10 WAC.

(b) If you enter into an arrangement to purchase service credit and fail to make the final payment within the time limit established by law:

(i) The arrangement is terminated and all payments you made will be returned to you; and

(ii) You may purchase the service credit at any time prior to retirement as long as you do not withdraw your contributions. You must pay the full actuarial value of the resulting increase in benefits. See RCW 41.50.165, WAC 415-02-370 and chapter 415-10 WAC.

NEW SECTION

WAC 415-112-256 How do I purchase or restore Plan 2 or 3 service credit? This section applies to Plan 2 and 3 members who qualify by this chapter or chapter 41.32 RCW to purchase credit for previous service or to restore service credit after withdrawing contributions or taking a lump sum payment in lieu of benefits. This section does not apply to service credit for substitute teaching. See WAC 415-112-140.

(1) Do I qualify to purchase or restore service credit? In addition to meeting the statutory requirements for the specific type of service you performed, you must:

(a) Be an active TRS member when you apply to purchase or restore the service credit; and

(b) Purchase the service credit according to the provisions of this section.

(2) How do I apply to purchase or restore service credit? You may apply to purchase service credit by submitting satisfactory proof of your service to the department.

(3) **What are the time limits for paying for service credit?** You must make payment in full according to this subsection or before retirement, whichever is sooner.

(a) You must make payment in full, in one payment, within five years of returning to TRS service:

(i) To establish service credit for military service or unpaid authorized leave of absence. See RCW 41.32.810, 41.32.865 and 41.32.892.

(ii) To restore service credit after withdrawing contributions. See RCW 41.32.825.

(b) You must make payment in full, in one payment, within two years of returning to TRS service to restore service credit after a lump-sum distribution in lieu of a benefit payment. See RCW 41.32.762 and 41.32.870.

(4) **What are the consequences of separating from service before making full payment?**

(a) If you separate and withdraw your contributions (terminate membership) before making full payment, you must return to membership and make payment in full by the original deadline.

(b) If you separate but do not withdraw your contributions, you may purchase the service credit whether or not you return to service. The original deadline applies.

(5) **What happens if I do not make payment in full by the deadline?** If you were eligible to purchase or restore service credit and did not make payment in full by the deadline, you may purchase or restore the service credit at any time prior to retirement as long as you do not withdraw your contributions. You must pay the full actuarial value of the resulting increase in benefits. See RCW 41.50.165, WAC 415-02-370, and chapter 415-10 WAC.

NEW SECTION

WAC 415-112-295 May I use "unpurchased" out-of-state teaching service credit to determine eligibility for retirement? (1) If you earned service credit in an out-of-state retirement system that covers teachers in public schools and do not purchase that service credit, you may use it solely to qualify for retirement.

(2) If you use "unpurchased" out-of-state service credit to qualify for retirement, your retirement benefit:

(a) Will be based solely on your years of service credit in the Washington teachers' retirement system; and

(b) Will be actuarially reduced according to the age you would have been eligible to retire if you had not counted your out-of-state service credit. See RCW 41.32.065.

(3) You may also be eligible to purchase a limited amount of service credit for out-of-state teaching under this chapter.

Example: Jane is a member of TRS Plan 1. She has five years of out-of-state service credit as a public school teacher and twenty-five years of service credit in TRS Plan 1. She is eligible to retire from TRS Plan 1 with thirty years of service credit; however, her retirement benefit will be based solely on her twenty-five years of TRS service credit.

NEW SECTION

WAC 415-112-332 How does the department calculate service credit for Plan 2 and 3 members? (1) How is my service credit calculated? RCW 41.32.010 (26)(b) provides three methods that may be used to calculate service credit for Plan 2 and 3 members:

(a) **Twelve-month method:** If you meet the following conditions, you will receive one service credit month for each month of a twelve-month period (September through August):

(i) You were employed at least nine calendar months starting in September; and

(ii) You earned earnable compensation for at least eight hundred ten hours during September through August.

The twelve service credit months earned under this subsection are credited to you on August 31.

(b) **Partial service credit method:** If you meet the following conditions, you will receive one-half of a service credit month for each month of a twelve-month period (September through August):

(i) You were employed at least nine calendar months starting in September; and

(ii) You earned earnable compensation for at least six hundred thirty hours, but less than eight hundred ten hours during September through August.

The six service credit months earned under this subsection are credited to you on August 31.

(c) **Month-by-month method:** You will receive service credit on a month-by-month basis as follows:

(i) One service credit month for each calendar month in which you earn earnable compensation for ninety or more hours;

(ii) One-half service credit month for each calendar month in which you earn earnable compensation for at least seventy hours but less than ninety hours; and

(iii) A quarter of a service credit month for each calendar month in which you earn earnable compensation for some but less than seventy hours.

(2)(a) **Twelve-month method.** If you qualify, the department will calculate your service credit using the twelve-month method.

Example.

Sept.	60
Oct.	60
Nov.	60
Dec.	60
Jan.	60
Feb.	60
March	160
April	160
May	160
June	
July	
Aug.	
Total	840

Mary is a Plan 3 member who worked nine months, for a total of 840 hours, as shown in the table. Using the twelve-month method, Mary receives one service credit month for each of twelve calendar months, for a total of twelve service credit months. The department will credit Mary with twelve service credit months on August 31. If Mary separates service at the end of May, she will receive nine service credit months. If she separates service at the end of June, she will receive ten service credit months.

(b) **Partial service credit method.** If you do not qualify for the twelve-month method, and you meet the requirements in subsection (1)(b) of this section, the department will calculate your service credit using the partial service credit method.

(c) **Month-by-month.** The month-by-month method will be used if you leave service before the end of the school year or otherwise do not meet the requirements for the twelve-month method or the partial service credit method.

(3) If you are employed by two or more employers, you will receive no more than one service credit month for any calendar month.

NEW SECTION

WAC 415-112-432 Do I qualify for the alternate computation of earnable compensation in RCW 41.32.-345? RCW 41.32.345 provides an optional method of computing earnable compensation for part-time TRS Plan 1 members. This method is intended to ensure that a TRS Plan 1 member who earns a fractional year of service credit will receive benefits proportional to benefits received by a member who earns a full year of service credit.

(1) To be eligible for the alternate calculation, you must meet the requirements in subsection (2) or (3) of this section for:

(a) Each fiscal year for two consecutive fiscal years; or

(b) Each of the two twelve-month periods contained in an alternate period, provided that you meet the qualifications for using an alternate period for the calculation of your AFC under WAC 415-112-430(2).

(2) Service for a single employer. If you work for one and only one employer during the twelve-month period, you must satisfy the requirements of (a), (b), and (c) of this subsection.

(a) Written contract.

(i) If you work for a school district or educational service district, you must be under a part-time contract from the first teaching day to the last teaching day of the school's official calendar.

(ii) If you work for a community or technical college, school for the blind, or school for the deaf, you must be under part-time contracts for at least three of the four academic quarters (summer, fall, winter, or spring).

(b) Instructional position. You must spend more than seventy-five percent of your total hours of service as a classroom instructor (including office hours), a librarian, a psychologist, a social worker, a nurse, a physical therapist, an occupational therapist, a speech language pathologist or audiologist, or a counselor.

(c) Number of days. During the twelve-month period, you must be employed at least twenty days or the equivalent, but less than eighty percent of the days in your employer's official calendar. For purposes of this calculation, the department considers that the official calendar of a school district or educational service district has one hundred eighty days.

(3) Service for two or more employers. If you work for more than one employer during the twelve-month period, you must satisfy the requirements of (a), (b), and (c) of this subsection.

(a) Written contracts. You must be employed only under part-time contracts with a school district, educational service district, community or technical college, school for the deaf, or school for the blind for the equivalent of three of the four academic quarters (summer, fall, winter, or spring).

Example 1. Susan is employed part time with School District B from September 1 through December 31. She is employed with School District C from January 1 through June 20. Susan meets the "written contract" requirement of this subsection because she is under contract for the equivalent of three academic quarters (fall, winter, and spring).

Example 2. Bill is employed with School District B from September 1 through December 31. He is employed with Community College C for winter and spring quarters. Bill meets the "written contract" requirement of this subsection because he is under contract for the equivalent of three academic quarters (fall, winter, and spring).

(b) Instructional position. You must spend more than seventy-five percent of your total hours of service as a classroom instructor (including office hours), a librarian, a psychologist, a social worker, a nurse, a physical therapist, an occupational therapist, a speech language pathologist or audiologist, or a counselor.

(c) Number of days. During the twelve-month period, you must be employed at least twenty days or the equivalent, but less than eighty percent of the days in your employers' official calendars, as illustrated in the example. For purposes of this calculation, the department considers that the official calendar of a school district or educational service district has one hundred eighty days. The number of days in the official calendars of community and technical colleges may vary.

Example: Sue worked for 10 days at School District A, which is considered to have 180 days in its official calendar. She worked for 90 days at Community College B, which has 150 days in its official calendar. She worked 5.6% (10/180) of School District A's official calendar plus 60% (90/150) of Community College B's official calendar for a total of 65.6%.

(4) The department may consider additional information to determine if you meet the requirements in this section. Upon the department's request, employers must provide, without limitation, the following information:

(a) For school district employees, the salary schedule and related workload provisions, if any, adopted pursuant to RCW 28A.405.200 by the school district; and

(b) Documentation indicating:

(i) Whether your position is included on the employing district's salary schedule, in workload provisions, or in a collective bargaining agreement;

(ii) Whether your position has duties, responsibilities, workload requirements, or methods of pay similar to those of positions found in the district's schedule, workload provisions, or collective bargaining agreement;

(iii) When your position was created, and how long you held the position;

(iv) Whether you have previously retired under the provisions of chapter 41.32 RCW.

NEW SECTION

WAC 415-112-434 How is my earnable compensation adjusted if I meet the requirements in WAC 415-112-432 for two consecutive fiscal years? If you meet the requirements in WAC 415-112-432 for each fiscal year for two consecutive fiscal years, you may choose to have your annual earnable compensation computed according to this section rather than WAC 415-112-430.

(1) The department will determine the number of hours you would have worked if you were employed on a regular full-time basis by multiplying the hours per day reported under (a) of this subsection, by the number of days reported under (b) of this subsection. For each contracted position you occupied during the fiscal year, your employer must provide written verification of:

(a) The number of hours in the employer's school day.

(i) Unless otherwise determined by a contract, bargaining agreement or employer policy, the department considers there are seven hours in a school day.

(ii) If you were employed in more than one position to meet the requirements in WAC 415-112-432, the department will average the number of hours reported by your employers; and

(b) The number of days in the employer's official calendar under a regular full-time contract:

(i) For K-12 teachers, the department will count only days identified in contracts adopted pursuant to RCW 28A.405.200. Days worked pursuant to supplemental contracts authorized by RCW 28A.405.240 and 28A.400.200(4) are not considered days required under a "regular full-time contract."

(ii) If you were employed in more than one position to meet the requirements in WAC 415-112-432, the department will average the number of days reported by your employers.

(2) The department will calculate your average hourly rate by dividing the compensation reported under (b) of this subsection, by the hours reported under (a) of this subsection. Your employer(s) must provide the following written information:

(a) Total hours you worked during the fiscal year under all employment contracts with the employer; and

(b) Total earnable compensation you earned during the fiscal year under all employment contracts with the employer.

(3) To determine your adjusted earnable compensation for each fiscal year, the department will multiply your average hourly wage determined in subsection (2) of this section, by the number of hours in an official calendar, as determined by subsection (1) of this section. The product is the compensation you would have received in the same position if employed on a regular full-time basis.

NEW SECTION

WAC 415-112-435 How is earnable compensation adjusted for TRS Plan 1 members in extended school year programs? If you meet the requirements in WAC 415-112-432 for each year in an alternate period as defined in WAC 415-112-430, you may choose to have your annual earnable compensation computed according to this section rather than WAC 415-112-430. If you meet the requirements in WAC 415-112-432 for both, an alternate period and two consecutive fiscal years, you may also have your earnable compensation calculated by fiscal years under WAC 415-112-434.

(1) For purposes of this section, the "alternate period" in WAC 415-112-430 (1)(b) will be divided into two consecutive twelve-month periods and each will be referred to as an "alternate year." Annual earnable compensation will be determined for each alternate year.

(2) The department will determine the number of hours you would have worked if you were employed on a regular full-time basis by multiplying the hours per day reported under (a) of this subsection, by the number of days reported under (b) of this subsection. For each contracted position you occupied during the alternate year, your employer must provide written verification of:

(a) The number of hours in the employer's school day.

(i) Unless otherwise determined by a contract, bargaining agreement or employer policy, the department considers there are seven hours in a school day.

(ii) If you were employed in more than one position to meet the requirements in WAC 415-112-432, the department will average the number of hours reported by your employers.

(b) The number of days in the employer's official calendar under a regular full-time contract:

(i) For K-12 teachers, the department will count only days identified in contracts adopted pursuant to RCW 28A.405.200. Days worked pursuant to supplemental contracts authorized by RCW 28A.405.240 and 28A.400.200(4) are not considered days required under a "regular full-time contract."

(ii) If you were employed in more than one position to meet the requirements in WAC 415-112-432, the department will average the number of days reported by your employers.

(3) The department will calculate your average hourly rate by dividing the compensation reported under (b) of this subsection, by the hours reported under (a) of this subsection. Your employer(s) must provide the following written information regarding your employment:

(a) Total hours you worked during the alternate year under all employment contracts with the employer; and

(b) Total earnable compensation you earned during the alternate year under all employment contracts with the employer.

(4) To determine your adjusted earnable compensation for the alternate year, the department will multiply your average hourly wage determined in subsection (3) of this section, by the number of hours in the official calendar, as determined by subsection (2) of this section. The product is the compensation you would have received in the same position if employed on a regular full-time basis.

NEW SECTION

WAC 415-112-474 Is compensation from shared leave earnable compensation? If you receive leave through the leave sharing program created by RCW 41.04.660, the compensation you receive from your employer for that leave is earnable compensation.

NEW SECTION

WAC 415-112-509 When will the department approve my application for service retirement? The department will approve your application for service retirement only after you:

- (1) Submit a properly completed form according to the provisions of WAC 415-112-507;
- (2) Meet the age and service requirements in WAC 415-112-500 for Plan 1, WAC 415-112-501 for Plan 2, or WAC 415-112-502 for Plan 3;
- (3) Separate from service with all employers as defined in RCW 41.32.010(11);
- (4) Have no written agreement to return to employment with an employer; and
- (5) Pay in full for any service credit you wish to purchase or restore.

AMENDATORY SECTION (Amending WSR 99-14-008, filed 6/24/99, effective 7/25/99)

WAC 415-112-520 (~~(Date from which service retirement allowance accrues.)~~) **When do my monthly retirement payments begin?** (~~(When does my retirement allowance become payable?)~~)

(1) (~~The department must receive proof and payment to establish membership or additional service credit before your retirement allowance will be payable. After the department receives the necessary proof and payment and approves your application for service retirement, your retirement allowance is payable on:~~

- (a) July 1 following your final year of service if you established a full year of Washington service credit for the year in which you retired; or
- (b) The first of the month following the month that you terminated public school service.

(2) ~~If you terminate public school employment before you are eligible for a service retirement allowance, you may later qualify for a deferred retirement allowance based on your age if you are not employed in public education. If you~~

~~qualify, your retirement allowance is payable on the date you reach the minimum age required to start receiving payments.)~~ The department will issue your first retirement allowance payment at the end of the month in which you retire.

(2) If your accrual date is prior to the date your application is approved, you will receive a lump sum payment of the amount that has accrued prior to your first payment. Thereafter, you will receive the calculated monthly benefit.

NEW SECTION

WAC 415-112-715 Who gets the balance of my monthly retirement allowance if I die partway through a month? If you have entered retirement status and die part way through a month, a prorated portion of the defined benefit retirement allowance payable for the month of your death will be paid to the beneficiary named on the form in effect at the time of your death, if that person or entity survives your death. If your named beneficiary has died or is no longer in existence, the prorated amount will be paid to your estate.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 415-112-200	Establishing credit for previous service.
WAC 415-112-210	Withdrawal before final date for establishing additional credit.
WAC 415-112-220	Withdrawal before making final payment to establish additional credit.
WAC 415-112-230	Failure to make final payment to establish credit.
WAC 415-112-260	How is service credit evaluated for service in higher institutions?
WAC 415-112-530	Balance of monthly payment due on date of death.
WAC 415-112-810	Who qualifies for the alternate computation of earnable compensation in RCW 41.32.345?
WAC 415-112-820	What is a bona fide position for purposes of WAC 415-112-810?
WAC 415-112-830	How is earnable compensation adjusted for bona fide employees?
WAC 415-112-835	How is the computation in WAC 415-112-830 modified for teachers in extended school year programs?

WSR 06-18-007
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS

[Filed August 24, 2006, 10:30 a.m., effective September 24, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To incorporate the provisions of chapter 451, Laws of 2005 (the allowance under this section is no longer subject to actuarial reduction for early retirement) and to clarify eligibility requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 415-104-480.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: RCW 41.26.470 (6) and (7).

Adopted under notice filed as WSR 06-15-012 on July 6, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 23, 2006.

S. J. Matheson
Director

AMENDATORY SECTION (Amending WSR 04-22-074, filed 11/1/04, effective 12/2/04)

WAC 415-104-480 LEOFF Plan 2 duty disability benefits. ~~((Members of the law enforcement officers' and fire fighters' retirement system (LEOFF Plan 2)) This section applies to you if you are a LEOFF Plan 2 member who incurs a disability in the line of duty ((are entitled to duty disability benefits subject to the requirements in)) per RCW 41.26.470 (6) and (7) and this section.~~

(1) **Who is entitled to duty disability benefits?** Any member of LEOFF Plan 2 who ~~((is deemed by the department to have))~~ the department determines has:

(a) Incurred a physical or mental disability in the line of duty;

(b) ~~((Been))~~ Become totally incapacitated for continued employment in a LEOFF eligible position; and

(c) Separated from a LEOFF eligible position due to the disability~~((, and who:~~

(i) ~~Has a retirement date on or after January 1, 2001; or~~

(ii) ~~Is eligible under this section to have a retirement date on or after January 1, 2001.~~

~~The disability may be physical or mental, and may be caused by injury or occupational disease).~~

(2) **How is "line of duty" defined?** Line of duty means any action or activity ~~((done))~~ occurring in conjunction with your employment or your status as a law enforcement officer or fire fighter ~~((that is))~~ and required~~((, obligated,))~~ or authorized by law, rule, regulations, or condition of employment or service.

(3) **When are the duty disability provisions effective?** ~~The ((effective date of the)) duty disability provisions under RCW 41.26.470 (6) and (7) ((is)) are effective June 10, 2004((, and applies retroactively to January 1, 2001. In order to qualify for the provisions, you must have separated from your LEOFF-eligible position due to a duty disability with a retirement date on or after January 1, 2001)).~~

(4) **How do I apply for duty disability benefits?** ~~((You must submit))~~ The department must receive:

(a) A completed three-part disability retirement application on the form provided by the department.

(i) Part 1: Disability retirement application. You must complete and sign the application. If you are married, your spouse must sign ~~((consent of))~~ consenting to the retirement payment option you choose. ~~((You must have))~~ Your signature(s) must be notarized.

(ii) Part 2: Employer's statement and report. Your employer must complete, sign and return it directly to the department.

(iii) Part 3: Medical report. You must complete Section 1. The remainder must be completed and signed by a person licensed according to Washington state law to practice medicine and surgery, osteopathic medicine and surgery, chiropractic, ~~((naturopathy))~~ clinical psychology, podiatry, dentistry, or optometry~~((:));~~

(b) ~~((Proof of applying to the Washington state department of labor and industries (L&I) or a self-insurer for workers' compensation benefits under Title 51 RCW and, if L&I or the self-insurer determined eligibility, a copy of the determination;~~

~~((e))~~ Additional information ((that may be)) requested by the department; and

~~((d))~~ (c) Any other material you want the department to consider.

(5) **What ((types of)) evidence will the department use to determine whether I am entitled to benefits under this section?** The department will consider any relevant information submitted by you or your employer, or otherwise available to the department, including:

(a) Information and determinations ~~((obtained from))~~ by the department of labor and industries (L&I) or a self-insurer;

(b) ~~((The documentation you submit;~~

~~((e) Facts surrounding your injury or occupational disease))~~ Medical, vocational, and other information about your disability;

~~((d))~~ (c) Your job description;

~~((e))~~ (d) Your membership records, maintained by the department;

~~((f) Materials obtained or provided by your employer;))~~ and

~~((g))~~ (e) Any other relevant evidence.

(6) **What would disqualify me for duty disability benefits?** You are not eligible for duty disability benefits if any of the following apply:

(a) Your application does not provide adequate proof that you are totally incapacitated for continued employment in a LEOFF-eligible position;

(b) Your application ~~((is incomplete or lacks sufficient documentation to prove))~~ does not provide adequate proof that your disability was incurred in the line of duty;

(c) ~~((Your claim for workers' compensation benefits under Title 51 RCW was denied either because your disability was not incurred in the course of employment or because your condition was not recognized as a disability;~~

~~(d))~~ The disability occurred as a result of intentional misconduct(~~(;~~

~~(e))~~ including but not limited to:

~~(i)~~ An action ~~((was taken by))~~ you took intentionally to bring about your own disability;

~~((f))~~ Your mental or physical faculties were impaired due to voluntary intoxication as defined in subsection (17) of this section; or

~~(g) You were performing your duties in a grossly negligent manner at the time the disability occurred))~~ (ii) Gross negligence on your part; or

(iii) Your voluntary intoxication. As used in this section, "intoxication" means a disturbance of mental or physical faculties resulting from the introduction of:

(A) Alcohol into the body as evidenced by:

(I) A blood alcohol level of .20 per centum or greater; or

(II) A blood alcohol level of at least .10 per centum but less than .20 per centum unless the department receives convincing evidence that the officer or fire fighter was not acting in an intoxicated manner immediately prior to the injury; or

(B) Drugs or other substances in the body.

(7) Who decides if I meet the requirements for benefits under this section? The LEOFF plan administrator.

(8) May I petition a decision made by the LEOFF plan administrator? Yes. If the LEOFF plan administrator denies your request for a disability benefit ~~((or determines your disability was not incurred in the line of duty))~~ under this section, you may petition for review under chapter 415-04 WAC.

(9) What are the duty disability retirement benefits? As a duty disability retiree, you may choose between:

(a) A nontaxable, one-time lump sum payment equal to one hundred fifty percent of your retirement contributions; except that, any payments made to restore service credit after the five-year deadline will be paid at one hundred percent; or

(b) A monthly ~~((benefit))~~ allowance equal to ~~((b)(i) or (ii))~~ of this subsection, whichever provides the greater benefit):

(i) ~~((A minimum monthly benefit equal to))~~ Ten percent of your final average salary (FAS), which is nontaxable; ~~((or))~~ and

(ii) ~~((A monthly benefit of))~~ Two percent of your FAS for each year of service(~~(, adjusted for early retirement if you are under age fifty-three and any survivor option chosen. A portion of your benefit, equal to ten percent of your FAS, is nontaxable))~~ beyond five years.

Your monthly allowance will not be adjusted for early retirement. However, if you choose a benefit option with a survivor feature as described in WAC 415-104-215, your monthly allowance will be actuarially reduced to offset the

cost. The factors used to determine the amount of the reduction are in WAC 415-02-380.

Example: Tom incurs a duty disability at age 42 after twenty years of service. His final average salary is \$5000 per month. Tom's wife is also age 42~~((, and))~~. He chooses ~~((survivor))~~ Benefit Option Two ~~((per))~~ so that, after his death, his wife will receive a monthly allowance equal to the gross monthly allowance he was receiving. See WAC 415-104-215 (2)(b).

Tom's minimum duty disability ~~((benefit))~~ allowance, calculated at 10 percent of his final average salary (FAS)~~((; would be))~~ is:

Allowance	\$5000 X 10% =	\$500
((Benefit with survivor Option Two)) <u>Allowance after the actuarial reduction for Option Two (survivor feature)</u>	\$500 X 0.87 =	\$435 (nontaxable)

~~((Tom's duty disability benefit using standard computation would be))~~ In addition, Tom will receive:

Allowance	((2% X AFS-(\$5000) X 20-years)) <u>15 years X 2% X FAS (\$5000)</u>	((2000)) <u>1500</u>
((Benefit after reduction for early retirement	((2000 X 0.39- (early retirement factor)=	((780))
((Benefit with survivor Option Two)) <u>Allowance after the actuarial reduction for Option Two (survivor feature)</u>	((780)) <u>1500 X 0.87 =</u>	((678.60 (\$435 of this amount is nontaxable))) <u>1305</u>

Tom will receive ~~((a monthly benefit of \$678.60 because that is the greater benefit))~~ \$435 (nontaxable) plus \$1305 (taxable), for a total monthly allowance of \$1740.

(10) Are my duty disability benefits taxable? The department reports disability benefits to the Internal Revenue Service as required by federal law. Based on current federal law, part of your benefit may be taxable. You should consult with your own tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department.

~~((It is important that you realize that))~~ The department does not:

(a) Guarantee that payments ~~((should or should not be designated as))~~ are exempt from federal income tax;

(b) Guarantee that it was correct in withholding or not withholding taxes from benefit payments to you;

(c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its (~~nontaxable~~) determination; or

(d) Assume any liability for your compliance with the Internal Revenue Code.

(11) ~~(If I retired on or after January 1, 2001, may I apply for duty disability benefits? If you separated employment due to disability and retired with a service or nonduty disability retirement date on or after January 1, 2001, you may apply to the department for duty disability benefits according to the provisions of subsection (4) of this section.~~

~~(12) If I separated from employment) If I previously withdrew my contributions, may I apply for duty disability benefits? If you separated from employment due to a disability and (~~qualify for a retirement date on or after January 1, 2001~~) withdrew your contributions, you may apply for duty disability benefits according to the provisions of subsection (4) of this section. (~~If the LEOFF administrator determines you are entitled to duty disability benefits, you will receive a monthly benefit calculated as provided in subsection (9)(b) of this section. However, if you withdrew your contributions, you must repay the entire amount you withdrew. You may repay the withdrawn amount:~~~~

~~(a) By returning the entire amount you withdrew to the department; or~~

~~(b) By an actuarial reduction in your monthly benefit.)~~

~~(12) If I previously withdrew my contributions and am approved for duty disability benefits, what will I receive as a benefit? If the LEOFF plan administrator determines you are entitled to duty disability benefits, the department will amend Internal Revenue Service reporting to designate your previous withdrawal as nontaxable. In addition, you may choose either of the following:~~

~~(a) If you previously withdrew 100% of your contributions, you may choose to receive an additional lump sum payment equal to 50% of the contributions you withdrew. The payment will be nontaxable; or~~

~~(b) If you previously withdrew 100% or 150% of your contributions, you may choose to receive a monthly allowance according to subsection (9) of this section. You must repay the amount you withdrew, either in a lump sum payment or by having your monthly allowance permanently actuarially reduced to offset the amount of your previous withdrawal.~~

Example: John was injured on the job and separated from his LEOFF position in March 2002. At the time he separated, he was 43 years old, had 10 years of service, and his final average salary was \$5,000.00 per month. At that time, John chose to withdraw \$75,000, which equaled 150 percent of his retirement contributions.

John subsequently applied under the provisions of RCW 41.26.470 (6) and (7) and was deemed eligible for duty disability benefits.

The department calculated John's benefit according to the methods in subsection (9) of this section (~~and determined it was to John's~~). John determined it was to his advantage to take

~~((the minimum monthly benefit)) a monthly allowance.~~

If John (~~chooses to~~) **repays the entire amount he withdrew in a lump sum**, his monthly ~~((duty disability benefit)) allowance~~ will be calculated according to the formula in subsection (9)(b) of this section:

Minimum monthly ((benefit)) allowance	10% X ((AFS)) FAS (\$5000) =	\$500 ((nontaxable))
	Plus:	
Monthly allowance	5 years X 2% X FAS (\$5000) =	\$500
John's total monthly allowance will be \$1,000 ¹ .		

If John (~~chooses to~~) **repays the withdrawn amount** ~~((by having his monthly benefit actuarially reduced, his benefit will be))~~ **through a permanent actuarial reduction**, his monthly allowance will be reduced as follows:

((Minimum monthly benefit)) Monthly allowance (calculated above)	((10% X AFS (\$5000))) =	\$ ((500)) 1000
Reduction to repay the withdrawn amount (\$75,000)	\$75,000 X .0049904 (annuity factor, which is based on the retiree's age) =	-\$374.28
Monthly ((benefit)) allowance		\$ ((125.72)) 625.72 ²

¹ Annuity factors are provided in WAC 415-02-340.

² If John chooses a benefit option with a survivor feature, as described in WAC 415-104-215, his monthly allowance will be actuarially reduced to offset the cost. Survivor option factors are provided in WAC 415-02-380.

(13) **When does a duty disability retirement benefit end?** The department may require comprehensive medical examinations to reevaluate your eligibility for continued disability benefits according to the provisions of RCW 41.26.470(2). Your duty disability benefit will cease if:

(a) You return to work in a LEOFF-eligible position; or

(b) Medical examination reveals that you (~~have recovered from the incapacitating disability~~) **are no longer totally incapacitated for employment in a LEOFF eligible position** and you are no longer entitled to workers' compensation benefits under Title 51 RCW.

(14) **If I retire for a duty disability and die, will my survivor beneficiary receive a monthly ((benefit)) allowance?** If you (~~elect a survivor option~~) **choose a benefit option with a survivor feature** under WAC 415-104-215(2) at the time of retirement, your survivor beneficiary will receive a monthly ~~((benefit)) allowance~~ after your death.

(15) **What happens if I return to a LEOFF-eligible position?** If you (~~recover from your disability and~~) return to a LEOFF-eligible position, your monthly ~~((retirement benefit)) allowance~~ will stop.

(16) ~~If I return to a LEOFF-eligible position, how will my future retirement benefit be affected? When you rerehire, your monthly ((benefit)) allowance will be calculated pursuant to RCW 41.26.500 ((using any additional service credit and your highest sixty consecutive months of salary, but will be reduced if:~~

~~(a) You were receiving a monthly benefit equal to ten percent of your FAS; or~~

~~(b) You were receiving a monthly benefit calculated under the normal two percent rule but had an early retirement factor applied; or~~

~~(c) You received the one-time lump sum payment equal to one hundred fifty percent of your contributions, unless you repay the amount you received.~~

(17) ~~As used in this section, intoxication means a disturbance of mental or physical faculties resulting from the introduction of alcohol into the body as evidenced by:~~

~~(a) A blood alcohol level of .20 per centum or greater;~~

~~(b) A blood alcohol level of at least .10 per centum but less than .20 per centum unless the department receives convincing evidence that the public safety officer was not acting in an intoxicated manner immediately prior to his/her injury; or~~

~~Resulting from drugs or other substances in the body)) and WAC 415-104-111.~~

WSR 06-18-008

PERMANENT RULES

DEPARTMENT OF

RETIREMENT SYSTEMS

[Filed August 24, 2006, 10:31 a.m., effective September 24, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To clarify portability provisions for retroactive retirement.

Citation of Existing Rules Affected by this Order: Amending WAC 415-113-080.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: Chapter 41.54 RCW.

Adopted under notice filed as WSR 06-15-019 on July 7, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 23, 2006.

S. J. Matheson

Director

AMENDATORY SECTION (Amending WSR 02-18-046, filed 8/28/02, effective 9/30/02)

WAC 415-113-080 ((Can I retire retroactively?) May I receive a retroactive payment from a prior system? ((You may retire retroactively. If you retire from all dual member systems, your retirement allowance from a prior system will be retroactive back to your accrual date under the prior system.

(1) ~~Accrual date determined. The department will determine your accrual date in each system by combining your total service and applying the statute or rule designating accrual dates in the particular system. Your accrual date for purposes of this section is the date that your combined service first makes you eligible for an unreduced benefit.~~

Example 11: A person is a fifty-five year old member participant in PERS Plan 2 and a nonmember participant in LEOFF Plan 2. The person decides not to retire from LEOFF Plan 2 until he is eligible to retire with full benefits from PERS Plan 2 at age sixty-five. Upon retirement, he will be entitled to a LEOFF Plan 2 retirement allowance effective on his accrual date under LEOFF Plan 2 (i.e., age fifty-five).

Example 12: A person with twenty years of prior service in TRS Plan 1 becomes a member participant in PERS Plan 2 on her fifty-fourth birthday. By combining her service in both systems under chapter 41.54 RCW, she will become eligible to retire under TRS Plan 1 at age fifty-nine with twenty-five total years of service. Assume she retires from both systems at age sixty-five. Her TRS Plan 1 retirement allowance will be effective back to the date it accrued under TRS Plan 1 (i.e., the first of month following the month she turns fifty-nine).

(2) ~~You cannot use salary earned after your accrual date in calculating your retroactive benefit. If you retire retroactively from a prior system, the department will not use any of the salary you earned after your accrual date to compute your benefit from the prior system.~~

Example 13: A PERS Plan 1 member receives a salary of \$3,000 per month. She has 30 years of service credit at age 50 and is eligible to retire with an unreduced (full) benefit.

~~Subsequently, she is offered a TRS Plan 3 covered position at a monthly salary of \$3,500. If she accepts the TRS Plan 3 position, will she be able to use its higher monthly salary of \$3,500 as base salary to calculate her PERS Plan 1 retirement benefit when she does retire? No, she will not. The TRS Plan 3 salary would have been earned after the PERS Plan 1 accrual date. The date that she first~~

~~became eligible to retire with an unreduced benefit under PERS Plan 1 rules.~~

(3) ~~Defined terms used.~~ Definitions for the following terms used in this section may be found in the sections listed:

- (a) ~~"Dual member system" – WAC 415-113-030.~~
- (b) ~~"Member participant" – WAC 415-113-030.~~
- (c) ~~"Nonmember participant" – WAC 415-113-030.)~~ (1)

Eligibility. You are eligible to receive a retroactive payment from a prior system if:

(a) You retire with a multiple system benefit according to WAC 415-113-055; and

(b) You were eligible to retire from a prior system with an unreduced benefit before the date of your multiple system retirement.

(2) **Accrual date.** At the time of your retirement from all dual member systems, you must choose the date on which the benefit from your prior system will accrue. This may be any date on or after the date you first became eligible for an unreduced retirement allowance from that system. The date you choose will affect your monthly retirement allowance from that system and your retroactive payment.

(3) **Monthly retirement allowance from prior system.** Your monthly retirement allowance from your prior system will be calculated under the rules of that system.

(a) **Service credit.** Your service credit is the actual credit earned in the prior system.

(b) **Average compensation.** Your average compensation is calculated under the rules in WAC 415-113-030(2) and 415-113-065. If you substitute base salary from another

<u>2001</u>	=	<u>\$55,200/year</u>
<u>2002</u>	=	<u>\$56,400/year</u>
<u>2003</u>	=	<u>\$57,600/year</u>
<u>2004</u>	=	<u>\$81,600/year</u>
<u>2005</u>	=	<u>\$82,800/year</u>

<u>2006</u>	=	<u>\$84,000/year</u>
<u>2007</u>	=	<u>\$85,200/year</u>
<u>2008</u>	=	<u>\$86,400/year</u>
<u>2009</u>	=	<u>\$87,600/year</u>
<u>2010</u>	=	<u>\$88,800/year</u>

<u>2011</u>	=	<u>\$90,000/year</u>
<u>2012</u>	=	<u>\$91,200/year</u>
<u>2013</u>	=	<u>\$92,400/year</u>
<u>2014</u>	=	<u>\$93,600/year</u>

Upon separation on December 31, 2014, Tom chooses to retire from both LEOFF 2 and PERS 2 with a multiple system benefit. Because Tom met the eligibility requirements for an unreduced benefit from LEOFF 2 on December 31, 2005, he may choose an accrual date on or after January 1, 2006. His benefit will vary depending on the accrual date chosen. For example, an accrual date of January 1, 2006, yields a different result from an accrual date of January 1, 2009, as shown in Option 1 and Option 2 below. Tom may also retire from both systems with a January 1, 2015, effective date, as shown in Option 3.

system, the base salary must have been earned prior to your chosen accrual date.

(4) **Retroactive payment.** Your retroactive payment will be computed by multiplying:

(a) The amount of your monthly retirement allowance in subsection (3) of this section; by

(b) The number of months from your accrual date to the month your first monthly retirement allowance is paid.

Example. Tom became a member of LEOFF 2 on January 1, 1981, and remained a member through December 31, 2000. He earned 20 years of service credit. Tom reached age 48 on December 31, 2000. His highest years of compensation in LEOFF 2 were as follows:

<u>1996</u>	=	<u>\$49,200/year</u>
<u>1997</u>	=	<u>\$50,400/year</u>
<u>1998</u>	=	<u>\$51,600/year</u>
<u>1999</u>	=	<u>\$52,800/year</u>
<u>2000</u>	=	<u>\$54,000/year</u>

Tom became a member of PERS 2 on January 1, 2001. He separated from service on December 31, 2014. He earned 14 years of service credit. On December 31, 2005, Tom reached age 53 and met the eligibility requirements for an unreduced retirement from his prior system (LEOFF 2). During the period of his PERS employment, Tom's compensation was as follows:

Option 1: Accrual date of January 1, 2006. Tom chooses January 1, 2006, as the accrual date for his LEOFF 2 benefit.

Monthly allowance: The department will compare Tom's average compensation in LEOFF 2 with his highest sixty consecutive months of base salary in PERS 2, and will use whichever is greater in the calculation of his LEOFF 2 monthly allowance. Note: Tom's PERS 2 base salary must have been earned prior to January 1, 2006.

• Tom's average compensation, based on his highest sixty consecutive months of service in LEOFF 2, is:

$$\frac{\$49,200 + \$50,400 + \$51,600 + \$52,800 + \$54,000}{60} = \$4,300/\text{month}$$

• Tom's base salary, based on his highest sixty consecutive months of service in PERS 2, is:

$$\frac{\$55,200 + \$56,400 + \$57,600 + \$81,600 + \$82,800}{60} = \$5,560/\text{month}$$

The highest average compensation, i.e., \$5,560/month, will be used in the calculation of Tom's LEOFF 2 monthly allowance.

	<u>LEOFF 2 Benefit Calculation</u>	<u>PERS 2 Benefit Calculation¹</u>
Service credit	20 yrs	14 yrs
Average compensation	\$5,560/month	\$7,600/month
2% monthly benefit	$2\% \times 20 \times \$5,560 = \$2,224/\text{month}^2$	$2\% \times 14 \times \$7,600 = \$2,128/\text{month}$

Retroactive payment. Tom will receive a retroactive payment representing monthly retirement payments from January 1, 2006 (accrual date), through December 31, 2014, including applicable COLAs. This is nine years or one hundred eight monthly payments. His retroactive payment will be \$240,192, calculated as follows:

$$108 \times \$2,224 = \$240,192$$

(This assumes no COLAs were given during the nine-year period. If COLAs were given, the retroactive payment would be greater.)

Total multiple system benefit (LEOFF 2 and PERS 2): Tom will receive a retroactive payment of \$240,192 from LEOFF 2. He will receive a total monthly allowance of \$4,352 (\$2,224 from LEOFF 2 and \$2,128 from PERS 2), beginning January 1, 2015.

Option 2: Accrual date of January 1, 2009. Tom chooses January 1, 2009, as the accrual date for his LEOFF 2 benefit.

Monthly allowance: The department will compare Tom's average compensation in LEOFF 2 with his highest sixty consecutive months of base salary in PERS 2, and will use whichever is greater in the calculation of his LEOFF 2 monthly allowance. Note: Tom's PERS 2 base salary must have been earned prior to January 1, 2009.

- Tom's average compensation, based on his highest sixty consecutive months of service in LEOFF 2, is:

$$\frac{\$49,200 + \$50,400 + \$51,600 + \$52,800 + \$54,000}{60} = \$4,300/\text{month}$$

- Tom's base salary, based on his highest sixty consecutive months of service in PERS 2, is:

$$\frac{\$81,600 + \$82,800 + \$84,000 + \$85,200 + \$86,400}{60} = \$7,000/\text{month}$$

The highest average compensation, i.e., \$7,000/month, will be used in the calculation of Tom's LEOFF 2 monthly allowance.

	<u>LEOFF 2 Benefit Calculation</u>	<u>PERS 2 Benefit Calculation¹</u>
Service credit	20 yrs	14 yrs
Average compensation	\$7,000/month	\$7,600/month
2% monthly benefit	$2\% \times 20 \times \$7,000 = \$2,800/\text{month}$	$2\% \times 14 \times \$7,600 = \$2,128/\text{month}$

Retroactive payment. Tom will receive a retroactive payment representing monthly retirement payments from January 1, 2009 (accrual date), through December 31, 2014, including applicable COLAs. This is six years or seventy-two monthly payments. His retroactive payment will be \$201,600, calculated as follows:

$$72 \times \$2,800 = \$201,600$$

(This assumes no COLAs were given during the six-year period. If COLAs were given, the retroactive payment would be greater.)

Total multiple system benefit (LEOFF 2 and PERS 2): Tom will receive a retroactive payment of \$201,600 from LEOFF 2. He will receive a total monthly allowance of \$4,928 (\$2,800 from LEOFF 2 and \$2,128 from PERS 2), beginning January 1, 2015.

Option 3: Accrual date of January 1, 2015 (no retroactive payment). Tom is not required to choose a retroactive payment from his prior system. He may choose a multiple system benefit of \$5,168/month calculated as follows:

Monthly allowance: The department will compare Tom's average compensation in LEOFF 2 with his highest sixty consecutive months of base salary in PERS 2, and will use whichever is greater in the calculation of his LEOFF 2 monthly allowance.

- Tom's average compensation, based on his highest sixty consecutive months of service in LEOFF 2, is:

$$\frac{\$49,200 + \$50,400 + \$51,600 + \$52,800 + \$54,000}{60} = \$4,300/\text{month}$$

- Tom's base salary, based on his highest sixty consecutive months of service in PERS 2, is:

$$\underline{\$88,800 + \$90,000 + \$91,200 + \$92,400 + \$93,600 = \$7,600/\text{month}}$$

60

The highest average compensation, i.e., \$7,600/month, will be used in the calculation of Tom's LEOFF 2 monthly allowance.

	<u>LEOFF 2</u>	<u>PERS 2</u>
Service credit	20 yrs	14 yrs
Average compensation	\$7,600/month	\$7,600/month ¹
2% monthly benefit	2% x 20 x \$7,600 = \$3,040/month	2% x 14 x \$7,600 = \$2,128/month

Total multiple system benefit (LEOFF 2 and PERS 2): Tom will not receive a retroactive payment. He will receive a total monthly allowance of \$5,168 (\$3,040 from LEOFF 2 and \$2,128 from PERS 2), beginning January 1, 2015.

¹Tom's PERS 2 allowance will be based on sixty consecutive months of PERS service, which yields a greater AFC than sixty consecutive months of LEOFF 2 base salary.

$$\underline{\$88,800 + \$90,000 + \$91,200 + \$92,400 + \$93,600 = \$7,600/\text{month}}$$

60

His PERS 2 allowance is NOT affected by his retroactive payment from LEOFF or by the accrual date he chooses.

²In certain cases, an increased benefit may be available from LEOFF Plan 2 (WAC 415-113-084).

**WSR 06-18-009
PERMANENT RULES
DEPARTMENT OF
RETIREMENT SYSTEMS**

[Filed August 24, 2006, 10:32 a.m., effective September 24, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To update and clarify sections in chapter 415-02 WAC, and to incorporate provisions for the public safety employees' retirement system.

Citation of Existing Rules Affected by this Order: Amending WAC 415-02-020, 415-02-030, 415-02-175, 415-02-320, 415-02-340, 415-02-350, 415-02-370, 415-02-380, 415-02-500, 415-02-510, 415-02-520, 415-02-700, and 415-02-710.

Statutory Authority for Adoption: RCW 41.50.050(5).

Other Authority: For WAC 415-02-175 is RCW 41.40.710, 41.40.805, 41.32.810, 41.32.865, 41.35.470, 41.35.650, 41.26.520, 41.37.260; for WAC 415-02-320 and 415-02-340 is chapter 41.45 RCW; for WAC 415-02-350 is RCW 2.10.170, 41.26.240, 41.26.440, 41.37.160, 41.40.197, 41.40.188 (1)(c), 41.40.640, 41.40.840, 41.35.210, 41.32.489, 41.32.530 (1)(d), 41.32.770, 41.32.845, 43.43.260; for WAC 415-02-370 is RCW 41.50.165; for WAC 415-02-380 is RCW 41.26.164, 41.26.460, 41.40.188, 41.40.660, 41.40.845, 41.37.170, 41.35.220, 41.32.530, 41.32.785, 41.32.851, 43.43.271; for WAC 415-02-500, 415-02-510, and 415-02-520 is RCW 41.50.670, 41.50.680, 41.50.790; for WAC 415-02-700 is RCW 41.04.393; and for WAC 415-02-710 is RCW 41.04.017, 41.26.048, 41.32.053, 41.35.115, 41.40.0931, 41.40.0932, 43.43.285.

Adopted under notice filed as WSR 06-15-014 on July 6, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 13, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 23, 2006.

S. J. Matheson
Director

AMENDATORY SECTION (Amending WSR 00-10-016, filed 4/21/00, effective 5/22/00)

WAC 415-02-020 Authority. (1) The department (~~is vested with the authority to administer, in accordance with chapter 105, Laws of 1975-'76 2nd ex. sess.)~~ has the authority, in accordance with RCW 41.50.030, as now or hereafter amended, ((the)) to administer the:

(a) Washington public employees' retirement system created by chapter 41.40 RCW(~~(the))~~;

(b) Washington public safety employees' retirement system created by chapter 41.37 RCW;

(c) Washington state teachers' retirement system created by chapter((s)) 41.32 ((~~and 41.34~~)) RCW(~~(the))~~);

(d) Washington school employees' retirement system created by chapter 41.35 RCW(~~(the))~~;

(e) Washington law enforcement officers' and fire fighters' retirement system(~~(:)~~) created by chapter 41.26 RCW(~~(:the)~~);

(f) Washington state patrol retirement system(~~(:)~~) created by chapter 43.43 RCW(~~(:the)~~);

(g) Washington judicial retirement system(~~(:)~~) created by chapter 2.10 RCW(~~(:)~~); and

~~(the)~~ (h) Judges retirement fund created by chapter 2.12 RCW.

(2) The director is ~~((empowered to propose))~~ authorized to adopt rules pursuant to RCW 41.50.050.

AMENDATORY SECTION (Amending WSR 04-04-037, filed 1/29/04, effective 3/1/04)

WAC 415-02-030 Definitions. This section contains ~~((a central location for))~~ definitions of words and phrases commonly used in the department of retirement system(~~(:)~~)'s rules. It also serves as a directory for finding definitions within the RCWs and WACs.

(1) **Accumulated contributions** means the sum of all contributions paid into a member's defined benefit account, including interest.

(2) **Appeal** means the proceeding through which a party obtains review of a department action in an adjudicative proceeding conducted under chapter 34.05 RCW (the Administrative Procedure Act) and chapter 415-08 WAC (the department's appeal rules).

(3) **Average final compensation**~~((=))~~ is defined in RCW 41.32.010(30) (TRS); RCW 41.35.010(14) (SERS); RCW 41.40.010(17) (PERS); and RCW ~~((43-43-120(15) (WSPRS)))~~ 41.37.010(14) (PSERS).

(4) **Average final salary for WSPRS** is defined in RCW 43.43.120(15).

(5) **Cafeteria plan** means a "qualified" employee benefit program under IRC section 125 ~~((of the Internal Revenue Code))~~, such as certain health and welfare plans.

~~((5))~~ (6) **Calendar month.**

(a) Refers to one of the twelve named months of the year, extending from the first day of the named month through the last day. For example: January 1st through January 31st is a calendar month. February 1st through February 29th is a calendar month in a leap year. March 13th through April 12th is **not** a calendar month.

(b) Exception: For the purpose of administering the break in employment ~~((rules interpreting and implementing the retiree return to work statutes ()))~~ required by RCW 41.32.570, 41.32.802, 41.32.862, 41.35.060, 41.37.050 and 41.40.037((3)) for retirees returning to work, one calendar month means thirty consecutive calendar days. For example: Kim's retirement date is August 1~~((st))~~. August 31 would be the earliest Kim could return to work and meet the requirement for a one calendar month break in employment.

~~((6))~~ (7) **Compensation earnable or earnable compensation** definitions can be found in RCW 41.32.010(10) and 41.32.345 (TRS); RCW 41.35.010(6) (SERS); RCW 41.37.010(6) (PSERS); and RCW 41.40.010(8) (PERS).

~~((7))~~ (8) **Contribution rate** is:

(a) For employees: The fraction (percent) of compensation a member contributes to a retirement system each month.

(b) For employers: The fraction (percent) of payroll a member's employer contributes to a retirement system each month. Contribution rates vary for the different systems and plans.

~~((8))~~ (9) **Deferred compensation** refers to the amount of the participant's compensation, which the participant voluntarily defers from earnings before taxes to a deferred compensation program.

~~((9))~~ (10) **Defined benefit plan** is a pension plan in which a lifetime retirement ~~((benefit))~~ allowance is available, based on the member's service credit and compensation.

~~((10))~~ (11) **Defined contribution plan** is a plan in which part of members' or participants' earnings are deferred into an investment account in which tax is deferred until funds are withdrawn. The benefit is based on the contribution rate and the amount of return from the investment of the contributions. Members or participants receive the full market rate of return minus expenses. There is no guaranteed rate of return and the value of an account will increase or decrease based upon market fluctuations.

~~((11))~~ (12) **Department** means the department of retirement systems.

~~((12))~~ (13) **Dependent care assistance salary reduction plan (DCAP)** is a plan that allows an eligible employee of the state of Washington to set aside a "before tax" portion of his or her gross salary before federal income and Social Security taxes to be used for the reimbursement of dependent care expenses.

~~((13))~~ (14) **Director** means the director of the department of retirement systems.

~~((14))~~ (15) **Employee** means a worker who performs labor or services for a retirement systems employer under the control and direction of the employer as determined under WAC 415-02-110(2). An employee may be eligible to participate as a member of one of the state-administered retirement systems according to eligibility requirements specified under the applicable retirement system.

~~((15))~~ (16) **Employer** is defined in RCW 41.26.030(2) (LEOFF), 41.32.010(11) (TRS), ~~((41-34-010))~~ 41.34.020(5) (Plan 3), 41.35.010(4) (SERS), 41.37.010(4) (PSERS) and 41.40.010(4) (PERS).

~~((16))~~ (17) **Ex-spouse** refers to a person who is a party to a "dissolution order" as defined in RCW 41.50.500(3).

~~((17))~~ (18) **Final average salary for LEOFF** is defined in RCW 41.26.030(12) ~~((LEOFF))~~.

~~((18))~~ (19) **Gainsharing** is the process through which members of certain plans share in the extraordinary investment gains on earnings on retirement assets under chapters 41.31 and 41.31A RCW.

~~((19))~~ (20) **Independent contractor** means a contract worker who is not under the direction or control of the employer as determined under WAC 415-02-110 (2) and (3).

~~((20))~~ (21) **IRC** means the Federal Internal Revenue Code of 1986, as subsequently amended.

(22) **JRF** means the judges' retirement fund created by chapter 2.12 RCW.

(23) **JRS** means the Washington judicial retirement system created by chapter 2.10 RCW.

~~((24))~~ (24) LEOFF means the Washington law enforcement officers' and fire fighters' retirement system created by chapter 41.26 RCW.

~~((25))~~ (25) Member means a person who is included in the membership of one of the retirement systems created by chapters 2.10, 2.12, 41.26, 41.32, 41.34, 41.35, 41.37, 41.40, or 43.43 RCW.

~~((21))~~ (26) Participant means an eligible employee who participates in a deferred compensation or dependent care assistance plan.

~~((22))~~ (27) Participation agreement means an agreement that an eligible employee signs to become a participant in a deferred compensation or dependent care assistance plan.

~~((23))~~ (28) Pension plan is a plan that provides a life-long post retirement payment of benefits to employees.

~~((24))~~ (29) PERS means the Washington public employee's retirement system created by chapter 41.40 RCW.

(30) Petition means the method by which a party requests a review of an administrative determination prior to an appeal to the director. The department's petitions examiner performs the review under chapter 415-04 WAC.

~~((25))~~ (31) Plan 1 means the retirement plans in existence prior to the enactment of chapters 293, 294 and 295, Laws of 1977 ex. sess.

~~((26))~~ (32) Plan 2 means the retirement plans established by chapters 293, 294 and 295, Laws of 1977 ex. sess., chapter 341, Laws of 1998, and chapter 329, Laws of 2001.

~~((27))~~ (33) Plan 3 means the retirement plans established by chapter 239, Laws of 1995, chapter 341 Laws of 1998, and chapter 247 Laws of 2000.

~~((28))~~ Pop-up is a term that the department uses to refer to the benefit available to a retiree where the survivor of a retiree receiving a benefit reduced by a survivor option predeceases the retiree. Example: Linda is receiving a retirement benefit reduced by a survivor option for her husband, Joe. Joe dies before Linda. Linda's monthly retirement allowance increases. The department refers to the increase as a "pop-up."

~~((29))~~ (34) Portability is the ability to use membership in more than one Washington state retirement system in order to qualify for retirement benefits. See chapters 41.54 RCW and 415-113 WAC.

~~((30))~~ (35) PSERS means the Washington public safety employees' retirement system created by chapter 41.37 RCW.

(36) Public record is defined in RCW 42.17.020 ~~((36))~~(41).

~~((31))~~ (37) Restoration is the process of restoring a member's service credit for prior periods.

~~((32))~~ (38) Retirement system employer - see "employer."

~~((33))~~ (39) Rollover means a distribution that is paid to or from an eligible retirement plan within the statutory time limit allowed.

~~((34))~~ (40) Separation date is the date a member ends employment in a position eligible for retirement or disability benefit coverage.

~~((35))~~ (41) SERS means the Washington school employees' retirement system created by chapter 41.35 RCW.

(42) Split account is the account the department establishes for a member or retiree's ex-spouse.

~~((36))~~ (43) Surviving spouse refers to a person who was married to the member at the time of the member's death and who is receiving or is eligible to receive a survivor benefit.

~~((37))~~ (44) Survivor beneficiary means a person designated by the member to receive a monthly benefit allowance after the member dies.

~~((38))~~ (45) Survivor benefit is a feature of a retirement plan that provides continuing payments to a beneficiary after the death of a member or retiree.

~~((39))~~ (46) TRS means the Washington state teachers' retirement system created by chapter 41.32 RCW.

(47) The Uniform Services Employment and Reemployment Rights Act of 1994 (USERRA) is the federal law that requires employers to reemploy and preserve job security, pension and welfare benefits for qualified employees who engage in military service.

(48) WSPRS means the Washington state patrol retirement system created by chapter 43.43 RCW.

AMENDATORY SECTION (Amending WSR 04-20-005, filed 9/23/04, effective 10/24/04)

WAC 415-02-175 May I ~~((purchase))~~ establish service credit for the time I was on an unpaid authorized leave of absence? (1) Will I get service credit for the time I was on an unpaid authorized leave of absence? You will receive service credit for the period of time you are on an unpaid authorized leave of absence, up to a maximum of twenty-four service credit months during your entire working career, provided all of the following apply:

(a) You are a member of LEOFF Plan 2, PERS Plan 2 or ~~((Plan))~~ 3, ~~((TRS Plan 2 or Plan 3))~~ PSERS, SERS Plan 2 or ~~((Plan))~~ 3, or ~~((LEOFF Plan 2))~~ TRS Plan 2 or 3;

(b) Your leave of absence was authorized by your employer;

(c) You resumed employment according to the requirements in subsection (3) of this section; and

(d) You ~~((purchase))~~ establish the service credit for the period of leave according to the provisions in this section.

(2) How does an unpaid authorized leave of absence affect my retirement? If you ~~((purchase))~~ establish service credit for the period of time you were on an unpaid authorized leave of absence:

(a) It will be used as part of your total service credit to determine retirement eligibility and pension; but

(b)(i) Except as noted in (b)(ii) of this subsection, the period of time you were on leave will not be included in your average final compensation period.

Example:

Joseph has the following earnable compensation prior to retirement:

YR 1	\$30,000
YR 2	\$35,000

YR 3	\$40,000
YR 4	\$45,000
YR 5	\$50,000
YR 6	Unpaid leave of absence for entire year
YR 7	\$55,000

Joseph's AFC period will be YR 2, YR 3, YR 4, YR 5, and YR 7.

(ii) This provision does not apply to interruptive military service. If you establish service credit for a period of interruptive military service and that period falls in your AFC period, you are entitled to have the salary you would have earned during that time period used in the calculation of your AFC.

(3) Do I qualify to ((purchase)) establish this service credit? As a requirement for ((purchasing)) establishing this service credit, you must resume employment within the same retirement system you left.

(a) After resuming employment, you may request, and pay for, service credit whether you are a contributing member or whether you become inactive.

(b) If you are a law enforcement officer in LEOFF Plan 2 and took a part-time unpaid leave of absence while you worked part-time, you may request service credit only after returning to full-time employment with the employer that authorized your leave of absence. In this case, you may only request part-time service credit for the portion of time you were on unpaid leave of absence.

(4) How do I request this service credit? If you ((desire to purchase the)) wish to establish this service credit ((for unpaid authorized leave of absence)), you must contact the department. The department will obtain written verification from your employer confirming the months of your authorized leave of absence and your salary for the months preceding and following the leave.

(5) How does the department determine the cost of ((purchasing)) establishing this service credit?

(a) In order to ((purchase)) establish service credit for the period of time you were on leave of absence, you must pay the employee and employer retirement contributions, plus applicable interest. LEOFF Plan 2 members must also pay the contributions normally paid by the state.

(b) The amount of the employee and employer contributions is calculated as follows:

(i) For TRS members, the salary upon which contributions are calculated is determined by averaging the salary earned for the school year, as defined in RCW 28A.150.040, prior to your unpaid leave of absence and the salary earned in the school year after you returned to work. If you were on leave of absence for less than the entire school year, that year's salary will be prorated according to the number of months you were on leave of absence.

(ii) For law enforcement officers in LEOFF Plan 2 who took a part-time unpaid leave of absence while working part-time, the salary upon which contributions are calculated is determined by:

(A) Averaging your basic salary during the last full month of employment before your part-time leave of

absence, and your basic salary during the first full month after you return to full-time employment; and

(B) Multiplying the monthly salary determined according to (b)(ii)(A) of this subsection by the number of months you were on leave.

(iii) For members of other systems, the salary upon which contributions are calculated is determined by:

(A) Averaging the compensation earned during the last full month of employment before your leave of absence, and the compensation you earned during the first full month after you returned to work; and

(B) Multiplying the monthly salary determined according to (b)(iii)(A) of this subsection by the number of months you were on leave.

If you worked part-time prior to the leave of absence, partial month wages will be used to estimate your average salary. In this case, you may only ((purchase)) establish part-time service credit for the period of time you were on leave of absence.

(6) What is the payment process for ((purchasing)) establishing this service credit?

(a) You may purchase this service credit in one payment, or make payments at any time until the deadline expires.

(b) Interest will accrue on the unpaid balance until payment is made in full.

(c) The department will accept funds that have been rolled over from a tax-deferred retirement account for the purchase of the service credit. However, the amount you may roll over is limited to the purchase price of the service credit. If the rollover amount does not cover the entire purchase price, you must pay the additional amount within thirty days of the rollover. If the balance is not paid within thirty days, the rollover funds will be returned to the original financial institution.

(d) If you took more than one authorized leave of absence, the department will bill you separately for each occurrence. Service credit will be granted for each occurrence only after the bill for that period is paid in full.

(7) What is the deadline for ((purchasing)) establishing this service credit? Except as provided in subsection (9) of this section:

(a) If you are a member of LEOFF Plan 2, PERS Plan 2, PSERS, or SERS Plan 2, ((or LEOFF Plan 2,)) payment in full must be received within five years from the initial date of your return to an eligible position, or prior to your retirement, whichever occurs first.

(b) If you are a member of PERS Plan 3 or SERS Plan 3, payment in full must be received prior to your retirement.

(c) If you are a member of TRS Plan 2 or ((Plan)) 3, payment in full must be received by August 31st of the fifth school year, as defined in RCW 28A.150.040, after you return to employment or prior to your retirement, whichever comes first. The school year during which you return to work will be counted as year one.

(8) What if I do not make payment in full by the deadline?

(a) If you are a Plan 2 member or a PSERS member and do not make payment in full by the deadline, the amount you paid will be refunded to you.

(b) If you are a Plan 3 member and do not make payment by the deadline, the portion of your payments that were:

- (i) Employer contributions will be refunded to you; and
- (ii) Employee contributions will be deposited into your defined contribution account and available to you only upon separation from service.

(c) If you are a Plan 2 member or a PSERS member, the department will refund partial payments prior to the deadline upon your request.

(d) If you are a PERS Plan 2, SERS Plan 2, or TRS Plan 2 member and transfer to Plan 3 prior to making payment in full:

- (i) The department will refund any partial payments; and
- (ii) You must reapply under Plan 3 if you still wish to ~~((purchase))~~ establish this service credit.

(9) **What is the exception to the deadline?** After your initial deadline has passed, you retain the right to ~~((purchase))~~ establish this service credit until the date of your retirement. However, the purchase price will be equal to the full actuarial value of the increase in benefit that results from the purchased service credit. You may use the two-part formula in WAC 415-10-040 to determine actuarial value.

(10) **What state law applies to ~~((purchasing))~~ establishing service credit for an unpaid authorized leave of absence?**

- (a) PERS Plan 2: RCW 41.40.710;
- (b) PERS Plan 3: RCW 41.40.805;
- (c) TRS Plan 2: RCW 41.32.810;
- (d) TRS Plan 3: RCW 41.32.865;
- (e) SERS Plan 2: RCW 41.35.470;
- (f) SERS Plan 3: RCW 41.35.650;
- (g) LEOFF Plan 2: RCW 41.26.520;
- (h) PSERS: RCW 41.37.260;
- (i) Deadline extension: RCW 41.50.165.

AMENDATORY SECTION (Amending WSR 02-18-048, filed 8/28/02, effective 9/1/02)

WAC 415-02-320 Early retirement factors. (1) **What are early retirement factors (ERF)?** ~~((Early retirement factors (ERFs) are the factors the department uses to reduce your normal monthly benefit payments to reflect an earlier starting date of paying benefits and a longer payment schedule.))~~

¹The actuarial reduction takes into account that (1), retirees who begin drawing benefits at a younger age generally receive benefits over a longer time, and (2), member and employer contributions intended to provide for the defined benefit at the typical retirement age will be adequate to fund only a smaller benefit at an earlier age.

(2) **What is a "normal" monthly benefit payment?** A "normal" monthly benefit payment is the amount you would receive if you met the plan-specific criteria as to age and length of service before you retire.

(3) **What happens if you die before becoming eligible for a normal monthly benefit payment?**

(a) Generally speaking, within the plans listed in the table in this section, the department may pay a monthly benefit to your surviving spouse or minor children. If you die before being eligible for retirement, or when you are eligible only for retirement with an actuarially reduced benefit, the department will reduce the benefit paid to your surviving

~~spouse or minor children by the ERF corresponding to the amount of time between your age at death and the age at which you would have been eligible for an unreduced retirement benefit. (Exception: A TRS Plan 1 reduction is based on the earliest date a member would have first qualified if the member had continued in service.)~~

~~((b) There are differences among plans; please consult your plan for specific, detailed information.~~

LEOFF Plan 2:	RCW 41.26.460	WAC 415-104-211 and 415-104-215
PERS Plan 1:	RCW 41.40.188	WAC 415-108-324 and 415-108-326
PERS Plan 2:	RCW 41.40.660	WAC 415-108-324 and 415-108-326
PERS Plan 3:	RCW 41.40.845	WAC 415-108-324 and 415-108-326
SERS Plans 2/3:	RCW 41.35.220	WAC 415-110-324 and 415-110-326
TRS Plan 1:	RCW 41.32.530	WAC 415-112-710 to 415-112-727
TRS Plan 2:	RCW 41.32.785	WAC 415-112-710 to 415-112-727
TRS Plan 3:	RCW 41.32.851	WAC 415-112-710 to 415-112-727
WSPRS Plan 1:	RCW 43.43.278	WAC 415-103-215
WSPRS Plan 2:	RCW 43.43.271	WAC 415-103-225

(4) Examples

(a) Example (a) (early retirement):

Sandy, a PERS Plan 2 member, applies for retirement at age 56 years and one month with a total of 21.11 years of service. Her average final compensation (AFC) is \$3,500.00. PERS Plan 2 provides for two percent (.02) of AFC per year of service. Within PERS Plan 2, age 65 is the normal retirement age, but an actuarially reduced monthly retirement is available at an age as young as 55 if the member has at least 20 years of service credit. If Sandy retires now, she would be doing so eight years and eleven months early. According to the table, the ERF for retirement eight years and eleven months early is .4025. To determine the reduced monthly benefit, PERS will multiply Sandy's AFC of \$3,500 x .02 x 21.11 (service credit years) x .4025 (ERF). Sandy's monthly retirement benefit will be \$594.77.

(b) Example (b) (member's death):

Robert, a 56-year-old TRS Plan 1 active member, dies April 1, 2003, with 23.17 years of service. His AFC was \$3,171.74. TRS Plan 1 allows for normal retirement at age 55 with 25 years of service. Since Robert was not fully qualified for retirement, his wife, Karen, who is 58 years old, is eligible for an actuarially reduced benefit based on the earliest date Robert would have first qualified for the normal retirement benefit, reduced by the Option 2 survivor factor. Survivor factors are based on the age difference between the member and the survivor. Robert was over 55; if he had continued in service, he would be eligible for retirement in one year and ten months, when he would have completed 25 years of service. According to the actuary tables, the ERF for one year and ten months is .8530, and the Option 2 survivor factor for a beneficiary two years older is .913 (see WAC 415-02-380(11)). To determine the reduced monthly benefit

to which Karen is entitled, TRS would multiply 23.17 (Robert's service credit years) x .02 x \$3,171.74 (AFC) x .8530 (ERF) x .913 (the Option 2 factor). Karen's monthly benefit will be \$1,144.65.

(5)) The department uses an early retirement factor (ERF) to actuarially reduce a member's or beneficiary's monthly allowance if the monthly allowance begins before the member meets the age requirement for an unreduced retirement benefit. This reduction offsets the cost of paying the monthly allowance for a longer period of time.

(1) In what situations will the department use an ERF?

(a) The department will use an ERF to reduce a monthly allowance in any of the following situations, subject to the law governing your plan, and subject to the exceptions in (b) of this subsection:

- (i) You choose to retire early.
- (ii) You retire due to a disability before you are eligible to retire with an unreduced retirement allowance.

(iii) You die before you are eligible to retire with an unreduced retirement allowance, and your beneficiary is eligible for a monthly allowance.

(b) An ERF is not used in the following circumstances, although another method may be used to reduce benefits as required by the laws governing each plan:

- (i) You meet your plan's requirements for "alternate early retirement";
 - (ii) You meet PSERS requirements for "early retirement";
 - (iii) You retire for service or due to a disability, from PERS Plan 1 or TRS Plan 1;
 - (iv) You are a member of LEOFF Plan 1;
 - (v) You retire due to a duty-related disability from LEOFF Plan 2;
 - (vi) You retire due to a disability or die before retirement from WSPRS Plan 1; or
 - (vii) You retire due to a disability from WSPRS Plan 2.
- (c) The following table shows the law governing plans that use an ERF:

	<u>Early Retirement</u>	<u>Disability Retirement</u>	<u>Death Prior to Retirement</u>
<u>LEOFF Plan 1:</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
<u>LEOFF Plan 2:</u>	<u>RCW 41.26.430</u>	<u>RCW 41.26.470</u>	<u>RCW 41.26.510</u>
<u>PERS Plan 1:</u>	<u>N/A</u>	<u>N/A</u>	<u>RCW 41.40.270</u>
<u>PERS Plan 2:</u>	<u>RCW 41.40.630</u>	<u>RCW 41.40.670</u>	<u>RCW 41.40.700</u>
<u>PERS Plan 3:</u>	<u>RCW 41.40.820</u>	<u>RCW 41.40.825</u>	<u>RCW 41.40.835 and 41.34.070</u>
<u>PSERS:</u>	<u>N/A</u>	<u>RCW 41.37.230</u>	<u>RCW 41.37.250</u>
<u>SERS Plan 2:</u>	<u>RCW 41.35.420</u>	<u>RCW 41.35.440</u>	<u>RCW 41.35.460</u>
<u>SERS Plan 3:</u>	<u>RCW 41.35.680</u>	<u>RCW 41.35.690</u>	<u>RCW 41.35.710</u>
<u>TRS Plan 1:</u>	<u>N/A</u>	<u>N/A</u>	<u>RCW 41.32.520</u>
<u>TRS Plan 2:</u>	<u>RCW 41.32.765</u>	<u>RCW 41.32.790</u>	<u>RCW 41.32.805</u>
<u>TRS Plan 3:</u>	<u>RCW 41.32.875</u>	<u>RCW 41.32.880</u>	<u>RCW 41.32.895 and 41.34.070</u>
<u>WSPRS Plan 1:</u>	<u>RCW 43.43.280</u>	<u>N/A</u>	<u>N/A</u>
<u>WSPRS Plan 2:</u>	<u>RCW 43.43.280</u>	<u>N/A</u>	<u>RCW 43.43.295</u>

(2) How does the department determine the number of years on which to base the ERF? The calculation varies among plans: (a) TRS Plan 1 only: The ERF used to calculate your beneficiary's monthly allowance if you die before retirement is based on the number of years between the age at which you die and the age at which you would have first become eligible to retire under RCW 41.32.480. See RCW 41.32.520.

(b) WSPRS Plan 2 only: The ERF used to calculate your beneficiary's monthly allowance if you die before retirement is based on the number of years between the age at which you die and age fifty-five or when you could have attained twenty-five years of service, whichever is less. See RCW 43.43.295.

(c) All other ERFs are based on number of years between the age at which you retire, or die, and the age at which you would have been eligible to retire with an unreduced retirement allowance.

(3) Examples.

(a) Early retirement:

Sandy, a PERS Plan 2 member, applies for retirement at age 56 years and one month with a total of 21.11 years of service. Her average final compensation (AFC) is \$3,500.00.

PERS Plan 2 provides for two percent (.02) of AFC per year of service. A PERS Plan 2 member must be age 65 to retire with an unreduced benefit, but is eligible for an actuarially reduced monthly retirement allowance at age 55 with 20 years of service credit.

The difference between Sandy's age now (56) and the age at which she would receive an unreduced monthly allowance (65) is 8 years and 11 months. The corresponding ERF is .4025. Therefore, the department will multiply Sandy's AFC of \$3,500 x .02 x 21.11 (service credit years) x .4025 (ERF). Sandy's monthly retirement allowance will be \$594.77.

(b) Death before retirement (applies to TRS 1 only):

Robert, a 56-year-old TRS Plan 1 member, died April 1, 2006, with 23.17 years of service credit. His AFC is \$3,171.74.

TRS Plan 1 provides an unreduced retirement allowance at age 55 with 25 years of service credit.

Robert's wife, Karen, will receive an actuarially reduced allowance based on the date Robert would have first qualified for an unreduced retirement allowance. If Robert had continued in service, he would have met eligibility requirements in one year and 10 months, when he earned 25 years of service credit. The ERF for one year and 10 months is .8530.

Karen's monthly allowance will be further reduced by the Option 2 survivor factor, which is based on the age difference between her and Robert. Karen is age 58, two years

older than Robert. The Option 2 survivor factor for a beneficiary two years older is .913 (see WAC 415-02-380(11)).

The department will multiply 23.17 (Robert's service credit years) x .02 x \$3,171.74 (AFC) x .8530 (ERF) x .913 (the Option 2 factor). Karen's monthly allowance will be \$1,144.65.

(4) Table - Early retirement factors (ERF) for ((these systems/plans:)) LEOFF Plan 2, WSP Plan 2, PERS Plan 1, TRS Plan 1, and WSP Plan 1 and 2 vested/terminated members:

Yrs Early	Month 0	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11
0	1.000	.9933	.9866	.9799	.9732	.9665	.9598	.9531	.9464	.9397	.9330	.9263
1	.9200	.9133	.9066	.8999	.8932	.8865	.8798	.8731	.8664	.8597	.8530	.8463
2	.8400	.8333	.8266	.8199	.8132	.8065	.7998	.7931	.7864	.7797	.7730	.7663
3	.7600	.7558	.7516	.7474	.7432	.7390	.7348	.7306	.7264	.7222	.7180	.7138
4	.7100	.7058	.7016	.6974	.6932	.6890	.6848	.6806	.6764	.6722	.6680	.6638
5	.6600	.6558	.6516	.6474	.6432	.6390	.6348	.6306	.6264	.6222	.6180	.6138
6	.6100	.6058	.6016	.5974	.5932	.5890	.5848	.5806	.5764	.5722	.5680	.5638
7	.5600	.5558	.5516	.5474	.5432	.5390	.5348	.5306	.5264	.5222	.5180	.5138
8	.5100	.5067	.5034	.5001	.4968	.4935	.4902	.4869	.4836	.4803	.4770	.4737
9	.4700	.4667	.4634	.4601	.4568	.4535	.4502	.4469	.4436	.4403	.4370	.4337
10	.4300	.4267	.4234	.4201	.4168	.4135	.4102	.4069	.4036	.4003	.3970	.3937
11	.3900	.3867	.3834	.3801	.3768	.3735	.3702	.3669	.3636	.3603	.3570	.3537
12	.3500	.3467	.3434	.3401	.3368	.3335	.3302	.3269	.3236	.3203	.3170	.3137
13	.3100	.3083	.3066	.3049	.3032	.3015	.2998	.2981	.2964	.2947	.2930	.2913
14	.2900	.2883	.2866	.2849	.2832	.2815	.2798	.2781	.2764	.2747	.2730	.2713
15	.2700	.2683	.2666	.2649	.2632	.2615	.2598	.2581	.2564	.2547	.2530	.2513
16	.2500	.2483	.2466	.2449	.2432	.2415	.2398	.2381	.2364	.2347	.2330	.2313
17	.2300	.2283	.2266	.2249	.2232	.2215	.2198	.2181	.2164	.2147	.2130	.2113
18	.2100	.2092	.2084	.2076	.2068	.2060	.2052	.2044	.2036	.2028	.2020	.2012
19	.2000	.1992	.1984	.1976	.1968	.1960	.1952	.1944	.1936	.1928	.1920	.1912
20	.1900	.1892	.1884	.1876	.1868	.1860	.1852	.1844	.1836	.1828	.1820	.1812
21	.1800	.1792	.1784	.1776	.1768	.1760	.1752	.1744	.1736	.1728	.1720	.1712
22	.1700	.1692	.1684	.1676	.1668	.1660	.1652	.1644	.1636	.1628	.1620	.1612
23	.1600	.1592	.1584	.1576	.1568	.1560	.1552	.1544	.1536	.1528	.1520	.1512
24	.1500	.1492	.1484	.1476	.1468	.1460	.1452	.1444	.1436	.1428	.1420	.1412
25	.1400	.1392	.1384	.1376	.1368	.1360	.1352	.1344	.1336	.1328	.1320	.1312
26	.1300	.1292	.1284	.1276	.1268	.1260	.1252	.1244	.1236	.1228	.1220	.1212
27	.1200	.1192	.1184	.1176	.1168	.1160	.1152	.1144	.1136	.1128	.1120	.1112
28	.1100	.1092	.1084	.1076	.1068	.1060	.1052	.1044	.1036	.1028	.1020	.1012
29	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
30	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
31	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
32	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
33	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
34	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
35	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
36	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
37	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
38	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
39	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
40	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000

((6)) (5) Table - Early retirement factors (ERF) for ((these systems/plans:)) PERS Plans 2 and 3, PSERS, SERS Plans 2 and 3, TRS Plans 2 and 3, and PERS Plan 1 vested/terminated members:

Yrs Early	Month 0	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6	Month 7	Month 8	Month 9	Month 10	Month 11
0	1.000	.9925	.9850	.9775	.9700	.9625	.9550	.9475	.9400	.9325	.9250	.9175
1	.9100	.9025	.8950	.8875	.8800	.8725	.8650	.8575	.8500	.8425	.8350	.8275
2	.8200	.8125	.8050	.7975	.7900	.7825	.7750	.7675	.7600	.7525	.7450	.7375
3	.7300	.7250	.7200	.7150	.7100	.7050	.7000	.6950	.6900	.6850	.6800	.6750
4	.6700	.6650	.6600	.6550	.6500	.6450	.6400	.6350	.6300	.6250	.6200	.6150
5	.6100	.6050	.6000	.5950	.5900	.5850	.5800	.5750	.5700	.5650	.5600	.5550
6	.5500	.5450	.5400	.5350	.5300	.5250	.5200	.5150	.5100	.5050	.5000	.4950
7	.4900	.4850	.4800	.4750	.4700	.4650	.4600	.4550	.4500	.4450	.4400	.4350
8	.4300	.4275	.4250	.4225	.4200	.4175	.4150	.4125	.4100	.4075	.4050	.4025
9	.4000	.3975	.3950	.3925	.3900	.3875	.3850	.3825	.3800	.3775	.3750	.3725
10	.3700	.3675	.3650	.3625	.3600	.3575	.3550	.3525	.3500	.3475	.3450	.3425
11	.3400	.3375	.3350	.3325	.3300	.3275	.3250	.3225	.3200	.3175	.3150	.3125
12	.3100	.3075	.3050	.3025	.3000	.2975	.2950	.2925	.2900	.2875	.2850	.2825
13	.2800	.2783	.2766	.2749	.2732	.2715	.2698	.2681	.2664	.2647	.2630	.2613
14	.2600	.2583	.2566	.2549	.2532	.2515	.2498	.2481	.2464	.2447	.2430	.2413
15	.2400	.2383	.2366	.2349	.2332	.2315	.2298	.2281	.2264	.2247	.2230	.2213
16	.2200	.2183	.2166	.2149	.2132	.2115	.2098	.2081	.2064	.2047	.2030	.2013
17	.2000	.1983	.1966	.1949	.1932	.1915	.1898	.1881	.1864	.1847	.1830	.1813
18	.1800	.1792	.1784	.1776	.1768	.1760	.1752	.1744	.1736	.1728	.1720	.1712
19	.1700	.1692	.1684	.1676	.1668	.1660	.1652	.1644	.1636	.1628	.1620	.1612
20	.1600	.1592	.1584	.1576	.1568	.1560	.1552	.1544	.1536	.1528	.1520	.1512
21	.1500	.1492	.1484	.1476	.1468	.1460	.1452	.1444	.1436	.1428	.1420	.1412
22	.1400	.1392	.1384	.1376	.1368	.1360	.1352	.1344	.1336	.1328	.1320	.1312
23	.1300	.1292	.1284	.1276	.1268	.1260	.1252	.1244	.1236	.1228	.1220	.1212
24	.1200	.1192	.1184	.1176	.1168	.1160	.1152	.1144	.1136	.1128	.1120	.1112
25	.1100	.1092	.1084	.1076	.1068	.1060	.1052	.1044	.1036	.1028	.1020	.1012
26	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
27	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
28	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
29	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
30	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
31	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
32	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
33	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
34	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
35	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
36	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
37	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
38	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
39	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
40	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
41	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
42	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
43	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
44	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000
45	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000	.1000

Reviser's note: The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 02-18-048, filed 8/28/02, effective 9/1/02)

WAC 415-02-340 Monthly benefit per \$1.00 of accumulation for defined benefit plans. (1) How does the department use the information in the table called

"monthly benefit per \$1.00 of accumulation for defined benefit plans"? The department uses this information to:

- (a) Determine what a future lifetime monthly benefit is worth in present-day dollars;
- (b) Determine the equivalent value of a lump sum when compared with monthly payments; and

(c) For TRS Plan 1 only: Reduce the monthly retirement (benefit in TRS Plan 1 if you take a lump sum cash out for some or all of your funds) allowance if some or all of the funds in a member's account are taken in a lump sum payment.⁽²⁾

²This option is only available in TRS Plan 1.)

(2) **What type of information is in this table?** The information in this table reflects the expected duration of lifetime payments for recipients over a range of ages. These values differ by system and plan, and all reflect an assumed rate of return of 8.0%.³

³The younger a person is, the longer the anticipated lifetime of payments would be, and the greater the sum required to provide for these payments. ((Put another way.)) The amount of monthly lifetime benefit that a present-day dollar buys ((goes up)) increases as the remaining life expectancy of the recipient ((goes down)) decreases.

(3) **((Examples)) (a) Example ((a)):**

Celina is a 65-year-old PERS Plan 2 member who is eligible to receive \$45.00 per month. She wants to know how much money she ((could)) would receive if she accepted a lump sum payment instead. Celina looks at the row in the table for age 65 in the PERS Plan 2 column and learns that \$0.0072458 per month for life is equivalent to one dollar in

cash for this system, plan, and age class. Celina divides \$45.00 by 0.0072458 and learns that her lump sum payment would be \$6,210.49.

(b) **Example ((b)):**

Fred is a 58-year-old TRS Plan 1 member. The balance in Fred's account is \$124,934.00. Upon retirement, Fred chooses to withdraw the \$124,934.00 (as only members of TRS Plan 1 can do and still receive a monthly allowance). From the row in the table for age 58 in the TRS Plan 1 column, Fred learns that \$0.0077573 per month for life is the equivalent to one dollar in cash for this system, plan, and age class. Fred multiplies ((the lump sum cash out amount of)) \$124,934.00 by 0.0077573, and learns that his monthly retirement allowance will be reduced by \$969.15 per month ((because of the lump sum cash out made at retirement)) if he withdraws his account balance.

(4) **Table¹ - Monthly benefit per \$1.00 of accumulation for defined benefit plans:**

((Based on the 1995-2000 actuarial experience study monthly benefit per \$1.00 of accumulation defined benefit (DB) single life pension:

Age	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	SERS 2/3	TRS 1	TRS 2/3	WSPRS 2
20	0.0039835	0.0043310	0.0065444	0.0043102	0.0042786	0.0065267	0.0042774	0.0043319
21	0.0039997	0.0043459	0.0065518	0.0043243	0.0042911	0.0065329	0.0042897	0.0043469
22	0.0040168	0.0043615	0.0065598	0.0043390	0.0043042	0.0065396	0.0043027	0.0043626
23	0.0040347	0.0043780	0.0065684	0.0043546	0.0043181	0.0065468	0.0043165	0.0043791
24	0.0040535	0.0043955	0.0065778	0.0043710	0.0043327	0.0065546	0.0043309	0.0043966
25	0.0040734	0.0044139	0.0065878	0.0043884	0.0043481	0.0065630	0.0043462	0.0044150
26	0.0040943	0.0044333	0.0065987	0.0044067	0.0043644	0.0065720	0.0043622	0.0044346
27	0.0041163	0.0044539	0.0066105	0.0044261	0.0043816	0.0065818	0.0043792	0.0044552
28	0.0041396	0.0044757	0.0066232	0.0044466	0.0043997	0.0065924	0.0043971	0.0044771
29	0.0041641	0.0044988	0.0066370	0.0044682	0.0044189	0.0066038	0.0044161	0.0045002
30	0.0041899	0.0045231	0.0066517	0.0044911	0.0044391	0.0066162	0.0044361	0.0045246
31	0.0042171	0.0045488	0.0066676	0.0045152	0.0044605	0.0066295	0.0044572	0.0045503
32	0.0042456	0.0045758	0.0066845	0.0045405	0.0044830	0.0066438	0.0044795	0.0045774
33	0.0042755	0.0046042	0.0067025	0.0045672	0.0045067	0.0066592	0.0045031	0.0046059
34	0.0043069	0.0046340	0.0067217	0.0045952	0.0045316	0.0066756	0.0045278	0.0046358
35	0.0043398	0.0046654	0.0067421	0.0046247	0.0045578	0.0066930	0.0045539	0.0046672
36	0.0043745	0.0046984	0.0067639	0.0046558	0.0045854	0.0067116	0.0045812	0.0047004
37	0.0044109	0.0047333	0.0067873	0.0046886	0.0046145	0.0067315	0.0046101	0.0047353
38	0.0044494	0.0047701	0.0068123	0.0047233	0.0046452	0.0067527	0.0046404	0.0047723
39	0.0044900	0.0048091	0.0068393	0.0047600	0.0046777	0.0067754	0.0046725	0.0048114
40	0.0045330	0.0048505	0.0068682	0.0047988	0.0047120	0.0067998	0.0047065	0.0048529
41	0.0045784	0.0048944	0.0068994	0.0048400	0.0047483	0.0068261	0.0047423	0.0048969
42	0.0046266	0.0049409	0.0069329	0.0048837	0.0047868	0.0068543	0.0047803	0.0049436
43	0.0046777	0.0049904	0.0069690	0.0049300	0.0048275	0.0068846	0.0048206	0.0049932
44	0.0047319	0.0050430	0.0070078	0.0049791	0.0048706	0.0069172	0.0048632	0.0050460
45	0.0047894	0.0050989	0.0070495	0.0050312	0.0049163	0.0069523	0.0049084	0.0051021
46	0.0048504	0.0051584	0.0070945	0.0050866	0.0049647	0.0069900	0.0049562	0.0051617
47	0.0049153	0.0052218	0.0071429	0.0051455	0.0050161	0.0070305	0.0050070	0.0052253
48	0.0049844	0.0052894	0.0071953	0.0052082	0.0050707	0.0070740	0.0050609	0.0052932
49	0.0050581	0.0053617	0.0072519	0.0052752	0.0051287	0.0071210	0.0051183	0.0053657
50	0.0051368	0.0054390	0.0073132	0.0053466	0.0051905	0.0071717	0.0051793	0.0054432
51	0.0052210	0.0055218	0.0073796	0.0054231	0.0052564	0.0072265	0.0052444	0.0055264
52	0.0053104	0.0056098	0.0074510	0.0055044	0.0053265	0.0072858	0.0053139	0.0056147
53	0.0054060	0.0057042	0.0075283	0.0055914	0.0054014	0.0073500	0.0053881	0.0057094
54	0.0055084	0.0058054	0.0076121	0.0056846	0.0054813	0.0074191	0.0054671	0.0058110

Age	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	SERS 2/3	TRS 1	TRS 2/3	WSPRS 2
55	0.0056182	0.0059141	0.0077029	0.0057845	0.0055668	0.0074939	0.0055515	0.0059201
56	0.0057354	0.0060302	0.0078008	0.0058912	0.0056581	0.0075749	0.0056420	0.0060367
57	0.0058601	0.0061539	0.0079058	0.0060049	0.0057557	0.0076627	0.0057388	0.0061608
58	0.0059937	0.0062865	0.0080192	0.0061265	0.0058600	0.0077573	0.0058422	0.0062940
59	0.0061368	0.0064287	0.0081415	0.0062566	0.0059712	0.0078589	0.0059524	0.0064368
60	0.0062900	0.0065812	0.0082732	0.0063959	0.0060901	0.0079685	0.0060703	0.0065898
61	0.0064540	0.0067444	0.0084149	0.0065448	0.0062172	0.0080866	0.0061963	0.0067538
62	0.0066294	0.0069191	0.0085668	0.0067036	0.0063529	0.0082138	0.0063311	0.0069292
63	0.0068167	0.0071058	0.0087294	0.0068729	0.0064976	0.0083506	0.0064751	0.0071168
64	0.0070165	0.0073050	0.0089030	0.0070531	0.0066517	0.0084970	0.0066285	0.0073169
65	0.0072307	0.0075186	0.0090893	0.0072458	0.0068158	0.0086537	0.0067919	0.0075315
66	0.0074600	0.0077474	0.0092891	0.0074517	0.0069903	0.0088208	0.0069657	0.0077614
67	0.0077052	0.0079921	0.0095028	0.0076715	0.0071765	0.0090000	0.0071514	0.0080073
68	0.0079692	0.0082556	0.0097332	0.0079076	0.0073755	0.0091921	0.0073497	0.0082721
69	0.0082539	0.0085400	0.0099823	0.0081620	0.0075879	0.0093974	0.0075612	0.0085580
70	0.0085622	0.0088479	0.0102523	0.0084366	0.0078162	0.0096186	0.0077883	0.0088676
71	0.0088938	0.0091793	0.0105419	0.0087308	0.0080615	0.0098577	0.0080327	0.0092008
72	0.0092539	0.0095393	0.0108558	0.0090487	0.0083261	0.0101166	0.0082964	0.0095628
73	0.0096446	0.0099300	0.0111955	0.0093919	0.0086093	0.0103939	0.0085784	0.0099559
74	0.0100684	0.0103538	0.0115628	0.0097624	0.0089142	0.0106939	0.0088826	0.0103824
75	0.0105280	0.0108135	0.0119604	0.0101627	0.0092422	0.0110180	0.0092104	0.0108451
76	0.0110267	0.0113124	0.0123914	0.0105960	0.0095951	0.0113678	0.0095637	0.0113472
77	0.0115688	0.0118547	0.0128599	0.0110662	0.0099757	0.0117460	0.0099450	0.0118933
78	0.0121597	0.0124460	0.0133705	0.0115778	0.0103875	0.0121558	0.0103575	0.0124885
79	0.0128051	0.0130919	0.0139278	0.0121352	0.0108344	0.0126012	0.0108049	0.0131389
80	0.0135111	0.0137984	0.0145368	0.0127433	0.0113202	0.0130863	0.0112914	0.0138505
81	0.0142843	0.0145725	0.0152030	0.0134074	0.0118492	0.0136157	0.0118211	0.0146303
82	0.0151240	0.0154130	0.0159279	0.0141293	0.0124242	0.0141938	0.0123986	0.0154769
83	0.0160353	0.0163252	0.0167162	0.0149136	0.0130497	0.0148256	0.0130286	0.0163958
84	0.0170241	0.0173149	0.0175726	0.0157650	0.0137302	0.0155137	0.0137139	0.0173927
85	0.0180966	0.0183884	0.0185016	0.0166876	0.0144701	0.0162628	0.0144589	0.0184740
86	0.0192583	0.0195513	0.0195059	0.0176841	0.0152736	0.0170771	0.0152680	0.0196456
87	0.0205119	0.0208062	0.0205851	0.0187541	0.0161432	0.0179605	0.0161446	0.0209102
88	0.0218550	0.0221507	0.0217347	0.0198932	0.0170791	0.0189147	0.0170905	0.0222656
89	0.0232781	0.0235752	0.0229444	0.0210916	0.0180779	0.0199388	0.0181048	0.0237021
90	0.0247625	0.0250609	0.0241977	0.0223336	0.0191323	0.0210275	0.0191823	0.0252008
91	0.0262789	0.0265782	0.0254717	0.0235975	0.0202301	0.0221705	0.0203134	0.0267317
92	0.0278427	0.0281429	0.0267640	0.0248804	0.0213620	0.0233525	0.0214834	0.0283116
93	0.0294384	0.0297392	0.0280581	0.0261661	0.0225126	0.0245532	0.0226729	0.0299249
94	0.0310505	0.0313517	0.0293389	0.0274402	0.0236656	0.0257646	0.0238739	0.0315562
95	0.0326651	0.0329665	0.0305940	0.0286908	0.0248057	0.0269704	0.0250708	0.0331914
96	0.0342704	0.0345719	0.0318149	0.0299099	0.0259197	0.0281559	0.0262493	0.0348186
97	0.0358572	0.0361585	0.0329987	0.0310951	0.0269980	0.0293096	0.0273986	0.0364281
98	0.0374173	0.0377185	0.0341503	0.0322517	0.0280348	0.0304239	0.0285118	0.0380114
99	0.0389423	0.0392433	0.0352857	0.0333956	0.0290309	0.0314979	0.0295884	0.0395582))

Age	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 2
20	0.0039835	0.0043310	0.0065444	0.0043102	0.0043248	0.0042786	0.0065267	0.0042774	0.0043319
21	0.0039997	0.0043459	0.0065518	0.0043243	0.0043395	0.0042911	0.0065329	0.0042897	0.0043469
22	0.0040168	0.0043615	0.0065598	0.0043390	0.0043549	0.0043042	0.0065396	0.0043027	0.0043626
23	0.0040347	0.0043780	0.0065684	0.0043546	0.0043711	0.0043181	0.0065468	0.0043165	0.0043791
24	0.0040535	0.0043955	0.0065778	0.0043710	0.0043882	0.0043327	0.0065546	0.0043309	0.0043966
25	0.0040734	0.0044139	0.0065878	0.0043884	0.0044063	0.0043481	0.0065630	0.0043462	0.0044150
26	0.0040943	0.0044333	0.0065987	0.0044067	0.0044255	0.0043644	0.0065720	0.0043622	0.0044346
27	0.0041163	0.0044539	0.0066105	0.0044261	0.0044457	0.0043816	0.0065818	0.0043792	0.0044552
28	0.0041396	0.0044757	0.0066232	0.0044466	0.0044671	0.0043997	0.0065924	0.0043971	0.0044771
29	0.0041641	0.0044988	0.0066370	0.0044682	0.0044897	0.0044189	0.0066038	0.0044161	0.0045002
30	0.0041899	0.0045231	0.0066517	0.0044911	0.0045136	0.0044391	0.0066162	0.0044361	0.0045246
31	0.0042171	0.0045488	0.0066676	0.0045152	0.0045388	0.0044605	0.0066295	0.0044572	0.0045503
32	0.0042456	0.0045758	0.0066845	0.0045405	0.0045653	0.0044830	0.0066438	0.0044795	0.0045774
33	0.0042755	0.0046042	0.0067025	0.0045672	0.0045932	0.0045067	0.0066592	0.0045031	0.0046059
34	0.0043069	0.0046340	0.0067217	0.0045952	0.0046225	0.0045316	0.0066756	0.0045278	0.0046358
35	0.0043398	0.0046654	0.0067421	0.0046247	0.0046533	0.0045578	0.0066930	0.0045539	0.0046672
36	0.0043745	0.0046984	0.0067639	0.0046558	0.0046857	0.0045854	0.0067116	0.0045812	0.0047004
37	0.0044109	0.0047333	0.0067873	0.0046886	0.0047200	0.0046145	0.0067315	0.0046101	0.0047353
38	0.0044494	0.0047701	0.0068123	0.0047233	0.0047562	0.0046452	0.0067527	0.0046404	0.0047723
39	0.0044900	0.0048091	0.0068393	0.0047600	0.0047945	0.0046777	0.0067754	0.0046725	0.0048114
40	0.0045330	0.0048505	0.0068682	0.0047988	0.0048351	0.0047120	0.0067998	0.0047065	0.0048529
41	0.0045784	0.0048944	0.0068994	0.0048400	0.0048782	0.0047483	0.0068261	0.0047423	0.0048969
42	0.0046266	0.0049409	0.0069329	0.0048837	0.0049239	0.0047868	0.0068543	0.0047803	0.0049436
43	0.0046777	0.0049904	0.0069690	0.0049300	0.0049724	0.0048275	0.0068846	0.0048206	0.0049932
44	0.0047319	0.0050430	0.0070078	0.0049791	0.0050240	0.0048706	0.0069172	0.0048632	0.0050460
45	0.0047894	0.0050989	0.0070495	0.0050312	0.0050787	0.0049163	0.0069523	0.0049084	0.0051021
46	0.0048504	0.0051584	0.0070945	0.0050866	0.0051370	0.0049647	0.0069900	0.0049562	0.0051617
47	0.0049153	0.0052218	0.0071429	0.0051455	0.0051990	0.0050161	0.0070305	0.0050070	0.0052253
48	0.0049844	0.0052894	0.0071953	0.0052082	0.0052652	0.0050707	0.0070740	0.0050609	0.0052932
49	0.0050581	0.0053617	0.0072519	0.0052752	0.0053358	0.0051287	0.0071210	0.0051183	0.0053657

Age	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 2
50	0.0051368	0.0054390	0.0073132	0.0053466	0.0054114	0.0051905	0.0071717	0.0051793	0.0054432
51	0.0052210	0.0055218	0.0073796	0.0054231	0.0054923	0.0052564	0.0072265	0.0052444	0.0055264
52	0.0053104	0.0056098	0.0074510	0.0055044	0.0055783	0.0053265	0.0072858	0.0053139	0.0056147
53	0.0054060	0.0057042	0.0075283	0.0055914	0.0056704	0.0054014	0.0073500	0.0053881	0.0057094
54	0.0055084	0.0058054	0.0076121	0.0056846	0.0057692	0.0054813	0.0074191	0.0054671	0.0058110
55	0.0056182	0.0059141	0.0077029	0.0057845	0.0058752	0.0055668	0.0074939	0.0055515	0.0059201
56	0.0057354	0.0060302	0.0078008	0.0058912	0.0059885	0.0056581	0.0075749	0.0056420	0.0060367
57	0.0058601	0.0061539	0.0079058	0.0060049	0.0061091	0.0057557	0.0076627	0.0057388	0.0061608
58	0.0059937	0.0062865	0.0080192	0.0061265	0.0062384	0.0058600	0.0077573	0.0058422	0.0062940
59	0.0061368	0.0064287	0.0081415	0.0062566	0.0063769	0.0059712	0.0078589	0.0059524	0.0064368
60	0.0062900	0.0065812	0.0082732	0.0063959	0.0065253	0.0060901	0.0079685	0.0060703	0.0065898
61	0.0064540	0.0067444	0.0084149	0.0065448	0.0066842	0.0062172	0.0080866	0.0061963	0.0067538
62	0.0066294	0.0069191	0.0085668	0.0067036	0.0068540	0.0063529	0.0082138	0.0063311	0.0069292
63	0.0068167	0.0071058	0.0087294	0.0068729	0.0070354	0.0064976	0.0083506	0.0064751	0.0071168
64	0.0070165	0.0073050	0.0089030	0.0070531	0.0072287	0.0066517	0.0084970	0.0066285	0.0073169
65	0.0072307	0.0075186	0.0090893	0.0072458	0.0074359	0.0068158	0.0086537	0.0067919	0.0075315
66	0.0074600	0.0077474	0.0092891	0.0074517	0.0076576	0.0069903	0.0088208	0.0069657	0.0077614
67	0.0077052	0.0079921	0.0095028	0.0076715	0.0078946	0.0071765	0.0090000	0.0071514	0.0080073
68	0.0079692	0.0082556	0.0097332	0.0079076	0.0081496	0.0073755	0.0091921	0.0073497	0.0082721
69	0.0082539	0.0085400	0.0099823	0.0081620	0.0084247	0.0075879	0.0093974	0.0075612	0.0085580
70	0.0085622	0.0088479	0.0102523	0.0084366	0.0087223	0.0078162	0.0096186	0.0077883	0.0088676
71	0.0088938	0.0091793	0.0105419	0.0087308	0.0090421	0.0080615	0.0098577	0.0080327	0.0092008
72	0.0092539	0.0095393	0.0108558	0.0090487	0.0093889	0.0083261	0.0101166	0.0082964	0.0095628
73	0.0096446	0.0099300	0.0111955	0.0093919	0.0097647	0.0086093	0.0103939	0.0085784	0.0099559
74	0.0100684	0.0103538	0.0115628	0.0097624	0.0101717	0.0089142	0.0106939	0.0088826	0.0103824
75	0.0105280	0.0108135	0.0119604	0.0101627	0.0106127	0.0092422	0.0110180	0.0092104	0.0108451
76	0.0110267	0.0113124	0.0123914	0.0105960	0.0110908	0.0095951	0.0113678	0.0095637	0.0113472
77	0.0115688	0.0118547	0.0128599	0.0110662	0.0116103	0.0099757	0.0117460	0.0099450	0.0118933
78	0.0121597	0.0124460	0.0133705	0.0115778	0.0121762	0.0103875	0.0121558	0.0103575	0.0124885
79	0.0128051	0.0130919	0.0139278	0.0121352	0.0127939	0.0108344	0.0126012	0.0108049	0.0131389

Age	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	PSERS	SERS 2/3	TRS 1	TRS 2/3	WSPRS 2
80	0.0135111	0.0137984	0.0145368	0.0127433	0.0134689	0.0113202	0.0130863	0.0112914	0.0138505
81	0.0142843	0.0145725	0.0152030	0.0134074	0.0142077	0.0118492	0.0136157	0.0118211	0.0146303
82	0.0151240	0.0154130	0.0159279	0.0141293	0.0150101	0.0124242	0.0141938	0.0123986	0.0154769
83	0.0160353	0.0163252	0.0167162	0.0149136	0.0158811	0.0130497	0.0148256	0.0130286	0.0163958
84	0.0170241	0.0173149	0.0175726	0.0157650	0.0168262	0.0137302	0.0155137	0.0137139	0.0173927
85	0.0180966	0.0183884	0.0185016	0.0166876	0.0178509	0.0144701	0.0162628	0.0144589	0.0184740
86	0.0192583	0.0195513	0.0195059	0.0176841	0.0189598	0.0152736	0.0170771	0.0152680	0.0196456
87	0.0205119	0.0208062	0.0205851	0.0187541	0.0201546	0.0161432	0.0179605	0.0161446	0.0209102
88	0.0218550	0.0221507	0.0217347	0.0198932	0.0214321	0.0170791	0.0189147	0.0170905	0.0222656
89	0.0232781	0.0235752	0.0229444	0.0210916	0.0227826	0.0180779	0.0199388	0.0181048	0.0237021
90	0.0247625	0.0250609	0.0241977	0.0223336	0.0241882	0.0191323	0.0210275	0.0191823	0.0252008
91	0.0262789	0.0265782	0.0254717	0.0235975	0.0256220	0.0202301	0.0221705	0.0203134	0.0267317
92	0.0278427	0.0281429	0.0267640	0.0248804	0.0270932	0.0213620	0.0233525	0.0214834	0.0283116
93	0.0294384	0.0297392	0.0280581	0.0261661	0.0285859	0.0225126	0.0245532	0.0226729	0.0299249
94	0.0310505	0.0313517	0.0293389	0.0274402	0.0300847	0.0236656	0.0257646	0.0238739	0.0315562
95	0.0326651	0.0329665	0.0305940	0.0286908	0.0315762	0.0248057	0.0269704	0.0250708	0.0331914
96	0.0342704	0.0345719	0.0318149	0.0299099	0.0330499	0.0259197	0.0281559	0.0262493	0.0348186
97	0.0358572	0.0361585	0.0329987	0.0310951	0.0344988	0.0269980	0.0293096	0.0273986	0.0364281
98	0.0374173	0.0377185	0.0341503	0.0322517	0.0359196	0.0280348	0.0304239	0.0285118	0.0380114
99	0.0389423	0.0392433	0.0352857	0.0333956	0.0373129	0.0290309	0.0314979	0.0295884	0.0395582

†This table is based on the 1995-2000 actuarial experience study monthly benefit per \$1.00 of accumulation defined benefit (DB) single life pension.

The judges retirement fund ((~~JRF~~)) (chapter 2.12 RCW) does not provide a COLA.

AMENDATORY SECTION (Amending WSR 03-06-044, filed 2/27/03, effective 4/1/03)

WAC 415-02-350 What are cost-of-living adjustments (COLA) and how are they calculated? (1) What is a cost-of-living adjustment (COLA)? ~~The value of a retiree's, beneficiary's, or ex-spouse's ((benefit is a fixed amount. The benefit's value can))~~ monthly allowance may change in the years after retirement because of inflation or other factors. A COLA automatically adjusts benefits based on the cost of living changes.

(2) What retirement plans include COLAs? With one exception, all retirement plans ~~((that the department administers))~~ administered by the department provide one or more of the types of COLAs listed in subsection (3) of this section.

<u>RETIREMENT</u>	<u>PLAN</u>	<u>COLA TYPE</u>	<u>STATUTE</u>
<u>JUDICIAL</u>		<u>Base</u>	<u>RCW 2.10.170</u>
<u>LEOFF</u>	<u>Plan 1</u>	<u>Base</u>	<u>RCW 41.26.240</u>
<u>LEOFF</u>	<u>Plan 2</u>	<u>Base</u>	<u>RCW 41.26.440</u>
<u>PSERS</u>		<u>Base</u>	<u>RCW 41.37.160</u>
<u>PERS</u>	<u>Plan 1</u>	<u>Uniform</u>	<u>RCW 41.40.197</u>
<u>PERS</u>	<u>Plan 1</u>	<u>Optional</u>	<u>RCW 41.40.188</u>
		<u>Auto</u>	<u>(1)(c)</u>
<u>PERS</u>	<u>Plan 2</u>	<u>Base</u>	<u>RCW 41.40.640</u>
<u>PERS</u>	<u>Plan 3</u>	<u>Base</u>	<u>RCW 41.40.840</u>
<u>SERS</u>	<u>Plans 2 and 3</u>	<u>Base</u>	<u>RCW 41.35.210</u>

RETIREMENT SYSTEM	PLAN	COLA TYPE	STATUTE
TRS	Plan 1	Uniform	RCW 41.32.489
TRS	Plan 1	Optional Auto	RCW 41.32.530 (1)(d)
TRS	Plan 2	Base	RCW 41.32.770
TRS	Plan 3	Base	RCW 41.32.845
WSPRS	Plans 1 and 2	Base	RCW 43.43.260

(3) What are the types of COLAs?

(a) Auto COLA

~~((The auto COLA is an option members can select at retirement. Members who choose this option have their benefits actuarially reduced at retirement to provide for an automatic annual adjustment in the benefit for the members' lives. The auto COLA has no age requirement and is based on the annual Consumer Price Index (CPI) change up to a maximum of 3% times the monthly benefit. The annual adjustment for the uniform COLA is independent from the auto COLA or any other COLA.))~~ The auto COLA, if offered under your plan, is an option you may select at retirement. If you choose this option, your monthly retirement allowance will be actuarially reduced at retirement, and you will receive an automatic adjustment in your monthly retirement allowance each year for the rest of your life. The auto COLA has no age requirement and is limited to a maximum of 3% times your monthly allowance.

((⁺CPI for the Seattle-Tacoma-Bremerton, Washington area for urban wage earners and clerical workers compiled by the Bureau of Labor Statistics, United States Department of Labor.))

(b) Base COLA

The base COLA is applied in July (April for LEOFF Plan 1) of each year and adjusts the benefit based on the change in the CPI for the Seattle area. Base COLAs are limited to a maximum of 3% times the monthly allowance for all affected plans except LEOFF Plan 1. They are payable to retirees, beneficiaries, and ex-spouses who have been retired for at least one year before July 1st of each year (April 1st for LEOFF Plan 1).

(c) Uniform COLA

The uniform COLA is an annual adjustment to the benefit, based on years of service(~~(:)~~). The annual adjustment for the uniform COLA is independent from any other COLA. It is payable to:

(i) Retirees, beneficiaries, or ex-spouses age 66 or older who have been retired for at least one year by July 1st of each year; and

(ii) Retirees, beneficiaries, or ex-spouses of any age whose retirement is calculated under the minimum formula.

~~(4) ((How are COLAs calculated? The retirement statutes for all department administered systems explain how the COLAs are calculated. Refer to the following table to find your plan:~~

RETIREMENT SYSTEM	PLAN	COLA TYPE	STATUTE
JUDICIAL		Base	RCW 2.10.170
LEOFF	Plan 1	Base	RCW 41.26.240

RETIREMENT SYSTEM	PLAN	COLA TYPE	STATUTE
LEOFF	Plan 2	Base	RCW 41.26.440
PERS	Plan 1	Uniform	RCW 41.40.197
PERS	Plan 1	Optional Auto	RCW 41.40.188 (1)(e)
PERS	Plan 2	Base	RCW 41.40.640
PERS	Plan 3	Base	RCW 41.40.840
SERS	Plans 2 and 3	Base	RCW 41.35.210
TRS	Plan 1	Uniform	RCW 41.32.489
TRS	Plan 1	Optional Auto	RCW 41.32.530 (1)(d)
TRS	Plan 2	Base	RCW 41.32.770
TRS	Plan 3	Base	RCW 41.32.845
WSPRS	Plans 1 and 2	Base	RCW 43.43.260

(5) Who provides the amounts used in the calculations?

(a) The amount of change for each COLA is provided annually by the office of the state actuary (OSA) to the department. Questions concerning how a specific amount is calculated should be directed to OSA.

(b) Based upon the amounts that OSA provides, the department calculates the COLA applied to a benefit.

(c) Questions concerning eligibility and COLA formulas should be directed to the department. Please see WAC 415-06-100 for information on contacting the department.)) **Who is responsible for determining the amount of the COLA?**

The office of the state actuary (OSA) bases the percentages of the COLAs on the Consumer Price Index. The Index is based on wages earned by urban wage earners and clerical workers in the Seattle-Tacoma-Bremerton, Washington area. OSA provides this information to the department annually.

AMENDATORY SECTION (Amending WSR 03-15-006, filed 7/3/03, effective 8/3/03)

WAC 415-02-370 Factors for establishing or restoring service credit ((purchase factors)). RCW 41.50.165(2) and chapter 415-10 WAC allow ((a member to purchase)) you to establish or restore service credit by paying the actuarial value of the resulting increase in ((his or her benefit)) your monthly retirement allowance. This section provides the actuarial factor tables that the department uses to calculate the lump sum costs ((for the purchase)). For more information on the factors and their use, ((please read)) see chapter 415-10 WAC.

(1) What are the factors for calculating the lump sum costs of ((purchasing)) establishing or restoring service credit? There are three factors that may be used to calculate the cost of ((purchasing)) establishing or restoring service credit:

(a) **Factor 1** represents the pension accrual rate, the annuity price (value of future benefit payments), increases in average final compensation, future salary increases and interest discount between the ((member's age at the time of the

service credit purchase and the normal retirement)) age at which you establish or restore the service credit and the age at which you would be eligible to retire with an unreduced retirement allowance.

(b) **Factor 2** represents the cost of lowering the normal retirement age by one year.

(c) **Factor 3** represents future salary increases and interest discount between the ((member's age at the time of the service credit purchase and the normal retirement)) age at which you establish or restore the service credit and the age at which you would be eligible to retire with an unreduced retirement allowance.

(2) (~~What is "normal retirement age"? Normal retirement age (NRA) is the earliest projected age at which a member will be eligible to retire with unreduced benefits under the requirements of his or her system and plan. The requirements are different among plans; please consult your plan for specific, detailed information.~~) **At which age do I qualify for an unreduced retirement allowance (URA)?** Age requirements differ among plans. For specific information see the RCW pertaining to your plan:

- LEOFF Plan 1: RCW 41.26.090(1)
- LEOFF Plan 2: RCW 41.26.430(1)
- PERS Plan 1: RCW 41.40.180

- PERS Plan 2: RCW 41.40.630(1)
- PERS Plan 3: RCW 41.40.820(1)
- PSERS: RCW 41.37.210
- SERS Plan 2: RCW 41.35.420(1)
- SERS Plan 3: RCW 41.35.680(1)
- TRS Plan 1: RCW 41.32.480
- TRS Plan 2: RCW 41.32.765(1)
- TRS Plan 3: RCW 41.32.875(1)
- WSPRS Plan 1: RCW 43.43.250(2)
- WSPRS Plan 2: RCW 43.43.250(2)

(3) (~~What is "Months to NRA"? This means the number of months from the member's age when the service credit is purchased to the member's NRA. The number of months to NRA is used to find the applicable factor(s) in Table 1 and Table 3 for calculating the service purchase credit cost.~~)

(4)) **Table - Factor 1.** Factor 1 is used in the calculation of the cost to establish or restore service credit (~~(purchase cost)~~) for a member in any PERS, PSERS, TRS, SERS, LEOFF, or WSPRS plan.

FACTOR 1

Months to NRA URA ²	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	<u>PSERS</u>	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
0	0.3245	0.2922	0.2115	0.2300	<u>0.2300</u>	0.2445	0.2112	0.2454	0.3026	0.2815
1	0.3236	0.2914	0.2109	0.2294	<u>0.2294</u>	0.2438	0.2106	0.2447	0.3018	0.2807
2	0.3227	0.2906	0.2104	0.2288	<u>0.2288</u>	0.2432	0.2101	0.2441	0.3010	0.2800
3	0.3219	0.2898	0.2098	0.2281	<u>0.2281</u>	0.2425	0.2095	0.2434	0.3001	0.2792
4	0.3210	0.2890	0.2092	0.2275	<u>0.2275</u>	0.2419	0.2089	0.2427	0.2993	0.2785
5	0.3201	0.2882	0.2087	0.2269	<u>0.2269</u>	0.2412	0.2084	0.2421	0.2985	0.2777
6	0.3192	0.2874	0.2081	0.2263	<u>0.2263</u>	0.2406	0.2078	0.2414	0.2977	0.2770
7	0.3183	0.2867	0.2075	0.2257	<u>0.2257</u>	0.2399	0.2072	0.2407	0.2969	0.2762
8	0.3174	0.2859	0.2070	0.2251	<u>0.2251</u>	0.2392	0.2067	0.2401	0.2961	0.2754
9	0.3166	0.2851	0.2064	0.2244	<u>0.2244</u>	0.2386	0.2061	0.2394	0.2952	0.2747
10	0.3157	0.2843	0.2058	0.2238	<u>0.2238</u>	0.2379	0.2055	0.2387	0.2944	0.2739
11	0.3148	0.2835	0.2053	0.2232	<u>0.2232</u>	0.2373	0.2050	0.2381	0.2936	0.2732
12	0.3139	0.2827	0.2047	0.2226	<u>0.2226</u>	0.2366	0.2044	0.2374	0.2928	0.2724
13	0.3131	0.2819	0.2041	0.2220	<u>0.2220</u>	0.2360	0.2038	0.2368	0.2920	0.2717
14	0.3122	0.2812	0.2036	0.2214	<u>0.2214</u>	0.2353	0.2033	0.2361	0.2912	0.2709
15	0.3114	0.2804	0.2030	0.2208	<u>0.2208</u>	0.2347	0.2027	0.2355	0.2904	0.2702
16	0.3105	0.2797	0.2025	0.2202	<u>0.2202</u>	0.2340	0.2022	0.2348	0.2896	0.2695
17	0.3097	0.2789	0.2019	0.2196	<u>0.2196</u>	0.2334	0.2016	0.2342	0.2888	0.2687
18	0.3088	0.2782	0.2014	0.2190	<u>0.2190</u>	0.2327	0.2011	0.2335	0.2880	0.2680
19	0.3080	0.2774	0.2008	0.2184	<u>0.2184</u>	0.2321	0.2005	0.2329	0.2873	0.2673
20	0.3072	0.2766	0.2002	0.2178	<u>0.2178</u>	0.2315	0.2000	0.2323	0.2865	0.2665
21	0.3063	0.2759	0.1997	0.2172	<u>0.2172</u>	0.2308	0.1994	0.2316	0.2857	0.2658
22	0.3055	0.2751	0.1991	0.2166	<u>0.2166</u>	0.2302	0.1989	0.2310	0.2849	0.2651
23	0.3046	0.2744	0.1986	0.2160	<u>0.2160</u>	0.2295	0.1983	0.2303	0.2841	0.2643
24	0.3038	0.2736	0.1980	0.2154	<u>0.2154</u>	0.2289	0.1978	0.2297	0.2833	0.2636
25	0.3030	0.2729	0.1975	0.2148	<u>0.2148</u>	0.2283	0.1973	0.2291	0.2825	0.2629
26	0.3021	0.2721	0.1969	0.2142	<u>0.2142</u>	0.2277	0.1967	0.2285	0.2818	0.2622

Months to NRA <u>URA</u> ²	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	<u>PSERS</u>	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
27	0.3013	0.2714	0.1964	0.2137	<u>0.2137</u>	0.2270	0.1962	0.2278	0.2810	0.2614
28	0.3005	0.2706	0.1959	0.2131	<u>0.2131</u>	0.2264	0.1957	0.2272	0.2803	0.2607
29	0.2997	0.2699	0.1953	0.2125	<u>0.2125</u>	0.2258	0.1951	0.2266	0.2795	0.2600
30	0.2988	0.2691	0.1948	0.2119	<u>0.2119</u>	0.2252	0.1946	0.2260	0.2788	0.2593
31	0.2980	0.2684	0.1943	0.2113	<u>0.2113</u>	0.2246	0.1941	0.2254	0.2780	0.2586
32	0.2972	0.2677	0.1937	0.2107	<u>0.2107</u>	0.2240	0.1935	0.2248	0.2772	0.2579
33	0.2964	0.2669	0.1932	0.2102	<u>0.2102</u>	0.2233	0.1930	0.2241	0.2765	0.2571
34	0.2955	0.2662	0.1927	0.2096	<u>0.2096</u>	0.2227	0.1925	0.2235	0.2757	0.2564
35	0.2947	0.2654	0.1921	0.2090	<u>0.2090</u>	0.2221	0.1919	0.2229	0.2750	0.2557
36	0.2939	0.2647	0.1916	0.2084	<u>0.2084</u>	0.2215	0.1914	0.2223	0.2742	0.2550
37	0.2931	0.2640	0.1911	0.2078	<u>0.2078</u>	0.2209	0.1909	0.2217	0.2735	0.2543
38	0.2923	0.2633	0.1906	0.2073	<u>0.2073</u>	0.2203	0.1904	0.2211	0.2727	0.2536
39	0.2915	0.2625	0.1900	0.2067	<u>0.2067</u>	0.2197	0.1898	0.2205	0.2720	0.2530
40	0.2907	0.2618	0.1895	0.2061	<u>0.2061</u>	0.2191	0.1893	0.2199	0.2712	0.2523
41	0.2899	0.2611	0.1890	0.2056	<u>0.2056</u>	0.2185	0.1888	0.2193	0.2705	0.2516
42	0.2891	0.2604	0.1885	0.2050	<u>0.2050</u>	0.2179	0.1883	0.2187	0.2697	0.2509
43	0.2884	0.2597	0.1880	0.2044	<u>0.2044</u>	0.2173	0.1878	0.2181	0.2690	0.2502
44	0.2876	0.2590	0.1875	0.2039	<u>0.2039</u>	0.2167	0.1873	0.2175	0.2683	0.2495
45	0.2868	0.2582	0.1869	0.2033	<u>0.2033</u>	0.2161	0.1867	0.2169	0.2675	0.2489
46	0.2860	0.2575	0.1864	0.2027	<u>0.2027</u>	0.2155	0.1862	0.2163	0.2668	0.2482
47	0.2852	0.2568	0.1859	0.2022	<u>0.2022</u>	0.2149	0.1857	0.2157	0.2660	0.2475
48	0.2844	0.2561	0.1854	0.2016	<u>0.2016</u>	0.2143	0.1852	0.2151	0.2653	0.2468
49	0.2836	0.2554	0.1849	0.2011	<u>0.2011</u>	0.2137	0.1847	0.2145	0.2646	0.2461
50	0.2829	0.2547	0.1844	0.2005	<u>0.2005</u>	0.2131	0.1842	0.2139	0.2639	0.2455
51	0.2821	0.2540	0.1839	0.2000	<u>0.2000</u>	0.2126	0.1837	0.2134	0.2631	0.2448
52	0.2813	0.2533	0.1834	0.1994	<u>0.1994</u>	0.2120	0.1832	0.2128	0.2624	0.2441
53	0.2806	0.2526	0.1829	0.1989	<u>0.1989</u>	0.2114	0.1827	0.2122	0.2617	0.2435
54	0.2798	0.2519	0.1824	0.1983	<u>0.1983</u>	0.2108	0.1822	0.2116	0.2610	0.2428
55	0.2790	0.2513	0.1819	0.1978	<u>0.1978</u>	0.2103	0.1817	0.2110	0.2603	0.2421
56	0.2783	0.2506	0.1814	0.1973	<u>0.1973</u>	0.2097	0.1812	0.2104	0.2596	0.2415
57	0.2775	0.2499	0.1809	0.1967	<u>0.1967</u>	0.2091	0.1807	0.2099	0.2588	0.2408
58	0.2767	0.2492	0.1804	0.1962	<u>0.1962</u>	0.2085	0.1802	0.2093	0.2581	0.2401
59	0.2760	0.2485	0.1799	0.1956	<u>0.1956</u>	0.2080	0.1797	0.2087	0.2574	0.2395
60	0.2752	0.2478	0.1794	0.1951	<u>0.1951</u>	0.2074	0.1792	0.2081	0.2567	0.2388
61	0.2745	0.2471	0.1789	0.1946	<u>0.1946</u>	0.2068	0.1787	0.2075	0.2560	0.2381
62	0.2737	0.2465	0.1784	0.1940	<u>0.1940</u>	0.2063	0.1782	0.2070	0.2553	0.2375
63	0.2730	0.2458	0.1780	0.1935	<u>0.1935</u>	0.2057	0.1778	0.2064	0.2546	0.2368
64	0.2722	0.2451	0.1775	0.1930	<u>0.1930</u>	0.2052	0.1773	0.2059	0.2539	0.2362
65	0.2715	0.2445	0.1770	0.1925	<u>0.1925</u>	0.2046	0.1768	0.2053	0.2532	0.2355
66	0.2707	0.2438	0.1765	0.1919	<u>0.1919</u>	0.2041	0.1763	0.2048	0.2525	0.2349
67	0.2700	0.2431	0.1760	0.1914	<u>0.1914</u>	0.2035	0.1758	0.2042	0.2519	0.2342
68	0.2693	0.2425	0.1755	0.1909	<u>0.1909</u>	0.2029	0.1753	0.2036	0.2512	0.2336
69	0.2685	0.2418	0.1751	0.1904	<u>0.1904</u>	0.2024	0.1749	0.2031	0.2505	0.2329
70	0.2678	0.2411	0.1746	0.1898	<u>0.1898</u>	0.2018	0.1744	0.2025	0.2498	0.2323
71	0.2670	0.2405	0.1741	0.1893	<u>0.1893</u>	0.2013	0.1739	0.2020	0.2491	0.2316
72	0.2663	0.2398	0.1736	0.1888	<u>0.1888</u>	0.2007	0.1734	0.2014	0.2484	0.2310
73	0.2656	0.2391	0.1731	0.1883	<u>0.1883</u>	0.2002	0.1729	0.2009	0.2477	0.2304
74	0.2648	0.2385	0.1727	0.1878	<u>0.1878</u>	0.1996	0.1724	0.2003	0.2470	0.2297
75	0.2641	0.2378	0.1722	0.1872	<u>0.1872</u>	0.1991	0.1720	0.1998	0.2464	0.2291
76	0.2634	0.2372	0.1717	0.1867	<u>0.1867</u>	0.1985	0.1715	0.1992	0.2457	0.2285
77	0.2627	0.2365	0.1713	0.1862	<u>0.1862</u>	0.1980	0.1710	0.1987	0.2450	0.2279
78	0.2619	0.2359	0.1708	0.1857	<u>0.1857</u>	0.1974	0.1705	0.1981	0.2443	0.2272
79	0.2612	0.2352	0.1703	0.1852	<u>0.1852</u>	0.1969	0.1701	0.1976	0.2437	0.2266
80	0.2605	0.2346	0.1699	0.1847	<u>0.1847</u>	0.1964	0.1696	0.1971	0.2430	0.2260
81	0.2598	0.2339	0.1694	0.1841	<u>0.1841</u>	0.1958	0.1691	0.1965	0.2423	0.2254

Months to NRA URA ²	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	<u>PSERS</u>	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
82	0.2590	0.2333	0.1689	0.1836	<u>0.1836</u>	0.1953	0.1686	0.1960	0.2416	0.2247
83	0.2583	0.2326	0.1685	0.1831	<u>0.1831</u>	0.1947	0.1682	0.1954	0.2410	0.2241
84	0.2576	0.2320	0.1680	0.1826	<u>0.1826</u>	0.1942	0.1677	0.1949	0.2403	0.2235
85	0.2569	0.2314	0.1675	0.1821	<u>0.1821</u>	0.1937	0.1672	0.1944	0.2396	0.2229
86	0.2562	0.2307	0.1671	0.1816	<u>0.1816</u>	0.1931	0.1668	0.1938	0.2390	0.2223
87	0.2555	0.2301	0.1666	0.1811	<u>0.1811</u>	0.1926	0.1663	0.1933	0.2383	0.2217
88	0.2548	0.2295	0.1662	0.1806	<u>0.1806</u>	0.1921	0.1659	0.1928	0.2377	0.2211
89	0.2541	0.2289	0.1657	0.1801	<u>0.1801</u>	0.1916	0.1654	0.1922	0.2370	0.2205
90	0.2534	0.2282	0.1653	0.1796	<u>0.1796</u>	0.1910	0.1650	0.1917	0.2364	0.2199
91	0.2528	0.2276	0.1648	0.1792	<u>0.1792</u>	0.1905	0.1645	0.1912	0.2357	0.2193
92	0.2521	0.2270	0.1643	0.1787	<u>0.1787</u>	0.1900	0.1641	0.1906	0.2351	0.2187
93	0.2514	0.2264	0.1639	0.1782	<u>0.1782</u>	0.1895	0.1636	0.1901	0.2344	0.2181
94	0.2507	0.2257	0.1634	0.1777	<u>0.1777</u>	0.1889	0.1632	0.1896	0.2338	0.2175
95	0.2500	0.2251	0.1630	0.1772	<u>0.1772</u>	0.1884	0.1627	0.1890	0.2331	0.2169
96	0.2493	0.2245	0.1625	0.1767	<u>0.1767</u>	0.1879	0.1623	0.1885	0.2325	0.2163
97	0.2486	0.2239	0.1621	0.1762	<u>0.1762</u>	0.1874	0.1619	0.1880	0.2319	0.2157
98	0.2479	0.2233	0.1616	0.1757	<u>0.1757</u>	0.1869	0.1614	0.1875	0.2312	0.2151
99	0.2473	0.2227	0.1612	0.1753	<u>0.1753</u>	0.1864	0.1610	0.1870	0.2306	0.2146
100	0.2466	0.2221	0.1608	0.1748	<u>0.1748</u>	0.1859	0.1605	0.1865	0.2300	0.2140
101	0.2459	0.2215	0.1603	0.1743	<u>0.1743</u>	0.1854	0.1601	0.1860	0.2294	0.2134
102	0.2452	0.2209	0.1599	0.1738	<u>0.1738</u>	0.1849	0.1596	0.1855	0.2287	0.2128
103	0.2446	0.2202	0.1595	0.1734	<u>0.1734</u>	0.1843	0.1592	0.1849	0.2281	0.2122
104	0.2439	0.2196	0.1590	0.1729	<u>0.1729</u>	0.1838	0.1588	0.1844	0.2275	0.2116
105	0.2432	0.2190	0.1586	0.1724	<u>0.1724</u>	0.1833	0.1583	0.1839	0.2269	0.2111
106	0.2425	0.2184	0.1582	0.1719	<u>0.1719</u>	0.1828	0.1579	0.1834	0.2262	0.2105
107	0.2419	0.2178	0.1577	0.1715	<u>0.1715</u>	0.1823	0.1574	0.1829	0.2256	0.2099
108	0.2412	0.2172	0.1573	0.1710	<u>0.1710</u>	0.1818	0.1570	0.1824	0.2250	0.2093
109	0.2405	0.2166	0.1569	0.1705	<u>0.1705</u>	0.1813	0.1566	0.1819	0.2244	0.2087
110	0.2399	0.2160	0.1564	0.1701	<u>0.1701</u>	0.1808	0.1562	0.1814	0.2238	0.2082
111	0.2392	0.2155	0.1560	0.1696	<u>0.1696</u>	0.1803	0.1557	0.1809	0.2232	0.2076
112	0.2386	0.2149	0.1556	0.1692	<u>0.1692</u>	0.1798	0.1553	0.1804	0.2226	0.2070
113	0.2379	0.2143	0.1552	0.1687	<u>0.1687</u>	0.1793	0.1549	0.1799	0.2220	0.2065
114	0.2373	0.2137	0.1547	0.1683	<u>0.1683</u>	0.1788	0.1545	0.1794	0.2214	0.2059
115	0.2366	0.2131	0.1543	0.1678	<u>0.1678</u>	0.1784	0.1541	0.1790	0.2207	0.2053
116	0.2360	0.2125	0.1539	0.1673	<u>0.1673</u>	0.1779	0.1537	0.1785	0.2201	0.2048
117	0.2353	0.2120	0.1535	0.1669	<u>0.1669</u>	0.1774	0.1532	0.1780	0.2195	0.2042
118	0.2347	0.2114	0.1530	0.1664	<u>0.1664</u>	0.1769	0.1528	0.1775	0.2189	0.2036
119	0.2340	0.2108	0.1526	0.1660	<u>0.1660</u>	0.1764	0.1524	0.1770	0.2183	0.2031
120	0.2334	0.2102	0.1522	0.1655	<u>0.1655</u>	0.1759	0.1520	0.1765	0.2177	0.2025
121	0.2328	0.2096	0.1518	0.1650	<u>0.1650</u>	0.1754	0.1516	0.1760	0.2171	0.2019
122	0.2321	0.2091	0.1514	0.1646	<u>0.1646</u>	0.1749	0.1512	0.1755	0.2165	0.2014
123	0.2315	0.2085	0.1509	0.1641	<u>0.1641</u>	0.1745	0.1507	0.1751	0.2159	0.2008
124	0.2309	0.2079	0.1505	0.1637	<u>0.1637</u>	0.1740	0.1503	0.1746	0.2153	0.2003
125	0.2302	0.2074	0.1501	0.1632	<u>0.1632</u>	0.1735	0.1499	0.1741	0.2147	0.1997
126	0.2296	0.2068	0.1497	0.1628	<u>0.1628</u>	0.1730	0.1495	0.1736	0.2141	0.1992
127	0.2290	0.2062	0.1493	0.1623	<u>0.1623</u>	0.1726	0.1491	0.1732	0.2136	0.1986
128	0.2283	0.2057	0.1489	0.1619	<u>0.1619</u>	0.1721	0.1487	0.1727	0.2130	0.1981
129	0.2277	0.2051	0.1484	0.1614	<u>0.1614</u>	0.1716	0.1482	0.1722	0.2124	0.1975
130	0.2271	0.2045	0.1480	0.1610	<u>0.1610</u>	0.1711	0.1478	0.1717	0.2118	0.1970
131	0.2264	0.2040	0.1476	0.1605	<u>0.1605</u>	0.1707	0.1474	0.1713	0.2112	0.1964
132	0.2258	0.2034	0.1472	0.1601	<u>0.1601</u>	0.1702	0.1470	0.1708	0.2106	0.1959
133	0.2252	0.2028	0.1468	0.1597	<u>0.1597</u>	0.1697	0.1466	0.1703	0.2100	0.1954
134	0.2246	0.2023	0.1464	0.1592	<u>0.1592</u>	0.1693	0.1462	0.1699	0.2095	0.1948
135	0.2240	0.2017	0.1460	0.1588	<u>0.1588</u>	0.1688	0.1458	0.1694	0.2089	0.1943
136	0.2234	0.2012	0.1456	0.1584	<u>0.1584</u>	0.1684	0.1454	0.1690	0.2083	0.1938

Months to NRA <u>URA</u> ²	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	<u>PSERS</u>	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
137	0.2228	0.2006	0.1452	0.1579	<u>0.1579</u>	0.1679	0.1450	0.1685	0.2078	0.1933
138	0.2222	0.2001	0.1448	0.1575	<u>0.1575</u>	0.1675	0.1446	0.1681	0.2072	0.1927
139	0.2215	0.1995	0.1445	0.1571	<u>0.1571</u>	0.1670	0.1443	0.1676	0.2066	0.1922
140	0.2209	0.1990	0.1441	0.1566	<u>0.1566</u>	0.1665	0.1439	0.1671	0.2061	0.1917
141	0.2203	0.1984	0.1437	0.1562	<u>0.1562</u>	0.1661	0.1435	0.1667	0.2055	0.1912
142	0.2197	0.1979	0.1433	0.1558	<u>0.1558</u>	0.1656	0.1431	0.1662	0.2049	0.1906
143	0.2191	0.1973	0.1429	0.1553	<u>0.1553</u>	0.1652	0.1427	0.1658	0.2044	0.1901
144	0.2185	0.1968	0.1425	0.1549	<u>0.1549</u>	0.1647	0.1423	0.1653	0.2038	0.1896
145	0.2179	0.1963	0.1421	0.1545	<u>0.1545</u>	0.1642	0.1419	0.1648	0.2032	0.1891
146	0.2173	0.1957	0.1417	0.1541	<u>0.1541</u>	0.1638	0.1415	0.1644	0.2027	0.1886
147	0.2167	0.1952	0.1413	0.1536	<u>0.1536</u>	0.1633	0.1412	0.1639	0.2021	0.1881
148	0.2161	0.1947	0.1409	0.1532	<u>0.1532</u>	0.1629	0.1408	0.1635	0.2016	0.1876
149	0.2155	0.1941	0.1405	0.1528	<u>0.1528</u>	0.1624	0.1404	0.1630	0.2010	0.1871
150	0.2149	0.1936	0.1401	0.1524	<u>0.1524</u>	0.1620	0.1400	0.1626	0.2005	0.1866
151	0.2144	0.1931	0.1398	0.1520	<u>0.1520</u>	0.1615	0.1396	0.1621	0.1999	0.1860
152	0.2138	0.1925	0.1394	0.1516	<u>0.1516</u>	0.1611	0.1392	0.1617	0.1994	0.1855
153	0.2132	0.1920	0.1390	0.1511	<u>0.1511</u>	0.1606	0.1389	0.1612	0.1988	0.1850
154	0.2126	0.1915	0.1386	0.1507	<u>0.1507</u>	0.1602	0.1385	0.1608	0.1983	0.1845
155	0.2120	0.1909	0.1382	0.1503	<u>0.1503</u>	0.1597	0.1381	0.1603	0.1977	0.1840
156	0.2114	0.1904	0.1378	0.1499	<u>0.1499</u>	0.1593	0.1377	0.1599	0.1972	0.1835
157	0.2108	0.1899	0.1374	0.1495	<u>0.1495</u>	0.1589	0.1373	0.1595	0.1967	0.1830
158	0.2103	0.1894	0.1371	0.1491	<u>0.1491</u>	0.1584	0.1369	0.1590	0.1961	0.1825
159	0.2097	0.1888	0.1367	0.1487	<u>0.1487</u>	0.1580	0.1366	0.1586	0.1956	0.1820
160	0.2091	0.1883	0.1363	0.1483	<u>0.1483</u>	0.1576	0.1362	0.1582	0.1951	0.1815
161	0.2086	0.1878	0.1360	0.1479	<u>0.1479</u>	0.1572	0.1358	0.1577	0.1945	0.1810
162	0.2080	0.1873	0.1356	0.1475	<u>0.1475</u>	0.1567	0.1354	0.1573	0.1940	0.1805
163	0.2074	0.1868	0.1352	0.1470	<u>0.1470</u>	0.1563	0.1351	0.1569	0.1935	0.1800
164	0.2069	0.1863	0.1349	0.1466	<u>0.1466</u>	0.1559	0.1347	0.1564	0.1929	0.1795
165	0.2063	0.1857	0.1345	0.1462	<u>0.1462</u>	0.1555	0.1343	0.1560	0.1924	0.1790
166	0.2057	0.1852	0.1341	0.1458	<u>0.1458</u>	0.1550	0.1339	0.1556	0.1919	0.1785
167	0.2052	0.1847	0.1338	0.1454	<u>0.1454</u>	0.1546	0.1336	0.1551	0.1913	0.1780
168	0.2046	0.1842	0.1334	0.1450	<u>0.1450</u>	0.1542	0.1332	0.1547	0.1908	0.1775
169	0.2040	0.1837	0.1330	0.1446	<u>0.1446</u>	0.1538	0.1328	0.1543	0.1903	0.1770
170	0.2035	0.1832	0.1327	0.1442	<u>0.1442</u>	0.1534	0.1325	0.1539	0.1898	0.1765
171	0.2029	0.1827	0.1323	0.1438	<u>0.1438</u>	0.1529	0.1321	0.1534	0.1892	0.1761
172	0.2024	0.1822	0.1319	0.1434	<u>0.1434</u>	0.1525	0.1318	0.1530	0.1887	0.1756
173	0.2018	0.1817	0.1316	0.1430	<u>0.1430</u>	0.1521	0.1314	0.1526	0.1882	0.1751
174	0.2013	0.1812	0.1312	0.1426	<u>0.1426</u>	0.1517	0.1311	0.1522	0.1877	0.1746
175	0.2007	0.1808	0.1308	0.1423	<u>0.1423</u>	0.1513	0.1307	0.1518	0.1872	0.1742
176	0.2001	0.1803	0.1305	0.1419	<u>0.1419</u>	0.1509	0.1303	0.1514	0.1867	0.1737
177	0.1996	0.1798	0.1301	0.1415	<u>0.1415</u>	0.1504	0.1300	0.1509	0.1861	0.1732
178	0.1990	0.1793	0.1297	0.1411	<u>0.1411</u>	0.1500	0.1296	0.1505	0.1856	0.1727
179	0.1985	0.1788	0.1294	0.1407	<u>0.1407</u>	0.1496	0.1293	0.1501	0.1851	0.1723
180	0.1979	0.1783	0.1290	0.1403	<u>0.1403</u>	0.1492	0.1289	0.1497	0.1846	0.1718
181	0.1974	0.1778	0.1287	0.1399	<u>0.1399</u>	0.1488	0.1285	0.1493	0.1841	0.1713
182	0.1968	0.1773	0.1283	0.1395	<u>0.1395</u>	0.1484	0.1282	0.1489	0.1836	0.1709
183	0.1963	0.1769	0.1280	0.1392	<u>0.1392</u>	0.1480	0.1278	0.1485	0.1831	0.1704
184	0.1958	0.1764	0.1276	0.1388	<u>0.1388</u>	0.1476	0.1275	0.1481	0.1826	0.1699
185	0.1952	0.1759	0.1273	0.1384	<u>0.1384</u>	0.1472	0.1271	0.1477	0.1821	0.1695
186	0.1947	0.1754	0.1269	0.1380	<u>0.1380</u>	0.1468	0.1268	0.1473	0.1816	0.1690
187	0.1942	0.1749	0.1266	0.1377	<u>0.1377</u>	0.1463	0.1264	0.1469	0.1812	0.1685
188	0.1936	0.1744	0.1263	0.1373	<u>0.1373</u>	0.1459	0.1261	0.1465	0.1807	0.1681
189	0.1931	0.1740	0.1259	0.1369	<u>0.1369</u>	0.1455	0.1257	0.1461	0.1802	0.1676
190	0.1926	0.1735	0.1256	0.1365	<u>0.1365</u>	0.1451	0.1254	0.1457	0.1797	0.1671
191	0.1920	0.1730	0.1252	0.1362	<u>0.1362</u>	0.1447	0.1250	0.1453	0.1792	0.1667

Months to NRA <u>URA</u> ²	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	<u>PSERS</u>	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
192	0.1915	0.1725	0.1249	0.1358	<u>0.1358</u>	0.1443	0.1247	0.1449	0.1787	0.1662
193	0.1910	0.1720	0.1246	0.1354	<u>0.1354</u>	0.1439	0.1244	0.1445	0.1782	0.1657
194	0.1905	0.1716	0.1242	0.1351	<u>0.1351</u>	0.1435	0.1240	0.1441	0.1777	0.1653
195	0.1899	0.1711	0.1239	0.1347	<u>0.1347</u>	0.1432	0.1237	0.1437	0.1773	0.1648
196	0.1894	0.1706	0.1235	0.1343	<u>0.1343</u>	0.1428	0.1234	0.1433	0.1768	0.1644
197	0.1889	0.1702	0.1232	0.1340	<u>0.1340</u>	0.1424	0.1230	0.1429	0.1763	0.1639
198	0.1884	0.1697	0.1228	0.1336	<u>0.1336</u>	0.1420	0.1227	0.1425	0.1758	0.1635
199	0.1879	0.1692	0.1225	0.1332	<u>0.1332</u>	0.1416	0.1224	0.1422	0.1753	0.1630
200	0.1874	0.1688	0.1222	0.1329	<u>0.1329</u>	0.1412	0.1220	0.1418	0.1748	0.1626
201	0.1868	0.1683	0.1218	0.1325	<u>0.1325</u>	0.1409	0.1217	0.1414	0.1744	0.1621
202	0.1863	0.1678	0.1215	0.1321	<u>0.1321</u>	0.1405	0.1214	0.1410	0.1739	0.1617
203	0.1858	0.1674	0.1211	0.1318	<u>0.1318</u>	0.1401	0.1210	0.1406	0.1734	0.1612
204	0.1853	0.1669	0.1208	0.1314	<u>0.1314</u>	0.1397	0.1207	0.1402	0.1729	0.1608
205	0.1848	0.1664	0.1205	0.1310	<u>0.1310</u>	0.1393	0.1204	0.1398	0.1724	0.1604
206	0.1843	0.1660	0.1201	0.1307	<u>0.1307</u>	0.1389	0.1200	0.1394	0.1720	0.1599
207	0.1838	0.1655	0.1198	0.1303	<u>0.1303</u>	0.1386	0.1197	0.1391	0.1715	0.1595
208	0.1833	0.1651	0.1195	0.1300	<u>0.1300</u>	0.1382	0.1194	0.1387	0.1710	0.1591
209	0.1828	0.1646	0.1192	0.1296	<u>0.1296</u>	0.1378	0.1191	0.1383	0.1706	0.1586
210	0.1823	0.1642	0.1188	0.1293	<u>0.1293</u>	0.1374	0.1187	0.1379	0.1701	0.1582
211	0.1818	0.1637	0.1185	0.1289	<u>0.1289</u>	0.1370	0.1184	0.1375	0.1696	0.1578
212	0.1813	0.1633	0.1182	0.1285	<u>0.1285</u>	0.1366	0.1181	0.1371	0.1692	0.1573
213	0.1808	0.1628	0.1179	0.1282	<u>0.1282</u>	0.1363	0.1178	0.1368	0.1687	0.1569
214	0.1803	0.1624	0.1175	0.1278	<u>0.1278</u>	0.1359	0.1174	0.1364	0.1682	0.1565
215	0.1798	0.1619	0.1172	0.1275	<u>0.1275</u>	0.1355	0.1171	0.1360	0.1678	0.1560
216	0.1793	0.1615	0.1169	0.1271	<u>0.1271</u>	0.1351	0.1168	0.1356	0.1673	0.1556
217	0.1788	0.1611	0.1166	0.1268	<u>0.1268</u>	0.1347	0.1165	0.1352	0.1668	0.1552
218	0.1783	0.1606	0.1163	0.1264	<u>0.1264</u>	0.1344	0.1162	0.1349	0.1664	0.1547
219	0.1779	0.1602	0.1159	0.1261	<u>0.1261</u>	0.1340	0.1158	0.1345	0.1659	0.1543
220	0.1774	0.1597	0.1156	0.1257	<u>0.1257</u>	0.1337	0.1155	0.1341	0.1655	0.1539
221	0.1769	0.1593	0.1153	0.1254	<u>0.1254</u>	0.1333	0.1152	0.1338	0.1650	0.1535
222	0.1764	0.1588	0.1150	0.1250	<u>0.1250</u>	0.1330	0.1149	0.1334	0.1646	0.1530
223	0.1759	0.1584	0.1147	0.1247	<u>0.1247</u>	0.1326	0.1146	0.1330	0.1641	0.1526
224	0.1754	0.1580	0.1144	0.1244	<u>0.1244</u>	0.1322	0.1143	0.1327	0.1636	0.1522
225	0.1750	0.1575	0.1140	0.1240	<u>0.1240</u>	0.1319	0.1139	0.1323	0.1632	0.1518
226	0.1745	0.1571	0.1137	0.1237	<u>0.1237</u>	0.1315	0.1136	0.1319	0.1627	0.1513
227	0.1740	0.1566	0.1134	0.1233	<u>0.1233</u>	0.1312	0.1133	0.1316	0.1623	0.1509
228	0.1735	0.1562	0.1131	0.1230	<u>0.1230</u>	0.1308	0.1130	0.1312	0.1618	0.1505
229	0.1730	0.1558	0.1128	0.1227	<u>0.1227</u>	0.1304	0.1127	0.1308	0.1614	0.1501
230	0.1726	0.1554	0.1125	0.1223	<u>0.1223</u>	0.1301	0.1124	0.1305	0.1609	0.1497
231	0.1721	0.1549	0.1122	0.1220	<u>0.1220</u>	0.1297	0.1121	0.1301	0.1605	0.1493
232	0.1716	0.1545	0.1119	0.1217	<u>0.1217</u>	0.1294	0.1118	0.1298	0.1601	0.1489
233	0.1712	0.1541	0.1116	0.1213	<u>0.1213</u>	0.1290	0.1115	0.1294	0.1596	0.1485
234	0.1707	0.1537	0.1113	0.1210	<u>0.1210</u>	0.1287	0.1112	0.1291	0.1592	0.1481
235	0.1702	0.1533	0.1109	0.1207	<u>0.1207</u>	0.1283	0.1108	0.1287	0.1588	0.1477
236	0.1698	0.1529	0.1106	0.1203	<u>0.1203</u>	0.1279	0.1105	0.1284	0.1583	0.1473
237	0.1693	0.1524	0.1103	0.1200	<u>0.1200</u>	0.1276	0.1102	0.1280	0.1579	0.1469
238	0.1688	0.1520	0.1100	0.1197	<u>0.1197</u>	0.1272	0.1099	0.1277	0.1575	0.1465
239	0.1684	0.1516	0.1097	0.1193	<u>0.1193</u>	0.1269	0.1096	0.1273	0.1570	0.1461
240	0.1679	0.1512	0.1094	0.1190	<u>0.1190</u>	0.1265	0.1093	0.1270	0.1566	0.1457
241	0.1674	0.1508	0.1091	0.1187	<u>0.1187</u>	0.1262	0.1090	0.1267	0.1562	0.1453
242	0.1670	0.1504	0.1088	0.1184	<u>0.1184</u>	0.1258	0.1087	0.1263	0.1557	0.1449
243	0.1665	0.1500	0.1085	0.1180	<u>0.1180</u>	0.1255	0.1084	0.1260	0.1553	0.1445
244	0.1661	0.1496	0.1082	0.1177	<u>0.1177</u>	0.1251	0.1081	0.1256	0.1549	0.1441
245	0.1656	0.1492	0.1079	0.1174	<u>0.1174</u>	0.1248	0.1078	0.1253	0.1545	0.1437
246	0.1652	0.1488	0.1076	0.1171	<u>0.1171</u>	0.1244	0.1075	0.1249	0.1540	0.1433

Months to NRA <u>URA</u> ²	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	<u>PSERS</u>	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
247	0.1647	0.1483	0.1074	0.1168	<u>0.1168</u>	0.1241	0.1073	0.1246	0.1536	0.1429
248	0.1642	0.1479	0.1071	0.1165	<u>0.1165</u>	0.1238	0.1070	0.1243	0.1532	0.1425
249	0.1638	0.1475	0.1068	0.1161	<u>0.1161</u>	0.1234	0.1067	0.1239	0.1528	0.1421
250	0.1633	0.1471	0.1065	0.1158	<u>0.1158</u>	0.1231	0.1064	0.1236	0.1523	0.1417
251	0.1629	0.1467	0.1062	0.1155	<u>0.1155</u>	0.1227	0.1061	0.1232	0.1519	0.1413
252	0.1624	0.1463	0.1059	0.1152	<u>0.1152</u>	0.1224	0.1058	0.1229	0.1515	0.1409
253	0.1620	0.1459	0.1056	0.1149	<u>0.1149</u>	0.1221	0.1055	0.1226	0.1511	0.1405
254	0.1615	0.1455	0.1053	0.1146	<u>0.1146</u>	0.1217	0.1052	0.1222	0.1507	0.1401
255	0.1611	0.1451	0.1051	0.1142	<u>0.1142</u>	0.1214	0.1049	0.1219	0.1503	0.1398
256	0.1607	0.1447	0.1048	0.1139	<u>0.1139</u>	0.1211	0.1046	0.1216	0.1499	0.1394
257	0.1602	0.1443	0.1045	0.1136	<u>0.1136</u>	0.1208	0.1043	0.1212	0.1495	0.1390
258	0.1598	0.1439	0.1042	0.1133	<u>0.1133</u>	0.1204	0.1040	0.1209	0.1491	0.1386
259	0.1594	0.1435	0.1039	0.1130	<u>0.1130</u>	0.1201	0.1038	0.1206	0.1486	0.1383
260	0.1589	0.1431	0.1036	0.1127	<u>0.1127</u>	0.1198	0.1035	0.1202	0.1482	0.1379
261	0.1585	0.1427	0.1034	0.1123	<u>0.1123</u>	0.1195	0.1032	0.1199	0.1478	0.1375
262	0.1581	0.1423	0.1031	0.1120	<u>0.1120</u>	0.1191	0.1029	0.1196	0.1474	0.1371
263	0.1576	0.1419	0.1028	0.1117	<u>0.1117</u>	0.1188	0.1026	0.1192	0.1470	0.1368
264	0.1572	0.1415	0.1025	0.1114	<u>0.1114</u>	0.1185	0.1023	0.1189	0.1466	0.1364
265	0.1568	0.1411	0.1022	0.1111	<u>0.1111</u>	0.1182	0.1020	0.1186	0.1462	0.1360
266	0.1563	0.1407	0.1019	0.1108	<u>0.1108</u>	0.1178	0.1017	0.1182	0.1458	0.1357
267	0.1559	0.1404	0.1017	0.1105	<u>0.1105</u>	0.1175	0.1015	0.1179	0.1454	0.1353
268	0.1555	0.1400	0.1014	0.1102	<u>0.1102</u>	0.1172	0.1012	0.1176	0.1450	0.1349
269	0.1551	0.1396	0.1011	0.1099	<u>0.1099</u>	0.1169	0.1009	0.1173	0.1446	0.1346
270	0.1546	0.1392	0.1008	0.1096	<u>0.1096</u>	0.1165	0.1006	0.1169	0.1442	0.1342
271	0.1542	0.1389	0.1006	0.1093	<u>0.1093</u>	0.1162	0.1004	0.1166	0.1439	0.1338
272	0.1538	0.1385	0.1003	0.1090	<u>0.1090</u>	0.1159	0.1001	0.1163	0.1435	0.1335
273	0.1534	0.1381	0.1000	0.1087	<u>0.1087</u>	0.1156	0.0998	0.1160	0.1431	0.1331
274	0.1529	0.1377	0.0997	0.1084	<u>0.1084</u>	0.1152	0.0995	0.1156	0.1427	0.1327
275	0.1525	0.1374	0.0995	0.1081	<u>0.1081</u>	0.1149	0.0993	0.1153	0.1423	0.1324
276	0.1521	0.1370	0.0992	0.1078	<u>0.1078</u>	0.1146	0.0990	0.1150	0.1419	0.1320
277	0.1517	0.1366	0.0989	0.1075	<u>0.1075</u>	0.1143	0.0987	0.1147	0.1415	0.1316
278	0.1513	0.1362	0.0986	0.1072	<u>0.1072</u>	0.1140	0.0985	0.1144	0.1411	0.1313
279	0.1509	0.1359	0.0984	0.1069	<u>0.1069</u>	0.1137	0.0982	0.1141	0.1408	0.1309
280	0.1505	0.1355	0.0981	0.1066	<u>0.1066</u>	0.1134	0.0979	0.1138	0.1404	0.1306
281	0.1501	0.1351	0.0978	0.1063	<u>0.1063</u>	0.1131	0.0977	0.1135	0.1400	0.1302
282	0.1497	0.1347	0.0975	0.1060	<u>0.1060</u>	0.1128	0.0974	0.1132	0.1396	0.1299
283	0.1492	0.1344	0.0973	0.1058	<u>0.1058</u>	0.1124	0.0971	0.1128	0.1392	0.1295
284	0.1488	0.1340	0.0970	0.1055	<u>0.1055</u>	0.1121	0.0969	0.1125	0.1388	0.1291
285	0.1484	0.1336	0.0967	0.1052	<u>0.1052</u>	0.1118	0.0966	0.1122	0.1385	0.1288
286	0.1480	0.1332	0.0964	0.1049	<u>0.1049</u>	0.1115	0.0963	0.1119	0.1381	0.1284
287	0.1476	0.1329	0.0962	0.1046	<u>0.1046</u>	0.1112	0.0961	0.1116	0.1377	0.1281
288	0.1472	0.1325	0.0959	0.1043	<u>0.1043</u>	0.1109	0.0958	0.1113	0.1373	0.1277
289	0.1468	0.1321	0.0956	0.1040	<u>0.1040</u>	0.1106	0.0955	0.1110	0.1369	0.1273
290	0.1464	0.1318	0.0954	0.1037	<u>0.1037</u>	0.1103	0.0953	0.1107	0.1365	0.1270
291	0.1460	0.1314	0.0951	0.1035	<u>0.1035</u>	0.1100	0.0950	0.1104	0.1362	0.1266
292	0.1456	0.1311	0.0949	0.1032	<u>0.1032</u>	0.1097	0.0948	0.1101	0.1358	0.1263
293	0.1452	0.1307	0.0946	0.1029	<u>0.1029</u>	0.1094	0.0945	0.1098	0.1354	0.1259
294	0.1448	0.1304	0.0944	0.1026	<u>0.1026</u>	0.1091	0.0943	0.1095	0.1350	0.1256
295	0.1444	0.1300	0.0941	0.1023	<u>0.1023</u>	0.1088	0.0940	0.1092	0.1347	0.1252
296	0.1440	0.1296	0.0938	0.1020	<u>0.1020</u>	0.1085	0.0937	0.1089	0.1343	0.1249
297	0.1436	0.1293	0.0936	0.1018	<u>0.1018</u>	0.1082	0.0935	0.1086	0.1339	0.1245
298	0.1432	0.1289	0.0933	0.1015	<u>0.1015</u>	0.1079	0.0932	0.1083	0.1335	0.1242
299	0.1428	0.1286	0.0931	0.1012	<u>0.1012</u>	0.1076	0.0930	0.1080	0.1332	0.1238
300	0.1424	0.1282	0.0928	0.1009	<u>0.1009</u>	0.1073	0.0927	0.1077	0.1328	0.1235
301	0.1420	0.1279	0.0925	0.1006	<u>0.1006</u>	0.1070	0.0924	0.1074	0.1324	0.1232

Months to NRA <u>URA</u> ²	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	<u>PSERS</u>	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
302	0.1416	0.1275	0.0923	0.1004	<u>0.1004</u>	0.1067	0.0922	0.1071	0.1321	0.1228
303	0.1413	0.1272	0.0920	0.1001	<u>0.1001</u>	0.1064	0.0919	0.1068	0.1317	0.1225
304	0.1409	0.1268	0.0918	0.0998	<u>0.0998</u>	0.1061	0.0917	0.1065	0.1314	0.1222
305	0.1405	0.1265	0.0915	0.0996	<u>0.0996</u>	0.1058	0.0914	0.1062	0.1310	0.1218
306	0.1401	0.1261	0.0913	0.0993	<u>0.0993</u>	0.1055	0.0912	0.1059	0.1307	0.1215
307	0.1397	0.1258	0.0910	0.0990	<u>0.0990</u>	0.1053	0.0909	0.1057	0.1303	0.1212
308	0.1393	0.1255	0.0908	0.0988	<u>0.0988</u>	0.1050	0.0907	0.1054	0.1299	0.1208
309	0.1390	0.1251	0.0905	0.0985	<u>0.0985</u>	0.1047	0.0904	0.1051	0.1296	0.1205
310	0.1386	0.1248	0.0903	0.0982	<u>0.0982</u>	0.1044	0.0902	0.1048	0.1292	0.1202
311	0.1382	0.1244	0.0900	0.0980	<u>0.0980</u>	0.1041	0.0899	0.1045	0.1289	0.1198
312	0.1378	0.1241	0.0898	0.0977	<u>0.0977</u>	0.1038	0.0897	0.1042	0.1285	0.1195
313	0.1374	0.1238	0.0896	0.0974	<u>0.0974</u>	0.1035	0.0895	0.1039	0.1281	0.1192
314	0.1370	0.1234	0.0893	0.0972	<u>0.0972</u>	0.1032	0.0892	0.1036	0.1278	0.1189
315	0.1367	0.1231	0.0891	0.0969	<u>0.0969</u>	0.1030	0.0890	0.1034	0.1274	0.1185
316	0.1363	0.1227	0.0888	0.0966	<u>0.0966</u>	0.1027	0.0887	0.1031	0.1271	0.1182
317	0.1359	0.1224	0.0886	0.0964	<u>0.0964</u>	0.1024	0.0885	0.1028	0.1267	0.1179
318	0.1355	0.1220	0.0883	0.0961	<u>0.0961</u>	0.1021	0.0882	0.1025	0.1264	0.1176
319	0.1352	0.1217	0.0881	0.0958	<u>0.0958</u>	0.1019	0.0880	0.1022	0.1260	0.1173
320	0.1348	0.1214	0.0879	0.0956	<u>0.0956</u>	0.1016	0.0878	0.1019	0.1257	0.1170
321	0.1344	0.1210	0.0876	0.0953	<u>0.0953</u>	0.1013	0.0875	0.1017	0.1253	0.1166
322	0.1340	0.1207	0.0874	0.0950	<u>0.0950</u>	0.1010	0.0873	0.1014	0.1250	0.1163
323	0.1337	0.1203	0.0871	0.0948	<u>0.0948</u>	0.1008	0.0870	0.1011	0.1246	0.1160
324	0.1333	0.1200	0.0869	0.0945	<u>0.0945</u>	0.1005	0.0868	0.1008	0.1243	0.1157
325	0.1329	0.1197	0.0867	0.0942	<u>0.0942</u>	0.1002	0.0866	0.1005	0.1240	0.1154
326	0.1326	0.1194	0.0864	0.0940	<u>0.0940</u>	0.0999	0.0863	0.1003	0.1236	0.1151
327	0.1322	0.1190	0.0862	0.0937	<u>0.0937</u>	0.0997	0.0861	0.1000	0.1233	0.1147
328	0.1319	0.1187	0.0860	0.0935	<u>0.0935</u>	0.0994	0.0859	0.0997	0.1230	0.1144
329	0.1315	0.1184	0.0857	0.0932	<u>0.0932</u>	0.0991	0.0856	0.0995	0.1226	0.1141
330	0.1312	0.1181	0.0855	0.0930	<u>0.0930</u>	0.0988	0.0854	0.0992	0.1223	0.1138
331	0.1308	0.1178	0.0853	0.0927	<u>0.0927</u>	0.0986	0.0852	0.0989	0.1220	0.1135
332	0.1304	0.1175	0.0850	0.0924	<u>0.0924</u>	0.0983	0.0849	0.0987	0.1216	0.1132
333	0.1301	0.1171	0.0848	0.0922	<u>0.0922</u>	0.0980	0.0847	0.0984	0.1213	0.1128
334	0.1297	0.1168	0.0846	0.0919	<u>0.0919</u>	0.0977	0.0845	0.0981	0.1210	0.1125
335	0.1294	0.1165	0.0843	0.0917	<u>0.0917</u>	0.0975	0.0842	0.0979	0.1206	0.1122
336	0.1290	0.1162	0.0841	0.0914	<u>0.0914</u>	0.0972	0.0840	0.0976	0.1203	0.1119
337	0.1286	0.1159	0.0839	0.0912	<u>0.0912</u>	0.0969	0.0838	0.0973	0.1200	0.1116
338	0.1283	0.1156	0.0836	0.0909	<u>0.0909</u>	0.0967	0.0835	0.0971	0.1196	0.1113
339	0.1279	0.1152	0.0834	0.0907	<u>0.0907</u>	0.0964	0.0833	0.0968	0.1193	0.1110
340	0.1276	0.1149	0.0832	0.0904	<u>0.0904</u>	0.0962	0.0831	0.0965	0.1190	0.1107
341	0.1272	0.1146	0.0830	0.0902	<u>0.0902</u>	0.0959	0.0829	0.0963	0.1187	0.1104
342	0.1269	0.1143	0.0827	0.0899	<u>0.0899</u>	0.0957	0.0826	0.0960	0.1183	0.1101
343	0.1265	0.1140	0.0825	0.0897	<u>0.0897</u>	0.0954	0.0824	0.0957	0.1180	0.1098
344	0.1262	0.1137	0.0823	0.0895	<u>0.0895</u>	0.0951	0.0822	0.0955	0.1177	0.1095
345	0.1258	0.1133	0.0821	0.0892	<u>0.0892</u>	0.0949	0.0820	0.0952	0.1174	0.1092
346	0.1255	0.1130	0.0818	0.0890	<u>0.0890</u>	0.0946	0.0817	0.0949	0.1170	0.1089
347	0.1251	0.1127	0.0816	0.0887	<u>0.0887</u>	0.0944	0.0815	0.0947	0.1167	0.1086
348	0.1248	0.1124	0.0814	0.0885	<u>0.0885</u>	0.0941	0.0813	0.0944	0.1164	0.1083
349	0.1245	0.1121	0.0812	0.0883	<u>0.0883</u>	0.0938	0.0811	0.0941	0.1161	0.1080
350	0.1241	0.1118	0.0809	0.0880	<u>0.0880</u>	0.0936	0.0808	0.0939	0.1158	0.1077
351	0.1238	0.1115	0.0807	0.0878	<u>0.0878</u>	0.0933	0.0806	0.0936	0.1154	0.1074
352	0.1235	0.1112	0.0805	0.0875	<u>0.0875</u>	0.0931	0.0804	0.0934	0.1151	0.1071
353	0.1231	0.1109	0.0803	0.0873	<u>0.0873</u>	0.0928	0.0802	0.0931	0.1148	0.1068
354	0.1228	0.1106	0.0800	0.0870	<u>0.0870</u>	0.0926	0.0799	0.0929	0.1145	0.1065
355	0.1225	0.1103	0.0798	0.0868	<u>0.0868</u>	0.0923	0.0797	0.0926	0.1142	0.1063
356	0.1221	0.1100	0.0796	0.0866	<u>0.0866</u>	0.0920	0.0795	0.0923	0.1139	0.1060

Months to NRA <u>URA</u> ²	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	<u>PSERS</u>	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
357	0.1218	0.1097	0.0794	0.0863	<u>0.0863</u>	0.0918	0.0793	0.0921	0.1135	0.1057
358	0.1215	0.1094	0.0791	0.0861	<u>0.0861</u>	0.0915	0.0790	0.0918	0.1132	0.1054
359	0.1211	0.1091	0.0789	0.0858	<u>0.0858</u>	0.0913	0.0788	0.0916	0.1129	0.1051
360	0.1208	0.1088	0.0787	0.0856	<u>0.0856</u>	0.0910	0.0786	0.0913	0.1126	0.1048
361	0.1205	0.1085	0.0785	0.0854	<u>0.0854</u>	0.0908	0.0784	0.0911	0.1123	0.1045
362	0.1201	0.1082	0.0783	0.0851	<u>0.0851</u>	0.0905	0.0782	0.0908	0.1120	0.1042
363	0.1198	0.1079	0.0781	0.0849	<u>0.0849</u>	0.0903	0.0780	0.0906	0.1117	0.1040
364	0.1195	0.1076	0.0779	0.0847	<u>0.0847</u>	0.0900	0.0778	0.0903	0.1114	0.1037
365	0.1191	0.1073	0.0777	0.0844	<u>0.0844</u>	0.0898	0.0776	0.0901	0.1111	0.1034
366	0.1188	0.1070	0.0775	0.0842	<u>0.0842</u>	0.0895	0.0774	0.0898	0.1108	0.1031
367	0.1185	0.1067	0.0772	0.0840	<u>0.0840</u>	0.0893	0.0771	0.0896	0.1105	0.1028
368	0.1181	0.1064	0.0770	0.0837	<u>0.0837</u>	0.0891	0.0769	0.0894	0.1102	0.1025
369	0.1178	0.1061	0.0768	0.0835	<u>0.0835</u>	0.0888	0.0767	0.0891	0.1099	0.1023
370	0.1175	0.1058	0.0766	0.0833	<u>0.0833</u>	0.0886	0.0765	0.0889	0.1096	0.1020
371	0.1171	0.1055	0.0764	0.0830	<u>0.0830</u>	0.0883	0.0763	0.0886	0.1093	0.1017
372	0.1168	0.1052	0.0762	0.0828	<u>0.0828</u>	0.0881	0.0761	0.0884	0.1090	0.1014
373	0.1165	0.1049	0.0760	0.0826	<u>0.0826</u>	0.0879	0.0759	0.0882	0.1087	0.1011
374	0.1162	0.1046	0.0758	0.0824	<u>0.0824</u>	0.0876	0.0757	0.0879	0.1084	0.1008
375	0.1159	0.1044	0.0756	0.0821	<u>0.0821</u>	0.0874	0.0755	0.0877	0.1081	0.1006
376	0.1156	0.1041	0.0754	0.0819	<u>0.0819</u>	0.0871	0.0753	0.0874	0.1078	0.1003
377	0.1153	0.1038	0.0752	0.0817	<u>0.0817</u>	0.0869	0.0751	0.0872	0.1075	0.1000
378	0.1150	0.1035	0.0750	0.0815	<u>0.0815</u>	0.0866	0.0749	0.0869	0.1072	0.0997
379	0.1146	0.1032	0.0747	0.0813	<u>0.0813</u>	0.0864	0.0746	0.0867	0.1070	0.0995
380	0.1143	0.1029	0.0745	0.0811	<u>0.0811</u>	0.0862	0.0744	0.0865	0.1067	0.0992
381	0.1140	0.1027	0.0743	0.0808	<u>0.0808</u>	0.0859	0.0742	0.0862	0.1064	0.0989
382	0.1137	0.1024	0.0741	0.0806	<u>0.0806</u>	0.0857	0.0740	0.0860	0.1061	0.0986
383	0.1134	0.1021	0.0739	0.0804	<u>0.0804</u>	0.0854	0.0738	0.0857	0.1058	0.0984
384	0.1131	0.1018	0.0737	0.0802	<u>0.0802</u>	0.0852	0.0736	0.0855	0.1055	0.0981
385	0.1128	0.1015	0.0735	0.0800	<u>0.0800</u>	0.0850	0.0734	0.0853	0.1052	0.0978
386	0.1125	0.1012	0.0733	0.0798	<u>0.0798</u>	0.0847	0.0732	0.0850	0.1049	0.0976
387	0.1122	0.1010	0.0731	0.0795	<u>0.0795</u>	0.0845	0.0730	0.0848	0.1046	0.0973
388	0.1119	0.1007	0.0729	0.0793	<u>0.0793</u>	0.0843	0.0728	0.0846	0.1043	0.0970
389	0.1116	0.1004	0.0727	0.0791	<u>0.0791</u>	0.0840	0.0726	0.0843	0.1040	0.0968
390	0.1113	0.1001	0.0725	0.0789	<u>0.0789</u>	0.0838	0.0724	0.0841	0.1037	0.0965
391	0.1109	0.0999	0.0723	0.0787	<u>0.0787</u>	0.0836	0.0722	0.0839	0.1035	0.0962
392	0.1106	0.0996	0.0721	0.0785	<u>0.0785</u>	0.0833	0.0720	0.0836	0.1032	0.0960
393	0.1103	0.0993	0.0719	0.0782	<u>0.0782</u>	0.0831	0.0718	0.0834	0.1029	0.0957
394	0.1100	0.0990	0.0717	0.0780	<u>0.0780</u>	0.0829	0.0716	0.0832	0.1026	0.0954
395	0.1097	0.0988	0.0715	0.0778	<u>0.0778</u>	0.0826	0.0714	0.0829	0.1023	0.0952
396	0.1094	0.0985	0.0713	0.0776	<u>0.0776</u>	0.0824	0.0712	0.0827	0.1020	0.0949
397	0.1091	0.0982	0.0711	0.0774	<u>0.0774</u>	0.0822	0.0710	0.0825	0.1017	0.0946
398	0.1088	0.0980	0.0709	0.0772	<u>0.0772</u>	0.0820	0.0708	0.0823	0.1014	0.0944
399	0.1085	0.0977	0.0707	0.0769	<u>0.0769</u>	0.0817	0.0706	0.0820	0.1012	0.0941
400	0.1082	0.0974	0.0705	0.0767	<u>0.0767</u>	0.0815	0.0704	0.0818	0.1009	0.0939
401	0.1079	0.0972	0.0703	0.0765	<u>0.0765</u>	0.0813	0.0702	0.0816	0.1006	0.0936
402	0.1076	0.0969	0.0701	0.0763	<u>0.0763</u>	0.0811	0.0700	0.0814	0.1003	0.0934
403	0.1074	0.0966	0.0700	0.0761	<u>0.0761</u>	0.0809	0.0699	0.0812	0.1001	0.0931
404	0.1071	0.0964	0.0698	0.0759	<u>0.0759</u>	0.0807	0.0697	0.0810	0.0998	0.0928
405	0.1068	0.0961	0.0696	0.0756	<u>0.0756</u>	0.0804	0.0695	0.0807	0.0995	0.0926
406	0.1065	0.0958	0.0694	0.0754	<u>0.0754</u>	0.0802	0.0693	0.0805	0.0992	0.0923
407	0.1062	0.0956	0.0692	0.0752	<u>0.0752</u>	0.0800	0.0691	0.0803	0.0990	0.0921
408	0.1059	0.0953	0.0690	0.0750	<u>0.0750</u>	0.0798	0.0689	0.0801	0.0987	0.0918
409	0.1056	0.0950	0.0688	0.0748	<u>0.0748</u>	0.0796	0.0687	0.0799	0.0984	0.0916
410	0.1053	0.0948	0.0686	0.0746	<u>0.0746</u>	0.0794	0.0685	0.0797	0.0982	0.0913
411	0.1050	0.0945	0.0685	0.0744	<u>0.0744</u>	0.0791	0.0684	0.0794	0.0979	0.0911

Months to NRA URA ²	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	<u>PSERS</u>	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
412	0.1047	0.0943	0.0683	0.0742	<u>0.0742</u>	0.0789	0.0682	0.0792	0.0976	0.0908
413	0.1044	0.0940	0.0681	0.0740	<u>0.0740</u>	0.0787	0.0680	0.0790	0.0974	0.0906
414	0.1041	0.0938	0.0679	0.0738	<u>0.0738</u>	0.0785	0.0678	0.0788	0.0971	0.0903
415	0.1039	0.0935	0.0677	0.0736	<u>0.0736</u>	0.0783	0.0676	0.0786	0.0968	0.0901
416	0.1036	0.0932	0.0675	0.0734	<u>0.0734</u>	0.0781	0.0674	0.0784	0.0966	0.0899
417	0.1033	0.0930	0.0674	0.0732	<u>0.0732</u>	0.0778	0.0673	0.0781	0.0963	0.0896
418	0.1030	0.0927	0.0672	0.0730	<u>0.0730</u>	0.0776	0.0671	0.0779	0.0960	0.0894
419	0.1027	0.0925	0.0670	0.0728	<u>0.0728</u>	0.0774	0.0669	0.0777	0.0958	0.0891
420	0.1024	0.0922	0.0668	0.0726	<u>0.0726</u>	0.0772	0.0667	0.0775	0.0955	0.0889
421	0.1021	0.0919	0.0666	0.0724	<u>0.0724</u>	0.0770	0.0665	0.0773	0.0952	0.0887
422	0.1018	0.0917	0.0664	0.0722	<u>0.0722</u>	0.0768	0.0663	0.0771	0.0950	0.0884
423	0.1016	0.0914	0.0663	0.0720	<u>0.0720</u>	0.0766	0.0662	0.0769	0.0947	0.0882
424	0.1013	0.0912	0.0661	0.0718	<u>0.0718</u>	0.0764	0.0660	0.0767	0.0945	0.0879
425	0.1010	0.0909	0.0659	0.0716	<u>0.0716</u>	0.0762	0.0658	0.0765	0.0942	0.0877
426	0.1007	0.0907	0.0657	0.0714	<u>0.0714</u>	0.0760	0.0656	0.0763	0.0940	0.0874
427	0.1005	0.0904	0.0655	0.0713	<u>0.0713</u>	0.0757	0.0654	0.0760	0.0937	0.0872
428	0.1002	0.0902	0.0653	0.0711	<u>0.0711</u>	0.0755	0.0652	0.0758	0.0934	0.0870
429	0.0999	0.0899	0.0652	0.0709	<u>0.0709</u>	0.0753	0.0651	0.0756	0.0932	0.0867
430	0.0996	0.0897	0.0650	0.0707	<u>0.0707</u>	0.0751	0.0649	0.0754	0.0929	0.0865
431	0.0994	0.0894	0.0648	0.0705	<u>0.0705</u>	0.0749	0.0647	0.0752	0.0927	0.0862
432	0.0991	0.0892	0.0646	0.0703	<u>0.0703</u>	0.0747	0.0645	0.0750	0.0924	0.0860
433	0.0988	0.0890	0.0644	0.0701	<u>0.0701</u>	0.0745	0.0643	0.0748	0.0921	0.0858
434	0.0986	0.0887	0.0642	0.0699	<u>0.0699</u>	0.0743	0.0641	0.0746	0.0919	0.0855
435	0.0983	0.0885	0.0641	0.0697	<u>0.0697</u>	0.0741	0.0640	0.0744	0.0916	0.0853
436	0.0980	0.0883	0.0639	0.0695	<u>0.0695</u>	0.0739	0.0638	0.0742	0.0914	0.0851
437	0.0978	0.0880	0.0637	0.0693	<u>0.0693</u>	0.0737	0.0636	0.0740	0.0911	0.0848
438	0.0975	0.0878	0.0635	0.0691	<u>0.0691</u>	0.0735	0.0634	0.0738	0.0909	0.0846
439	0.0972	0.0876	0.0634	0.0690	<u>0.0690</u>	0.0733	0.0633	0.0735	0.0906	0.0844
440	0.0970	0.0873	0.0632	0.0688	<u>0.0688</u>	0.0731	0.0631	0.0733	0.0904	0.0841
441	0.0967	0.0871	0.0630	0.0686	<u>0.0686</u>	0.0729	0.0629	0.0731	0.0901	0.0839
442	0.0964	0.0869	0.0628	0.0684	<u>0.0684</u>	0.0727	0.0627	0.0729	0.0899	0.0837
443	0.0962	0.0866	0.0627	0.0682	<u>0.0682</u>	0.0725	0.0626	0.0727	0.0896	0.0834
444	0.0959	0.0864	0.0625	0.0680	<u>0.0680</u>	0.0723	0.0624	0.0725	0.0894	0.0832
445	0.0956	0.0862	0.0623	0.0678	<u>0.0678</u>	0.0721	0.0622	0.0723	0.0892	0.0830
446	0.0954	0.0859	0.0622	0.0676	<u>0.0676</u>	0.0719	0.0621	0.0721	0.0889	0.0827
447	0.0951	0.0857	0.0620	0.0675	<u>0.0675</u>	0.0717	0.0619	0.0719	0.0887	0.0825
448	0.0949	0.0855	0.0618	0.0673	<u>0.0673</u>	0.0715	0.0617	0.0717	0.0884	0.0823
449	0.0946	0.0852	0.0617	0.0671	<u>0.0671</u>	0.0713	0.0616	0.0715	0.0882	0.0821
450	0.0944	0.0850	0.0615	0.0669	<u>0.0669</u>	0.0711	0.0614	0.0713	0.0879	0.0818
451	0.0941	0.0848	0.0613	0.0667	<u>0.0667</u>	0.0709	0.0612	0.0712	0.0877	0.0816
452	0.0938	0.0845	0.0612	0.0665	<u>0.0665</u>	0.0707	0.0611	0.0710	0.0875	0.0814
453	0.0936	0.0843	0.0610	0.0664	<u>0.0664</u>	0.0705	0.0609	0.0708	0.0872	0.0812
454	0.0933	0.0841	0.0608	0.0662	<u>0.0662</u>	0.0703	0.0607	0.0706	0.0870	0.0809
455	0.0931	0.0838	0.0607	0.0660	<u>0.0660</u>	0.0701	0.0606	0.0704	0.0867	0.0807
456	0.0928	0.0836	0.0605	0.0658	<u>0.0658</u>	0.0699	0.0604	0.0702	0.0865	0.0805
457	0.0925	0.0834	0.0603	0.0656	<u>0.0656</u>	0.0697	0.0602	0.0700	0.0863	0.0803
458	0.0923	0.0831	0.0602	0.0654	<u>0.0654</u>	0.0695	0.0601	0.0698	0.0860	0.0801
459	0.0920	0.0829	0.0600	0.0653	<u>0.0653</u>	0.0694	0.0599	0.0696	0.0858	0.0798
460	0.0918	0.0827	0.0598	0.0651	<u>0.0651</u>	0.0692	0.0598	0.0694	0.0856	0.0796
461	0.0915	0.0824	0.0597	0.0649	<u>0.0649</u>	0.0690	0.0596	0.0692	0.0853	0.0794
462	0.0913	0.0822	0.0595	0.0647	<u>0.0647</u>	0.0688	0.0595	0.0690	0.0851	0.0792
463	0.0910	0.0820	0.0593	0.0645	<u>0.0645</u>	0.0686	0.0593	0.0689	0.0849	0.0790
464	0.0908	0.0817	0.0592	0.0643	<u>0.0643</u>	0.0684	0.0591	0.0687	0.0846	0.0788
465	0.0905	0.0815	0.0590	0.0642	<u>0.0642</u>	0.0683	0.0590	0.0685	0.0844	0.0785
466	0.0903	0.0813	0.0588	0.0640	<u>0.0640</u>	0.0681	0.0588	0.0683	0.0842	0.0783

Months to NRA URA ²	LEOFF 1	LEOFF 2	PERS 1	PERS 2/3	<u>PSERS</u>	SERS 2/3	TRS 1	TRS 2/3	WSPRS 1	WSPRS 2
467	0.0900	0.0810	0.0587	0.0638	<u>0.0638</u>	0.0679	0.0587	0.0681	0.0839	0.0781
468	0.0898	0.0808	0.0585	0.0636	<u>0.0636</u>	0.0677	0.0585	0.0679	0.0837	0.0779
469	0.0896	0.0806	0.0583	0.0634	<u>0.0634</u>	0.0675	0.0583	0.0677	0.0835	0.0777
470	0.0893	0.0804	0.0582	0.0633	<u>0.0633</u>	0.0673	0.0582	0.0675	0.0832	0.0775
471	0.0891	0.0801	0.0580	0.0631	<u>0.0631</u>	0.0672	0.0580	0.0674	0.0830	0.0773
472	0.0888	0.0799	0.0579	0.0629	<u>0.0629</u>	0.0670	0.0579	0.0672	0.0828	0.0771
473	0.0886	0.0797	0.0577	0.0628	<u>0.0628</u>	0.0668	0.0577	0.0670	0.0826	0.0769
474	0.0883	0.0795	0.0576	0.0626	<u>0.0626</u>	0.0666	0.0576	0.0668	0.0823	0.0767
475	0.0881	0.0793	0.0574	0.0624	<u>0.0624</u>	0.0664	0.0574	0.0666	0.0821	0.0764
476	0.0879	0.0791	0.0572	0.0623	<u>0.0623</u>	0.0662	0.0572	0.0664	0.0819	0.0762
477	0.0876	0.0788	0.0571	0.0621	<u>0.0621</u>	0.0661	0.0571	0.0663	0.0817	0.0760
478	0.0874	0.0786	0.0569	0.0619	<u>0.0619</u>	0.0659	0.0569	0.0661	0.0814	0.0758
479	0.0871	0.0784	0.0568	0.0618	<u>0.0618</u>	0.0657	0.0568	0.0659	0.0812	0.0756
480	0.0869	0.0782	0.0566	0.0616	<u>0.0616</u>	0.0655	0.0566	0.0657	0.0810	0.0754

² Months to URA means the number of months between the age at which you establish or restore the service credit and the age at which you would be eligible to retire with an unreduced retirement allowance (URA).

~~((5))~~ (4) **Tables - Factor 2 and Factor 3.** Factors 2 and 3 will be used in the calculation of the cost to establish or restore service credit (~~purchase cost~~) only for a member in PERS Plan 1, TRS Plan 1, WSPRS Plan 1 (~~or WSPRS Plan~~) or 2, and only if the service credit (~~purchase~~) would allow the member to retire earlier.

FACTOR 2

Plan	Factor 2
PERS 1	0.00434
TRS 1	0.00383
WSPRS 1	0.00489
WSPRS 2	0.00460

FACTOR 3

Months to (NRA) URA	Factor 3
0	1.0000
1	0.9973
2	0.9946
3	0.9919
4	0.9892
5	0.9865
6	0.9838
7	0.9811
8	0.9784
9	0.9757
10	0.9730
11	0.9703
12	0.9676
13	0.9650
14	0.9624

Months to (NRA) URA	Factor 3
15	0.9597
16	0.9571
17	0.9545
18	0.9519
19	0.9493
20	0.9467
21	0.9440
22	0.9414
23	0.9388
24	0.9362
25	0.9337
26	0.9311
27	0.9286
28	0.9261
29	0.9236
30	0.9210
31	0.9185
32	0.9160
33	0.9135
34	0.9109
35	0.9084
36	0.9059
37	0.9034
38	0.9010
39	0.8985
40	0.8961
41	0.8936
42	0.8912
43	0.8887
44	0.8863
45	0.8838

Months to ((NRA)) URA	Factor 3
46	0.8814
47	0.8789
48	0.8765
49	0.8741
50	0.8718
51	0.8694
52	0.8670
53	0.8647
54	0.8623
55	0.8599
56	0.8576
57	0.8552
58	0.8528
59	0.8505
60	0.8481
61	0.8458
62	0.8435
63	0.8412
64	0.8389
65	0.8366
66	0.8343
67	0.8321
68	0.8298
69	0.8275
70	0.8252
71	0.8229
72	0.8206
73	0.8184
74	0.8162
75	0.8139
76	0.8117
77	0.8095
78	0.8073
79	0.8051
80	0.8029
81	0.8006
82	0.7984
83	0.7962
84	0.7940
85	0.7919
86	0.7897
87	0.7876
88	0.7854
89	0.7833
90	0.7811
91	0.7790
92	0.7769

Months to ((NRA)) URA	Factor 3
93	0.7747
94	0.7726
95	0.7704
96	0.7683
97	0.7662
98	0.7641
99	0.7621
100	0.7600
101	0.7579
102	0.7558
103	0.7538
104	0.7517
105	0.7496
106	0.7475
107	0.7455
108	0.7434
109	0.7414
110	0.7394
111	0.7374
112	0.7354
113	0.7334
114	0.7314
115	0.7293
116	0.7273
117	0.7253
118	0.7233
119	0.7213
120	0.7193
121	0.7174
122	0.7154
123	0.7135
124	0.7115
125	0.7096
126	0.7076
127	0.7057
128	0.7038
129	0.7018
130	0.6999
131	0.6979
132	0.6960
133	0.6941
134	0.6922
135	0.6904
136	0.6885
137	0.6866
138	0.6847
139	0.6829

Months to ((NRA)) URA	Factor 3
140	0.6810
141	0.6791
142	0.6772
143	0.6754
144	0.6735
145	0.6717
146	0.6698
147	0.6680
148	0.6662
149	0.6644
150	0.6625
151	0.6607
152	0.6589
153	0.6571
154	0.6552
155	0.6534
156	0.6516
157	0.6498
158	0.6481
159	0.6463
160	0.6446
161	0.6428
162	0.6411
163	0.6393
164	0.6375
165	0.6358
166	0.6340
167	0.6323
168	0.6305
169	0.6288
170	0.6271
171	0.6254
172	0.6237
173	0.6220
174	0.6203
175	0.6186
176	0.6169
177	0.6152
178	0.6135
179	0.6118
180	0.6101
181	0.6084
182	0.6068
183	0.6051
184	0.6035
185	0.6018
186	0.6002

Months to ((NRA)) URA	Factor 3
187	0.5985
188	0.5969
189	0.5952
190	0.5936
191	0.5919
192	0.5903
193	0.5887
194	0.5871
195	0.5855
196	0.5839
197	0.5823
198	0.5807
199	0.5792
200	0.5776
201	0.5760
202	0.5744
203	0.5728
204	0.5712
205	0.5697
206	0.5681
207	0.5666
208	0.5650
209	0.5635
210	0.5619
211	0.5604
212	0.5589
213	0.5573
214	0.5558
215	0.5542
216	0.5527
217	0.5512
218	0.5497
219	0.5482
220	0.5467
221	0.5452
222	0.5437
223	0.5423
224	0.5408
225	0.5393
226	0.5378
227	0.5363
228	0.5348
229	0.5333
230	0.5319
231	0.5304
232	0.5290
233	0.5275

Months to ((NRA)) URA	Factor 3
234	0.5261
235	0.5246
236	0.5232
237	0.5217
238	0.5203
239	0.5188
240	0.5174
241	0.5160
242	0.5146
243	0.5132
244	0.5118
245	0.5104
246	0.5090
247	0.5077
248	0.5063
249	0.5049
250	0.5035
251	0.5021
252	0.5007
253	0.4993
254	0.4980
255	0.4966
256	0.4953
257	0.4939
258	0.4926
259	0.4912
260	0.4898
261	0.4885
262	0.4871
263	0.4858
264	0.4844
265	0.4831
266	0.4818
267	0.4805
268	0.4792
269	0.4779
270	0.4766
271	0.4752
272	0.4739
273	0.4726
274	0.4713
275	0.4700
276	0.4687
277	0.4674
278	0.4662
279	0.4649
280	0.4636

Months to ((NRA)) URA	Factor 3
281	0.4624
282	0.4611
283	0.4598
284	0.4586
285	0.4573
286	0.4560
287	0.4548
288	0.4535
289	0.4523
290	0.4510
291	0.4498
292	0.4486
293	0.4474
294	0.4461
295	0.4449
296	0.4437
297	0.4425
298	0.4412
299	0.4400
300	0.4388
301	0.4376
302	0.4364
303	0.4353
304	0.4341
305	0.4329
306	0.4317
307	0.4305
308	0.4293
309	0.4282
310	0.4270
311	0.4258
312	0.4246
313	0.4235
314	0.4223
315	0.4212
316	0.4200
317	0.4189
318	0.4177
319	0.4166
320	0.4155
321	0.4143
322	0.4132
323	0.4120
324	0.4109
325	0.4098
326	0.4087
327	0.4075

Months to ((NRA)) URA	Factor 3
328	0.4064
329	0.4053
330	0.4042
331	0.4031
332	0.4020
333	0.4008
334	0.3997
335	0.3986
336	0.3975
337	0.3964
338	0.3954
339	0.3943
340	0.3932
341	0.3922
342	0.3911
343	0.3900
344	0.3890
345	0.3879
346	0.3868
347	0.3858
348	0.3847
349	0.3837
350	0.3826
351	0.3816
352	0.3805
353	0.3795
354	0.3784
355	0.3774
356	0.3764
357	0.3753
358	0.3743
359	0.3732
360	0.3722
361	0.3712
362	0.3702
363	0.3692
364	0.3682
365	0.3672
366	0.3662
367	0.3651
368	0.3641
369	0.3631
370	0.3621
371	0.3611
372	0.3601
373	0.3591
374	0.3582

Months to ((NRA)) URA	Factor 3
375	0.3572
376	0.3562
377	0.3553
378	0.3543
379	0.3533
380	0.3524
381	0.3514
382	0.3504
383	0.3495
384	0.3485
385	0.3476
386	0.3466
387	0.3457
388	0.3447
389	0.3438
390	0.3428
391	0.3419
392	0.3410
393	0.3400
394	0.3391
395	0.3381
396	0.3372
397	0.3363
398	0.3354
399	0.3344
400	0.3335
401	0.3326
402	0.3317
403	0.3308
404	0.3299
405	0.3289
406	0.3280
407	0.3271
408	0.3262
409	0.3253
410	0.3244
411	0.3236
412	0.3227
413	0.3218
414	0.3209
415	0.3201
416	0.3192
417	0.3183
418	0.3174
419	0.3166
420	0.3157
421	0.3148

Months to ((NRA) URA)	Factor 3
422	0.3140
423	0.3131
424	0.3123
425	0.3114
426	0.3106
427	0.3097
428	0.3088
429	0.3080
430	0.3071
431	0.3063
432	0.3054
433	0.3046
434	0.3037
435	0.3029
436	0.3021
437	0.3013
438	0.3004
439	0.2996
440	0.2988
441	0.2980
442	0.2971
443	0.2963
444	0.2955
445	0.2947
446	0.2939
447	0.2931
448	0.2923
449	0.2915
450	0.2907
451	0.2900
452	0.2892
453	0.2884
454	0.2876
455	0.2868
456	0.2860
457	0.2852
458	0.2844
459	0.2837
460	0.2829
461	0.2821
462	0.2813
463	0.2806
464	0.2798
465	0.2790
466	0.2782
467	0.2775
468	0.2767

Months to ((NRA) URA)	Factor 3
469	0.2759
470	0.2752
471	0.2744
472	0.2737
473	0.2729
474	0.2722
475	0.2714
476	0.2707
477	0.2699
478	0.2692
479	0.2684
480	0.2677

AMENDATORY SECTION (Amending WSR 05-23-062, filed 11/14/05, effective 12/15/05)

WAC 415-02-380 How will my retirement allowance be affected if I choose a benefit option with a survivor feature? This section applies to LEOFF Plan 1 and 2; PERS Plan 1, 2, and 3; ~~PSERS~~; SERS Plan 2 and 3; TRS Plan 1, 2, and 3; and WSPRS Plan 2. For information about WSPRS Plan 1, see RCW 43.43.278 and WAC 415-103-215.

(1) **What is a survivor feature?** Some benefit options include a survivor feature, which provides a lifetime monthly allowance for your survivor beneficiary after your death.

(2) **What is a "survivor beneficiary"?** The person you name at the time of retirement to receive a lifetime monthly allowance after your death is referred to as your "survivor beneficiary."

(3) **What benefit options include a survivor feature?** Benefit options are described in detail for each system and plan in the following state law and regulations:

LEOFF Plan 1:	RCW 41.26.164	WAC 415-104-202
LEOFF Plan 2:	RCW 41.26.460	WAC 415-104-215
PERS Plan 1:	RCW 41.40.188	WAC 415-108-326
PERS Plan 2:	RCW 41.40.660	WAC 415-108-326
PERS Plan 3:	RCW 41.40.845	WAC 415-108-326
PSERS :	RCW 41.37.170	WAC 415-106-600
SERS Plans ((2/3)) 2 and 3:	RCW 41.35.220	WAC ((415-110-326)) 415-110-610
TRS Plan 1:	RCW 41.32.530	WAC ((415-112-492)) 415-112-504
TRS Plan 2:	RCW 41.32.785	WAC ((415-112-493)) 415-112-505
TRS Plan 3:	RCW 41.32.851	WAC ((415-112-493)) 415-112-505
WSPRS Plan 2:	RCW 43.43.271	WAC 415-103-225

(4) **Will selecting a benefit option with a survivor feature affect my monthly retirement allowance?** Yes. Your monthly retirement allowance will be actuarially reduced to offset the cost of the survivor feature.

(5) **Does my survivor beneficiary's age affect how much my monthly retirement allowance will be reduced?** Yes. Your survivor beneficiary's age is used in determining the amount of your monthly retirement allowance and the

allowance of your survivor beneficiary. The younger the survivor beneficiary, the longer he or she is expected to receive an allowance. Your monthly allowance will be reduced accordingly.

((Examples))

(a) Example ((a)):

Kendra, a PERS Plan 2 member, chooses Option 3 (joint and 50 percent survivorship) at retirement. She names her nephew, Steve, as her survivor beneficiary. This means, if Kendra dies before Steve, Steve will receive a monthly allowance equal to half the amount Kendra was receiving. Steve is 30 years younger than Kendra. The department will calculate the adjustment to Kendra's monthly retirement allowance by using the survivor option factor table ("member older") in subsection (6) of this section. With a 30-year age difference (member's age minus beneficiary's age), the value corresponding to PERS Plan 2 and Option 3 is 0.753. This value, 0.753, is multiplied against the amount Kendra would have received under Option 1 (no survivor feature). Kendra's monthly retirement allowance will be reduced to about 75% of her Option 1 level.

(b) Example ((b)):

Mark, a LEOFF Plan 2 member, chooses Option 2 (joint and 100 percent survivorship) at retirement. He names his wife, Susan, as his survivor beneficiary. This means, if Mark dies before Susan, Susan will receive a monthly allowance equal to the amount Mark was receiving. Mark is five years younger than Susan. The department will calculate the adjustment to Mark's monthly retirement allowance by using the survivor option factor table ("member younger") in subsection (9) of this section. With a 5-year age difference (member's age minus beneficiary's age), the value corresponding to LEOFF Plan 2 and Option 2 is 0.894. This value, 0.894, will be multiplied against the amount Mark would have received under Option 1 (no survivor feature). Mark's monthly retirement allowance will be reduced to about 89 percent of his Option 1 level.

(6) Table - Member older (PERS and SERS)

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
0	.870	.930	.909	.791	.883	.850	.799	.888	.857
1	.862	.926	.904	.778	.875	.840	.773	.872	.836
2	.857	.923	.900	.767	.868	.832	.760	.864	.826
3	.844	.915	.890	.758	.863	.825	.748	.856	.816
4	.840	.913	.887	.751	.858	.819	.741	.851	.811
5	.836	.910	.884	.743	.853	.813	.734	.846	.805
6	.831	.908	.881	.736	.848	.807	.726	.841	.799
7	.818	.900	.871	.728	.843	.801	.719	.836	.793
8	.814	.897	.867	.721	.838	.795	.712	.832	.787
9	.809	.895	.864	.713	.833	.789	.705	.827	.782
10	.805	.892	.861	.706	.828	.783	.698	.822	.776
11	.802	.890	.858	.699	.823	.777	.692	.818	.771
12	.787	.881	.847	.693	.818	.772	.685	.813	.766
13	.784	.879	.845	.686	.814	.766	.679	.809	.760
14	.780	.876	.842	.680	.809	.761	.673	.805	.755
15	.777	.874	.839	.673	.805	.756	.667	.800	.750
16	.773	.872	.836	.667	.801	.751	.662	.796	.746
17	.770	.870	.834	.662	.796	.746	.656	.792	.741
18	.767	.868	.832	.656	.792	.741	.651	.789	.737
19	.764	.866	.829	.651	.788	.736	.646	.785	.732
20	.762	.865	.827	.645	.785	.732	.641	.781	.728
21	.759	.863	.825	.640	.781	.728	.637	.778	.724
22	.756	.861	.823	.636	.777	.724	.632	.775	.720
23	.754	.860	.821	.631	.774	.720	.628	.771	.717
24	.752	.858	.820	.627	.771	.716	.624	.768	.713
25	.750	.857	.818	.622	.767	.712	.620	.765	.710
26	.748	.856	.817	.618	.764	.709	.616	.762	.707
27	.746	.855	.815	.615	.761	.705	.613	.760	.703
28	.744	.853	.814	.611	.758	.702	.609	.757	.700
29	.743	.852	.812	.607	.756	.699	.606	.755	.697
30	.741	.851	.811	.604	.753	.696	.603	.752	.695
31	.740	.850	.810	.601	.751	.693	.600	.750	.692
32	.738	.849	.809	.598	.748	.690	.597	.748	.690
33	.737	.849	.808	.595	.746	.688	.594	.745	.687

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
34	.736	.848	.807	.592	.744	.685	.592	.743	.685
35	.735	.847	.806	.589	.742	.683	.589	.741	.683
36	.734	.846	.805	.587	.740	.680	.587	.740	.680
37	.733	.846	.804	.584	.738	.678	.585	.738	.678
38	.732	.845	.804	.582	.736	.676	.582	.736	.677
39	.731	.844	.803	.580	.734	.674	.580	.734	.675
40	.730	.844	.802	.578	.732	.672	.578	.733	.673

(7) Table - Member younger (PERS and SERS)

Survivor option factor table: Member younger than beneficiary
Age difference: Member's age minus beneficiary's age

Age Difference	PERS 1 Opt. 2 100%	PERS 1 Opt. 3 50%	PERS 1 Opt. 4 66 2/3%	PERS 2/3 Opt. 2 100%	PERS 2/3 Opt. 3 50%	PERS 2/3 Opt. 4 66 2/3%	SERS 2/3 Opt. 2 100%	SERS 2/3 Opt. 3 50%	SERS 2/3 Opt. 4 66 2/3%
-20	.958	.978	.971	.939	.969	.959	.949	.974	.965
-19	.955	.977	.970	.935	.967	.956	.946	.972	.963
-18	.952	.976	.968	.931	.964	.953	.942	.970	.961
-17	.949	.974	.966	.927	.962	.950	.938	.968	.958
-16	.947	.973	.964	.922	.959	.947	.934	.966	.955
-15	.944	.971	.962	.917	.957	.943	.930	.964	.952
-14	.940	.969	.959	.912	.954	.940	.926	.961	.949
-13	.937	.968	.957	.907	.951	.936	.921	.959	.946
-12	.934	.966	.955	.902	.948	.932	.917	.956	.943
-11	.930	.964	.953	.896	.945	.928	.912	.954	.939
-10	.927	.962	.950	.890	.942	.924	.907	.951	.936
-9	.923	.960	.948	.884	.938	.919	.901	.948	.932
-8	.920	.958	.945	.878	.935	.915	.896	.945	.928
-7	.916	.956	.942	.871	.931	.910	.890	.942	.924
-6	.912	.954	.940	.865	.927	.905	.885	.939	.920
-5	.908	.952	.937	.858	.924	.901	.879	.935	.916
-4	.901	.948	.931	.848	.918	.893	.873	.932	.911
-3	.896	.945	.928	.840	.913	.887	.863	.927	.905
-2	.889	.941	.923	.826	.905	.877	.853	.920	.897
-1	.879	.935	.916	.805	.892	.861	.834	.909	.883
0	.870	.930	.909	.791	.883	.850	.799	.888	.857

(8) Table - Member older (PSERS)

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3 %
0	0.832	0.908	0.881
1	0.825	0.904	0.876
2	0.819	0.9	0.872
3	0.812	0.897	0.867
4	0.806	0.893	0.862
5	0.8	0.889	0.857
6	0.793	0.885	0.852
7	0.787	0.881	0.847
8	0.787	0.877	0.842
9	0.775	0.873	0.838

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3 %
10	0.769	0.869	0.833
11	0.763	0.865	0.828
12	0.757	0.862	0.824
13	0.751	0.858	0.819
14	0.746	0.855	0.815
15	0.741	0.851	0.811
16	0.736	0.848	0.807
17	0.731	0.844	0.803
18	0.726	0.841	0.799
19	0.721	0.838	0.795
20	0.717	0.835	0.791
21	0.712	0.832	0.788
22	0.708	0.829	0.784
23	0.704	0.826	0.781

<u>Age Difference</u>	<u>Option 2 100%</u>	<u>Option 3 50%</u>	<u>Option 4 66 2/3 %</u>
<u>24</u>	<u>0.7</u>	<u>0.824</u>	<u>0.778</u>
<u>25</u>	<u>0.696</u>	<u>0.821</u>	<u>0.775</u>
<u>26</u>	<u>0.693</u>	<u>0.819</u>	<u>0.772</u>
<u>27</u>	<u>0.689</u>	<u>0.816</u>	<u>0.769</u>
<u>28</u>	<u>0.686</u>	<u>0.814</u>	<u>0.766</u>
<u>29</u>	<u>0.683</u>	<u>0.812</u>	<u>0.764</u>
<u>30</u>	<u>0.68</u>	<u>0.81</u>	<u>0.761</u>
<u>31</u>	<u>0.677</u>	<u>0.807</u>	<u>0.759</u>
<u>32</u>	<u>0.674</u>	<u>0.806</u>	<u>0.756</u>
<u>33</u>	<u>0.672</u>	<u>0.804</u>	<u>0.754</u>
<u>34</u>	<u>0.669</u>	<u>0.802</u>	<u>0.752</u>
<u>35</u>	<u>0.667</u>	<u>0.8</u>	<u>0.75</u>
<u>36</u>	<u>0.664</u>	<u>0.798</u>	<u>0.748</u>
<u>37</u>	<u>0.662</u>	<u>0.797</u>	<u>0.746</u>
<u>38</u>	<u>0.66</u>	<u>0.795</u>	<u>0.745</u>
<u>39</u>	<u>0.658</u>	<u>0.794</u>	<u>0.743</u>
<u>40</u>	<u>0.656</u>	<u>0.792</u>	<u>0.741</u>

Age difference: Member's age minus beneficiary's age

<u>Age Difference</u>	<u>Option 2 100%</u>	<u>Option 3 50%</u>	<u>Option 4 66 2/3 %</u>
<u>-20</u>	<u>0.94</u>	<u>0.969</u>	<u>0.959</u>
<u>-19</u>	<u>0.936</u>	<u>0.967</u>	<u>0.956</u>
<u>-18</u>	<u>0.932</u>	<u>0.965</u>	<u>0.954</u>
<u>-17</u>	<u>0.928</u>	<u>0.962</u>	<u>0.951</u>
<u>-16</u>	<u>0.923</u>	<u>0.96</u>	<u>0.947</u>
<u>-15</u>	<u>0.919</u>	<u>0.958</u>	<u>0.944</u>
<u>-14</u>	<u>0.914</u>	<u>0.955</u>	<u>0.941</u>
<u>-13</u>	<u>0.909</u>	<u>0.952</u>	<u>0.937</u>
<u>-12</u>	<u>0.904</u>	<u>0.949</u>	<u>0.934</u>
<u>-11</u>	<u>0.899</u>	<u>0.947</u>	<u>0.93</u>
<u>-10</u>	<u>0.893</u>	<u>0.944</u>	<u>0.926</u>
<u>-9</u>	<u>0.887</u>	<u>0.94</u>	<u>0.922</u>
<u>-8</u>	<u>0.882</u>	<u>0.937</u>	<u>0.918</u>
<u>-7</u>	<u>0.876</u>	<u>0.934</u>	<u>0.914</u>
<u>-6</u>	<u>0.87</u>	<u>0.93</u>	<u>0.909</u>
<u>-5</u>	<u>0.864</u>	<u>0.927</u>	<u>0.905</u>
<u>-4</u>	<u>0.858</u>	<u>0.923</u>	<u>0.9</u>
<u>-3</u>	<u>0.851</u>	<u>0.92</u>	<u>0.896</u>
<u>-2</u>	<u>0.845</u>	<u>0.916</u>	<u>0.891</u>
<u>-1</u>	<u>0.838</u>	<u>0.912</u>	<u>0.886</u>

(9) Table - Member younger (PSERS)

Survivor option factor table: Member younger than beneficiary

(10) Table - Member older (LEOFF Plan 2 and WSPRS Plan 2)

Survivor option factor table: Member older than beneficiary
Age difference: Member's age minus beneficiary's age

<u>Age Difference</u>	<u>LEOFF 2 Option 2 100%</u>	<u>LEOFF 2 Option 3 50%</u>	<u>LEOFF 2 Option 4 66 2/3%</u>	<u>WSP 2 Option 2 100%</u>	<u>WSP 2 Option 3 50%</u>	<u>WSP 2 Option 4 66 2/3%</u>
<u>0</u>	<u>0.870</u>	<u>0.930</u>	<u>0.909</u>	<u>0.870</u>	<u>0.930</u>	<u>0.909</u>
<u>1</u>	<u>0.865</u>	<u>0.927</u>	<u>0.905</u>	<u>0.865</u>	<u>0.927</u>	<u>0.905</u>
<u>2</u>	<u>0.860</u>	<u>0.924</u>	<u>0.902</u>	<u>0.860</u>	<u>0.924</u>	<u>0.902</u>
<u>3</u>	<u>0.855</u>	<u>0.922</u>	<u>0.898</u>	<u>0.855</u>	<u>0.922</u>	<u>0.898</u>
<u>4</u>	<u>0.850</u>	<u>0.919</u>	<u>0.894</u>	<u>0.850</u>	<u>0.919</u>	<u>0.894</u>
<u>5</u>	<u>0.845</u>	<u>0.916</u>	<u>0.891</u>	<u>0.845</u>	<u>0.916</u>	<u>0.891</u>
<u>6</u>	<u>0.840</u>	<u>0.913</u>	<u>0.887</u>	<u>0.840</u>	<u>0.913</u>	<u>0.887</u>
<u>7</u>	<u>0.835</u>	<u>0.910</u>	<u>0.883</u>	<u>0.835</u>	<u>0.910</u>	<u>0.883</u>
<u>8</u>	<u>0.830</u>	<u>0.907</u>	<u>0.880</u>	<u>0.830</u>	<u>0.907</u>	<u>0.880</u>
<u>9</u>	<u>0.825</u>	<u>0.904</u>	<u>0.876</u>	<u>0.825</u>	<u>0.904</u>	<u>0.876</u>
<u>10</u>	<u>0.821</u>	<u>0.902</u>	<u>0.873</u>	<u>0.821</u>	<u>0.902</u>	<u>0.873</u>
<u>11</u>	<u>0.816</u>	<u>0.899</u>	<u>0.870</u>	<u>0.816</u>	<u>0.899</u>	<u>0.870</u>
<u>12</u>	<u>0.812</u>	<u>0.896</u>	<u>0.866</u>	<u>0.812</u>	<u>0.896</u>	<u>0.866</u>
<u>13</u>	<u>0.808</u>	<u>0.894</u>	<u>0.863</u>	<u>0.808</u>	<u>0.894</u>	<u>0.863</u>
<u>14</u>	<u>0.803</u>	<u>0.891</u>	<u>0.860</u>	<u>0.803</u>	<u>0.891</u>	<u>0.860</u>
<u>15</u>	<u>0.799</u>	<u>0.888</u>	<u>0.857</u>	<u>0.799</u>	<u>0.888</u>	<u>0.857</u>
<u>16</u>	<u>0.795</u>	<u>0.886</u>	<u>0.854</u>	<u>0.795</u>	<u>0.886</u>	<u>0.854</u>
<u>17</u>	<u>0.792</u>	<u>0.884</u>	<u>0.851</u>	<u>0.792</u>	<u>0.884</u>	<u>0.851</u>
<u>18</u>	<u>0.788</u>	<u>0.881</u>	<u>0.848</u>	<u>0.788</u>	<u>0.881</u>	<u>0.848</u>
<u>19</u>	<u>0.784</u>	<u>0.879</u>	<u>0.845</u>	<u>0.784</u>	<u>0.879</u>	<u>0.845</u>
<u>20</u>	<u>0.781</u>	<u>0.877</u>	<u>0.842</u>	<u>0.781</u>	<u>0.877</u>	<u>0.842</u>
<u>21</u>	<u>0.777</u>	<u>0.875</u>	<u>0.840</u>	<u>0.777</u>	<u>0.875</u>	<u>0.840</u>
<u>22</u>	<u>0.774</u>	<u>0.873</u>	<u>0.837</u>	<u>0.774</u>	<u>0.873</u>	<u>0.837</u>

Age Difference	LEOFF 2 Option 2 100%	LEOFF 2 Option 3 50%	LEOFF 2 Option 4 66 2/3%	WSP 2 Option 2 100%	WSP 2 Option 3 50%	WSP 2 Option 4 66 2/3%
23	0.771	0.871	0.835	0.771	0.871	0.835
24	0.768	0.869	0.832	0.768	0.869	0.832
25	0.765	0.867	0.830	0.765	0.867	0.830
26	0.763	0.865	0.828	0.763	0.865	0.828
27	0.760	0.864	0.826	0.760	0.864	0.826
28	0.757	0.862	0.824	0.757	0.862	0.824
29	0.755	0.860	0.822	0.755	0.860	0.822
30	0.753	0.859	0.820	0.753	0.859	0.820
31	0.750	0.857	0.818	0.750	0.857	0.818
32	0.748	0.856	0.817	0.748	0.856	0.817
33	0.746	0.855	0.815	0.746	0.855	0.815
34	0.744	0.853	0.814	0.744	0.853	0.814
35	0.742	0.852	0.812	0.742	0.852	0.812
36	0.741	0.851	0.811	0.741	0.851	0.811
37	0.739	0.850	0.809	0.739	0.850	0.809
38	0.737	0.849	0.808	0.737	0.849	0.808
39	0.736	0.848	0.807	0.736	0.848	0.807
40	0.734	0.847	0.806	0.734	0.847	0.806

~~((9))~~ (11) Table - Member younger (LEOFF Plan 2 and WSPRS Plan 2)
Survivor option factor table: Member younger than beneficiary
Age difference: Member's age minus beneficiary's age

Age Difference	LEOFF 2 Option 2 100%	LEOFF 2 Option 3 50%	LEOFF 2 Option 4 66 2/3%	WSP 2 Option 2 100%	WSP 2 Option 3 50%	WSP 2 Option 4 66 2/3%
-20	0.953	0.976	0.968	0.953	0.976	0.968
-19	0.950	0.974	0.966	0.950	0.974	0.966
-18	0.947	0.973	0.964	0.947	0.973	0.964
-17	0.944	0.971	0.962	0.944	0.971	0.962
-16	0.940	0.969	0.959	0.940	0.969	0.959
-15	0.937	0.967	0.957	0.937	0.967	0.957
-14	0.933	0.965	0.954	0.933	0.965	0.954
-13	0.929	0.963	0.952	0.929	0.963	0.952
-12	0.925	0.961	0.949	0.925	0.961	0.949
-11	0.921	0.959	0.946	0.921	0.959	0.946
-10	0.917	0.957	0.943	0.917	0.957	0.943
-9	0.913	0.954	0.940	0.913	0.954	0.940
-8	0.908	0.952	0.937	0.908	0.952	0.937
-7	0.904	0.949	0.934	0.904	0.949	0.934
-6	0.899	0.947	0.930	0.899	0.947	0.930
-5	0.894	0.944	0.927	0.894	0.944	0.927
-4	0.890	0.942	0.924	0.890	0.942	0.924
-3	0.885	0.939	0.920	0.885	0.939	0.920
-2	0.880	0.936	0.916	0.880	0.936	0.916
-1	0.875	0.933	0.913	0.875	0.933	0.913
0	0.870	0.930	0.909	0.870	0.930	0.909

~~((10))~~ (12) Table - Member younger (TRS)
Survivor option factor table: Member younger than beneficiary
Age difference: Member's age minus beneficiary's age

Age Difference	TRS 1 Option 2 100%	TRS 1 Option 3 50%	TRS 1 Option 4 66 2/3%	TRS 2/3 Option 2 100%	TRS 2/3 Option 3 50%	TRS 2/3 Option 4 66 2/3%
-20	0.968	0.984	0.979	0.952	0.975	0.967
-19	0.966	0.983	0.977	0.949	0.974	0.965
-18	0.964	0.982	0.976	0.945	0.972	0.963

Age Difference	TRS 1 Option 2 100%	TRS 1 Option 3 50%	TRS 1 Option 4 66 2/3%	TRS 2/3 Option 2 100%	TRS 2/3 Option 3 50%	TRS 2/3 Option 4 66 2/3%
-17	0.962	0.981	0.974	0.942	0.970	0.960
-16	0.960	0.979	0.973	0.938	0.968	0.958
-15	0.957	0.978	0.971	0.934	0.966	0.955
-14	0.955	0.977	0.969	0.929	0.963	0.952
-13	0.952	0.976	0.968	0.925	0.961	0.949
-12	0.950	0.974	0.966	0.921	0.959	0.946
-11	0.947	0.973	0.964	0.916	0.956	0.942
-10	0.944	0.971	0.962	0.911	0.953	0.939
-9	0.942	0.970	0.960	0.906	0.951	0.935
-8	0.939	0.968	0.958	0.900	0.948	0.931
-7	0.936	0.967	0.956	0.895	0.945	0.927
-6	0.933	0.965	0.954	0.889	0.941	0.923
-5	0.927	0.962	0.950	0.884	0.938	0.919
-4	0.923	0.960	0.947	0.877	0.934	0.914
-3	0.918	0.957	0.944	0.865	0.928	0.906
-2	0.913	0.955	0.941	0.855	0.922	0.899
-1	0.907	0.951	0.936	0.839	0.912	0.887
0	0.898	0.946	0.930	0.815	0.898	0.869

((H1)) (13) Table - Member older (TRS)

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	TRS 1 Option 2 100%	TRS 1 Option 3 50%	TRS 1 Option 4 66 2/3%	TRS 2/3 Option 2 100%	TRS 2/3 Option 3 50%	TRS 2/3 Option 4 66 2/3%
0	0.898	0.946	0.930	0.815	0.898	0.869
1	0.892	0.943	0.925	0.801	0.889	0.858
2	0.888	0.941	0.922	0.790	0.883	0.849
3	0.877	0.935	0.915	0.781	0.877	0.842
4	0.873	0.932	0.912	0.772	0.871	0.835
5	0.869	0.930	0.909	0.765	0.867	0.830
6	0.858	0.924	0.901	0.758	0.862	0.824
7	0.855	0.922	0.898	0.751	0.858	0.819
8	0.851	0.920	0.896	0.744	0.853	0.813
9	0.848	0.918	0.893	0.737	0.849	0.808
10	0.845	0.916	0.891	0.730	0.844	0.802
11	0.842	0.914	0.889	0.724	0.840	0.797
12	0.839	0.912	0.887	0.717	0.835	0.792
13	0.836	0.911	0.884	0.711	0.831	0.787
14	0.824	0.904	0.875	0.705	0.827	0.782
15	0.821	0.902	0.873	0.699	0.823	0.777
16	0.819	0.900	0.871	0.694	0.819	0.773
17	0.816	0.899	0.869	0.688	0.815	0.768
18	0.814	0.897	0.868	0.683	0.812	0.764
19	0.812	0.896	0.866	0.678	0.808	0.760
20	0.809	0.895	0.864	0.673	0.805	0.755
21	0.807	0.893	0.863	0.668	0.801	0.751
22	0.805	0.892	0.861	0.664	0.798	0.748
23	0.803	0.891	0.860	0.660	0.795	0.744
24	0.802	0.890	0.858	0.655	0.792	0.740
25	0.800	0.889	0.857	0.651	0.789	0.737
26	0.798	0.888	0.856	0.648	0.786	0.734
27	0.797	0.887	0.855	0.644	0.783	0.731
28	0.796	0.886	0.854	0.640	0.781	0.728
29	0.794	0.885	0.853	0.637	0.778	0.725

Age Difference	TRS 1 Option 2 100%	TRS 1 Option 3 50%	TRS 1 Option 4 66 2/3%	TRS 2/3 Option 2 100%	TRS 2/3 Option 3 50%	TRS 2/3 Option 4 66 2/3%
30	0.793	0.885	0.852	0.634	0.776	0.722
31	0.792	0.884	0.851	0.631	0.774	0.719
32	0.791	0.883	0.850	0.628	0.771	0.717
33	0.790	0.882	0.849	0.625	0.769	0.714
34	0.789	0.882	0.848	0.622	0.767	0.712
35	0.788	0.881	0.848	0.620	0.765	0.710
36	0.787	0.881	0.847	0.617	0.763	0.708
37	0.786	0.880	0.846	0.615	0.762	0.706
38	0.785	0.880	0.846	0.613	0.760	0.704
39	0.785	0.879	0.845	0.611	0.758	0.702
40	0.784	0.879	0.845	0.609	0.757	0.700

~~((12))~~ (14) Table - Member younger (LEOFF Plan

1)
Survivor option factor table: Member younger than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3 %
-20	0.958	0.978	0.971
-19	0.955	0.977	0.969
-18	0.952	0.975	0.967
-17	0.949	0.974	0.965
-16	0.946	0.972	0.963
-15	0.942	0.970	0.961
-14	0.939	0.969	0.959
-13	0.935	0.967	0.956
-12	0.932	0.965	0.953
-11	0.928	0.963	0.951
-10	0.924	0.960	0.948
-9	0.920	0.958	0.945
-8	0.916	0.956	0.942
-7	0.911	0.954	0.939
-6	0.907	0.951	0.936
-5	0.902	0.949	0.933
-4	0.898	0.946	0.929
-3	0.893	0.943	0.926
-2	0.888	0.941	0.922
-1	0.883	0.938	0.919

~~((13))~~ (15) Table - Member older (LEOFF Plan 1)

Survivor option factor table: Member older than beneficiary

Age difference: Member's age minus beneficiary's age

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3%
0	0.878	0.935	0.915
1	0.873	0.932	0.912
2	0.868	0.930	0.908
3	0.864	0.927	0.905

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3%
4	0.859	0.924	0.901
5	0.854	0.921	0.898
6	0.849	0.918	0.894
7	0.844	0.915	0.890
8	0.839	0.913	0.887
9	0.835	0.910	0.883
10	0.830	0.907	0.880
11	0.826	0.905	0.877
12	0.821	0.902	0.873
13	0.817	0.899	0.870
14	0.813	0.897	0.867
15	0.809	0.894	0.864
16	0.805	0.892	0.861
17	0.801	0.889	0.858
18	0.797	0.887	0.855
19	0.793	0.885	0.852
20	0.790	0.882	0.849
21	0.786	0.880	0.847
22	0.783	0.878	0.844
23	0.780	0.876	0.841
24	0.777	0.874	0.839
25	0.774	0.872	0.837
26	0.771	0.871	0.834
27	0.768	0.869	0.832
28	0.765	0.867	0.830
29	0.763	0.865	0.828
30	0.760	0.864	0.826
31	0.758	0.862	0.824
32	0.756	0.861	0.823
33	0.753	0.859	0.821
34	0.751	0.858	0.819
35	0.749	0.857	0.818
36	0.747	0.855	0.816
37	0.745	0.854	0.815

Age Difference	Option 2 100%	Option 3 50%	Option 4 66 2/3%
38	0.744	0.853	0.813
39	0.742	0.852	0.812
40	0.740	0.851	0.810

AMENDATORY SECTION (Amending WSR 03-12-014, filed 5/27/03, effective 7/1/03)

WAC 415-02-500 Property division in dissolution orders¹. This section applies to all retirement plans that the department (~~(of retirement systems (department))~~) administers. This section also directs you to additional sections as needed for your particular situation.

(1) **What can a court do?** A court can (~~(divide)~~) enter a dissolution order dividing your retirement account ((between you and your ex-spouse through a property division dissolution order or later amendment. A court can do this by either)) in either of the following ways:

(a) Awarding an interest² in your account to your ex-spouse by using WAC 415-02-510 or 415-02-530; or

(b) Splitting³ your account into two separate accounts (one for you and one for your ex-spouse) by using WAC 415-02-520 or 415-02-540, but only if you are vested (~~(; that is, have enough service credit to receive a service retirement when you meet the age requirement for your retirement system and plan))~~ at the time the dissolution order is entered. "Vested" is defined in subsection (16) of this section.

(2) **Which section should I use?** Consult the following table for direction to the section to use in developing your property division dissolution order. Different sections are provided depending on whether your property division dissolution order is going to provide an interest to your ex-spouse or whether you are splitting your retirement account with your ex-spouse.

If you are in this system and plan:	And the following is true:	Use this section:
Any	You need general information and rules about drafting dissolution orders related to your retirement plan and system.	415-02-500
JRF, JRS, LEOFF Plan 1, and WSPRS Plan 1	You are drafting a dissolution order. (We recommend that you contact the department for assistance because some exceptions may apply.)	415-02-510

If you are in this system and plan:	And the following is true:	Use this section:
LEOFF Plan 2, PERS Plan 1 or 2, PSERS , SERS Plan 2, and TRS Plan 1 or 2, WSPRS Plan 2	You ((are not vested and you)) are drafting a dissolution order <u>that will be entered before you are vested;</u> or You are vested and you are drafting a dissolution order that awards an interest in your account to your ex-spouse.	415-02-510
	You <u>are</u> vested and you are drafting a dissolution order that splits your benefit into two separate accounts (for you and your ex-spouse).	415-02-520
PERS Plan 3, SERS Plan 3, and TRS Plan 3	You ((do not have enough service credit to receive a service retirement, when eligible, and you)) are drafting a dissolution order <u>that will be entered before you are vested;</u> or You ((have enough service credit to receive a service retirement, when eligible,)) <u>are vested</u> and you are drafting a dissolution order that awards an interest in your account to your ex-spouse.	415-02-530
	You are vested and you are drafting a dissolution order that splits your benefit into two separate accounts (for you and your ex-spouse).	415-02-540
PERS Plan 2, SERS Plan 2, and TRS Plan 2	The department has already accepted your property division order, and you are considering a transfer to Plan 3.	415-02-550

(3) **What are the requirements for dissolution orders and amendments that provide for a property division of my retirement account?** The order must:

- (a) Be entered by a court of competent jurisdiction and enforceable in Washington state;
- (b) Be filed with the department within ninety days of the court's entry of the order;
- (c) Establish the right of your ex-spouse to a portion of your retirement;
- (d) Provide the name and date of birth of your ex-spouse;
- (e) Incorporate the applicable language in this section and one of the following: WAC 415-02-510, (~~(415-02-540, 415-02-520, or 415-02-550))~~ 415-02-520, 415-02-530, or 415-02-540; and

(f) Indicate which WAC section was used in support of the order.

(4) **What else, besides a copy of the dissolution order, must my ex-spouse and I provide to the department?** You must provide address(es) and Social Security numbers for both you and your ex-spouse before the department will honor a dissolution order or amendment. This information can be submitted in a cover letter, in another document, or by other means arranged with the department.

(5) **I belong to more than one retirement plan. Does the order have to be written any differently?** The order must include specific provisions for each plan.

(a) Example for providing an **interest** to an ex-spouse (RCW 41.50.670 and WAC 415-02-510): Paul belongs to both TRS Plan 2 and PERS Plan ~~(2)~~ 3. His preretirement dissolution order gives an interest in his retirement accounts to his ex-spouse. The order should include the language provided in:

(i) WAC 415-02-510 ~~((2) and 415-02-510)~~ to divide Paul's TRS Plan 2 monthly retirement ~~((benefits and))~~ allowance or accumulated contributions.

(ii) WAC ~~((415-02-510(2) and 415-02-510))~~ 415-02-530 to divide Paul's PERS Plan ~~(2)~~ 3 monthly retirement ~~((benefits and))~~ allowance and/or accumulated contributions.

(b) Example for **splitting** an account with an ex-spouse: Mary ~~((belongs to))~~ is vested in both TRS Plan 2 and PERS Plan ~~(2)~~ 3. Her preretirement dissolution order provides for splitting her retirement accounts with her ex-spouse. The order should include the language provided in:

(i) WAC 415-02-520 ~~((5)(a))~~ for preretirement splits to divide Mary's TRS Plan 2 retirement account.

(ii) WAC ~~((415-02-520 (5)(a))~~ 415-02-540 for preretirement splits to divide Mary's PERS Plan ~~((2 retirement account))~~ 3 monthly retirement allowance and/or defined contributions.

(6) **What happens if my ex-spouse misses the ninety-day deadline for filing a copy of the dissolution order with the department?**

(a) RCW ~~((51.50.670(6))~~ 41.50.670 requires the "obligee" (ex-spouse) to file a copy of the dissolution order with the department within ninety days of the order's entry with the court of record.

(b) The department will accept an order after the ninety-day deadline but will not make retroactive payments or split your defined contribution account retroactively.

(7) **How will the department divide the "after-tax" and "tax-deferred" dollars in my retirement account between my ex-spouse and me?** Depending on your plan and how long you have been a member, your retirement account may include both "after-tax" and "tax-deferred" dollars. The department will divide the "after-tax" and "tax-deferred" dollars based on the amount(s) awarded to your ex-spouse, unless the dissolution order states otherwise.

Example: At the time of John's marriage dissolution, he had \$50,000 total contributions in his retirement account with \$20,000 in after-taxed dollars and \$30,000 in tax-deferred dollars. The dissolution order awards 50% of his accumulated contributions to his ex-spouse, Susan. Therefore, the department will give Susan

\$10,000 of after-tax dollars and \$15,000 of tax-deferred dollars.

(8) **If I am in a retirement plan that offers survivor options, can the court order me to name my ex-spouse as ~~((a survivor to receive survivor benefits))~~ my survivor beneficiary?** Yes. To do so, the dissolution order must include the language in RCW 41.50.790(1).

(9) **Is there a minimum benefit amount that the department will pay to my ex-spouse if the property division dissolution order splits my retirement account with my ex-spouse?** The answer is different depending on if the department accepts the property division dissolution order **BEFORE** or **AFTER** you retire.

(a) **BEFORE** retirement split: Yes. If the court order splits your account with your ex-spouse, and your ex-spouse's monthly ~~((benefit is))~~ payment will be less than the ~~((monthly minimum benefit amount for))~~ minimum monthly dollar amount for your retirement plan, the department may make a lump sum payment ~~((in the amount of))~~ instead of monthly payments. The lump sum payment will be equal to the present value of the monthly ~~((benefit to the ex-spouse instead of paying monthly benefits))~~ payments. The department will **NOT** make the lump sum payment until your ex-spouse meets the age requirement for a normal retirement for your system and plan.

(b) **AFTER** retirement split: No. The department will pay the amount specified in the dissolution order as the ex-spouse's monthly ~~((benefit))~~ payment amount even if it is less than the minimum monthly ~~((benefit))~~ dollar amount for your system and plan.

(10) **Is there a maximum payment amount that the department will pay to my ex-spouse?** Yes. A court may not order the department to pay more than seventy-five percent of your monthly retirement ~~((payments))~~ allowance to your ex-spouse. See RCW 41.50.670(4).

(11) **How much is the fee the department charges for making payments directly to my ex-spouse?** The department charges seventy-five dollars for making the first disbursement and six dollars for each subsequent disbursement. The department will divide the fees evenly between you and your ex-spouse. See RCW 41.50.680.

(12) **What happens to my account if I return to retirement system membership?** Please contact the department for information if you are in this situation.

(13) **What language should the property division order use to divide my deferred compensation program (DCP) account?** Refer to WAC 415-501-495 or contact DCP for information about your DCP account and your marriage dissolution.

(14) **How do I contact the department for additional assistance?** Complete information is available in WAC 415-06-100 (How do I contact the department?).

(15) **Where can I find examples of completed property division dissolution orders?** Following are examples of the required language from the statutes and WAC sections that must be used in a dissolution order. The information in ***bold italics*** will be dictated by your own circumstances.

(a) **Example 1.** Jane Doe, ~~((a))~~ a nonvested member of PERS Plan 2 ~~((a))~~ 2 and her husband, John Doe, decide to divorce. ***WAC 415-02-510 ((applies to Jane's membership***

~~status~~) governs dissolution orders of nonvested members of PERS Plan 2. Jane and John complete the paragraphs in RCW 41.50.670(2) and WAC 415-02-510(2) as follows:

Defined Benefits: If *Jane Doe* (the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to *John Doe* (the obligee), *N/A* dollars from such payments or *a fraction where the numerator is equal to 24 (the number of months in which service credit was earned while the marital community was in existence), and the denominator is equal to the number of months of service credit earned by the obligor at the time of retirement X 50* percent of such payments.

RCW 41.50.670(2), paragraph two, and WAC 415-02-510(2)

If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

Accumulated Contributions: If *Jane Doe* (the obligor) requests or has requested a withdrawal of accumulated contributions as defined in RCW 41.50.500, or becomes eligible for a lump sum death benefit, the department of retirement systems shall pay to *John Doe* (the obligee) **\$5,700** dollars plus interest at the rate paid by the Department of Retirement Systems on member contributions. Such interest will accrue from the date of this order's entry with court of record.

RCW 41.50.670(2), paragraph three, and WAC 415-02-510(2)

(b) **Example 2:** Binh Nguyen (a TRS Plan 3 retiree) and his wife, Lan Nguyen, are obtaining a property division dissolution order that splits his retirement account. When he retired, Binh had selected Lan to receive survivor benefits. WAC 415-02-540 applies, and the couple completes the required paragraphs.

Defined Benefits:

WAC 415-02-540(12)

The Department of Retirement Systems (department) shall create a **defined benefit account** for Lan Nguyen (ex-spouse) in the Teachers' Retirement System Plan 3 (name of retirement system and plan) and pay him or her \$350 (amount) for his or her life. To pay for this benefit, Binh Nguyen's (member's) **monthly defined benefit** payment will be reduced for life. This provision shall become effective no more than 30 days after the department's acceptance of the order.

Defined Contributions:

WAC 415-02-540(9)

The Department of Retirement Systems (department) shall split Binh Nguyen's (member's) **defined contribution account** in the Teachers' Retirement System Plan 3 (name of retirement system and plan) and create a separate account for Lan Nguyen (ex-spouse). The amount of \$25,000 (amount) shall be transferred from Binh Nguyen's (member's) **defined contribution account** to Lan Nguyen's (ex-spouse's) new account. This provision shall become effective no more than 30 days after the department's acceptance of the order.

(16) **Terms used:**

(a) Department's acceptance - The department's determination that a dissolution order ((that)) fully complies with the department's ((of retirement systems')) requirements and with chapter 41.50 RCW.

(b) Dissolution order - RCW 41.50.500.

(c) ~~((Ex-spouse - WAC 415-02-030.~~

~~(d) JRF - Judicial retirement fund.~~

~~(e) JRS - Judicial retirement system.~~

~~(f) LEOFF - Law enforcement officers' and fire fighters' system.~~

~~(g)) Oblige - RCW 41.50.500(5).~~

~~((h)) (d) Obligor - RCW 41.50.500(6).~~

~~((i) PERS - Public employees' retirement system.~~

~~(j)) (e) Plan 3 ((retirement systems)) - WAC 415-111-100.~~

~~((k) SERS - School employees' retirement system.~~

~~(l) Split account - WAC 415-02-030.~~

~~(m) Survivor benefits - WAC 415-02-030.~~

~~(n) TRS - Teachers' retirement system.~~

~~(o)) (f) Vested - The ((length of service by system and plan required)) status of a member who has the amount of service credit required by the member's system and plan for a service retirement when the age requirement is met.~~

~~((p) WSPRS — Washington state patrol retirement system))~~

Footnotes for section:

- ¹ "Dissolution order" means any judgment, decree, or order of spousal maintenance, property division, or court-approved property settlement incident to a decree of divorce, dissolution, invalidity, or legal separation issued by the superior court of the state of Washington or a judgment, decree, or other order of spousal support issued by a court of competent jurisdiction in another state or country, that has been registered or otherwise made enforceable in this state. RCW 41.50.500(3) (2002).
- ² When a court awards an interest in your retirement account, the department is required to pay a portion of your monthly retirement ~~((benefit payments))~~ allowance or a portion of your contributions to your ex-spouse.
- ³ When a court splits your retirement account, the department will establish a separate account for your ex-spouse. Once the account has been established, your account and your ex-spouse's account are not tied in any way.

AMENDATORY SECTION (Amending WSR 03-12-014, filed 5/27/03, effective 7/1/03)

WAC 415-02-510 How can a property division dissolution order give my ex-spouse an interest¹ in my Plan 1 or ~~((Plan))~~ 2 retirement account? (1) Who may use this section?

(a) You **MUST** use this section if you are a member of LEOFF Plan 1, WSPRS Plan 1, JRF or JRS, or a **nonvested** member of LEOFF Plan 2, PERS Plan~~((s))~~ 1 or 2, PSERS, SERS Plan 2, TRS Plan~~((s))~~ 1 or 2, or WSPRS Plan 2.

(b) You **MAY** use this section if you are a **vested** member of LEOFF Plan 2, PERS Plan~~((s))~~ 1 or 2, PSERS, SERS Plan 2, TRS Plan~~((s))~~ 1 or 2, or WSPRS Plan 2. If you are splitting your retirement account with your ex-spouse, use WAC 415-02-520.

(2) What language must the property division dissolution order or amendment include? The order must include the language in RCW 41.50.670(2), provided below. The order or amendment must state either a specific dollar amount or percentage of the benefit. It cannot state both. (See example in WAC 415-02-500(15).)

If _____ (the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to _____ (the obligee) dollars from such payments or _____ percent of such payments. If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

If _____ (the obligor) requests or has requested a withdrawal of accumulated contributions as defined in RCW 41.50.500, or becomes eligible for a lump sum death benefit, the department of retirement systems shall pay

to _____ (the obligee) _____ dollars plus interest at the rate paid by the department of retirement systems on member contributions. Such interest to accrue from the date of this order's entry with the court of record.

(3) How will my account be affected if the department accepts the property division dissolution order BEFORE I retire?

(a) Your ex-spouse will not receive any payments from the department until you terminate your employment or retire.

(b) If you terminate your employment and request a withdrawal of your accumulated contributions, the department will pay your ex-spouse his or her share when you receive your payment. If you terminate your employment and do not request a withdrawal of contributions, your ex-spouse will be unable to receive his or her share until you withdraw your accumulated contributions.

(c) If you die before retirement, the department will pay your ex-spouse his or her share of your accumulated contributions in a lump-sum payment.

(4) How will my account be affected if the department accepts the property division dissolution order AFTER I retire?

(a) If included in the dissolution order, the department will begin paying your ex-spouse his or her portion of your monthly retirement ~~((benefit))~~ allowance the first month after the department has accepted the order.

(b) If your ex-spouse dies before you, the portion of your monthly ~~((benefit being paid to him or her))~~ retirement allowance that was being paid to your ex-spouse will be paid to you.

(c) If you die before your ex-spouse, payments to your ex-spouse stop unless the department accepted the order at least thirty days before you retired and the order required the department to name your ex-spouse as a survivor beneficiary (if allowed by your retirement system and plan). See RCW 41.50.700(1) and 41.50.790.

(d) If you are a member of LEOFF Plan 1 or WSPRS Plan 1 and if one of the provisions in RCW 41.50.700(3) applies:

(i) Your ex-spouse may be eligible to receive payments for the life of your surviving spouse; or

(ii) If you are a member of LEOFF Plan 1, your ex-spouse may be eligible to receive payments for his or her lifetime.

(5) Is there a maximum payment amount that a property division dissolution order can award to my ex-spouse? Yes. See RCW 41.50.670(4) and WAC 415-02-500(10) for information.

(6) If the property division dissolution order directs the department to make payments to my ex-spouse, how will the payments be made? The department will make the required payments as specified in the dissolution order directly to your ex-spouse.

(7) How much is the fee the department charges for making payments directly to my ex-spouse? See RCW 41.50.680 and WAC 415-02-500(11) for information.

(8) What happens if I transfer to Plan 3 after the department has accepted my property division dissolution order?

tion order or most recent amendment? See WAC 415-02-550 for information.

(9) **Can I amend my existing order to remove my ex-spouse as my survivor beneficiary?** Yes. To remove your ex-spouse as your survivor beneficiary, you must submit a "conformed copy" of the court order splitting your account. A conformed copy is a copy of the order that has been signed by the judge or commissioner on or after July 1, 2003, and filed with the court. Removing your ex-spouse as survivor beneficiary will change your retirement benefit. See WAC 415-02-520(~~((8))~~) (9) for the language that must be used.

(10) **Terms used:**

(a) Department's acceptance - ~~((Order))~~ That the department's determination that a dissolution order fully complies with the department's ~~((of retirement systems'))~~ requirements and with chapter 41.50 RCW.

(b) ~~((Accumulated contributions - WAC 415-02-030-~~

~~(e))~~ Dissolution order - RCW 41.50.500.

~~((d) Ex-spouse - WAC 415-02-030-~~

~~(e) JRF - Judicial retirement fund-~~

~~(f) JRS - Judicial retirement system-~~

~~(g) LEOFF - Law enforcement officers' and fire fighters' retirement system-~~

~~(h))~~ (c) Obligee - RCW 41.50.500(5).

~~((i))~~ (d) Obligor - RCW 41.50.500(6).

~~((j) PERS - Public employees' retirement system-~~

~~(k))~~ (e) Plan 3 ~~((retirement systems))~~ - WAC 415-111-100.

~~((l) SERS - School employees' retirement system-~~

~~(m) Split accounts - WAC 415-02-030-~~

~~(n) Survivor benefits - WAC 415-02-030-~~

~~(o) TRS - Teachers' retirement system-~~

~~(p))~~ (f) Vested - The ~~((length of service by system and plan required))~~ status of a member who has the amount of service credit required by the member's system and plan for a service retirement when the age requirement is met.

~~((q) WSPRS - Washington state patrol retirement system-))~~

Footnote to section:

¹ When a court awards an interest in your retirement account, the department is required to pay a portion of your monthly retirement ~~((benefit payments))~~ allowance or a portion of your contributions to your ex-spouse.

AMENDATORY SECTION (Amending WSR 04-09-043, filed 4/14/04, effective 5/15/04)

WAC 415-02-520 How can my Plan 1 or ~~((Plan))~~ 2 retirement account be split¹ by a property division dissolution order? (1) **Who may use this section? Vested members of LEOFF Plan 2, PERS Plan(s) 1 or 2, PSERS, TRS Plan(s) 1 or 2, SERS Plan 2, or WSPRS Plan 2 who have or will have a property division dissolution order or amendment dated on or after July 1, 2003². If your ex-spouse will be receiving an interest in your account, use WAC 415-02-510.**

(2) **What are the rules for splitting my account?** If you and your ex-spouse are eligible, the department will split **your** retirement account into two separate accounts—one for

you, and one for your ex-spouse. The rules for splitting your account are different depending on whether your dissolution order or most recent amendment is dated *BEFORE* or *AFTER* retirement.

(3) **How will my account be affected if the department accepts the property division dissolution order *BEFORE* my retirement?**

(a) The department will split your retirement account into two completely separate accounts and create an account for your ex-spouse under his or her Social Security number for the amount awarded in the dissolution order.

(b) The department will pay each of you out of your separate accounts either a monthly ~~((retirement benefit payment))~~ allowance or a withdrawal of contributions.

(c) If you retire and receive a monthly retirement ~~((benefit payment))~~ allowance, your monthly ~~((payment))~~ retirement allowance will have a permanent reduction to ~~((account for))~~ offset the amount awarded as a monthly payment to your ex-spouse.

(d) Your monthly ~~((benefit payment))~~ retirement allowance will be payable over your lifetime, and your ex-spouse's monthly payment will be payable over ~~((his or her))~~ your ex-spouse's lifetime.

(e) You will have the right to ~~((pick a survivor option for your monthly benefit payment))~~ choose a benefit option with a survivor feature. See WAC 415-02-320.

(f) Your ex-spouse will not have the right to ~~((pick a survivor option for his or her monthly payment))~~ choose a benefit option with a survivor feature, but may name a beneficiary to receive any final death payment that may be due.

(g) If you terminate employment, ~~((whatever))~~ any decision you make about your accumulated contributions will have no effect upon your ex-spouse's separate account.

(h) When you or your ex-spouse dies, there will be no impact to the other person's retirement account because the accounts are independent from one another.

(i) Your ex-spouse may begin receiving monthly payments when ~~((he or she))~~ your ex-spouse reaches retirement age for your retirement plan, or the first day of the month following the department's acceptance of the order, whichever is later. The ~~((retirement))~~ minimum age for an ex-spouse to begin receiving a benefit from:

(A) TRS Plan 1 and PERS Plan 1 is age sixty;

~~((from))~~ (B) PERS Plan 2, PSERS, SERS Plan 2, and TRS Plan 2 it is age sixty-five;

~~((from))~~ (C) LEOFF Plan 2 ~~((it))~~ is age fifty-three; and

~~((from))~~ (D) WSPRS Plan 2 ~~((it))~~ is age fifty-five.

Your age or retirement eligibility has no effect on when your ex-spouse is eligible to begin receiving ~~((his or her monthly benefit))~~ a monthly payment. Your ex-spouse must apply for his or her monthly payment according to the rules for your system and plan.

(j) Your ex-spouse may withdraw his or her share of the accumulated contributions at any time before receiving a monthly ~~((retirement benefit))~~ payment. Regardless of whether your ex-spouse withdraws or receives a monthly payment, your monthly ~~((benefit payment))~~ retirement allowance will be permanently reduced to account for your ex-spouse's share of your retirement account.

(4) Is there a limit to the amount of contributions I can award to my ex-spouse? Yes. The amount of contributions awarded to ~~((an)) your~~ ex-spouse~~((s))~~ cannot be greater than the **percentage** of ~~((the member's monthly benefit))~~ your monthly retirement allowance used to determine the amount of the monthly ~~((benefit))~~ payment awarded to ~~((the))~~ your ex-spouse.

Example:

Accumulated contributions earned during the marriage period:	\$50,000
Member's monthly ((benefit)) <u>retirement allowance</u> :	\$1,000
Percentage of member's monthly ((benefit)) <u>retirement allowance</u> awarded to ex-spouse:	50%
Monthly ((benefit)) <u>payment</u> awarded to ex-spouse:	\$500 (50% of \$1,000)

Contributions awarded to ex-spouse: \$25,000 (50% of 50,000)

(5) What happens if my retirement account was split and then I retire early?

(a) If you are eligible and decide to retire early, or must retire early because of a disability, your ~~((monthly retirement benefit payment will))~~ retirement plan may require that your monthly retirement allowance be reduced by an early retirement factor (ERF) or by some other method. See WAC 415-02-320.

(b) To determine the reduction to your ~~((benefit))~~ monthly retirement allowance (when an ERF is used) because of your preretirement split (see subsection (3)(c) of this section), the adjustment to the amount awarded to your ex-spouse in the dissolution order will be reduced by the ERF used to reduce your ~~((benefit))~~ monthly retirement allowance.

Example: You are a member of PERS Plan 2 and retire for disability two years before you are eligible for a service retirement. The dissolution order awarded your ex-spouse a monthly ~~((benefit))~~ payment of five hundred dollars.

Your ((defined benefit)) <u>monthly retirement allowance</u> before ERF is applied:	\$2,500	
ERF (factor for retiring two years early)	0.82	
Your base ((benefit)) <u>allowance</u> :	\$2,050	(\$2500 x 0.82 ERF)
Adjustment for divorce split:	- \$410	(ex-spouse's \$500 x 0.82 (ERF))
The ((defined benefit)) <u>monthly retirement allowance</u> you will receive:	\$1640	(\$2050 - \$410)

Your ex-spouse will receive the full monthly amount (\$500) that was awarded to him or her in the dissolution order, regardless of your benefit amount.

(6) What language must be used for a property division dissolution order or amendment that is accepted by the department BEFORE my retirement?

(a) The order must include the language provided below. Do **not** use the language in RCW 41.50.670(2). The exact dollar amount of your ex-spouse's monthly ~~((benefit))~~ payment must be specified. Do not use formulas or percentages.

The Department of Retirement Systems (department) shall create an account for _____(ex-spouse) in the _____(name of retirement system and plan) and transfer \$_____from _____'s (member's) accumulated contributions account into _____'s (ex-spouse's) account. If _____(ex-spouse) does not withdraw the contributions and becomes eligible, the department will pay him or her \$_____ (amount) as a monthly payment for his or her life. If _____(member) retires and receives a monthly retirement benefit payment, the payment will be permanently reduced to account for _____'s (ex-spouse's) monthly payment. This provision shall become effective no more than 30 days after the department's acceptance of the order.

(b) If you are a member of PERS Plan 1 or TRS Plan 1, the amount of service credit awarded to your ex-spouse must be specified in the order if he or she is awarded a portion of gainsharing payments and cost-of-living adjustments. Because gainsharing payments and cost-of-living adjustments are based on service credit, the following paragraph must be included:

If _____(ex-spouse) receives a monthly retirement payment, the department shall use _____(number) months of service credit to calculate future gainsharing payments, if any, and cost-of-living adjustments when he or she becomes eligible.

(7) How will my account be affected if the department accepts the property division dissolution order AFTER my retirement?

(a) The department will split your retirement account **only if** you selected your ex-spouse to receive survivor benefits at the time you retired. If you did not select your ex-spouse to receive survivor benefits at the time you retired, you cannot use this section. You **must** use WAC 415-02-510.

(b) If you selected your ex-spouse to receive survivor benefits at the time you retired, the rules in subsection (3)(a) through (f) of this section will apply.

(c) At the time the department splits your account, your ex-spouse will be removed as the survivor beneficiary on your account.

(d) Regardless of his or her age, your ex-spouse will begin receiving a monthly ~~((benefit))~~ payment the first month after the department has accepted the dissolution order.

(8) If the property division dissolution order is dated AFTER my retirement, how will my monthly retirement ~~((benefit payment))~~ allowance be calculated after the split?

(a) The dissolution order must state the exact dollar amount your ex-spouse is to receive as his or her separate monthly ~~((benefit))~~ payment. The following describes how the new amount of your ~~((benefit))~~ monthly retirement allowance will be calculated, assuming your ex-spouse was awarded a monthly ~~((benefit))~~ payment of one thousand dollars in the dissolution order.

Step 1 The department will determine the single life benefit of your current monthly ~~((benefit payment))~~ retirement allowance by dividing your current monthly ~~((benefit payment))~~ allowance by the survivor option factor (see WAC 415-02-380) in effect at the time of the split.

Example:

Current monthly ((benefit)) retirement allowance = \$1679.38

Option factor = 0.9400000

Single life benefit amount = $\$1679.38 / 0.9400000 = \1786.57

Step 2 The single life benefit (\$1786.57) is divided by your annuity factor (see WAC 415-02-360) to determine the current present value of the single life benefit amount. The annuity factor the department uses is the factor for your age as of the date of the split.

Example:

Your age at time of the split = 61 years old

Annuity factor for age 61 = 0.0084149

Present value of single life benefit = $\$1786.57 / 0.0084149 = \$212,310.31$

Step 3 The department then determines the present value of your ex-spouse's share by dividing your ex-spouse's monthly ((benefit amount)) payment (as awarded in the dissolution order) by your ex-spouse's annuity factor. The annuity factor is the factor for your ex-spouse's age as of date of the split.

Example:

Ex-spouse's monthly benefit amount = \$1000

Ex-spouse's age at time of the split = 67

Annuity factor for age 67 = 0.0095028

Present value of your ex-spouse's monthly benefit = $\$1000 / 0.0095028 = \$105,232.14$

Step 4 Next, the department subtracts your ex-spouse's present value from the single life benefit present value. The result is the present value of the benefit you will receive.

Example:

Present value of single life benefit = \$212,310.31

Less present value of ex-spouse's benefit = -105,232.14

Your present value = \$107,078.17

Step 5 The department determines the amount of your new monthly ((benefit amount)) retirement allowance by multiplying your present value by your annuity factor.

Example:

Your present value = \$107,078.17

Annuity factor = 0.0084149

Your new monthly ((benefit amount)) retirement allowance = $\$107,078.17 \times 0.0084149 = \901.05

(b) The department determines the percentage of the total present value each of you will receive by dividing each of your present value amounts by the single life benefit present value amount.

Example:

Your percentage of the single life benefit present value: $\$107,078.17 / \$212,310.31 = .5043$

Your ex-spouse's percentage of the single life benefit present value: $\$105,232.14 / \$212,310.31 = .4957$

(9) What language must be used in a property division dissolution order or amendment that is accepted by the department AFTER my retirement?

(a) The order must include the language provided below. Do **not** use the language in RCW 41.50.670(2). The exact dollar amount of your ex-spouse's monthly benefit must be specified. Do not use formulas or percentages.

The Department of Retirement Systems (department) shall create an account for _____(ex-spouse) in the _____(name of retirement system and plan) and pay him or her \$ _____(amount) as a monthly benefit payment for his or her life. To pay for this benefit, _____'s (retiree's) monthly retirement benefit payment will be reduced for his or her life. If (retiree) has any unused contributions remaining in his or her account, \$ _____(amount) shall be transferred to _____'s (ex-spouse's) account. This provision shall become effective no more than 30 days after the department's acceptance of the order.

(b) If the member is in PERS Plan 1 or TRS Plan 1, the amount of service credit awarded to the ex-spouse must be specified in the order if he or she is entitled to a portion of gainsharing payments and cost-of-living adjustments. Because gainsharing payments and cost-of-living adjustments are based on service credit, the following paragraph must be included:

If _____(ex-spouse) receives a monthly retirement payment, the department shall use _____(number) months of service credit to calculate future gainsharing payments, if any, and cost-of-living adjustments when he or she becomes eligible.

(10) **Is there a maximum payment amount that the department will pay to my ex-spouse?** Yes. See RCW 41.50.670(4) or WAC 415-02-500(10) for information.

(11) ~~((Can))~~ **May I amend an existing order that ((has)) awarded an interest in my account to my ex-spouse under WAC 415-02-520, and remove my ex-spouse as my survivor beneficiary?** Yes. To remove your ex-spouse as your survivor beneficiary, you must submit a "conformed copy" of the court order splitting your account. A conformed copy is a copy of the order that has been signed by the judge or commissioner on or after July 1, 2003, and filed with the court. Removing your ex-spouse as your survivor beneficiary will change the amount of your monthly retirement ((benefit)) allowance. See WAC 415-02-520(9) for the language that must be used.

Example:

Julio and May were married when Julio retired. Julio chose ~~((survivor))~~ benefit Option 2 (joint and one hundred percent survivorship) when he retired, and named May as his survivor beneficiary. ~~((This meant that if Julio died, May would receive monthly survivor benefits.))~~ Two years after Julio's retirement, the couple divorced. The court awarded "one hundred percent of retirement benefits" to Julio. Julio later learned that this award did not change the survivor option. Julio ~~((can))~~ may return to court and obtain an order stating that May is to receive "\$0" as the dollar amount for her separate monthly benefit. The order must use the language in WAC 415-02-520(~~((8))~~) (9) and be signed by the court no sooner than July 1, 2003.

(12) **How much is the fee the department charges for making payments directly to my ex-spouse?** See RCW 41.50.680 and WAC 415-02-500(11) for information.

(13) **What happens if I transfer to Plan 3 after the property division dissolution order has been filed with the department?** See WAC 415-02-550 for information.

(14) **Terms used:**

(a) Department's acceptance - ~~((Order that fully complies with the department of retirement systems))~~ The department's determination that a dissolution order fully complies with the department's requirements and RCW 41.50.500.

(b) Dissolution order - RCW 41.50.500.

(c) ~~((Ex spouse - WAC 415-02-030.~~

~~(d) LEOFF - Law enforcement officers' and fire fighters' system.~~

~~(e) PERS - Public employees' retirement system.~~

~~(f) Plan 3 ((retirement systems)) - WAC 415-111-100.~~

~~((g) SERS - School employees' retirement system.~~

~~(h) Split account - WAC 415-02-030.~~

~~(i) Survivor benefits - WAC 415-02-030.~~

~~(j) TRS - Teachers' retirement system.~~

~~(k) Vested - The length of service, by system and plan, required to receive a service retirement when age requirements are met.~~

~~(l) WSPRS - Washington state patrol retirement system.)~~ (d) Vested - The status of a member who has the amount of service credit required by the member's system and plan for a service retirement when the age requirement is met.

Footnotes to section:

¹ When a court splits your retirement account, the department will establish a separate account for your ex-spouse. Once the account is established, your account and your ex-spouse's account are not tied in any way.

² If ~~((an))~~ your ex-spouse was not listed as ~~((the member's))~~ your survivor beneficiary at retirement, then no postretirement property division dissolution order (or postretirement amendment) may split ~~((the member's))~~ your retirement account using WAC 415-02-520.

AMENDATORY SECTION (Amending WSR 03-18-031, filed 8/26/03, effective 10/1/03)

WAC 415-02-700 Are fallen heroes' survivor benefits nontaxable? (1) What is the fallen heroes tax exemption? The department makes survivor benefit annuity payments to qualified survivor beneficiaries of public safety officers killed in the line of duty. All or part of the annuity benefit paid may be nontaxable under applicable federal law¹. **Lump sum payments do not qualify** for nontaxable treatment under this provision of law.

(a) **Who is covered?** Deceased public safety officers who were members of ~~((the public employees' retirement system (PERS), the law enforcement officers' and fire fighters' retirement system (LEOFF), or the Washington state patrol retirement system (WSPRS)))~~ LEOFF, PERS, PSERS AND WSPRS. If the deceased officer was a member of another

plan, please contact the department or your tax advisor to discuss the matter.

(b) **What time period is covered?**

MEMBER'S DATE OF DEATH	SURVIVOR BENEFIT PAYMENT DATE
On or after January 1, 1997	On or after January 1, 1997
On or before December 31, 1996	On or after January 1, 2002

(2) **Can I rely on the department's determination of whether the payments are nontaxable?** No.

(a) The department does not guarantee that payments should or should not be designated as exempt from federal income tax.

(b) The department does not guarantee that it was correct in withholding or not withholding taxes from survivor benefit payments to you.

(c) The department does not:

(i) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its nontaxable determination; or

(ii) Assume any liability for your compliance with the Internal Revenue Code.

(d) You should consult with your own tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department.

(3) **How will the department determine whether to withhold or not withhold from your survivor benefit annuity payment for income tax purposes?**

(a) If you receive survivor benefit annuity payments because of the death of a public safety officer killed in the line of duty, and you are the public safety officer's spouse, ex-spouse, or child, the department will not withhold taxes **on the portion** of your survivor benefit payments attributable to the officer's service as a public safety officer.

(b) The department will compare the service credits associated with the member's employment as a public safety officer to the member's overall service credit to determine the portion of the survivor benefit payment that qualifies.

(c) **Examples:** In the following examples, assume that the plan administrator has determined that the death of the member qualifies under the fallen heroes tax exemption provision. Assume that the monthly survivor benefit payable is \$2000.

Example 1. Joe was employed as a law enforcement officer. He spent his entire career in law enforcement from July 1, 1976, until his death on June 10, 2003 (324 months). Total service credit = 324 months
Service credit as public safety officer = 324 months
 $324 / 324 = 1.0$
 $1.0 \times \$2,000 = \$2,000$

\$2,000 is not subject to withholding

Example 2. Brian was employed as a research analyst for a state agency from July 1, 1976, to May 30, 1995 (227 months service credit). He was employed in a public safety officer position for another state agency from June 1, 1995, until his death on June 10, 2003 (97 months service credit). Total service credit = 324 months

Service credit as public safety officer = 97 months
 $97 / 324 = .299383$
 $.299383 \times \$2,000 = \598.77

\$598.77 is not subject to withholding

Example 3. Susan was hired on July 1, 1976, as a research analyst for a state agency. She terminated that employment on May 30, 1995 (227 months service credit). Susan was hired into a public safety officer position on June 1, 2003, for another state agency. She died on June 4, 2003. Total service credit = 227.25 months

Service credit as public safety officer = .25 months
 $.25 / 227.25 = .001100$
 $.001100 \times \$2,000 = \2.20

\$2.20 is not subject to withholding

(d) **What are the exceptions?** Subsection (3)(a) of this section shall not apply with respect to the death of any public safety officer if:

(i) The death was caused by the intentional misconduct of the officer or by the officer's intention to bring about his or her own death;

(ii) The officer was voluntarily intoxicated at the time of death;

(iii) The officer was performing his or her duties in a grossly negligent manner at the time of death; or

(iv) The payment is to an individual whose actions were a substantial contributing factor to the death of the officer.

(4) Who will decide whether to withhold money for income tax from your survivor benefit payments?

(a) The plan administrator will make the decision.

(b) If you disagree with the plan administrator's decision, you may petition for review under chapter 415-04 WAC.

(5) What types of evidence will the department use in making the decision regarding whether to withhold taxes from the survivor payments?

(a) Cause of death stated on the certified death certificate;

(b) Facts surrounding the public safety officer's death;

(c) The deceased public safety officer's job description;

(d) The deceased's membership records;

(e) Materials that the survivor submits for consideration; and

(f) Any other relevant evidence.

(6) Examples:

(a) **Police officer:** Charles is a police officer who works for a police department in a large Washington city. He receives a call to report to duty because a riot has started downtown. Charles drives to the riot scene and is killed getting out of his car from a bullet fired by a rioter. The department will not withhold taxes on survivor benefit payments.

(b) **Fire fighter:** Elaine is a fire fighter who attends a barbecue party on the Fourth of July. During the party, the barbecue falls over and the garage catches on fire. Elaine grabs a hose and puts out the fire, but dies from smoke inhalation in the process. The department would review the evidence and circumstances to determine whether Elaine would be considered to be "on duty" at the time of her death. If Elaine was not on duty, the department will withhold taxes on survivor benefit payments.

(c) **Park ranger:** Bobbi is a park ranger employed by the state parks and recreation commission. Her job duties

include administration, development, maintenance, and visitor services, in addition to law enforcement, within a state park or park area. She is required to have knowledge of fire prevention and suppression methods and equipment. Although Bobbi is commissioned to enforce laws, her principal job functions do not include criminal law enforcement or crime control. The department would withhold taxes on payments to her survivors unless Bobbi was actually engaged in crime control, enforcement of criminal law, or fire suppression at the time of her death.

(7) Definitions used; these definitions apply to this WAC section ONLY.

(a) **Chaplain** - any individual serving as an officially recognized or designated member of a legally organized fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency.

(b) **Child** - any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is:

(i) Eighteen years of age or under;

(ii) Over eighteen years of age and a student as defined in Section 8101 of Title 5, United States Code; or

(iii) Over eighteen years of age and incapable of self-support because of physical or mental disability;

(c) **Fire fighter** - an individual serving as an officially recognized or designated member of a legally organized fire department and an officially recognized or designated public employee member of a rescue squad or ambulance crew.

(d) **Intoxication** - a disturbance of mental or physical faculties;

(i) Resulting from the introduction of alcohol into the body as evidenced by:

((+)) (A) A postmortem blood alcohol level of .20 per centum or greater; or

((+)) (B) A postmortem blood alcohol level of at least .10 per centum but less than .20 per centum unless the department receives convincing evidence that the public safety officer was not acting in an intoxicated manner immediately prior to his death; or

((+)) (i) Resulting from drugs or other substances in the body.

(e) **Law enforcement officer** - an individual involved in crime and juvenile delinquency control or reduction, or enforcement of the laws, including, but not limited to, police, corrections, probation, parole, and judicial officers.

(f) **Line of duty** means:

(i) Any action which an officer whose primary function is crime control or reduction, enforcement of the criminal law, or suppression of fires is obligated or authorized by rule, regulations, condition of employment or service, or law to perform, including those social, ceremonial, or athletic functions to which the officer is assigned, or for which the officer is compensated, by the public agency he or she serves. For other officers, "line of duty" means any action the officer is so obligated or authorized to perform in the course of controlling or reducing crime, enforcing the criminal law, or suppressing fires; and

(ii) Any action which an officially recognized or designated public employee member of a rescue squad or ambulance crew is obligated or authorized by rule, regulation, condition of employment or service, or law to perform.

(g) **Public agency** - any unit of government that meets the definition of "employer" in any retirement plan that the department administers.

(h) **Public safety officer:**

(i) Regardless of full-time or part-time status, an individual serving a public agency in an official capacity as a law enforcement officer, fire fighter, chaplain, or member of a rescue squad or ambulance crew; or

(ii) An individual who is performing official duties in cooperation with the Federal Emergency Management Agency in an area, if those official duties:

(A) Are related to a major disaster or emergency that has been, or is later, declared to exist with respect to the area under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

(B) Are determined by the head of the agency to be hazardous duties.

(i) **Rescue** - the provision of first response emergency medical treatment, transportation of persons in medical distress and under emergency conditions to medical care facilities, or search and rescue assistance in locating and extracting from danger persons lost, missing, or in imminent danger of bodily harm.

Footnotes to section:

¹ The "Omnibus Crime Control and Safe Streets Act of 1968," Act June 19, 1969, P.L. 90-351, which appears generally as 42 USCS §§ 3701 et seq., including Title 26 U.S.C. Sec. 101(h) as amended by the Fallen Hero Survivor Benefit Fairness Act of 2001.

² These definitions duplicate, as closely as possible, those in 42 USCS § 3796b (2003), the applicable federal definition section. Provisions not applicable to any plans administered by the department have been deleted.

AMENDATORY SECTION (Amending WSR 03-24-050, filed 11/26/03, effective 1/1/04)

WAC 415-02-710 What is the \$150,000 death benefit? (1) **What is the \$150,000 death benefit?** This is a benefit consistent with workers' compensation law, Title 51 RCW, for LEOFF, PERS, PSERS, SERS, TRS, and WSPRS beneficiaries where the member((s-who)) dies as a result of injuries³ sustained in the course of employment. The benefit may be nontaxable under applicable federal law.

(2) **Who is covered?** Deceased members of LEOFF, PERS, PSERS, SERS, TRS, and WSPRS. If the deceased was a member of another plan, please contact the department.

(3) **Who will determine eligibility for the benefit?** The Washington state department of labor and industries (L&I) will determine eligibility consistent with Title 51 RCW and applicable retirement statutes in chapter 41.26 RCW (LEOFF), chapter 41.40 RCW (PERS), chapter 41.37 RCW (PSERS), chapter 41.35 RCW (SERS), chapter 41.32 RCW (TRS), or chapter 43.43 RCW (WSPRS).

(4) **Who will receive the \$150,000 death benefit?**

(a) **LEOFF Plan 2, PERS, PSERS, SERS, TRS, and WSPRS Plan 2:** The person(s) the member designated as his or her beneficiary(ies) for his or her retirement plan will

receive the benefit *unless* the member designated a *different* beneficiary(ies) for the \$150,000 death benefit. If the member did not designate a beneficiary for either the plan or death benefit, then the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's estate.

(b) **LEOFF Plan 1 and WSPRS Plan 1:** In these plans, the member's surviving spouse is automatically the beneficiary for the member's retirement plan. The member may designate a different person(s) for the \$150,000 death benefit. If the member did not designate a beneficiary for either the plan or death benefit, then the member's death benefit shall be paid to the member's surviving spouse as if in fact the spouse had been nominated by written designation, or if there is no surviving spouse, then to the member's estate.

(5) **How do I apply for the benefit?** To apply:

(a) Obtain an application from the department (~~(of retirement systems (DRS))~~).

(b) Submit a correctly completed application to (~~(DRS))~~ the department. (~~(DRS))~~ The department will submit the application to L&I.

(6) **How will I receive the benefit?** L&I will notify you and (~~(DRS))~~ the department of approval or disapproval of eligibility. (~~(DRS will either send you the lump sum payment or send it directly to your bank, depending on your preference.)~~) If you are approved, you may choose to have the department send the sump sum payment directly to you or to your bank.

(7) **How will DRS treat the \$150,000 payment for tax purposes?**

(a) (~~(DRS))~~ The department will treat the payment as nontaxable.

(b) (~~(DRS))~~ The department does not guarantee that payments should or should not be designated as exempt from federal income tax.

(c) (~~(DRS))~~ The department does not guarantee that it was correct in withholding or not withholding taxes from the death benefit payment.

(d) (~~(DRS))~~ The department does not:

(i) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its nontaxable determination; or

(ii) Assume any liability for your compliance with the Internal Revenue Code.

(e) You should consult with your own tax advisor regarding all questions of federal or state income, payroll, personal property or other tax consequences regarding any payments you receive from the department.

~~((8) Terms used:~~

~~(a) LEOFF - Law enforcement officers' and fire fighters' retirement system.~~

~~(b) PERS - Public employees' retirement system.~~

~~(c) SERS - School employees' retirement system.~~

~~(d) TRS - Teachers' retirement system.~~

~~(e) WSPRS - Washington state patrol retirement system.)~~

Footnote to section:

³ A LEOFF Plan 2 beneficiary is entitled to the \$150,000 death benefit if the member dies as a result of injuries sustained in the course of employment, or if the member dies from an occupa-

tional disease or infection that arises naturally and proximately out of employment under LEOFF Plan 2. See RCW 41.26.048.

WSR 06-18-011
PERMANENT RULES
DEPARTMENT OF REVENUE

[Filed August 24, 2006, 11:04 a.m., effective September 24, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: RCW 84.34.055 enables a county legislative authority to establish an open space plan, public benefit rating system, and valuation schedule for land classified as open space. WAC 458-30-330 explains the factors that must be considered when such a plan and rating system are established, includes a nonexclusive list of recognized sources used in determining open space priorities, and outlines the actions required after and effects of the approval of an open space plan and public benefit rating system. The rule has been revised to recognize 2005 legislation. The content of WAC 458-30-335 and 458-30-340 has been incorporated and these two rules are being repealed.

Citation of Existing Rules Affected by this Order: Repealing WAC 458-30-335 Rating system—Procedure to establish and 458-30-340 Rating system—Adoption—Notice to owner—Loss of classification; and amending WAC 458-30-330 Open space plan and public benefit rating system—Authorization and procedure to establish—Adoption—Notice to owner—Valuation.

Statutory Authority for Adoption: RCW 84.34.141.

Adopted under notice filed as WSR 06-12-029 on May 31, 2006.

Changes Other than Editing from Proposed to Adopted Version: **Description of differences in text between proposed rule as published and rule as adopted.**

Subsection (6) has been changed as follows (strike-out reflecting removed language and underlining reflecting new language):

How is an owner of classified open space land notified about the adoption of an open space plan, rating system, and valuation schedule? Can an owner choose not to participate and request removal from the current use program? Once the county legislative authority adopts an open space plan, rating system, and assessed valuation schedule, the ~~((assessor must revalue))~~ planning commission or other designated agent of the legislative authority must assign a recommended number of priority rating points to all land classified as open space using the adopted rating system ((and valuation schedule)). The planning commission or agent will forward this recommendation to the county legislative authority for approval. After the number of priority rating points are assigned and approved, this information will be sent to the assessor. The assessor will determine the new assessed value of the classified open space land based on the number of priority rating points assigned and the adopted assessed valuation schedule. Thereafter, the assessor must ((then)) notify all owners of such land of the new assessed value of their land in the manner provided in RCW 84.40.-045.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 24, 2006.

Janis P. Bianchi
Assistant Director
Interpretations and
Technical Advice Division

AMENDATORY SECTION (Amending WSR 95-21-002, filed 10/4/95, effective 11/4/95)

WAC 458-30-330 Open space plan and public benefit rating system—Authorization and procedure to establish—Adoption—Notice to owner—Valuation. (1) **Introduction.** ~~((This section sets forth the general authority that has been conferred on a county legislative authority to establish an open space plan and a public benefit rating system under RCW 84.34.055.~~

~~(2) General authorization. The county legislative authority may direct the county planning commission to set open space priorities and to adopt, following a public hearing, an open space plan and a public benefit rating system for the county. The open space plan shall include, but is not limited to, the following:~~

~~(a) Criteria to determine eligibility of land;~~

~~(b) A process for establishing a public benefit rating system; and~~

~~(c) An assessed valuation schedule that shall be developed by the assessor and shall be a percentage of true and fair value based on the public benefit rating system.~~

~~(3) Public hearing required. At least one public hearing must be held before an open space plan, a public benefit rating system, or an assessed valuation schedule may be approved by the county legislative authority.))~~ RCW 84.34.055 enables a county legislative authority to establish an open space plan, public benefit rating system, and valuation schedule for land classified as open space. This section explains the factors that must be considered when such a plan and rating system are established, includes a nonexclusive list of recognized sources used in determining open space priorities, and outlines the actions required after and effects of the approval of an open space plan and public benefit rating system.

(2) General authorization. The county legislative authority may direct the county planning commission to set open space priorities and to adopt, following a public hearing,

ing, an open space plan and a public benefit rating system (rating system) for the county. As used in this section, "planning commission" means the county office, commission, or department that is responsible for making planning decisions at the county level. The open space plan must include, but is not limited to, the following:

- (a) Criteria to determine the eligibility of land;
- (b) A process to establish a rating system; and
- (c) An assessed valuation schedule developed by the assessor. This schedule is a percentage reduction of true and fair value based on the rating system.

(3) A public hearing is required. At least one public hearing must be held before an open space plan, a public benefit rating system, or an assessed valuation schedule may be approved by the county legislative authority.

(4) What criteria are used to determine eligibility? Within the rating system the county legislative authority must include the criteria and elements contained in RCW 84.34.020 (1)(a). This authority, which approves or denies applications for the classification and reclassification of land as open space, must consider the criteria when it makes its determination.

(a) The rating system must provide a method to rank or rate classified open space land.

(b) The legislative authority must give priority consideration to lands used for buffers planted with or primarily containing native vegetation no later than July 1, 2006, unless buffers of this nature already receive priority consideration in an existing open space plan, rating system, and assessed valuation schedule.

(c) "Priority consideration" as used in this section, may include, but is not limited to, establishing classification eligibility, maintenance criteria, or a rating system for buffers with native vegetation.

(5) How is an open space plan and rating system developed? The county planning commission must take all reasonable steps to determine open space priorities or use recognized sources for this purpose, or both.

(a) Recognized sources of open space priorities include, but are not limited to:

- (i) The natural heritage data base;
- (ii) The state office of historic preservation;
- (iii) The interagency committee for outdoor recreation inventory of dry accretion beach and shoreline features;
- (iv) The state, national, county, and/or state registers of historic places;
- (v) The shoreline master program; or
- (vi) Studies conducted by the parks and recreation commission and by the departments of fisheries, natural resources, and wildlife.

(b) Particular features and sites may be verified by an outside expert in the field and approved by the appropriate state or local agency. This verification is to be sent to the county legislative authority for final approval for inclusion in the open space plan.

(6) How is an owner of classified open space land notified about the adoption of an open space plan, rating system, and valuation schedule? Can an owner choose not to participate and request removal from the current use program? Once the county legislative authority adopts

an open space plan, rating system, and assessed valuation schedule, the planning commission or other designated agent of the legislative authority must assign a recommended number of priority rating points to all land classified as open space using the adopted rating system. The planning commission or agent will forward this recommendation to the county legislative authority for approval. After the number of priority rating points are assigned and approved, this information will be sent to the assessor. The assessor will determine the new assessed value of the classified open space land based on the number of priority rating points assigned and the adopted assessed valuation schedule. Thereafter, the assessor must notify all owners of such land of the new assessed value of their land in the manner provided in RCW 84.40.045.

(a) Within thirty days of receipt of this notice of the new assessed value, the owner may request that the parcel(s) of land be removed from the open space classification without payment of additional tax, interest, or penalty.

(b) If previously classified open space land does not qualify for classification under the newly adopted open space plan and rating system, the assessor is not to remove the land from the open space classification. This land will retain its status as classified open space land. The assessor will determine the value of this land using the new priority rating system and valuation schedule.

(7) How does a rating system affect assessed value of classified open space land? The assessed value of properties classified as open space is determined by a formula using a priority rating system typically consisting of "points." A county generally establishes a list of priority resources based on the definition of open space in RCW 84.34.020(1); these are also known as "open space priorities." Each priority resource is assigned a specific point or number of points. The more priority points the land is entitled to, the larger the reduction in true and fair value.

(a) A parcel of classified open space land may contain a number of priority resources. In such cases, the open space plan and rating system may allow the parcel to receive multiple priority points based on the number of priority resources. This would entitle the parcel to a larger reduction in assessed value.

(b) The priority rating system takes into consideration established priority resources, public access, and/or conservation or historic easements.

(c) **Example.** Let's assume a wetland was designated as a priority resource in the adopted open space plan. A wetland entitles the land to receive three priority points. Each point may represent a ten percent reduction in assessed value (one point equals a ten percent reduction, two points equals a twenty percent reduction, and so on). A parcel with a priority rating of three points would be entitled to a thirty percent reduction in assessed value.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 458-30-335

Rating system—Procedure to establish.

WAC 458-30-340

Rating system—Adoption—
 Notice to owner—Loss of
 classification.

WSR 06-18-034**PERMANENT RULES****PUBLIC DISCLOSURE COMMISSION**

[Filed August 28, 2006, 3:02 p.m., effective September 28, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To change the supplement page to the personal financial affairs statement (PDC form F-1) to make it consistent with the language in RCW 42.17.241 (1)(g) referencing payments entity received from business customers and other government agencies of \$7,500 or more.

Citation of Existing Rules Affected by this Order:
 Amending WAC 390-24-010.

Statutory Authority for Adoption: RCW 42.17.370.

Adopted under notice filed as WSR 06-08-089 on April 4, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 28, 2006.

Vicki Rippie
 Executive Director

AMENDATORY SECTION (Amending WSR 05-06-070, filed 3/1/05, effective 4/1/05)

WAC 390-24-010 Forms for statement of financial affairs. The official form for statements of financial affairs as required by RCW 42.17.240 is designated "F-1," revised ((2/05)) 6/06. Copies of this form are available at the Commission Office, 711 Capitol Way, Room 206, Evergreen Plaza Building, PO Box 40908, Olympia, Washington 98504-0908. Any paper attachments must be on 8-1/2" x 11" white paper.

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PDC FORM F-1 (2/05) PERSONAL FINANCIAL AFFAIRS STATEMENT

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Refer to instruction manual for detailed assistance and examples.

Deadlines: Incumbent elected and appointed officials -- by April 15.
Candidates and others -- within two weeks of becoming a candidate or being newly appointed to a position.

Table with 2 columns: DOLLAR CODE (A-E) and AMOUNT (\$1 to \$75,000+)

SEND REPORT TO PUBLIC DISCLOSURE COMMISSION

Form sections: Personal Information (Last Name, First, Middle Initial, Mailing Address, City, County, Zip), Filing Status (checkboxes for various roles), Office Held or Sought (title, county, position number, term dates)

1 INCOME List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member received \$1,500 or more during the period. (Report interest and dividends in Item 3 on reverse)

Table for Income reporting with columns: Name and Address of Employer or Source of Compensation, Occupation or How Compensation Was Earned, Amount (Use Code). Includes checkbox for continuation.

2 REAL ESTATE List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$7,500 in which you or a family member held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement.)

Table for Real Estate reporting with columns: Property Sold or Interest Divested, Assessed Value, Name and Address of Purchaser, Nature and Amount of Payment or Consideration Received, Property Purchased or Interest Acquired, Creditor's Name/Address, Payment Terms, Security Given, Mortgage Amount.

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<p>3 ASSETS / INVESTMENTS - INTEREST / DIVIDENDS</p> <p>A. Name and address of each bank or financial institution in which you or a family member had an account over \$15,000 any time during the report period.</p> <p>B. Name and address of each insurance company where you or a family member had a policy with a cash or loan value over \$15,000 during the period.</p> <p>C. Name and address of each company, association, government agency, etc. in which you or a family member owned or had a financial interest worth over \$1,500. Include stocks, bonds, ownership, retirement plan, IRA, notes, and other intangible property.</p>	<p>List bank and savings accounts, insurance policies, stock, bonds and other intangible property held during the reporting period.</p>		
	Type of Account or Description of Asset	Asset Value (Use Code)	Income Amount (Use Code)
	<p>Check here <input type="checkbox"/> if continued on attached sheet.</p>		

<p>4 CREDITORS</p> <p>Creditor's Name and Address</p>	<p>List each creditor you or a family member owed \$1,500 or more any time during the period. Don't include retail charge accounts, credit cards, or mortgages or real estate reported in Item 2.</p>		<p>AMOUNT (USE CODE)</p>	
	Terms of Payment	Security Given	Original	Present
<p>Check here <input type="checkbox"/> if continued on attached sheet.</p>				

5 All filers answer questions A thru D below. If the answer is YES to any of these questions, the F-1 Supplement must also be completed as part of this report. If all answers are NO and you are a candidate for state or local office, an appointee to a vacant elective office, or a state executive officer filing your initial report, no F-1 Supplement is required.

Incumbent elected officials and state executive officers filing an annual financial affairs report also must answer question E. An F-1 Supplement is required of these officeholders unless all answers to questions A thru E are NO.

A. Were you, your spouse or dependents an officer, director, general partner or trustee of any corporation, company, union, association, joint venture or other entity at any time during the reporting period? ___ If yes, complete Supplement, Part A.

B. Did you, your spouse or dependents have an ownership of 10% or more in any company, corporation, partnership, joint venture or other business at any time during the reporting period? ___ If yes, complete Supplement, Part A.

C. Did you, your spouse or dependents own a business at any time during the reporting period? ___ If yes, complete Supplement, Part A.

D. Did you, your spouse or dependents prepare, promote or oppose state legislation, rules, rates or standards for current or deferred compensation (other than pay for a currently-held public office) at any time during the reporting period? ___ If yes, complete Supplement, Part B.

E. **Only for Persons Filing Annual Report.** Regarding the receipt of items not provided or paid for by your governmental agency during the previous calendar year: 1) Did you, your spouse or dependents (or any combination thereof) accept a gift of food or beverages costing over \$50 per occasion? ___ or 2) Did any source other than your governmental agency provide or pay in whole or in part for you, your spouse and/or dependents to travel or to attend a seminar or other training? ___ If yes to either or both questions, complete Supplement, Part C.

<p>ALL FILERS EXCEPT CANDIDATES. Check the appropriate box.</p> <p><input type="checkbox"/> I hold a state elected office, am an executive state officer or professional staff. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns.</p> <p><input type="checkbox"/> I hold a local elected office. I have read and am familiar with RCW 42.17.130 regarding the use of public facilities in campaigns.</p>	<p>CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.</p> <p>Signature _____ Date _____</p> <p>Contact Telephone: () _____</p> <p>Email: _____ (work)</p> <p>Email: _____ (Home)</p>
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REPORT NOT ACCEPTABLE WITHOUT FILER'S SIGNATURE

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PUBLIC DISCLOSURE COMMISSION

 711 CAPITOL WAY RN 206
 PO BOX 40908
 OLYMPIA WA 98504-0908
 (360) 753-1111
 TOLL FREE 1-877-601-2828
 EMAIL: pdc@pdc.wa.gov

PDC FORM F-1 SUPPLEMENT (2/05)	SUPPLEMENT PAGE PERSONAL FINANCIAL AFFAIRS STATEMENT
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PROVIDE INFORMATION FOR YOURSELF, SPOUSE, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD

Last Name	First	Middle Initial	DATE
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- A OFFICE HELD, BUSINESS INTERESTS:** For each corporation, non-profit organization, association, union, partnership, joint venture or other entity in which you, your spouse or dependents are an officer, director, general partner, trustee, or 10 percent or more owner – provide the following information:
- Legal Name: Report name used on legal documents establishing the entity.
 - Trade or Operating Name: Report name used for business purposes if different from the legal name.
 - Position or Percent of Ownership: The office, title and/or percent of ownership held.
 - Brief Description of the Business/Organization: Report the purpose, product(s), and/or the service(s) rendered.
 - Payments from Governmental Unit: If the governmental unit in which you hold or seek office made payments to the business entity concerning which you're reporting, show the purpose of each payment and the actual amount received.
 - Payments from Business Customers and Other Government Agencies: List each corporation, partnership, joint venture, sole proprietorship, union, association, business or other commercial entity and each government agency (other than the one you seek/hold office) which paid compensation of \$7,500 or more during the period to the entity. Briefly say what property, goods, services or other consideration was given or performed for the compensation.
 - Washington Real Estate: Identify real estate owned by the business entity if the qualifications referenced below are met.

ENTITY NO. 1 Reporting For: Self Spouse Dependent

LEGAL NAME: POSITION OR PERCENT OF OWNERSHIP

TRADE OR OPERATING NAME:

ADDRESS:

BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:

PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:

Purpose of payments	Amount (actual dollars)
	\$

PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OVER \$7,500:

Customer name:	Purpose of payment (amount not required)
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WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$15,000. List street address, assessor parcel number, or legal description and county for each parcel):

Check box if continued on attached sheet

CONTINUE PARTS B AND C ON NEXT PAGE

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Page 2

F-1 Supplement

Name

ENTITY NO. 2 Reporting For: Self Spouse Dependent

LEGAL NAME: POSITION OR PERCENT OF OWNERSHIP

TRADE OR OPERATING NAME:

ADDRESS:

BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:

PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:

Purpose of payments	Amount (actual dollars)
	\$

PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OVER \$7,500:

Customer name:	Purpose of payment (amount not required)
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WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$15,000. List street address, assessor parcel number, or legal description and county for each parcel):

Check here if continued on attached sheet

B LOBBYING: List persons for whom you or any immediate family member lobbied or prepared state legislation or state rules, rates or standards for current or deferred compensation. Do not list pay from government body in which you are an elected official or professional staff member.

Person to Whom Services Rendered	Description of Legislation, Rules, Etc.	Compensation (Use Code)

Check here if continued on attached sheet

C FOOD TRAVEL SEMINARS Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof: 1) Food and beverages costing over \$50 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.

Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
			\$	

Check here if continued on attached sheet

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PDC FORM
F-1
(6/06)

PERSONAL FINANCIAL AFFAIRS STATEMENT

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Refer to instruction manual for detailed assistance and examples.

Deadlines: Incumbent elected and appointed officials – by April 15.
Candidates and others – within two weeks of becoming a candidate or being newly appointed to a position.

DOLLAR CODE	AMOUNT
A	\$1 to \$2,999
B	\$3,000 to \$14,999
C	\$15,000 to \$29,999
D	\$30,000 to \$74,999
E	\$75,000 or more

SEND REPORT TO PUBLIC DISCLOSURE COMMISSION

Last Name			First	Middle Initial	Names of immediate family members. If there is no reportable information to disclose for dependent children, or other dependents living in your household, do not identify them. Do identify your spouse. See F-1 manual for details.	
Mailing Address (Use PO Box or Work Address)						
City		County		Zip + 4		
Filing Status (Check only one box.) <input type="checkbox"/> An elected or state appointed official filing annual report <input type="checkbox"/> Final report as an elected official. Term expired: _____ <input type="checkbox"/> Candidate running in an election: month _____ year _____ <input type="checkbox"/> Newly appointed to an elective office <input type="checkbox"/> Newly appointed to a state appointive office <input type="checkbox"/> Professional Staff					Office Held or Sought Office title: _____ County, city, district or agency of the office, name and number: _____ Position number: _____ Term begins: _____ ends: _____	

1 INCOME List each employer, or other source of income (pension, social security, legal judgment, etc.) from which you or a family member received \$1,500 or more during the period. (Report interest and dividends in Item 3 on reverse)

Show Self (S) Spouse (SP) Dependent (D)	Name and Address of Employer or Source of Compensation	Occupation or How Compensation Was Earned	Amount: (Use Code)
	Check Here <input type="checkbox"/> if continued on attached sheet		

2 REAL ESTATE List street address, assessor's parcel number, or legal description AND county for each parcel of Washington real estate with value of over \$7,500 in which you or a family member held a personal financial interest during the reporting period. (Show partnership, company, etc. real estate on F-1 supplement.)

Property Sold or Interest Divested	Assessed Value (Use Code)	Name and Address of Purchaser		Nature and Amount (Use Code) of Payment or Consideration Received		
		Creditor's Name/Address	Payment Terms	Security Given	Mortgage Amount - (Use Code) Original Current	
Property Purchased or Interest Acquired						
All Other Property Entirely or Partially Owned						
Check here <input type="checkbox"/> if continued on attached sheet						

CONTINUE ON NEXT PAGE

3	ASSETS / INVESTMENTS - INTEREST / DIVIDENDS	List bank and savings accounts, insurance policies, stock, bonds and other intangible property held during the reporting period.		
A.	Name and address of each bank or financial institution in which you or a family member had an account over \$15,000 any time during the report period.	Type of Account or Description of Asset	Asset Value (Use Code)	Income Amount (Use Code)
B.	Name and address of each insurance company where you or a family member had a policy with a cash or loan value over \$15,000 during the period.			
C.	Name and address of each company, association, government agency, etc. in which you or a family member owned or had a financial interest worth over \$1,500. Include stocks, bonds, ownership, retirement plan, IRA, notes, and other intangible property.			
Check here <input type="checkbox"/> if continued on attached sheet.				

4	CREDITORS	List each creditor you or a family member owed \$1,500 or more any time during the period. Don't include retail charge accounts, credit cards, or mortgages or real estate reported in item 2.		AMOUNT (USE CODE)	
	Creditor's Name and Address	Terms of Payment	Security Given	Original	Present
Check here <input type="checkbox"/> if continued on attached sheet.					

5 All filers answer questions A thru D below. If the answer is YES to any of these questions, the F-1 Supplement must also be completed as part of this report. If all answers are NO and you are a candidate for state or local office, an appointee to a vacant elective office, or a state executive officer filing your initial report, no F-1 Supplement is required.

Incumbent elected officials and state executive officers filing an annual financial affairs report also must answer question E. An F-1 Supplement is required of these officeholders unless all answers to questions A thru E are NO.

A. Were you, your spouse or dependents an officer, director, general partner or trustee of any corporation, company, union, association, joint venture or other entity at any time during the reporting period? ___ If yes, complete Supplement, Part A.

B. Did you, your spouse or dependents have an ownership of 10% or more in any company, corporation, partnership, joint venture or other business at any time during the reporting period? ___ If yes, complete Supplement, Part A.

C. Did you, your spouse or dependents own a business at any time during the reporting period? ___ If yes, complete Supplement, Part A.

D. Did you, your spouse or dependents prepare, promote or oppose state legislation, rules, rates or standards for current or deferred compensation (other than pay for a currently-held public office) at any time during the reporting period? ___ If yes, complete Supplement, Part B.

E. **Only for Persons Filing Annual Report.** Regarding the receipt of items not provided or paid for by your governmental agency during the previous calendar year: 1) Did you, your spouse or dependents (or any combination thereof) accept a gift of food or beverages costing over \$50 per occasion? ___ or 2) Did any source other than your governmental agency provide or pay in whole or in part for you, your spouse and/or dependents to travel or to attend a seminar or other training? ___ If yes to either or both questions, complete Supplement, Part C.

<p>ALL FILERS EXCEPT CANDIDATES. Check the appropriate box.</p> <p><input type="checkbox"/> I hold a state elected office, am an executive state officer or professional staff. I have read and am familiar with RCW 42.52.180 regarding the use of public resources in campaigns.</p> <p><input type="checkbox"/> I hold a local elected office. I have read and am familiar with RCW 42.17.130 regarding the use of public facilities in campaigns.</p>	<p>CERTIFICATION: I certify under penalty of perjury that the information contained in this report is true and correct to the best of my knowledge.</p> <p>Signature _____ Date _____</p> <p>Contact Telephone: () _____</p> <p>Email: _____(work)</p> <p>Email: _____(Home)</p>
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REPORT NOT ACCEPTABLE WITHOUT FILER'S SIGNATURE



PDC FORM F-1 SUPPLEMENT (6/06)	SUPPLEMENT PAGE PERSONAL FINANCIAL AFFAIRS STATEMENT
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PROVIDE INFORMATION FOR YOURSELF, SPOUSE, DEPENDENT CHILDREN AND OTHER DEPENDENTS IN YOUR HOUSEHOLD

Last Name	First	Middle Initial	DATE
<p>A OFFICE HELD, BUSINESS INTERESTS: For each corporation, non-profit organization, association, union, partnership, joint venture or other entity in which you, your spouse or dependents are an officer, director, general partner, trustee, or 10 percent or more owner – provide the following information:</p> <ul style="list-style-type: none"> • Legal Name: Report name used on legal documents establishing the entity. • Trade or Operating Name: Report name used for business purposes if different from the legal name. • Position or Percent of Ownership: The office, title and/or percent of ownership held. • Brief Description of the Business/Organization: Report the purpose, product(s), and/or the service(s) rendered. • Payments from Governmental Unit: If the governmental unit in which you hold or seek office made payments to the business entity concerning which you're reporting, show the purpose of each payment and the actual amount received. • Payments from Business Customers and Other Government Agencies: List each corporation, partnership, joint venture, sole proprietorship, union, association, business or other commercial entity and each government agency (other than the one you seek/hold office) which paid compensation of \$7,500 or more during the period to the entity. Briefly say what property, goods, services or other consideration was given or performed for the compensation. • Washington Real Estate: Identify real estate owned by the business entity if the qualifications referenced below are met. 			
ENTITY NO. 1		Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent <input type="checkbox"/>	
LEGAL NAME:		POSITION OR PERCENT OF OWNERSHIP	
TRADE OR OPERATING NAME:			
ADDRESS:			
BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:			
PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:		Amount (actual dollars)	
Purpose of payments		\$	
PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OF \$7,500 OR MORE:		Purpose of payment (amount not required)	
Customer name:			
WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$15,000. List street address, assessor parcel number, or legal description and county for each parcel):			
Check here <input type="checkbox"/> if continued on attached sheet			

CONTINUE PARTS B AND C ON NEXT PAGE

Name				
ENTITY NO. 2		Reporting For: Self <input type="checkbox"/> Spouse <input type="checkbox"/> Dependent <input type="checkbox"/>		
LEGAL NAME:		POSITION OR PERCENT OF OWNERSHIP		
TRADE OR OPERATING NAME:				
ADDRESS:				
BRIEF DESCRIPTION OF THE BUSINESS/ORGANIZATION:				
PAYMENTS ENTITY RECEIVED FROM GOVERNMENTAL UNIT IN WHICH YOU SEEK/HOLD OFFICE:				
Purpose of payments		Amount (actual dollars)		
		\$		
PAYMENTS ENTITY RECEIVED FROM BUSINESS CUSTOMERS AND OTHER GOVERNMENT AGENCIES OF \$7,500 OR MORE:				
Customer name:		Purpose of payment (amount not required)		
WASHINGTON REAL ESTATE IN WHICH ENTITY HELD A DIRECT FINANCIAL INTEREST (Complete only if ownership in the ENTITY is 10% or more and assessed value of property is over \$15,000. List street address, assessor parcel number, or legal description and county for each parcel):				
Check here <input type="checkbox"/> if continued on attached sheet				
B LOBBYING: List persons for whom you or any immediate family member lobbied or prepared state legislation or state rules, rates or standards for current or deferred compensation. Do not list pay from government body in which you are an elected official or professional staff member.				
Person to Whom Services Rendered		Description of Legislation, Rules, Etc.		Compensation (Use Code)
Check here <input type="checkbox"/> if continued on attached sheet				
C FOOD TRAVEL SEMINARS Complete this section if a source other than your own governmental agency paid for or otherwise provided all or a portion of the following items to you, your spouse or dependents, or a combination thereof: 1) Food and beverages costing over \$50 per occasion; 2) Travel occasions; or 3) Seminars, educational programs or other training.				
Date Received	Donor's Name, City and State	Brief Description	Actual Dollar Amount	Value (Use Code)
			\$	
Check here <input type="checkbox"/> if continued on attached sheet				

WSR 06-18-035**PERMANENT RULES****PUBLIC DISCLOSURE COMMISSION**

[Filed August 28, 2006, 3:06 p.m., effective September 28, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To amend WAC 390-16-050 Forms for contributions and expenditures of out-of-state political committees and adopt new WAC 390-05-522 Place of business—Definition. Rules relate to the reporting requirements under chapter 348, Laws of 2006.

Citation of Existing Rules Affected by this Order: Amending WAC 390-16-050.

Statutory Authority for Adoption: RCW 42.17.370 and 42.17.093 (1)(i).

Adopted under notice filed as WSR 06-15-104 on July 17, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 1, Repealed 0.

Date Adopted: August 24, 2006.

Vicki Rippie
Executive Director

AMENDATORY SECTION (Amending WSR 04-01-131, filed 12/18/03, effective 1/18/04)

WAC 390-16-050 Forms for contributions and expenditures of out-of-state political committees. The official form for the report required by RCW 42.17.093 of contributions and expenditures of an out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 is designated "C-5," revised ((1/04)) 8/06. Copies of this form are available at the Commission Office, Room 206, Evergreen Plaza Building, Olympia, Washington 98504-0908. Any paper attachments shall be on 8 1/2" x 11" white paper.

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Form C5 1/04	This space for office use P M A R K R E C E I V E D
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OUT OF STATE COMMITTEE CONTRIBUTION TO WASHINGTON CANDIDATES OR COMMITTEES

1. Name and address of committee making the contribution Name Street address City / State / Zip	2. Check appropriate box <input type="checkbox"/> This is the first report submitted during 20__ <input type="checkbox"/> This shows new expenditures, contributions or information changed from reports submitted previously this calendar year.
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3. Provide the purpose of the committee and the identity of any business, union, association or person with which the committee is affiliated (e.g., A State Committee of the Oregon Democratic or Republican Party, Idaho committee of United Workers Union or XYZ Trade Assn.)

4. Officers or responsible leaders of committee:
Name and address Title

5. Candidate contributions: List each Washington candidate for state or local office to whom you have made a contribution of more than \$50.00.

Candidate's name	Office sought	Political Party	Date	Amount given

6. Ballot measure committee contributions: List each Washington committee supporting or opposing a ballot measure to whom you have made a contribution of more than \$50.00.

Committee name and address	Ballot Number	For or Against?	Date	Amount given

7. Other contributions and expenditures: List each other contribution or expenditure of more than \$50.00 made to or on behalf of any Washington state or local candidate, ballot measure or political committee.

Recipient's name and address	Purpose	Date	Amount given

Check here if continued on an attached sheet

8. Total contributions and expenditures (Add parts 5, 6, 7)

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9. Contributions received from Washington residents: List all contributions of more than \$25.00 in the aggregate to this out of state, federal or other committee during the current calendar year from Washington residents or corporations with a place of business in Washington.

Name and address	Date	Amount
Check here <input type="checkbox"/> if continued on an attached sheet		

10. Eligibility to Give to State Office Candidates: During the six months prior to making a contribution to a legislative or statewide executive candidate, your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State.

A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to legislative and statewide executive office candidates.

11. Certification: I certify the information contained in this report is true, complete and correct to the best of my knowledge.

Signature of Committee Official

Name - Typed or Printed

Title

Daytime Telephone No. ()

E-Mail Address

INSTRUCTIONS
(Statutory reference: RCW 42.17.093)

WHO MUST REPORT

An out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 which has made contributions or expenditures to or on behalf of a state or local candidate or political committee in Washington state.

WHEN TO REPORT

A C-5 report is due no later than the 20th day of the month following any month in which a contribution or other expenditure of more than \$50 is made to or on behalf of a Washington state candidate or political committee. After filing an initial C-5 report, subsequent reports during the same calendar year shall be filed updating or amending the information previously reported. These follow-up reports are also due no later than the 20th day of the month following any month in which an additional contribution or other expenditure of more than \$50 is made.

The C-5 report, like other standard PDC reports, is considered filed as of the postmark date or, if electronically filed, on the file transfer date.

SEND REPORT TO

Public Disclosure Commission
711 Capitol Way, Room 206
PO Box 40908
Olympia, WA 98504-0908

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Form C5 8/06	This space for office use P M A S T K R E C E I V E D
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**OUT OF STATE COMMITTEE CONTRIBUTIONS
TO WASHINGTON CANDIDATES OR COMMITTEES**

1. Name and address of committee making the contribution Name Street address City / State / Zip	2. Check appropriate box <input type="checkbox"/> This is the first report submitted during 20__ <input type="checkbox"/> This shows new expenditures, contributions or information changed from reports submitted previously this calendar year.
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3. Provide the purpose of the committee and the identity of any business, union, association or person with which the committee is affiliated (e.g., a State Committee of the Oregon Republican Party, Idaho committee of United Workers Union or federal PAC of XYZ Trade Assn.)

4. Officers or responsible leaders of committee:

Name and address	Title
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5. Candidate contributions: List each Washington candidate for state, local or judicial office to whom you have made a contribution of more than \$50.00.

Candidate's name	Office sought	Political Party	Date	Amount given

6. Ballot measure committee contributions: List each Washington committee supporting or opposing a ballot measure to whom you have made a contribution of more than \$50.00.

Committee name and address	Ballot Number	For or Against?	Date	Amount given

7. Other contributions and expenditures: List each other contribution or expenditure of more than \$50.00 made to or on behalf of any Washington state, local or judicial candidate, ballot measure or political committee.

Recipient's name and address	Purpose	Date	Amount given

Check here if continued

8. Total contributions and expenditures (Add parts 5, 6, 7)

9. Contributions received from Washington residents. List all contributions of more than \$25.00 in the aggregate to this out-of-state committee during the current calendar year from Washington residents or corporations with their headquarters or a primary place of business in Washington.

Name and address	Date	Amount

Check here if continued on an attached sheet

10. Contributions received from persons residing outside of Washington. List the name, address, and employer of each person or corporation residing outside the state of Washington who has made contributions of more than \$2,500 in the aggregate to this out-of-state committee during the current calendar year.

Contributor's name, Address, City, State, Zip	Employer's Name, City and State	Date	Amount

Check here if continued on an attached sheet

11. Eligibility to Give to State Office Candidates: During the six months prior to making a contribution to a legislative or statewide executive candidate your committee must have received contributions of \$10 or more from at least ten persons registered to vote in Washington State.

A check here indicates your awareness of and pledge to comply with this provision. Absence of a check mark means your committee does not qualify to give to legislative and statewide executive office candidates.

12. Certification: I certify the information contained in this report is true, complete and correct to the best of my knowledge.

Signature of Committee Official _____	Name – Typed or Printed _____
Title _____	Daytime Telephone No. () _____
	E-Mail Address _____

INSTRUCTIONS

(Statutory reference: RCW 42.17.093)

WHO MUST REPORT

An out-of-state political committee, including political committees filing with the Federal Election Commission, organized for the purpose of supporting or opposing candidates or ballot propositions in another state that is not otherwise required to report under RCW 42.17.040 through 42.17.090 which has made contributions or expenditures to or on behalf of a state, local or judicial candidate or political committee in Washington state.

A political committee is considered "out-of-state" if it maintains its office or headquarters in another state or the District of Columbia. If there is no office or headquarters, then the political committee is considered "out-of-state" if its treasurer resides in another state or the District of Columbia.

WHEN TO REPORT

A C-5 report is due no later than the 10th day of the month following any month in which a contribution or other expenditure of more than \$50 is made to or on behalf of a Washington state candidate or political committee. After filing an initial C-5 report, subsequent reports during the same calendar year shall be filed updating or amending the information previously reported. These follow-up reports are also due no later than the 10th day of the month following any month in which an additional contribution or other expenditure of more than \$50 is made.

The C-5 report is considered filed as of the postmark date.

SEND REPORT TO

**Public Disclosure Commission
711 Capitol Way, Room 206
PO Box 40908
Olympia, Washington 98504-0908**

Questions?

Contract PDC at www.pdc.wa.gov, toll free at 1-877-601-2828 or 1-360-753-1111

NEW SECTION

WAC 390-05-522 Place of business—Definition. "A place of business in the state of Washington" as that term is used in RCW 42.17.093 (1)(f) means the business is headquartered in or has a primary place of business in Washington state.

For example, if a national corporation headquartered outside of Washington state has retail outlets in Washington and that national corporation contributes two hundred fifty dollars to an out-of-state political committee that is subject to reporting under RCW 42.17.093, the out-of-state committee is not required to disclose the national corporation as a contributor under RCW 42.17.093 (1)(f).

WSR 06-18-038**PERMANENT RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed August 29, 2006, 4:19 p.m., effective October 1, 2006]

Effective Date of Rule: October 1, 2006.

Purpose: Residential care services division recently assumed responsibility for conducting investigations of entities and alleged perpetrators where allegations of abandonment, abuse, neglect, and financial exploitation in certified supported living programs are reported. Portions of WAC 388-71-0100 through 388-71-1280 (adult protective services) and WAC 388-97-077 (resident protection program) are being incorporated without material change into chapter 388-101 WAC to reflect this change in responsibility. No substantive changes are being made to any existing requirements including those governing: (1) Vulnerable adult abuse and neglect reporting, (2) abuse and neglect investigations and notification, and (3) due process and appeal rights.

The proposed rules also amend WAC 388-101-2300 to clarify that vehicles used to transport clients must be insured as required by existing state law and that providers, employees and subcontractors who transport clients must have a valid driver's license. The proposed rules incorporate existing state law by reference (chapters 46.20, 46.29, and 46.30 RCW) and do not impose new requirements.

These proposed rules only address some of the elements identified in preproposal statement of inquiry WSR 05-07-132. The department plans to propose additional changes to chapter 388-101 WAC under WSR 05-07-132.

The proposed WAC amendments reflect an internal administration change of responsibility for conducting investigations of alleged abandonment, abuse, neglect, and financial exploitation in certified supported living programs. Chapter 388-101 WAC needs to indicate that ADSA-adult protective services is no longer conducting certain investigations.

A recent audit by the state auditor's office stated that the department should establish adequate internal controls to ensure that vehicles used to transport clients of supported living services are properly insured. The audit recommended

that the department clearly define its expectations for properly insured vehicles used to transport clients.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-101-1100, 388-101-1105, 388-101-1110, 388-101-1115, 388-101-1120, 388-101-1125, 388-101-1130, 388-101-1135, 388-101-1140 and 388-101-1145; and amending WAC 388-101-2300.

Statutory Authority for Adoption: RCW 71A.12.030 and 71A.12.080.

Other Authority: Chapter 71A.12 RCW.

Adopted under notice filed as WSR 06-11-152 on May 23, 2006.

Changes Other than Editing from Proposed to Adopted Version:

WAC 388-101-1101 Abuse and neglect reporting requirements: (1) All administrators, owners, ~~and staff and volunteers~~ are mandated reporters and must report instances of ~~suspected~~ abandonment, abuse, neglect, or financial exploitation of vulnerable adults as defined in, and accordance with chapter 74.34 RCW.

WAC 388-101-1106 Investigation of mandated reports: (3) If, after completing an investigation under this chapter, the department concludes that it is more likely than not that ~~the alleged perpetrator a specific individual~~ abandoned, abused, neglected, or financially exploited a client, the department will make an initial finding against the ~~alleged perpetrator individual~~.

WAC 388-101-1111 Notice of an initial finding: (1) The department will notify the ~~alleged perpetrator individual~~ in writing within ten working days of making an initial finding of abandonment, abuse, neglect or financial exploitation of a client. The written notice will not include the identities of the alleged victim, reporter and witnesses.

(2) The department shall make a reasonable, good faith effort to determine the last known address of the ~~alleged perpetrator individual~~.

WAC 388-101-1116 Reporting initial findings: (1) In a manner consistent with confidentiality requirements concerning the client, witnesses, and reporter, the department may provide notification of an initial finding to:

- (a) Other divisions within the department;
- (b) The agency or program identified under RCW 74.34.068 with which the ~~alleged perpetrator individual~~ is associated as an employee, volunteer or contractor;
- (c) Law enforcement; and
- (d) Other investigative authorities consistent with chapter 74.34 RCW.

WAC 388-101-1121 Disputing an initial finding: (1) An ~~individual alleged perpetrator of to have abandoned, abused, neglected, or financially exploited of a client~~ may request an administrative hearing to challenge an initial finding made by the department.

(2) The request must be made in writing to the office of administrative hearings.

(3) The office of administrative hearings must receive the ~~alleged perpetrator's individual's~~ written request for a hearing within thirty calendar days of the date the individual was served with notice of the initial finding.

(4) The written request for a hearing must include:

(a) The full legal name, current address and phone number of the alleged perpetrator individual;

(b) A brief explanation of why the alleged perpetrator individual disagrees with the initial finding;

(c) A description of any assistance needed in the administrative appeal process by the alleged perpetrator individual, including a foreign or sign language interpreter or any accommodation for a disability; and

(d) The alleged perpetrator's individual's signature.

WAC 388-101-1126 Disclosure of investigative and finding information: (1) The alleged perpetrator individual may only use confidential information provided by the department as needed to challenge initial findings through the appeal process.

WAC 388-101-1131 Hearing procedures to dispute an initial finding: (2) The administrative law judge shall determine whether a preponderance of the evidence supports the initial finding that the alleged perpetrator individual abandoned, abused, neglected, or financially exploited a vulnerable adult, and shall issue an initial order.

WAC 388-101-1136 Appeal of the administrative law judge's initial order on a finding: (1) If the alleged perpetrator individual or the department disagrees with the administrative law judge's decision, either party may challenge this decision by filing a petition for review with the department's board of appeals under chapter 34.05 RCW and chapter 388-02 WAC.

WAC 388-101-1141 Finalizing an initial finding: (1) An initial finding becomes a final finding when:

(a) The department gives the alleged perpetrator individual notice of the initial finding pursuant to WAC 388-101-1110 and the alleged perpetrator individual does not request an administrative hearing;

(b) The administrative law judge:

(i) Dismisses the hearing following withdrawal of the appeal or default; or

(ii) Issues an initial order upholding the finding and the alleged perpetrator individual fails to appeal the initial order to the department's board of appeals; or

(c) The board of appeals issues a final order upholding the finding.

(2) The final finding is permanent and will not be removed from the department's records unless:

(a) It is rescinded following judicial review; or

(b) The department decides to remove a single finding of neglect from its records based upon a written petition by the alleged perpetrator individual provided that at least one calendar year has passed since the finding was finalized and recorded.

WAC 388-101-1146 Reporting final findings: The department will report a final finding of abandonment, abuse, neglect and financial exploitation within ten working days to the following:

(1) The perpetrator individual;

(2) The service provider that was associated with the perpetrator individual during the time of the incident;

(3) The service provider that is currently associated with the perpetrator individual, if known;

WAC 388-101-2300 Client transportation: (3) A vehicle that the service provider uses to transport clients must be:

(a) In safe operating condition; and

(b) Insured as required by chapters 46.29 and 46.30 RCW.

(4) Service providers, employees, and subcontractors persons associated with the provider, who transport clients, must:

(a) Have a valid driver's license as required by chapter 46.20 RCW; and

(b) Only use vehicles that are:

(i) In safe operating condition; and

(ii) Insured as required by chapters 46.29 and 46.30 RCW.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 10, Amended 1, Repealed 10.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 10, Amended 1, Repealed 10.

Date Adopted: August 23, 2006.

Andy Fernando, Manager

Rules and Policies Assistance Unit

NEW SECTION

WAC 388-101-1101 Abuse and neglect reporting requirements. (1) All administrators, owners, and staff are mandated reporters and must report instances of suspected abandonment, abuse, neglect, or financial exploitation of vulnerable adults as defined in, and accordance with chapter 74.34 RCW.

(2) Reports must be made to the centralized toll free telephone number for reporting abandonment, abuse, neglect or financial exploitation of vulnerable adults, provided by the department.

(3) Reports must be made to law enforcement agencies, as required under chapter 74.34 RCW.

(4) Service providers must have policies and procedures complying with state law that specify reporting requirements for client abandonment, abuse, neglect, and financial exploitation.

(5) Each administrator, owner, staff person, and volunteer must read and sign the policy about reporting requirements. The service provider must retain the signed policy for staff and volunteers.

NEW SECTION

WAC 388-101-1106 Investigation of mandated reports. (1) The department will determine whether a report of client abandonment, abuse, neglect, or financial exploitation needs to be investigated, in accordance with established procedures.

(2) The department investigation will include an investigation of allegations about one or more of the following:

- (a) A service provider;
- (b) Anyone associated with a service provider; or
- (c) A client receiving services under this chapter.

(3) If, after completing an investigation under this chapter, the department concludes that it is more likely than not that the alleged perpetrator abandoned, abused, neglected, or financially exploited a client, the department will make an initial finding against the perpetrator.

NEW SECTION

WAC 388-101-1111 Notice of an initial finding. (1) The department will notify the alleged perpetrator in writing within ten working days of making an initial finding of abandonment, abuse, neglect or financial exploitation of a client. The written notice will not include the identities of the alleged victim, reporter and witnesses.

(2) The department shall make a reasonable, good faith effort to determine the last known address of the alleged perpetrator.

(3) The time frame for notification can be extended beyond ten working days to include the time needed to translate the notification letter or make provisions for the safety of the alleged victim.

(4) Notice of the initial finding will be served as provided in chapter 388-02 WAC.

NEW SECTION

WAC 388-101-1116 Reporting initial findings. (1) In a manner consistent with confidentiality requirements concerning the client, witnesses, and reporter, the department may provide notification of an initial finding to:

- (a) Other divisions within the department;
- (b) The agency or program identified under RCW 74.34.068 with which the alleged perpetrator is associated as an employee, volunteer or contractor;
- (c) Law enforcement; and
- (d) Other investigative authorities consistent with chapter 74.34 RCW.

(2) The notification will identify the finding as an initial finding.

NEW SECTION

WAC 388-101-1121 Disputing an initial finding. (1) An alleged perpetrator of abandonment, abuse, neglect, or financial exploitation of a client may request an administrative hearing to challenge an initial finding made by the department.

(2) The request must be made in writing to the office of administrative hearings.

(3) The office of administrative hearings must receive the alleged perpetrator's written request for a hearing within thirty calendar days of the date the individual was served with notice of the initial finding.

(4) The written request for a hearing must include:

- (a) The full legal name, current address and phone number of the alleged perpetrator;
- (b) A brief explanation of why the alleged perpetrator disagrees with the initial finding;
- (c) A description of any assistance needed in the administrative appeal process by the alleged perpetrator, including a foreign or sign language interpreter or any accommodation for a disability; and
- (d) The alleged perpetrator's signature.

NEW SECTION

WAC 388-101-1126 Disclosure of investigative and finding information. (1) The alleged perpetrator may only use confidential information provided by the department as needed to challenge initial findings through the appeal process.

(2) Confidential information such as the name and other personal identifying information of the reporter, witnesses, or the client will be redacted from documents unless otherwise ordered by the administrative law judge consistent with chapter 74.34 RCW and other applicable state and federal laws.

NEW SECTION

WAC 388-101-1131 Hearing procedures to dispute an initial finding. (1) Chapters 34.05 and 74.34 RCW, chapter 388-02 WAC, and the provisions of this chapter govern any appeal regarding an initial finding. In the event of a conflict between the provisions of this chapter and chapter 388-02 WAC, the provisions of this chapter shall prevail.

(2) The administrative law judge shall determine whether a preponderance of the evidence supports the initial finding that the alleged perpetrator abandoned, abused, neglected, or financially exploited a vulnerable adult, and shall issue an initial order.

NEW SECTION

WAC 388-101-1136 Appeal of the administrative law judge's initial order on a finding. (1) If the alleged perpetrator or the department disagrees with the administrative law judge's decision, either party may challenge this decision by filing a petition for review with the department's board of appeals under chapter 34.05 RCW and chapter 388-02 WAC.

(2) If the department appeals the administrative law judge's decision, the department will not modify the finding in the department's records until a final hearing decision is issued.

NEW SECTION

WAC 388-101-1141 Finalizing an initial finding. (1) An initial finding becomes a final finding when:

- (a) The department gives the alleged perpetrator notice of the initial finding pursuant to WAC 388-101-1110 and the

alleged perpetrator does not request an administrative hearing;

(b) The administrative law judge:

(i) Dismisses the hearing following withdrawal of the appeal or default; or

(ii) Issues an initial order upholding the finding and the alleged perpetrator fails to appeal the initial order to the department's board of appeals; or

(c) The board of appeals issues a final order upholding the finding.

(2) The final finding is permanent and will not be removed from the department's records unless:

(a) It is rescinded following judicial review; or

(b) The department decides to remove a single finding of neglect from its records based upon a written petition by the alleged perpetrator provided that at least one calendar year has passed since the finding was finalized and recorded.

NEW SECTION

WAC 388-101-1146 Reporting final findings. The department will report a final finding of abandonment, abuse, neglect and financial exploitation within ten working days to the following:

(1) The perpetrator;

(2) The service provider that was associated with the perpetrator during the time of the incident;

(3) The service provider that is currently associated with the perpetrator, if known;

(4) The appropriate licensing authority; and

(5) The department's registry of findings of abandonment, abuse, neglect and financial exploitation. The findings may be disclosed to the public upon request.

AMENDATORY SECTION (Amending WSR 04-23-070 [05-05-077], filed 2/15/05, effective 2/15/05)

WAC 388-101-2300 ((How must the service provider be involved with a client's transportation needs?)) Client transportation. (1) The service provider must provide transportation or ensure that clients have a way to get to:

(a) Emergency medical care;

(b) Medical appointments; and

(c) Therapies.

(2) Within available resources, the service provider must provide necessary assistance with transportation to and from:

(a) Work, school or other publicly funded services;

(b) Leisure or recreation activities;

(c) Client-requested activities; and

(d) ISP/POC- or IISP-related activities.

(3) A vehicle that the service provider uses to transport clients must be:

(a) In safe operating condition; and

(b) ~~((Properly)) Insured ((for its usage))~~ as required by chapters 46.29 and 46.30 RCW.

(4) Service providers, employees, and subcontractors who transport clients must have a valid driver's license as required by chapter 46.20 RCW.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-101-1100	Abuse and neglect reporting requirements.
WAC 388-101-1105	Investigation of mandated reports.
WAC 388-101-1110	Notice of an initial finding.
WAC 388-101-1115	Reporting initial findings.
WAC 388-101-1120	Disputing an initial finding.
WAC 388-101-1125	Disclosure of investigative and finding information.
WAC 388-101-1130	Hearing procedures to dispute an initial finding.
WAC 388-101-1135	Appeal of the administrative law judge's initial order on a finding.
WAC 388-101-1140	Finalizing an initial finding.
WAC 388-101-1145	Reporting final findings.

WSR 06-18-042

PERMANENT RULES

DEPARTMENT OF HEALTH

(Medical Quality Assurance Commission)

[Filed August 30, 2006, 10:53 a.m., effective September 30, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Prior to 1974, each state used their own medical licensure examination to determine a minimum level of competency of applicants. According to the current rule Washington state accepts all other state examinations with the exception of Hawaii and Florida. The medical quality assurance commission (commission) is amending WAC 246-919-360 to repeal the exclusionary language regarding Hawaii and Florida state examinations. The new rule will allow all applicants who met all licensure requirements and have taken and passed a state examination to be licensed in Washington state. This will provide greater access to health care practitioners.

Citation of Existing Rules Affected by this Order: Amending WAC 246-919-360.

Statutory Authority for Adoption: RCW 18.71.017 and 18.130.050.

Other Authority: RCW 18.71.090 and [18.71.]095.

Adopted under notice filed as WSR 06-09-029 on April 12, 2006.

A final cost-benefit analysis is available by contacting Beverly A. Thomas, P.O. Box 47866, Olympia, WA 98504, phone (360) 236-47866 [236-4788], fax (360) 236-4768, e-mail beverly.thomas@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: July 14, 2006.

Blake T. Maresh
Executive Director

AMENDATORY SECTION (Amending WSR 04-04-067, filed 2/2/04, effective 3/4/04)

WAC 246-919-360 Examinations accepted for reciprocity or waiver. (1) The commission may accept certain examinations as a basis for licensure. These examinations include USMLE, FLEX, NBE, or those given by the other states, or territories of the United States(~~(, with the exception of Florida and Hawaii)~~). Those who have taken the Licentiate of the Medical Council of Canada (L.M.C.C.) and holds a valid LMCC certification obtained after 1969, may be granted a license without examination.

(2) Examination combination acceptable. Any applicant who has successfully completed Part I (NBE) or Step 1 (USMLE) plus Part II or Step 2 plus Part III or Step 3; or FLEX Component 1 plus Step 3; or Part I or Step 1, plus Part II or Step 2, plus FLEX Component 2 shall be deemed to have successfully completed a medical licensure examination as required by RCW 18.71.070. (For clarification, see Table 1.)

Accepted Examinations taken in Sequence	Other Acceptable Combinations
NBME Part I <i>plus</i> NBME Part II <i>plus</i> NBME Part III	NBME Part I or USMLE Step 1 <i>plus</i> NBME Part II or USMLE Step 2 <i>plus</i> NBME Part III or USMLE Step 3

Accepted Examinations taken in Sequence	Other Acceptable Combinations
FLEX Component 1 <i>plus</i> FLEX Component 2	FLEX Component 1 <i>plus</i> USMLE Step 3 or NBME Part I or USMLE Step 1 <i>plus</i> NBME Part II or USMLE Step 2 <i>plus</i> FLEX Component 2
USMLE Step 1 <i>plus</i> USMLE Step 2 <i>plus</i> USMLE Step 3	

**WSR 06-18-043
PERMANENT RULES
DEPARTMENT OF HEALTH**

[Filed August 30, 2006, 10:55 a.m., effective September 30, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Legislation created chapter 18.225 RCW in 2001, which repealed certification and replaced it with licensure for marriage and family therapists, mental health counselors and social workers. RCW 18.225.090 was amended in 2006, adding the phrase, "or equally qualified licensed mental health practitioner" to the definition of who may provide supervision to mental health applicants. This rule reflects the current requirements.

Citation of Existing Rules Affected by this Order: Amending 3 [WAC 246-809-130, 246-809-230, and 246-809-320].

Statutory Authority for Adoption: RCW 18.225.040 and [18.225.]090.

Adopted under notice filed as WSR 06-10-083 on May 3, 2006.

Changes Other than Editing from Proposed to Adopted Version: **WAC 246-809-310(7):** "One-on-one" supervision, which is currently defined as "face-to-face supervision with an approved supervisor, involving one supervisor and no more than two licensure candidates["] be amended to read that, "One-on-one supervision means face-to-face supervision with an approved supervisor, involving one supervisor and one licensure candidate."

WAC 246-809-110(9), 246-809-210(9), and 246-809-210(9): The term "peer" has been defined as a coworker who is not the licensure candidate's employer or supervisor.

WAC 246-809-334 (4)(b): (b) Twenty-five hours of supervision of clinical practice; and (c) has two years of clin-

ical postlicensure [postlicensure] or five years of clinical experience postcertification or licensure (for LICSW's). The department of health determined that the language of the rule should be "and" instead of "or."

A final cost-benefit analysis is available by contacting Betty Ingram, 310 Israel Road S.E., Tumwater, WA 98502, phone (360) 236-4912, fax (360) 236-4909, e-mail Betty.Ingram@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 6, Amended 3, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 6, Amended 3, Repealed 0.

Date Adopted: August 29, 2006.

M. C. Selecky
Secretary

NEW SECTION

WAC 246-809-110 Definitions. The following terms apply to the licensure of marriage and family therapists.

(1) "Approved educational program" means:

(a) Any college or university accredited by a national or regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation or its successor; or

(b) A program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAM-FTE), at the time the applicant completed the required education.

(2) "Approved supervisor" means a licensed marriage and family therapist, or an equally qualified licensed mental health practitioner.

(3) "Equally qualified licensed mental health practitioner" means a licensed mental health counselor, licensed clinical social worker, licensed psychologist, licensed physician practicing as a psychiatrist, or licensed psychiatric nurse practitioner, who has completed:

(a) Three hundred clock hours in graduate or postgraduate marriage and family education, or continuing education in marriage and family therapy or supervision by an approved marriage and family therapist supervisor in marriage and family therapy or any combination of these; and

(b) Five years of clinical practice that includes the equivalent of one year of clinical practice working with couples and families.

(4) "Group supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than six licensure candidates.

(5) "Licensure candidate" means an individual that is accruing supervised clinical experience required for licensure.

(6) "One-on-one supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than two licensure candidates.

(7) "Supervised experience requirement" means experience that is obtained under an approved supervisor who meets the requirements described in WAC 246-809-134.

(8) "Supervision of supervision" means supervision by an approved supervisor for the purpose of training and qualifying a license holder to act as an approved supervisor for purposes of chapter 18.225 RCW and WAC 246-809-134.

(9) "Peer" means a co-worker who is not the licensure candidate's employer or supervisor.

AMENDATORY SECTION (Amending WSR 01-17-113, filed 8/22/01, effective 9/22/01)

WAC 246-809-130 Supervised postgraduate experience. The ~~((following are))~~ experience requirements for the marriage and family therapist applicant's practice area ~~((=~~ ~~((+)))~~ include successful completion of a supervised experience requirement. The experience requirement consists of a minimum of two calendar years of full-time marriage and family therapy. Of the total supervision, one hundred hours must be with a licensed marriage and family therapist with at least five years' clinical experience; the other one hundred hours may be with an equally qualified licensed mental health practitioner. Total experience requirements include:

~~((a)))~~ (1) A minimum of three thousand hours of experience, one thousand hours of which must be direct client contact; at least five hundred hours must be gained in diagnosing and treating couples and families; plus

~~((b)))~~ (2) At least two hundred hours of qualified supervision with ~~((a))~~ an approved supervisor. At least one hundred of the two hundred hours must be one-on-one supervision, and the remaining hours may be in one-on-one or group supervision.

~~((c)))~~ (3) Applicants who have completed a master's program accredited by the Commission on Accreditation for Marriage and Family Therapy Education of the American Association for Marriage and Family Therapy may be credited with five hundred hours of direct client contact and one hundred hours of formal meetings with an approved supervisor.

NEW SECTION

WAC 246-809-134 Approved supervisor. (1) The approved supervisor shall hold a license without restrictions that has been in good standing for at least two years.

(2) The approved supervisor shall not be a blood or legal relative or cohabitant of the licensure candidate, licensure candidate's peer, or someone who has acted as the licensure candidate's therapist within the past two years.

(3) The approved supervisor, prior to the commencement of any supervision, shall provide the licensure candidate a declaration, on a form provided by the department, that the supervisor has met the requirements of WAC 246-809-134 and qualifies as an approved supervisor.

(4) The approved supervisor shall have completed the following:

(a) A minimum of fifteen clock hours of training in clinical supervision obtained through:

- (i) A supervision course; or
- (ii) Continuing education credits on supervision; or
- (iii) Supervision of supervision; or
- (iv) Any combination of these; and

(b) Twenty-five hours of experience in supervision of clinical practice; or

(c) An American Association for Marriage and Family Therapy (AAMFT) approved supervisor is considered to have met the qualifications above.

(5) The approved supervisor shall attest to having thorough knowledge of the supervisee's practice activities including:

- (a) Practice setting;
- (b) Recordkeeping;
- (c) Financial management;
- (d) Ethics of clinical practice; and
- (e) A backup plan for coverage.

(6) Applicants whose supervised postgraduate experience began prior to the effective date of these rules are exempt from the requirements of subsection (4) of this section.

NEW SECTION

WAC 246-809-210 Definitions. The following definitions apply to the licensure of mental health counselors.

(1) "Approved educational program" means any college or university accredited by an accreditation body recognized by the Council for Higher Education Accreditation (CHEA) or its successor, at the time the applicant completed the required education.

(2) "Approved setting" includes facilities, agencies or private practice where an applicant works with individuals, families, couples or groups under the supervision of an approved supervisor.

(3) "Approved supervisor" means a qualified licensed mental health counselor or equally qualified licensed mental health practitioner who has been licensed without restrictions for at least two years.

(4) "Equally qualified licensed mental health practitioner" means a licensed marriage and family therapist, licensed clinical social worker, licensed psychologist, licensed physician practicing as a psychiatrist, or licensed psychiatric nurse practitioner.

(5) "Group supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than six licensure candidates.

(6) "Immediate supervision" means a meeting with an approved supervisor, involving one supervisor and no more than two licensure candidates.

(7) "Licensure candidate" means an individual that is accruing supervised clinical experience required for licensure.

(8) "Supervision of supervision" means supervision by an approved supervisor for the purpose of training and quali-

fying a licensee to act as an approved supervisor for purposes of chapter 18.225 RCW and WAC 246-809-234.

(9) "Peer" means a co-worker who is not the licensure candidate's employer or supervisor.

AMENDATORY SECTION (Amending WSR 01-17-113, filed 8/22/01, effective 9/22/01)

WAC 246-809-230 Supervised postgraduate experience. The ~~((following are))~~ experience requirements for the mental health applicant's practice area~~((:))~~ include successful completion of a supervised experience requirement. The experience requirement consists of a minimum of thirty-six months full-time counseling or three thousand hours of postgraduate mental health counseling under the supervision of a qualified licensed mental health counselor or equally qualified licensed mental health practitioner in an approved setting. The three thousand hours of required experience includes a minimum of one hundred hours spent in immediate supervision with the qualified licensed mental health counselor or equally qualified licensed mental health practitioner, and includes a minimum of one thousand two hundred hours of direct counseling with individuals, couples, families, or groups.

NEW SECTION

WAC 246-809-234 Approved supervisor. (1) The approved supervisor shall hold a license without restrictions that has been in good standing for at least two years.

(2) The approved supervisor shall not be a blood or legal relative or cohabitant of the licensure candidate, licensure candidate's peer, or someone who has acted as the licensure candidate's therapist within the past two years.

(3) The approved supervisor, prior to the commencement of any supervision, shall provide the licensure candidate a declaration, on a form provided by the department, that the supervisor has met the requirements of WAC 246-809-234 and qualifies as an approved supervisor.

(4) The approved supervisor shall have completed the following:

(a) A minimum of fifteen clock hours of training in clinical supervision obtained through:

- (i) A supervision course; or
- (ii) Continuing education credits on supervision; or
- (iii) Supervision of supervision; and

(b) Twenty-five hours of experience in supervision of clinical practice.

(5) The approved supervisor shall have full knowledge of the licensure candidate's practice activities including:

- (a) Recordkeeping;
- (b) Financial management;
- (c) Ethics of clinical practice; and

(d) The licensure candidate's backup plan for coverage in times when the licensure candidate is not available to their clients.

(6) Applicants whose supervised postgraduate experience began prior to the effective date of these rules are exempt from the requirements of subsection (4) of this section.

NEW SECTION

WAC 246-809-310 Definitions. The following definitions apply to the licensure of independent clinical and advanced social workers.

(1) "Approved educational program" means a master's or doctoral educational program in social work accredited by the Council on Social Work Education.

(2) "Approved supervisor" means a licensed independent clinical social worker (LICSW), licensed advanced social worker (LASW)(for LASWs only), or an equally qualified licensed mental health practitioner.

(3) "Equally qualified licensed mental health practitioner" means a licensed mental health counselor, licensed marriage and family therapist, licensed psychologist, licensed physician practicing as a psychiatrist, or licensed psychiatric nurse practitioner.

(4) "Group supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and no more than six licensure candidates.

(5) "Licensure candidate" means an individual that is accruing supervised clinical experience required for licensure.

(6) "Nationally recognized standards" means the *Educational Policy and Accreditation Standards*, revised October 2004 published by the Council on Social Work Education revised October 2004 or any future revisions.

(7) "One-on-one supervision" means face-to-face supervision with an approved supervisor, involving one supervisor and one licensure candidate.

(8) "Supervision of supervision" means supervision by an approved supervisor for the purpose of training and qualifying a licensee to become an approved supervisor for purposes of chapter 18.225 RCW and WAC 246-809-334.

(9) "Peer" means a co-worker who is not the licensure candidate's employer or supervisor.

AMENDATORY SECTION (Amending WSR 01-17-113, filed 8/22/01, effective 9/22/01)

WAC 246-809-320 Education requirements and supervised postgraduate experience. ~~((The following are education and experience requirements for the applicant's practice area:~~

~~(1) Licensed advanced social worker.~~

~~(a) Graduation from a master's or doctoral social work educational program accredited by the council on social work education and approved by the secretary based upon nationally recognized standards; and~~

~~(b) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of three thousand two hundred hours with ninety hours of supervision by a licensed independent clinical social worker or a licensed advanced social worker who has been licensed or certified for at least two years. Of those hours, fifty hours must include direct supervision by a licensed advanced social worker or licensed independent clinical social worker; the other forty hours may be with an equally qualified licensed mental health practitioner. Forty hours must be in one-to-one supervision and fifty hours may be in one-to-one supervision or group supervision. Distance super-~~

~~vision is limited to forty supervision hours. Eight hundred hours must be in direct client contact.~~

~~(2) Licensed independent clinical social worker.~~

~~(a) Graduation from a master's or doctorate level social work educational program accredited by the council on social work education and approved by the secretary based upon nationally recognized standards; and~~

~~(b) Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of four thousand hours of experience, of which one thousand hours must be direct client contact, over a three-year period supervised by a licensed independent clinical social worker, with supervision of at least one hundred thirty hours by a licensed mental health practitioner. Of the total supervision, seventy hours must be with an independent clinical social worker; the other sixty hours may be with an equally qualified licensed mental health practitioner. Sixty hours must be in one-to-one supervision and seventy hours may be in one-to-one supervision or group supervision. Distance supervision is limited to sixty supervision hours.)) (1) The following are the education requirements for the social worker applicant's practice area:~~

~~(1) The following are the education requirements for the social worker applicant's practice area:~~

~~(a) Licensed advanced social worker. Graduation from a master's or doctoral social work educational program accredited by the Council on Social Work Education and approved by the secretary based upon nationally recognized standards.~~

~~(b) Licensed independent clinical social worker. Graduation from a master's or doctorate level social work educational program accredited by the Council on Social Work Education and approved by the secretary based upon nationally recognized standards.~~

~~(2) The following are the supervised postgraduate experience requirements for the social worker applicant's practice area:~~

~~(a) Licensed advanced social worker. Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of three thousand two hundred hours with ninety hours of supervision by a licensed independent clinical social worker or a licensed advanced social worker who has been licensed or certified for at least two years. Of those hours, fifty hours must include direct supervision by a licensed advanced social worker or licensed independent clinical social worker; the other forty hours may be with an equally qualified licensed mental health practitioner. Forty hours must be in one-to-one supervision and fifty hours may be in one-to-one supervision or group supervision. Distance supervision is limited to forty supervision hours. Eight hundred hours must be in direct client contact.~~

~~(b) Licensed independent clinical social worker. Successful completion of a supervised experience requirement. The experience requirement consists of a minimum of four thousand hours of experience, of which one thousand hours must be direct client contact, over a three-year period supervised by a licensed independent clinical social worker, with supervision of at least one hundred thirty hours by a licensed mental health practitioner. Of the total supervision, seventy hours must be with an independent clinical social worker; the other sixty hours may be with an equally qualified licensed mental health practitioner. Sixty hours must be in one-to-one~~

supervision and seventy hours may be in one-to-one supervision or group supervision. Distance supervision is limited to sixty supervision hours.

NEW SECTION

WAC 246-809-334 Approved supervisor standards and responsibilities. (1) The approved supervisor must hold a license without restrictions that has been in good standing for at least two years.

(2) The approved supervisor shall not be a blood or legal relative or cohabitant of the licensure candidate, licensure candidate's peer, or someone who has acted as the licensure candidate's therapist within the past two years.

(3) The approved supervisor, prior to the commencement of any supervision, shall provide the licensure candidate a declaration, on a form provided by the department, that the supervisor has met the requirements of WAC 246-809-334 and qualifies as an approved supervisor.

(4) The approved supervisor shall have completed the following:

(a) A minimum of fifteen clock hours of training in clinical supervision obtained through:

- (i) A supervision course; or
- (ii) Continuing education credits on supervision; or
- (iii) Supervision of supervision; and

(b) Twenty-five hours of experience in supervision of clinical practice; and

(c) Has had two years of clinical experience postlicensure (LASWs only) or five years of clinical experience post-certification or licensure (for LICSWs only).

(5) The approved supervisor shall attest to having thorough knowledge of the licensure candidate's practice activities including:

- (a) Specific practice setting;
- (b) Recordkeeping;
- (c) Financial management;
- (d) Ethics of clinical practice; and
- (e) The licensure candidate's backup plan for coverage in times when he/she is not available to their clients.

(6) Licensure candidates whose supervised postgraduate experience began prior to the effective date of these rules are exempt from the requirements of subsection (4) of this section.

WSR 06-18-044
PERMANENT RULES
DEPARTMENT OF HEALTH
 (Board of Physical Therapy)

[Filed August 30, 2006, 10:57 a.m., effective September 30, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: These rules define adequate education and training for licensed physical therapists to perform sharp debridement. The rules also establish requirements for licensed physical therapists to demonstrate further education and training in electroneuromyographic examinations.

Statutory Authority for Adoption: RCW 18.74.023, 18.74.010(11), and 18.74.160.

Adopted under notice filed as WSR 06-12-111 on June 7, 2006.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-915-370 Electroneuromyographic examinations education and training, was amended to clarify concerns. The language will read as follows: (3) A written attestation submitted prior to July 1, 2007, by a physical therapist licensed in Washington demonstrating that the physical therapist has education and experience acceptable to the board to perform EMG examinations.

A final cost-benefit analysis is available by contacting Department of Health, P.O. Box 47867, Olympia, WA 98504-7867, phone (360) 236-4847, fax (360) 664-9077, e-mail kris.waidely@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 2, Amended 0, Repealed 0.

Date Adopted: July 11, 2006.

Charles Martin, PT, Chair
Board of Physical Therapy

NEW SECTION

WAC 246-915-370 Electroneuromyographic examinations education and training. A physical therapist may perform electroneuromyographic (EMG) examinations, which may include needle EMG and nerve conduction studies, to test neuromuscular function only if the physical therapist has received a referral from an authorized health care practitioner identified in RCW 18.74.010(7) and only upon demonstrating education and training in EMG examinations. The board will accept the following as evidence of education and training:

(1) A minimum of four hundred hours of instruction in electroneuromyographic examinations including at least two hundred needle EMG studies under direct supervision from a qualified provider. A qualified provider includes a physical therapist with board certification in clinical electrophysiology from the American Board of Physical Therapy Specialties, a neurologist, or a physiatrist; or

(2) A person who is board certified in clinical electrophysiology from the American Board of Physical Therapy Specialties meets the requirements of this section; or

(3) A written attestation submitted prior to July 1, 2007, by a physical therapist licensed in Washington demonstrating that the physical therapist has education and experience acceptable to the board to perform EMG examinations.

NEW SECTION

WAC 246-915-360 Sharp debridement education and training. Licensed physical therapists may perform sharp debridement upon showing evidence of adequate education and training. Physical therapists may not delegate sharp debridement. The board will accept the following as adequate education and training:

(1) Twenty hours of mentored sharp debridement training - mentored training includes observation, cotreatment, and supervised treatment. Twenty hours mentored training in a clinical setting must include a case mix similar to the physical therapists' expected practice; or

(2) Certification as a wound care specialist by the American Academy of Wound Management; the National Alliance of Wound Care; or other organizations approved by the board, meets the requirements of this section; or

(3) An affidavit submitted prior to July 1, 2006, by a physical therapist licensed in Washington demonstrating education and training in sharp debridement, including the use of a scalpel.

WSR 06-18-045**PERMANENT RULES****DEPARTMENT OF HEALTH**

[Filed August 30, 2006, 11:00 a.m., effective September 30, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: WAC 246-16-010, 246-16-020, and 246-16-100 protect the public by establishing clear and consistent definitions of sexual misconduct by health care practitioners regulated by the secretary. They also serve as model rules for health care professions regulated by other disciplining authorities. The rules are intended to help health care providers avoid sexual misconduct and to educate consumers about what they should expect from health care providers.

Statutory Authority for Adoption: RCW 18.130.050 (1), (12) and 18.130.180.

Adopted under notice filed as WSR 06-15-127 on July 19, 2006.

A final cost-benefit analysis is available by contacting Margaret Gilbert, Department of Health, P.O. Box 47873, Olympia, WA 98054-7873, phone (360) 236-4913, fax (360) 236-4930, e-mail Margaret.Gilbert@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 3, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Mak-

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 3, Amended 0, Repealed 0.

Date Adopted: August 30, 2006.

M. C. Selecky
Secretary

Chapter 246-16 WAC**STANDARDS OF PROFESSIONAL CONDUCT**NEW SECTION

WAC 246-16-010 Purpose of chapter. The rules in this chapter define certain acts of unprofessional conduct for health care providers under the jurisdiction of the secretary of the department of health as provided in RCW 18.130.040 (2)(a) including persons licensed or certified by the secretary under chapter 18.73 RCW or RCW 18.71.205. The rules also provide for sanctions. The secretary may adopt rules applicable to specific professions under RCW 18.130.040(2). These rules also serve as model rules for the disciplining authorities listed in RCW 18.130.040 (2)(b).

NEW SECTION

WAC 246-16-020 Definitions. (1) "Health care information" means any information, whether oral or recorded in any form or medium that identifies or can readily be associated with the identity of, and relates to the health care of, a patient or client.

(2) "Health care provider" means an individual applying for a credential or credentialed in a profession listed in RCW 18.130.040 (2)(a).

(3) "Key party" means immediate family members and others who would be reasonably expected to play a significant role in the health care decisions of the patient or client and includes, but is not limited to, the spouse, domestic partner, sibling, parent, child, guardian and person authorized to make health care decisions of the patient or client.

(4) "Legitimate health care purpose" means activities for examination, diagnosis, treatment, and personal care of patients or clients, including palliative care, as consistent with community standards of practice for the profession. The activity must be within the scope of practice of the health care provider.

(5) "Patient" or "client" means an individual who receives health care from a health care provider.

SEXUAL MISCONDUCTNEW SECTION

WAC 246-16-100 Sexual misconduct. (1) A health care provider shall not engage, or attempt to engage, in sexual misconduct with a current patient, client, or key party, inside or outside the health care setting. Sexual misconduct shall constitute grounds for disciplinary action. Sexual misconduct includes but is not limited to:

(a) Sexual intercourse;

(b) Touching the breasts, genitals, anus or any sexualized body part except as consistent with accepted community

standards of practice for examination, diagnosis and treatment and within the health care practitioner's scope of practice;

(c) Rubbing against a patient or client or key party for sexual gratification;

(d) Kissing;

(e) Hugging, touching, fondling or caressing of a romantic or sexual nature;

(f) Examination of or touching genitals without using gloves;

(g) Not allowing a patient or client privacy to dress or undress except as may be necessary in emergencies or custodial situations;

(h) Not providing the patient or client a gown or draping except as may be necessary in emergencies;

(i) Dressing or undressing in the presence of the patient, client or key party;

(j) Removing patient or client's clothing or gown or draping without consent, emergent medical necessity or being in a custodial setting;

(k) Encouraging masturbation or other sex act in the presence of the health care provider;

(l) Masturbation or other sex act by the health care provider in the presence of the patient, client or key party;

(m) Suggesting or discussing the possibility of a dating, sexual or romantic relationship after the professional relationship ends;

(n) Terminating a professional relationship for the purpose of dating or pursuing a romantic or sexual relationship;

(o) Soliciting a date with a patient, client or key party;

(p) Discussing the sexual history, preferences or fantasies of the health care provider;

(q) Any behavior, gestures, or expressions that may reasonably be interpreted as seductive or sexual;

(r) Making statements regarding the patient, client or key party's body, appearance, sexual history, or sexual orientation other than for legitimate health care purposes;

(s) Sexually demeaning behavior including any verbal or physical contact which may reasonably be interpreted as demeaning, humiliating, embarrassing, threatening or harming a patient, client or key party;

(t) Photographing or filming the body or any body part or pose of a patient, client, or key party, other than for legitimate health care purposes; and

(u) Showing a patient, client or key party sexually explicit photographs, other than for legitimate health care purposes.

(2) A health care provider shall not:

(a) Offer to provide health care services in exchange for sexual favors;

(b) Use health care information to contact the patient, client or key party for the purpose of engaging in sexual misconduct;

(c) Use health care information or access to health care information to meet or attempt to meet the health care provider's sexual needs.

(3) A health care provider shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section with a former patient, client or key party within two years after the provider-patient/client relationship ends.

(4) After the two-year period of time described in subsection (3) of this section, a health care provider shall not engage, or attempt to engage, in the activities listed in subsection (1) of this section if:

(a) There is a significant likelihood that the patient, client or key party will seek or require additional services from the health care provider; or

(b) There is an imbalance of power, influence, opportunity and/or special knowledge of the professional relationship.

(5) When evaluating whether a health care provider is prohibited from engaging, or attempting to engage, in sexual misconduct, the secretary will consider factors, including but not limited to:

(a) Documentation of a formal termination and the circumstances of termination of the provider-patient relationship;

(b) Transfer of care to another health care provider;

(c) Duration of the provider-patient relationship;

(d) Amount of time that has passed since the last health care services to the patient or client;

(e) Communication between the health care provider and the patient or client between the last health care services rendered and commencement of the personal relationship;

(f) Extent to which the patient's or client's personal or private information was shared with the health care provider;

(g) Nature of the patient or client's health condition during and since the professional relationship;

(h) The patient or client's emotional dependence and vulnerability; and

(i) Normal revisit cycle for the profession and service.

(6) Patient, client or key party initiation or consent does not excuse or negate the health care provider's responsibility.

(7) These rules do not prohibit:

(a) Providing health care services in case of emergency where the services cannot or will not be provided by another health care provider;

(b) Contact that is necessary for a legitimate health care purpose and that meets the standard of care appropriate to that profession; or

(c) Providing health care services for a legitimate health care purpose to a person who is in a preexisting, established personal relationship with the health care provider where there is no evidence of, or potential for, exploiting the patient or client.

WSR 06-18-049

PERMANENT RULES

DEPARTMENT OF SERVICES

FOR THE BLIND

[Filed August 30, 2006, 11:28 a.m., effective September 30, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose is to amend WAC 67-25-446 to add a subsection to subsection (1), and to comply with the 1998 amendments to the Rehabilitation Act of 1973.

Citation of Existing Rules Affected by this Order: Amending chapter 67-25 WAC.

Statutory Authority for Adoption: Chapter 74.18 RCW.

Adopted under notice filed as WSR 06-13-014 on June 9, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 22, 2006.

Ellen Drumheller
Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-08-097, filed 4/4/05, effective 5/5/05)

WAC 67-25-446 Vocational rehabilitation—Services to groups. (1) The department may provide the following vocational rehabilitation services to groups of individuals:

(a) Establishment, development, or improvement of a public or other nonprofit employment service provider providing services that promote integration and competitive employment.

(b) Development and implementation of services that enhance the use of modes of communication or telecommunications for individuals with disabilities.

(c) Technical assistance and support services, such as job site modification and other reasonable accommodations, for businesses not subject to Title I of the Americans with Disabilities Act of 1990 that are seeking to employ individuals with disabilities.

(d) Establishment of small business enterprises, operated by individuals with the most significant disabilities under supervision of the department, including, management services and supervision, and the acquisition of vending facilities, equipment, initial stocks, and supplies.

(e) ~~((Other services that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the individualized plan for employment of any one individual.))~~ Consultation services to assist educational agencies in transition of students with disabilities to post-school activities, including employment.

(f) Other services that promise to contribute substantially to the rehabilitation of a group of individuals, but that are not related directly to the individualized plan for employment of any one individual.

(2) Services to groups are provided in accordance with department procedures for the provision of these services.

WSR 06-18-055

PERMANENT RULES

HEALTH CARE AUTHORITY

(Basic Health)

[Order 06-05—Filed August 31, 2006, 1:37 p.m., effective October 1, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The 2006 legislature passed chapter 343, Laws of 2006, granting Basic Health enrollment priority status for members of the Washington National Guard and Reserve who served in Operation Enduring Freedom, Operation Iraqi Freedom, and Operation Noble Eagle, and their spouses and dependents. Basic Health rules must be revised to be consistent with that requirement.

Citation of Existing Rules Affected by this Order: Amending WAC 182-25-030.

Statutory Authority for Adoption: RCW 70.47.050.

Other Authority: Chapter 343, Laws of 2006.

Adopted under notice filed as WSR 06-15-118 on July 19, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: August 31, 2006.

Beth Dupre
Rules Coordinator

AMENDATORY SECTION (Amending Order 04-03, filed 11/5/04, effective 1/1/05)

WAC 182-25-030 Eligibility. (1) To be eligible for enrollment in BHP, unless otherwise specified elsewhere in this chapter, an individual must be a Washington state resident who is not:

(a) Eligible for free Medicare coverage or eligible to buy Medicare coverage; or

(b) Institutionalized at the time of enrollment.

(2) Persons not meeting these criteria, as evidenced by information submitted on the application for enrollment or otherwise obtained by BHP, will not be enrolled. An enrollee who is no longer a Washington resident, who becomes eligible for free or purchased Medicare, or who is later determined to have failed to meet BHP's eligibility criteria at the time of enrollment, will be disenrolled from the plan as provided in WAC 182-25-090. An enrollee who was not confined to an institution at the time of enrollment, who is subsequently confined to an institution, will not be disenrolled,

provided he or she remains otherwise eligible and continues to make all premium payments when due.

(3) Eligibility for BHP Plus and maternity benefits through medical assistance is determined by DSHS, based on Medicaid eligibility criteria.

(4) For subsidized enrollment in BHP, an individual must meet the eligibility criteria in subsection (1) of this section and the definition of "subsidized enrollee" in WAC 182-25-010(38), and must pay, or have paid on his or her behalf, the monthly BHP premium.

(5) To be eligible for nonsubsidized enrollment in BHP, an individual may have any income level, must meet the eligibility criteria in subsection (1) of this section, and must pay, or have paid on their behalf, the full costs for participation in BHP, including the cost of administration, without subsidy from the HCA.

(6)(a) An individual otherwise eligible for enrollment in BHP as a subsidized enrollee may be denied enrollment if the administrator has determined that acceptance of additional enrollment would exceed limits established by the legislature, would jeopardize the orderly development of BHP, or would result in an overexpenditure of BHP funds. An individual otherwise eligible for enrollment in either the subsidized or nonsubsidized program may also be denied enrollment if no MHCS is accepting new enrollment in that program or from the geographic area where the applicant lives.

(b) If the administrator closes or limits subsidized enrollment, to the extent funding is available, BHP will continue to accept and process applications for subsidized enrollment from:

(i) Children eligible for subsidized BHP, who were referred to DSHS for BHP Plus coverage, but were found ineligible for BHP Plus for reasons other than noncompliance;

(ii) Employees of a home care agency group enrolled or applying for coverage under WAC 182-25-060;

(iii) Eligible individual home care providers;

(iv) Licensed foster care workers;

(v) Limited enrollment of new employer groups; ~~(and)~~

(vi) Members of the Washington National Guard and Reserves who served in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation Noble Eagle, and their spouses and dependents; and

(vii) Subject to availability of funding, additional space for enrollment may be reserved for other applicants as determined by the administrator, in order to ensure continuous coverage and service for current individual and group accounts. (For example: Within established guidelines, processing routine income changes that may affect subsidy eligibility for current enrollees; adding new family members to an existing account; transferring enrollees between group and individual accounts; restoring coverage for enrollees who are otherwise eligible for continued enrollment under WAC 182-25-090 after a limited suspension of coverage due to late payment or other health care coverage; adding newly hired employees to an existing employer group; or adding new or returning members of federally recognized native American tribes to that tribe's currently approved financial sponsor group.)

(c) If the administrator has closed or limited subsidized enrollment, applicants for subsidized BHP who are not in any of the categories in (b) of this subsection may reserve space on a waiting list to be processed according to the date the waiting list request or application is received by BHP. When enrollment is reopened by the administrator, applicants whose names appear on the waiting list will be notified by BHP of the opportunity to enroll. BHP may require new application forms and documentation from applicants on the waiting list, or may contact applicants to verify continued interest in applying, prior to determining their eligibility.

WSR 06-18-057

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Health and Recovery Services Administration)

[Filed August 31, 2006, 2:24 p.m., effective October 1, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The department is repealing WAC 388-865-0201 and 388-865-0203 as they are no longer accurate or appropriate because of the changes made to chapter 71.24 RCW by 2SSB 6793 (sections 107 and 201, chapter 333, Laws of 2006). Repeal of these rules is necessary to be consistent with the statutes.

Citation of Existing Rules Affected by this Order: Repealing WAC 388-865-0201 and 388-865-0203.

Statutory Authority for Adoption: RCW 71.24.035.

Other Authority: Chapter 71.24 RCW as amended by 2SSB 6793 (sections 107 and 201, chapter 333, Laws of 2006).

Adopted under notice filed as WSR 06-14-085 on July 3, 2006.

A final cost-benefit analysis is available by contacting J. Paul DesJardien, P.O. Box 45320, Olympia, WA 98504-5320, phone (360) 902-0873, fax (360) 902-0809, e-mail desjap@dsht.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 2.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 2.

Date Adopted: August 31, 2006.

Robin Arnold-Williams
Secretary

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-865-0201	Allocation of funds to RSN/PHPs.
WAC 388-865-0203	Allocation formula for state hospital beds.

WSR 06-18-058**PERMANENT RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed August 31, 2006, 2:28 p.m., effective October 1, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: Adopting new WAC 388-106-0745 through 388-106-0765 and amending WAC 388-515-1505 for the purpose of adding long-term care service and eligibility criteria for implementation of the long-term care portion of the Washington Medicaid integration partnership (WMIP). This is a new and innovative managed care program in the state of Washington that combines medical, mental health, chemical dependency, and long-term care services under one coordinated service delivery model and capitated payment structure, thereby improving client outcomes through increased coordination.

Citation of Existing Rules Affected by this Order: Amending WAC 388-515-1505.

Statutory Authority for Adoption: RCW 74.08.090.

Other Authority: 42 C.F.R. 441.302(a); Social Security Act section 1915(c) waiver rules; 42 C.F.R. 438.

Adopted under notice filed as WSR 06-14-059 on June 30, 2006.

A final cost-benefit analysis is available by contacting Tiffany Sevruk, P.O. Box 45600, Olympia, WA 98504-5600, phone (360) 725-2538, fax (360) 407-7582, e-mail sevruta@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 5, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 5, Amended 1, Repealed 0.

Date Adopted: August 31, 2006.

Robin Arnold-Williams
Secretary

Washington Medicaid Integration Partnership (WMIP)NEW SECTION

WAC 388-106-0745 What services may I receive under WMIP? (1) Once you are determined eligible, your care plan could include, but is not limited to, any of the following long-term care services:

- (a) Care coordination;
 - (b) Personal care services in your own home or in a residential facility;
 - (c) Home health aide;
 - (d) Adult day services;
 - (e) Environmental modifications;
 - (f) Personal emergency response system (PERS);
 - (g) Skilled nursing;
 - (h) Specialized medical equipment and supplies;
 - (i) Home delivered meals;
 - (j) Residential care;
 - (k) Nursing facility care.
- (2) The care plan may also include medical, chemical dependency, and/or mental health services.

NEW SECTION**WAC 388-106-0750 Am I eligible to enroll in WMIP?**

- (1) To enroll in WMIP you must:
- (a) Be aged, blind, or disabled;
 - (b) Be twenty-one years of age or older;
 - (c) Receive, or be eligible for, categorically needy medical assistance per WAC 388-500-0005; and
 - (d) Not be enrolled in any other comparable third party insurance coverage plan that purchases services on a prepaid basis (for example, a prepaid health plan).
- (2) To be eligible to receive long-term care services under this program, you must meet functional eligibility for one of the long-term care programs per WAC 388-106-0210(2), WAC 388-106-0310(4), or WAC 388-106-0355(1) and financial eligibility for noninstitutional categorically needy, or institutional categorically needy as described in chapter 388-513 WAC and WAC 388-515-1505.
- (3) Ongoing functional and financial eligibility for long-term care services will be determined at least annually by the state.
- (4) If you are determined ineligible for long-term care services, you may continue to receive medical, mental health and chemical dependency treatment services through WMIP as long as you continue to meet the criteria listed in subsection (1) above.

NEW SECTION

WAC 388-106-0755 How do I pay for WMIP services? Depending on your income and resources, you may be required to pay for part of your long-term care services you receive through WMIP. The department will determine what

amount, if any, you must contribute toward the cost of your care.

NEW SECTION

WAC 388-106-0760 How do I disenroll from WMIP?

You may choose to disenroll from WMIP for any reason at any time. See WAC 388-538-061 for additional information on ending enrollment in WMIP.

NEW SECTION

WAC 388-106-0765 What is the fair hearing process for enrollee appeals of managed care organization actions? See WAC 388-538-112 for additional information specific to the managed care fair hearing process. For hearing information specific to long-term care services eligibility, see WAC 388-106-1305.

AMENDATORY SECTION (Amending WSR 06-03-079, filed 1/12/06, effective 2/12/06)

WAC 388-515-1505 Financial eligibility requirements for long-term care services under COPEs, New Freedom, PACE, ~~((and))~~ MMIP, and WMIP. (1) This section describes the financial eligibility requirements and the rules used to determine a client's participation in the total cost of care for home or community-based long-term care (LTC) services provided under the following programs:

(a) Community options program entry system (COPEs);
(b) Program of all-inclusive care for the elderly (PACE);
~~((and))~~

(c) Medicare/Medicaid integration project (MMIP);

(d) Washington Medicaid integration partnership (WMIP); and

(e) New Freedom Consumer Directed Services (New Freedom).

(2) To be eligible, a client must:

(a) Meet the program and age requirements for the specific program, as follows:

(i) COPEs, per WAC 388-106-0310;

(ii) PACE, per WAC 388-106-0705; ~~((or))~~

(iii) MMIP waiver services, per WAC 388-106-0725;

(iv) WMIP waiver services, per WAC 388-106-0750; or

(v) New Freedom, per WAC 388-106-1410.

(b) Meet the aged, blind or disability criteria of the Supplemental Security Income (SSI) program as described in WAC 388-511-1105(1);

(c) Require the level of care provided in a nursing facility as described in WAC 388-106-0355;

(d) Be residing in a medical facility as defined in WAC 388-500-0005, or likely to be placed in one within the next thirty days in the absence of home or community-based LTC services provided under one of the programs listed in subsection (1) of this section;

(e) Have attained institutional status as described in WAC 388-513-1320;

(f) Be determined in need of home or community-based LTC services and be approved for a plan of care as described in subsection (2)(a)(i), (ii), or (iii);

(g) Be able to live at home with community support services and choose to remain at home, or live in a department-contracted:

(i) Enhanced adult residential care (EARC) facility;

(ii) Licensed adult family home (AFH); or

(iii) Assisted living (AL) facility.

(h) Not be subject to a penalty period of ineligibility for the transfer of an asset as described in WAC 388-513-1364, 388-513-1365 and 388-513-1366; and

(i) Meet the resource and income requirements described in subsections (3), (4), and (5) or be an SSI beneficiary not subject to a penalty period as described in subsection (2)(h).

(3) Refer to WAC 388-513-1315 for rules used to determine nonexcluded resources and income.

(4) Nonexcluded resources above the standard described in WAC 388-513-1350(1):

(a) Are allowed during the month of an application or eligibility review, when the combined total of excess resources and nonexcluded income does not exceed the special income level (SIL).

(b) Are reduced by medical expenses incurred by the client (for definition, see WAC 388-519-0110(10)) that are not subject to third-party payment and for which the client is liable, including:

(i) Health insurance and Medicare premiums, deductions, and co-insurance charges; and

(ii) Necessary medical care recognized under state law, but not covered under the state's Medicaid plan.

(c) Not allocated to participation must be at or below the resource standard. If excess resources are not allocated to participation, then the client is ineligible.

(5) Nonexcluded income must be at or below the SIL and is allocated in the following order:

(a) An earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income;

(b) Maintenance and personal needs allowances as described in subsection (7), (8), and (9) of this section;

(c) Guardianship fees and administrative costs including any attorney fees paid by the guardian only as allowed by chapter 388-79 WAC;

(d) Income garnisheed for child support or withheld according to a child support order:

(i) For the time period covered by the maintenance amount; and

(ii) Not deducted under another provision in the post-eligibility process.

(e) Monthly maintenance needs allowance for the community spouse not to exceed that in WAC 388-513-1380 (6)(b) unless a greater amount is allocated as described in subsection (6) of this section. This amount:

(i) Is allowed only to the extent that the client's income is made available to the community spouse; and

(ii) Consists of a combined total of both:

(A) An amount added to the community spouse's gross income to provide the amount described in WAC 388-513-1380 (6)(b)(i)(A); and

(B) Excess shelter expenses. For the purposes of this section, excess shelter expenses are the actual required maintenance expenses for the community spouse's principal residence. These expenses are:

- (I) Rent;
- (II) Mortgage;
- (III) Taxes and insurance;
- (IV) Any maintenance care for a condominium or cooperative; and

(V) The food assistance standard utility allowance (for LTC services this is set at the standard utility allowance (SUA) for a four-person household), provided the utilities are not included in the maintenance charges for a condominium or cooperative;

(VI) LESS the standard shelter allocation listed in WAC 388-513-1380 (7)(a).

(f) A monthly maintenance needs amount for each minor or dependent child, dependent parent or dependent sibling of the community or institutionalized spouse based on the living arrangement of the dependent. If the dependent:

(i) Resides with the community spouse, the amount is equal to one-third of the community spouse income allocation as described in WAC 388-513-1380 (6)(b)(i)(A) that exceeds the dependent family member's income;

(ii) Does not reside with the community spouse, the amount is equal to the MNIL for the number of dependent family members in the home less the income of the dependent family members. Child support received from an absent parent is the child's income;

(g) Incurred medical expenses described in subsection (4)(b) not used to reduce excess resources, with the following exceptions:

(i) Private health insurance premiums for PACE, MMIP, or WMIP;

(ii) ~~Medicare advantage plan premiums for PACE~~).

(6) The amount allocated to the community spouse may be greater than the amount in subsection (5)(e) only when:

(a) A court enters an order against the client for the support of the community spouse; or

(b) A hearing officer determines a greater amount is needed because of exceptional circumstances resulting in extreme financial duress.

(7) A client who receives SSI does not use income to participate in the cost of personal care, but does use SSI income to participate in paying costs of board and room. When such a client lives:

(a) At home, the SSI client does not participate in the cost of personal care;

(b) In an enhanced adult residential center (EARC), adult family home (AFH), or assisted living (AL), the SSI client:

(i) Retains a personal needs allowance (PNA) of fifty-eight dollars and eighty-four cents;

(ii) Pays the facility for the cost of board and room. Board and room is the SSI federal benefit rate (FBR) minus fifty-eight dollars and eighty-four cents; and

(iii) Does not participate in the cost of personal care if any income remains.

(8) An SSI-related client living:

(a) At home, retains a maintenance needs amount equal to the following:

(i) Up to one hundred percent of the one-person FPL, if the client is:

(A) Single; or

(B) Married, and is:

(I) Not living with the community spouse; or

(II) Whose spouse is receiving long-term care (LTC) services outside of the home.

(ii) Up to one hundred percent of the one-person FPL for each client, if both spouses are receiving COPEs, New Freedom, PACE, ~~((or))~~ MMIP, or WMIP services;

(iii) Up to the one-person medically needy income level (MNIL) for a married client who is living with a community spouse who is not receiving COPEs, New Freedom, PACE, ~~((or))~~ MMIP, or WMIP.

(b) In an EARC, AFH, or AL, retains a maintenance needs amount equal to the SSI FBR and:

(i) Retains a personal needs allowance (PNA) of fifty-eight dollars and eighty-four cents from the maintenance needs; and

(ii) Pays the remainder of the maintenance needs to the facility for the cost of board and room. (Refer to subsection (11) in this section for allocation of the balance of income remaining over maintenance needs.)

(9) A client who is eligible for the general assistance expedited Medicaid disability (GAX) program does not participate in the cost of personal care. When such a client lives:

(a) At home, the client retains the cash grant amount authorized under the general assistance program;

(b) In an AFH, the client retains a PNA of thirty-eight dollars and eighty-four cents, and pays remaining income and GAX grant to the facility for the cost of board and room; or

(c) In an EARC or AL, the client only receives a PNA of thirty-eight dollars and eighty-four cents and retains it.

(10) The total of the following amounts cannot exceed the SIL:

(a) Maintenance and personal needs allowances as described in subsections (7), (8), and (9);

(b) Earned income deduction of the first sixty-five dollars plus one-half of the remaining earned income in subsection (5)(a); and

(c) Guardianship fees and administrative costs in subsection (5)(c).

(11) The client's remaining income after the allocations described in subsections (5) through (9) is the client's participation in the total cost of care.

WSR 06-18-059

PERMANENT RULES

DEPARTMENT OF REVENUE

[Filed August 31, 2006, 3:19 p.m., effective October 1, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule explains the tax incentives, contained in chapter 82.63 RCW and RCW 82.04.4452, which apply to businesses engaged in research and development or pilot scale manufacturing in Washington in five high technology areas: Advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology. The rule has been amended to recognize 2004 and 2005 legislation. Information was added to clarify the application of these incentives, and the rule was restructured into a question and answer format to provide the information in a more useful manner.

Citation of Existing Rules Affected by this Order: Amending WAC 458-20-24003 Tax incentives for high technology businesses.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Adopted under notice filed as WSR 06-11-184 on May 24, 2006.

Changes Other than Editing from Proposed to Adopted Version: **Subsection (17)(a), What does the term "person" mean for purposes of this credit?** The phrase "Effective June 10, 2004, "person" also includes state universities as defined in RCW 28B.10.016" has been removed. This subsection now provides "Person" has the meaning given in RCW 82.04.030.

Subsection (17)(f), What is "qualified research and development" for purposes of this section? The phrase "See subsection (3)(b) of the section for more information" has been replaced with "Qualified research and development" means research and development performed within this state in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Date Adopted: August 31, 2006.

Alan R. Lynn
Rules Coordinator

AMENDATORY SECTION (Amending WSR 03-12-053, filed 5/30/03, effective 6/30/03)

WAC 458-20-24003 Tax incentives for high technology businesses. (1) **Introduction.** This ((rule)) section explains the tax incentives, contained in chapter 82.63 RCW and RCW 82.04.4452, which apply to businesses engaged in research and development or pilot scale manufacturing in Washington in five high technology areas: Advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology. Eligibility for high technology or research and development tax incentives offered by the federal government or any other jurisdiction does not establish eligibility for Washington's programs.

This section contains examples that identify a number of facts and then state a conclusion. The examples should be used only as a general guide. The tax results in all situations must be determined after a review of all facts and circum-

stances. Assume all the examples below occur on or after June 10, 2004, unless otherwise indicated.

(2) ~~((Definitions. For purposes of this rule, the following definitions apply unless otherwise required by the context:~~

~~(a) "Advanced computing" means technologies used in the designing and developing of computing hardware and software, including innovations in designing the full spectrum of hardware from hand-held calculators to super computers, and peripheral equipment.~~

~~(b) "Advanced materials" means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value-added metals, electronic materials, composites, polymers, and biomaterials.~~

~~(c) "Applicant" means a person applying for a tax deferral under chapter 82.63 RCW.~~

~~(d) "Biotechnology" means the application of technologies, such as recombinant DNA techniques, biochemistry, molecular and cellular biology, genetics, including genomics, gene expression and genetic engineering, cell fusion techniques, and new bioprocesses, using living organisms, or parts of organisms, to produce or modify products, to improve plants or animals, to develop microorganisms for specific uses, to identify targets for small molecule pharmaceutical development, or to transform biological systems into useful processes and products or to develop microorganisms for specific uses.~~

~~(e) "Electronic device technology" means technologies involving microelectronics; semiconductors; electronic equipment and instrumentation; radio frequency, microwave, and millimeter electronics; optical and optoelectrical devices; and data and digital communications and imaging devices.~~

~~(f) "Eligible investment project" means an investment project which either initiates a new operation, or expands or diversifies a current operation by expanding, renovating, or equipping an existing facility. The lessor or owner of the qualified building is not eligible for a deferral unless the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the deferral to the lessee in the form of reduced rent payments.~~

~~(g) "Environmental technology" means assessment and prevention of threats or damage to human health or the environment, environmental cleanup, and the development of alternative energy sources.~~

~~(i) The assessment and prevention of threats or damage to human health or the environment concerns assessing and preventing potential or actual releases of pollutants into the environment that are damaging to human health or the environment. It also concerns assessing and preventing other physical alterations of the environment that are damaging to human health or the environment.~~

~~(A) Pollutants include waste materials or by-products from manufacturing or other activities.~~

~~(B) Environmental technology includes technology to reduce emissions of harmful pollutants but does not include technology to increase fuel economy. Where technology both~~

reduces emissions and increases fuel economy, it is environmental technology if the primary purpose is to reduce emissions. That reducing emissions is the primary purpose of technology can be demonstrated by showing the technology is developed to meet governmental emission standards.

(C) Environmental technology does not include technology for preventive health measures for, or medical treatment of, human beings.

(ii) Environmental cleanup is corrective or remedial action to protect human health or the environment from releases of pollutants into the environment.

(iii) Alternative energy sources are those other than traditional energy sources such as fossil fuels, nuclear power, and hydroelectricity. However, when traditional energy sources are used in conjunction with the development of alternative energy sources, all the development will be considered the development of alternative energy sources.

(h) "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction or improvement of the project.

(i) "Person" has the meaning given in RCW 82.04.030.

(j) "Pilot scale manufacturing" means design, construction, and testing of preproduction prototypes and models in the fields of biotechnology, advanced computing, electronic device technology, advanced materials, and environmental technology other than for commercial sale. "Commercial sale" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(k) "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity used for pilot scale manufacturing or qualified research and development, including plant offices and other facilities that are an essential or an integral part of a structure used for pilot scale manufacturing or qualified research and development.

(i) If a building is used partly for pilot scale manufacturing or qualified research and development and partly for other purposes, the applicable tax deferral shall be determined as follows:

(A) Tax on the cost of construction of areas devoted solely to pilot scale manufacturing or research and development may be deferred.

(B) Tax on the cost of construction of areas not used at all for pilot scale manufacturing or research and development may not be deferred.

(C) Tax on the cost of construction of areas used in common for pilot scale manufacturing or research and development and for other purposes, such as hallways, bathrooms, and conference rooms, may be deferred by apportioning the costs of construction on a square footage basis. The apportioned costs of construction eligible for deferral are established by using the ratio, expressed as a percentage, of the square feet of the construction, expansion, or renovation devoted to pilot scale manufacturing or qualified research and development, excluding areas used in common to the total square feet of the construction, expansion, or renovation, excluding areas used in common. That percentage is

applied to the cost of construction of the common areas to determine the costs of construction eligible for tax deferral. Expressed as a formula, apportionment of the cost of the common areas is determined by:

$$\frac{\text{Square feet devoted to research and development or pilot scale manufacturing, excluding square feet of common areas}}{\text{Total square feet, excluding square feet of common areas}} = \text{Percentage of total cost of construction of common areas eligible for deferral}$$

Total square feet, excluding square feet of common areas

(D) The apportionment method described in (A), (B), and (C) above shall be used unless the applicant or recipient can demonstrate that another method better represents a reasonable apportionment of costs, considering all the facts and circumstances.

(ii) Building construction does not include the construction of landscaping or most other work outside the building itself. However, it does include the construction of parking lots connected to or adjacent to the building if the parking lots are for the use of workers performing pilot scale manufacturing or research and development in the building.

(l) "Qualified machinery and equipment" means fixtures, equipment, and support facilities that are an integral and necessary part of a pilot scale manufacturing or qualified research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment, instrumentation, and other devices used in a process of experimentation to develop a new or improved pilot model, plant process, product, formula, invention, or similar property; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; vats, tanks, and fermenters; operating structures; and all other equipment used to control, monitor, or operate the machinery. For purposes of this rule, qualified machinery and equipment must be either new to the taxing jurisdiction of the state or new to the certificateholder, except that used machinery and equipment may be treated as qualified machinery and equipment if the certificateholder either brings the machinery and equipment into Washington or makes a retail purchase of the machinery and equipment in Washington or elsewhere.

(i) Machinery and equipment is an integral and necessary part of pilot scale manufacturing or qualified research and development if the pilot scale manufacturing or qualified research and development could not be accomplished without it. A laboratory table would be integral and necessary to qualified research and development. Decorative artwork would not be integral and necessary to qualified research and development.

(ii) Qualified machinery and equipment must be used exclusively for pilot scale manufacturing or qualified research and development to qualify for the deferral. However, de minimis nonqualifying use will not cause the loss of

the deferral. An example of de minimis use is the occasional use of a computer for personal e-mail.

(iii) Unlike buildings, if machinery and equipment is used for both qualifying and nonqualifying purposes, the costs may not be apportioned. Sales or use tax may not be deferred on the purchase or use of machinery and equipment used for both qualifying and nonqualifying purposes.

(m) "Qualified research and development" means research and development performed within this state in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology.

(n) "Qualified research and development expenditures" means operating expenses, including wages, compensation of a proprietor or a partner in a partnership, benefits, supplies, and computer expenses, directly incurred in qualified research and development by a person claiming the business and occupation tax credit provided by RCW 82.04.4452. The term does not include amounts paid to a person other than a public educational or research institution to conduct qualified research and development. Nor does the term include capital costs and overhead, such as expenses for land, structures, or depreciable property.

(i) In order for an operating expense to be a qualified research and development expenditure, it must be directly incurred in qualified research and development. If an employee performs qualified research and development activities and also performs other activities, only the wages and benefits proportionate to the time spent on qualified research and development activities are qualified research and development expenditures under this rule. The wages of employees who supervise or are supervised by persons performing qualified research and development are qualified research and development expenditures to the extent the work of those supervising or being supervised involves qualified research and development.

(ii) The compensation of a proprietor or a partner is determined in one of two ways:

(A) If there is net income for federal income tax purposes, the amount reported subject to self-employment tax is the compensation.

(B) If there is no net income for federal income tax purposes, reasonable cash withdrawals or cash advances are the compensation.

(iii) Depreciable property within the meaning of this rule is any property with a useful life that extends beyond the accounting year in which it is acquired, regardless of whether the property is depreciated or currently expensed. Expenditures related to depreciable property are not qualified research and development expenditures within the meaning of this rule even though they are currently expensed.

(iv) Computer expenses do not include the purchase, lease, rental, or repair of equipment. They do include internet subscriber fees, run time on a mainframe computer, and outside processing.

(v) Training expenses for employees are qualified research and development expenditures if the training is directly related to the research and development being performed. Training expenses include registration fees, materials, and travel expenses. Although the research and develop-

ment must occur in Washington, training may take place outside of Washington.

(vi) Qualified research and development expenditures include the cost of clinical trials for drugs and certification by Underwriters Laboratories.

(vii) Qualified research and development expenditures do not include legal expenses, patent fees, or any other expense not incurred directly for qualified research and development.

(viii) Stock options granted as compensation to employees performing qualified research and development are qualified research and development expenditures to the extent they are reported on the W-2 forms of the employees and are taken as a deduction for federal income tax purposes by the employer.

(ix) Preemployment expenses related to employees who perform qualified research and development are qualified research and development expenditures. These expenses include recruiting and relocation expenses and employee placement fees.

(o) "Research and development" means activities performed to discover technological information, and technical and nonroutine activities concerned with translating technological information into new or improved products, processes, techniques, formulas, inventions, or software.

The term includes exploration of a new use for an existing drug, device, or biological product if the new use requires separate licensing by the Federal Food and Drug Administration under chapter 21 CFR, as amended.

The term does not include adaptation or duplication of existing products where the products are not substantially improved by application of the technology, nor does the term include surveys and studies, social science and humanities research, market research or testing, quality control, sale promotion and service, computer software developed for internal use, and research in areas such as improved style, taste, and seasonal design.

(i) A person need not both discover technological information and translate technological information into new or improved products, processes, techniques, formulas, inventions, or software in order to engage in research and development. A person may perform either activity alone and be engaged in research and development.

(ii) To discover technological information means to gain knowledge of technological information through purposeful investigation. The knowledge sought must be of something not previously known or, if known, only known by persons who have not made the knowledge available to the public.

(iii) Technological information is information related to the application of science, especially with respect to industrial and commercial objectives. Industrial and commercial objectives include both sale and internal use (other than internal use software). The translation of technological information into new or improved products, processes, techniques, formulas, inventions, or software does not require the use of newly discovered technological information to qualify as research and development.

(iv) The translation of technological information requires both technical and nonroutine activities. An activity is technical if it involves the application of scientific, engi-

neering, or computer science methods or principles. The term "nonroutine" refers to the specific activities undertaken to achieve a desired result. A customized or unique result is not by itself conclusive proof that it was the product of nonroutine activities. Indicia of nonroutine activities include, but are not limited to:

(A) The activity involves overcoming one or more technological barriers under circumstances where the outcome is not certain;

(B) The activity has not been done before; or

(C) The activity involves a process of experimentation.

(v) A product is substantially improved when it functions fundamentally differently because of the application of technological information. This fundamental difference must be objectively measured. Examples of objective measures include increased value, faster operation, greater reliability, and more efficient performance.

(vi) Computer software is developed for internal use if it is to be used only by the person by whom it is developed. If it is to be available for sale, lease, or license, it is not developed for internal use, even though it may have some internal applications. If it is to be available for use by persons, other than the person by whom it is developed, who access or download it remotely, such as through the internet, it is not usually deemed to be developed for internal use. However, remotely accessed software is deemed to be developed for internal use if its purpose is to assist users in obtaining goods, services, or information provided by or through the person by whom the software is developed. For example, software is developed for internal use if it enables or makes easier the ordering of goods from or through the person by whom the software is developed. On the other hand, a search engine used to search the World Wide Web is an example of software that is not developed for internal use because the search engine itself is the service sought.

(vii) Research and development is complete when the product, process, technique, formula, invention, or software can be reliably reproduced for sale or commercial use. However, the improvement of an existing product, process, technique, formula, invention, or software may qualify as research and development.

(p) "Research and development spending" means qualified research and development expenditures plus eighty percent of amounts paid to a person other than a public educational or research institution to conduct qualified research and development.

(q) "Taxable amount" means the taxable amount subject to business and occupation tax required to be reported on the person's combined excise tax returns for the year for which the credit is claimed, less any taxable amount for which a multiple activities tax credit is allowed under RCW 82.04-440. See WAC 458-20-19301 for information on the multiple activities tax credit.

(3) **Sales and use tax deferral.** Chapter 82.63 RCW provides for the deferral of sales and use taxes on eligible investment projects. These are projects that involve research and development or pilot scale manufacturing in five high technology areas: Advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology.

(a) Application process.

(i) Applicants must apply for deferral to the department of revenue before the initiation of construction of, or acquisition of equipment or machinery for the investment project. The date of application is the earlier of the postmark date or the date of receipt by the department.

(A) Construction is initiated when workers start on-site building tasks. The initiation of construction does not include land clearing or site preparation prior to excavation of the building site. Also, the initiation of construction does not include design or planning activities.

(B) Equipment or machinery is acquired at the time the applicant or its agent obtains dominion and control of the equipment or machinery.

(ii) Application forms may be obtained at department of revenue district offices, by downloading from the department's web site (dor.wa.gov), by telephoning the telephone information center (800-647-7706), or by contacting the department's special programs division at:

Department of Revenue
Special Programs Division
Post Office Box 47477
Olympia, WA 98504-7477
FAX 360-586-2163

(iii) Applicants must mail or fax applications to the special programs division at the address or fax number given above.

(iv) The application form shall include information regarding the location of the investment project, the applicant's average employment in Washington for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, and time schedules for completion and operation. The application form may also include other information relevant to the project and the applicant's eligibility for deferral.

(v) Applicants must agree to supply the department with nonproprietary information necessary to measure the results of the tax deferral program.

(vi) Applications and other information received by the department in connection with the deferral program are not confidential and are subject to public disclosure.

(vii) The department must rule on an application within sixty days. If an application is denied, the department must explain in writing the basis for the denial. An applicant may appeal a denial within thirty days under WAC 458-20-100.

(b) Deferral certificate.

(i) If an application is approved, the department must issue the applicant a sales and use tax deferral certificate.

(ii) The certificate provides for deferral of state and local sales and use taxes on the eligible investment project. The certificate will state the amount of tax deferral for which the recipient is eligible. It will also state the date by which the project will be operationally complete. The deferral is limited to investment in qualified buildings or qualified machinery and equipment. The deferral does not apply to the taxes of persons with whom the recipient does business, persons the recipient hires, or employees of the recipient.

(iii) A successful applicant, hereafter referred to as a recipient, must present a copy of the certificate to sellers of goods or retail services provided in connection with the eligible investment project in order to avoid paying sales or use tax. Sellers who accept these certificates in good faith are relieved of the responsibility to collect sales or use tax on transactions covered by the certificates. Sellers must retain copies of certificates as documentation for why sales or use tax was not collected on a transaction.

(iv) In cases of leases of qualifying machinery and equipment, the deferral certificate allows for deferral of tax on payments made during the initial term of the lease, and does not allow for deferral for extensions or renewals of the lease. Deferral of tax is not allowed for lease payments for any period after the seventh calendar year following the calendar year for which the project is certified as operationally complete.

(v) The certificate may not be used to defer tax on repairs to, or replacement parts for, qualified machinery and equipment.

(vi) The department may not issue a certificate for an investment project that has already received a deferral under chapters 82.60, 82.61, or 82.63 RCW, except that an investment project for qualified research and development that has already received a deferral may also receive an additional deferral certificate for adapting the investment project for use in pilot scale manufacturing. However, a certificate may be amended or a certificate issued for a new investment project at an existing facility.

(e) Amendment of application or certificate.

(i) Applicants and recipients may make written requests to the special programs division to amend an application or certificate.

(ii) Grounds for requesting amendment include, but are not limited to:

- (A) The project will exceed the costs originally stated;
- (B) The project will take more time to complete than originally stated;
- (C) The original application is no longer accurate because of changes in the project;
- (D) Transfer of ownership of the project.

(iii) The department must rule on the request within sixty days. If the request is denied, the department must explain in writing the basis for the denial. An applicant or recipient may appeal a denial within thirty days under WAC 458-20-100.

(d) Certification.

(i) When the building, machinery, or equipment is ready for use, the recipient must notify the special programs division in writing that the eligible investment project is operationally complete. The department shall, after appropriate investigation, certify that the project is operationally complete; not certify the project; or certify only a portion of the project. The certification will include the year in which the project is operationally complete.

(ii) If all or any portion of the project is not certified, the recipient must repay all or a proportional part of the deferred taxes. The department will notify the recipient of the amount due, including interest, and the due date.

(iii) The department must explain in writing the basis for not certifying all or any portion of a project. The decision of

the department to not certify all or a portion of a project may be appealed under WAC 458-20-100 within thirty days.

(e) Repayment of deferred taxes.

(i) Deferred taxes need not be repaid if the investment project is used only for qualified research and development or pilot scale manufacturing during the calendar year for which the department certifies the investment project as operationally complete and during the succeeding seven calendar years.

(ii) Deferred taxes must be repaid if an investment project is used for purposes other than qualified research and development or pilot scale manufacturing during the calendar year for which the department certifies the investment project as operationally complete or at any time during any of the succeeding seven calendar years. Taxes are immediately due according to the following schedule:

Year in which nonqualifying use occurs	% of deferred taxes due
1	100%
2	87.5%
3	75%
4	62.5%
5	50%
6	37.5%
7	25%
8	12.5%

Interest on the taxes, but not penalties, must be paid retroactively to the date of deferral.

(iii) However, if the investment project is used for purposes other than qualified research and development or pilot scale manufacturing during the first eight years, deferred taxes need not be repaid on particular items if the purchase or use of the item would have qualified for the machinery and equipment sales and use tax exemptions provided by RCW 82.08.02565 and 82.12.02565 (discussed in WAC 458-20-13601) at the time of purchase or first use.

(iv) Deferred taxes need not be repaid if qualified machinery and equipment on which the taxes were deferred is destroyed, becomes inoperable and cannot be reasonably repaired, wears out, or becomes obsolete and is no longer practical for use in the project. The use of machinery and equipment which becomes obsolete for purposes of the project and is used outside the project is subject to use tax at the time of such use.

(f) **Transfer of deferral.** Transfer of ownership does not terminate the deferral. The deferral may be transferred to the new owner if the new owner meets all eligibility requirements for the remaining periods of the deferral. The new owner must apply for an amendment to the deferral certificate. If the deferral is transferred, the new owner is liable for repayment of deferred taxes under the same terms as the original owner. If the new owner is a successor to the previous owner under the terms of WAC 458-20-216 and the deferral is not transferred, the new owner's liability for deferred taxes is limited to those that are due for payment at the time ownership is transferred.

(g) **No extinguishment of debt.** The debt for deferred taxes will not be extinguished by the insolvency or other failure of the recipient.

(h) **Expiration of sales and use tax deferral program.** The authority of the department to issue deferral certificates expires July 1, 2004.

(4) Examples relating to the sales and use tax deferral program:

(a) Lessor and lessee examples:

(i) Prior to the initiation of construction, Owner/Lessor A enters into an agreement with Lessee B, a company engaged in qualified research and development. Under the agreement, A will build a building to house B's research and development activities, will apply for a tax deferral on construction of the building, will lease the building to B, and will pass on the value of the deferral through reduced rent payments. A applies for the deferral before construction begins. A is entitled to a deferral on building construction costs.

(ii) After construction has begun, Lessee C asks that certain tenant improvements be added to the building. Lessor D and Lessee C each agree to pay a portion of the cost of the improvements. C and D each apply for a deferral on the costs of the tenant improvements before work on the tenant improvements has begun. Both applications may be approved. While construction of the building was initiated before the applications were submitted, tenant improvements on a building under construction are deemed to be the expansion or renovation of an existing structure.

(iii) After construction has begun but before machinery or equipment has been acquired, Lessee E applies for a deferral on machinery and equipment. The application will be approved. Even though it is too late to apply for a deferral of tax on building costs, it is not too late to apply for a deferral for the machinery and equipment.

(b) **Apportionment of building costs.** A building to be constructed will be partially devoted to research and development and partially devoted to marketing, a nonqualifying purpose. The total area of the building is one hundred thousand square feet. Sixty thousand square feet are used only for research and development, twenty thousand square feet are used only for marketing, and the remaining twenty thousand square feet are used in common by research and development employees and marketing employees. Tax on the cost of constructing the sixty thousand square feet used only for research and development may be deferred. Tax on the cost of constructing the twenty thousand square feet used only for marketing may not be deferred. Tax on seventy five percent of the cost of constructing the common areas may be deferred. (Sixty thousand square feet devoted solely to research and development divided by eighty thousand square feet devoted solely to research and development and marketing results in a ratio expressed as seventy five percent.)

(5) **Business and occupation tax credit.** RCW 82.04.4452 provides for a business and occupation tax credit for persons engaging in research and development in Washington in five areas of high technology: Advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology.

(a) **Eligibility for the credit.** Persons are eligible for the credit if their research and development spending in the cal-

endar year for which credit is claimed exceeds 0.92 percent of the person's taxable amount for the same calendar year.

(b) Calculating the credit.

(i) Prior to July 1, 1998. The amount of the credit is equal to the greater of:

the person's qualified research and development expenditures

or

eighty percent of amounts received by a person other than a public educational or research institution as compensation for conducting qualified research and development

multiplied by 0.00515 in the case of a nonprofit corporation or association, and

multiplied by 0.025 in the case of all other persons.

(ii) On and after July 1, 1998. The amount of the credit is equal to the greater of:

the person's qualified research and development expenditures

or

eighty percent of amounts received by a person other than a public educational or research institution as compensation for conducting qualified research and development

multiplied by 0.00484 in the case of a nonprofit corporation or association, and

multiplied by 0.015 in the case of all other persons.

(iii) Persons calculating the credit on the basis of amounts received for conducting qualified research and development must actually perform the research and development themselves. Amounts received for conducting qualified research and development that are paid to other persons who actually perform some or all of the qualified research and development contracted for may not be included in the calculation.

(iv) The credit for any calendar year may not exceed the lesser of two million dollars or the amount of business and occupation tax otherwise due for the calendar year.

(v) Credits may not be carried forward or carried back to other calendar years.

(c) Claiming the credit.

(i) The first time persons claim the credit they must complete an Initial Survey, Research and Development Credit form (26-0005) and mail it to the address indicated on the form. The purpose of the initial survey is to gather information necessary to measure the results of the credit program. By law, persons claiming the credit must agree to provide this information.

(ii) Credits are claimed on the person's combined excise tax return. Every time a credit is claimed, the person making the claim must complete and attach a Declaration, Research and Development Credit form (26-0003) to the return.

(iii) The Initial Survey and Declaration forms used in the credit program may be obtained at department of revenue district offices, by downloading from the department's web site (dor.wa.gov), or by telephoning the telephone information center (800-647-7706).

(d) Assignment of the credit.

(i) A person entitled to the credit because of qualified research and development conducted under contract for

another person may assign all or a portion of the credit to the person who contracted for the performance of the qualified research and development.

(ii) The assignment is accomplished by use of the Declaration, Research and Development Credit form, referred to in (c)(ii) of this subsection.

(iii) Both the person assigning the credit and the person receiving the credit must be eligible under (a) of this subsection for the assignment to be valid.

(iv) The total of the credit claimed and the credit assigned by a person assigning credit may not exceed the lesser of two million dollars or the amount of business and occupation tax otherwise due from the assignor in any calendar year.

(v) The total of the credit claimed, including credit received by assignment, may not exceed the lesser of two million dollars or the amount of business and occupation tax otherwise due from the assignee in any calendar year.

(e) **Expiration.** The business and occupation tax credit program for high technology businesses expires December 31, 2004.

(6) Examples relating to the credit program.

(a) A business, not a nonprofit corporation or association, which engages in qualified research and development has a taxable amount of ten million dollars in 2002. It pays eighty thousand dollars in 2002 in wages and benefits to employees directly engaged in qualified research and development. Also during 2002, it pays twenty thousand dollars to a person that is not a public educational or research institute to conduct qualified research and development. It is eligible to claim the credit for 2002. Its research and development spending, ninety six thousand dollars (eighty thousand dollars in wages plus eighty percent of twenty thousand dollars for contracted research and development) is more than ninety two thousand dollars (0.92 percent of its taxable amount, ten million dollars).

The amount of credit is one thousand two hundred dollars. This is determined by multiplying its qualified research and development expenditures, eighty thousand dollars, by 0.015. The contracted amount is not included in the credit computation.

(b) A company that engages in environmental cleanup contracted to clean up a site. It had never faced exactly the same situation before, but guaranteed at the outset that it could do the job. It used a variety of existing technologies to accomplish the task in a combination it had never used before. The company was not engaged in research and development in performing this contract. It applied existing technologies in a routine manner, considering the nature of its business, and the outcome was certain.

(c) Company A is engaged in research and development in biotechnology and needs to perform standard blood tests as part of its development of a drug. It contracts with a lab, B, to perform the tests. The costs of the tests are qualified research and development expenditures for A, the company engaged in the research and development. Although the tests themselves are routine, they are only a part of what A is doing in the course of developing the drug. B, the lab contracted to perform the testing, is not engaged in research and development with respect to the drug being developed. B is neither

discovering technological information nor is it translating technological information into new or improved products, processes, techniques, formulas, inventions, or software. B is not entitled to a credit on account of the compensation it receives for conducting the tests.

(d) Company C is engaged in research and development. It enters into a contract with Company D requiring Company D to provide employees to work under the direction of Company C. Company D's only obligation is to provide employees. It is not obligated to perform any other task. Company D's provision of employees is not research and development and it is not entitled to the credit on account of the contract. Company D is neither discovering technological information nor is it translating technological information into new or improved products, processes, techniques, formulas, inventions, or software.) **Organization of the section.** The information provided in this section is divided into three parts.

(a) Part I provides information on the sales and use tax deferral program under chapter 82.63 RCW.

(b) Part II provides information on the sales and use tax exemption available for persons engaged in certain construction activities for the federal government under RCW 82.04.190(6).

(c) Part III provides information on the business and occupation tax credit on research and developing spending under RCW 82.04.4452.

PART I

SALES AND USE TAX DEFERRAL PROGRAM

(3) Who is eligible for the sales and use tax deferral program? A person engaged in qualified research and development or pilot scale manufacturing in Washington in the five high technologies areas is eligible for this deferral program for its eligible investment project.

(a) What does the term "person" mean for purposes of this deferral program? "Person" has the meaning given in RCW 82.04.030. Effective June 10, 2004, "person" also includes state universities as defined in RCW 28B.10.016. "Person" can be either a lessee or a lessor, who can apply separately for individual investment projects at the same site, if they comply with the other requirements of chapter 82.63 RCW.

(i) Effective June 10, 2004, the lessor or owner of the qualified building is not eligible for a deferral unless:

(A) The underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person; or

(B) All of the following conditions are met:

(I) The lessor by written contract agrees to pass the economic benefit of the deferral to the lessee;

(II) The lessee that receives the economic benefit of the deferral agrees in writing with the department to complete the annual survey required under RCW 82.63.020(2);

(III) The lessee must receive an economic benefit from the lessor no less than the amount of tax deferred by the lessor; and

(IV) Upon request, the lessor must provide the department with written documentation to support the eligibility of the deferral, including any type of payment, credit, or other financial arrangement between the lessor or owner of the qualified building and the lessee.

For example, economic benefit of the deferral is passed through to the lessee when evidenced by written documentation that the amounts paid to the lessor for construction of tenant improvements are reduced by the amount of the sales tax deferred, or that the lessee receives more tenant improvements through a credit for tenant improvements or other mechanism in the lease equal to the amount of the sales tax deferred.

(ii) Prior to June 10, 2004, the lessor or owner of the qualified building is not eligible for a deferral unless the underlying ownership of the buildings, machinery, and equipment vests exclusively in the same person, or unless the lessor by written contract agrees to pass the economic benefit of the deferral to the lessee in the form of reduced rent payments.

(iii) The lessor of the qualified building who receives a letter of intent from a qualifying lessee may be eligible for deferral, assuming that all other requirements of chapter 82.63 RCW are met. At the time of application, the lessor must provide to the department a letter of intent by the lessee to lease the qualified building and any other information to prove that the lessee will engage in qualified research and development or pilot scale manufacturing once the building construction is complete. After the investment project is certified as operationally complete, the lessee must actually occupy the building as a lessee and engage in qualified research and development or pilot scale manufacturing. Otherwise, deferred taxes will be immediately due to the lessor, and interest will be assessed retroactively from the date of deferral.

(b) What is "qualified research and development" for purposes of this section? "Qualified research and development" means research and development performed within this state in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology.

(c) What is "research and development" for purposes of this section? "Research and development" means activities performed to discover technological information, and technical and nonroutine activities concerned with translating technological information into new or improved products, processes, techniques, formulas, inventions, or software.

The term includes exploration of a new use for an existing drug, device, or biological product if the new use requires separate licensing by the Federal Food and Drug Administration under chapter 21 CFR, as amended.

The term does not include adaptation or duplication of existing products where the products are not substantially improved by application of the technology, nor does the term include surveys and studies, social science and humanities research, market research or testing, quality control, sale promotion and service, computer software developed for internal use, and research in areas such as improved style, taste, and seasonal design.

(i) A person need not both discover technological information and translate technological information into new or improved products, processes, techniques, formulas, inventions, or software in order to engage in research and development. A person may perform either activity alone and be engaged in research and development.

(ii) To discover technological information means to gain knowledge of technological information through purposeful investigation. The knowledge sought must be of something not previously known or, if known, only known by persons who have not made the knowledge available to the public.

(iii) Technological information is information related to the application of science, especially with respect to industrial and commercial objectives. Industrial and commercial objectives include both sale and internal use (other than internal use software). The translation of technological information into new or improved products, processes, techniques, formulas, inventions, or software does not require the use of newly discovered technological information to qualify as research and development.

(iv) The translation of technological information requires both technical and nonroutine activities.

(A) An activity is technical if it involves the application of scientific, engineering, or computer science methods or principles.

(B) An activity is nonroutine if it:

(I) Is undertaken to achieve a new or improved function, performance, reliability, or quality; and

(II) Is performed by engineers, scientists, or other similarly qualified professionals or technicians; and

(III) Involves a process of experimentation designed to evaluate alternatives where the capability or the method of achieving the new or improved function, performance, reliability, or quality, or the appropriate design of the desired improvement, is uncertain at the beginning of the taxpayer's research activities. A process of experimentation must seek to resolve specific uncertainties that are essential to attaining the desired improvement.

(v) A product is substantially improved when it functions fundamentally differently because of the application of technological information. This fundamental difference must be objectively measured. Examples of objective measures include increased value, faster operation, greater reliability, and more efficient performance. It is not necessary for the improvement to be successful for the research to qualify.

(vi) Computer software development may qualify as research and development involving both technical and nonroutine activities concerned with translating technological information into new or improved software, when it includes the following processes: Software concept, software design, software design implementation, conceptual freeze, alpha testing, beta testing, international product localization process, and other processes designed to eliminate uncertainties prior to the release of the software to the market for sale. Research and development ceases when the software is released to the market for sale.

Postrelease software development may meet the definition of research and development under RCW 82.63.010(16), but only if it involves both technical and nonroutine activities concerned with translating technological information into improved software. All facts and circumstances are considered in determining whether postrelease software development meets the definition of research and development.

(vii) Computer software is developed for internal use if it is to be used only by the person by whom it is developed. If it is to be available for sale, lease, or license, it is not devel-

oped for internal use, even though it may have some internal applications. If it is to be available for use by persons, other than the person by whom it is developed, who access or download it remotely, such as through the internet, it is not usually deemed to be developed for internal use. However, remotely accessed software is deemed to be developed for internal use if its purpose is to assist users in obtaining goods, services, or information provided by or through the person by whom the software is developed. For example, software is developed for internal use if it enables or makes easier the ordering of goods from or through the person by whom the software is developed. On the other hand, a search engine used to search the world wide web is an example of software that is not developed for internal use because the search engine itself is the service sought.

(viii) Research and development is complete when the product, process, technique, formula, invention, or software can be reliably reproduced for sale or commercial use. However, the improvement of an existing product, process, technique, formula, invention, or software may qualify as research and development.

(d) What is "pilot scale manufacturing" for purposes of this section? "Pilot scale manufacturing" means design, construction, and testing of preproduction prototypes and models in the fields of biotechnology, advanced computing, electronic device technology, advanced materials, and environmental technology other than for commercial sale. "Commercial sale" excludes sales of prototypes or sales for market testing if the total gross receipts from such sales of the product, service, or process do not exceed one million dollars.

(e) What are the five high technology areas? The five high technology areas are as follows:

(i) **Advanced computing.** "Advanced computing" means technologies used in the designing and developing of computing hardware and software, including innovations in designing the full spectrum of hardware from hand-held calculators to super computers, and peripheral equipment.

(ii) **Advanced materials.** "Advanced materials" means materials with engineered properties created through the development of specialized processing and synthesis technology, including ceramics, high value-added metals, electronic materials, composites, polymers, and biomaterials.

(iii) **Biotechnology.** "Biotechnology" means the application of technologies, such as recombinant DNA techniques, biochemistry, molecular and cellular biology, genetics, including genomics, gene expression and genetic engineering, cell fusion techniques, and new bioprocesses, using living organisms, or parts of organisms, to produce or modify products, to improve plants or animals, to develop microorganisms for specific uses, to identify targets for small molecule pharmaceutical development, or to transform biological systems into useful processes and products or to develop microorganisms for specific uses.

(iv) **Electronic device technology.** "Electronic device technology" means technologies involving microelectronics; semiconductors; electronic equipment and instrumentation; radio frequency, microwave, and millimeter electronics; optical and optic-electrical devices; and data and digital communications and imaging devices.

(v) **Environmental technology.** "Environmental technology" means assessment and prevention of threats or damage to human health or the environment, environmental cleanup, and the development of alternative energy sources.

(A) The assessment and prevention of threats or damage to human health or the environment concerns assessing and preventing potential or actual releases of pollutants into the environment that are damaging to human health or the environment. It also concerns assessing and preventing other physical alterations of the environment that are damaging to human health or the environment.

For example, a research project related to salmon habitat restoration involving assessment and prevention of threats or damages to the environment may qualify as environmental technology, if such project is concerned with assessing and preventing potential or actual releases of water pollutants and reducing human-made degradation of the environment.

(I) Pollutants include waste materials or by-products from manufacturing or other activities.

(II) Environmental technology includes technology to reduce emissions of harmful pollutants. Reducing emissions of harmful pollutants can be demonstrated by showing the technology is developed to meet governmental emission standards. Environmental technology also includes technology to increase fuel economy, only if the taxpayer can demonstrate that a significant purpose of the project is to increase fuel economy and that such increased fuel economy does in fact significantly reduce harmful emissions. If the project is intended to increase fuel economy only minimally or reduce emissions only minimally, the project does not qualify as environmental technology. A qualifying research project must focus on the individual components that increase fuel economy of the product, not the testing of the entire product when everything is combined, unless the taxpayer can separate out and identify the specific costs associated with such testing.

(III) Environmental technology does not include technology for preventive health measures for, or medical treatment of, human beings.

(IV) Environmental technology does not include technology aimed to reduce impact of natural disasters such as floods and earthquakes.

(V) Environmental technology does not include technology for improving safety of a product.

(B) Environmental cleanup is corrective or remedial action to protect human health or the environment from releases of pollutants into the environment.

(C) Alternative energy sources are those other than traditional energy sources such as fossil fuels, nuclear power, and hydroelectricity. However, when traditional energy sources are used in conjunction with the development of alternative energy sources, all the development will be considered the development of alternative energy sources.

(4) What is eligible for the sales and use tax deferral program? This deferral program applies to an eligible investment project for sales and use taxes imposed on the construction, expansion, or renovation of qualified buildings and acquisition of qualified machinery and equipment.

(a) What is an "eligible investment project" for purposes of this section? "Eligible investment project" means

an investment project which either initiates a new operation, or expands or diversifies a current operation by expanding, renovating, or equipping an existing facility.

(b) What is an "investment project" for purposes of this section? "Investment project" means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction or improvement of the project. When an application for sales and use tax deferral is timely submitted, costs incurred before the application date are allowable, if they otherwise qualify.

(c) What is "qualified buildings" for purposes of this section? "Qualified buildings" means construction of new structures, and expansion or renovation of existing structures for the purpose of increasing floor space or production capacity, used for pilot scale manufacturing or qualified research and development.

(i) "Qualified buildings" is limited to structures used for pilot scale manufacturing or qualified research and development. "Qualified buildings" includes plant offices and other facilities that are an essential or an integral part of a structure used for pilot scale manufacturing or qualified research and development.

(A) "Office" means space used by professional, clerical, or administrative staff. For plant office space to be a qualified building, its use must be essential or integral to pilot scale manufacturing or qualified research and development. An office may be located in a separate building from the building used for pilot scale manufacturing or qualified research and development, but the office must be located at the same site as the qualified building in order to qualify. Each individual office may only qualify or disqualify in its entirety.

(B) A site is one or more immediately adjacent parcels of real property. Adjacent parcels of real property separated only by a public road comprise a single site.

(ii) "Qualified buildings" does not include construction of landscaping or most other work outside the building itself, even though the landscaping or other work outside the building may be required by the city or county government in order for the city or county to issue a permit for the construction of a building.

However, "qualified buildings" includes construction of specialized sewerage pipes connected to a qualified building that are specifically designed and used exclusively for pilot scale manufacturing or qualified research and development.

Also, "qualified buildings" includes construction of parking lots connected to or adjacent to the building if the parking lots are for the use of workers performing pilot scale manufacturing or qualified research and development in the building. Parking lots may be apportioned based upon its qualifying use.

(d) When is apportionment of qualified buildings appropriate? The deferral is allowable only in respect to investment in the construction of a new building or the expansion or renovation of an existing building used in pilot scale manufacturing or qualified research and development. Where a building(s) is used partly for pilot scale manufacturing or qualified research and development and partly for pur-

poses that do not qualify for deferral under this section, apportionment is necessary.

(e) What is the apportionment method? The applicable tax deferral will be determined as follows:

(i) Tax on the cost of construction of areas devoted solely to pilot scale manufacturing or qualified research and development may be deferred.

(ii) Tax on the cost of construction of areas not used at all for pilot scale manufacturing or qualified research and development may not be deferred.

(iii) Tax on the cost of construction of areas used in common for pilot scale manufacturing or qualified research and development and for other purposes, such as hallways, bathrooms, and conference rooms, may be deferred by apportioning the costs of construction on a square footage basis. The apportioned costs of construction eligible for deferral are established by using the ratio, expressed as a percentage, of the square feet of the construction, expansion, or renovation devoted to pilot scale manufacturing or qualified research and development, excluding areas used in common to the total square feet of the construction, expansion, or renovation, excluding areas used in common. That percentage is applied to the cost of construction of the common areas to determine the costs of construction eligible for tax deferral. Expressed as a formula, apportionment of the cost of the common areas is determined by:

$$\frac{\text{Square feet devoted to research and development or pilot scale manufacturing, excluding square feet of common areas}}{\text{Total square feet, excluding square feet of common areas}} = \text{Percentage of total cost of construction of common areas eligible for deferral}$$

Total square feet, excluding square feet of common areas

(iv) The apportionment method described in (e)(i), (ii), and (iii) of this subsection must be used unless the applicant or recipient can demonstrate that another method better represents a reasonable apportionment of costs, considering all the facts and circumstances. An example is to use the number of employees in a qualified building that is engaged in pilot scale manufacturing or qualified research and development as the basis for apportionment, if this method is not easily manipulated to reflect a desired outcome, and it otherwise represents a reasonable apportionment of costs under all the facts and circumstances.

(v) Example. A building to be constructed will be partially devoted to research and development and partially devoted to marketing, a nonqualifying purpose. The total area of the building is 100,000 square feet. Sixty thousand square feet are used only for research and development, 20,000 square feet are used only for marketing, and the remaining 20,000 square feet are used in common by research and development employees and marketing employees. Tax on the cost of constructing the 60,000 square feet used only for research and development may be deferred.

Tax on the cost of constructing the 20,000 square feet used only for marketing may not be deferred. Tax on 75% of the cost of constructing the common areas may be deferred. (Sixty thousand square feet devoted solely to research and development divided by 80,000 square feet devoted solely to research and development and marketing results in a ratio expressed as 75%.)

(f) What is "qualified machinery and equipment" for purposes of this section? "Qualified machinery and equipment" means fixtures, equipment, and support facilities that are an integral and necessary part of a pilot scale manufacturing or qualified research and development operation. "Qualified machinery and equipment" includes: Computers; software; data processing equipment; laboratory equipment, instrumentation, and other devices used in a process of experimentation to develop a new or improved pilot model, plant process, product, formula, invention, or similar property; manufacturing components such as belts, pulleys, shafts, and moving parts; molds, tools, and dies; vats, tanks, and fermenters; operating structures; and all other equipment used to control, monitor, or operate the machinery. For purposes of this section, qualified machinery and equipment must be either new to the taxing jurisdiction of the state or new to the certificate holder, except that used machinery and equipment may be treated as qualified machinery and equipment if the certificate holder either brings the machinery and equipment into Washington or makes a retail purchase of the machinery and equipment in Washington or elsewhere.

(i) What are "integral" and "necessary"? Machinery and equipment is an integral and necessary part of pilot scale manufacturing or qualified research and development if the pilot scale manufacturing or qualified research and development cannot be accomplished without it. For example, a laboratory table is integral and necessary to qualified research and development. Likewise, telephones, computer hardware (e.g., cables, scanners, printers, etc.), and computer software (e.g., Word, Excel, Windows, Adobe, etc.) used in a typical workstation for an R&D personnel are integral and necessary to qualified research and development. Decorative artwork, on the other hand, is not integral and necessary to qualified research and development.

(ii) Must qualified machinery and equipment be used exclusively for qualifying purposes in order to qualify? Qualified machinery and equipment must be used exclusively for pilot scale manufacturing or qualified research and development to qualify for the deferral. Operating system software shared by accounting personnel, for example, is not used exclusively for qualified research and development. However, *de minimis* nonqualifying use will not cause the loss of the deferral. An example of *de minimis* use is the occasional use of a computer for personal e-mail.

(iii) Is qualified machinery and equipment subject to apportionment? Unlike buildings, if machinery and equipment is used for both qualifying and nonqualifying purposes, the costs cannot be apportioned. Sales or use tax cannot be deferred on the purchase or use of machinery and equipment used for both qualifying and nonqualifying purposes.

(iv) To what extent is leased equipment eligible for the deferral? In cases of leases of qualifying machinery and equipment, deferral of tax is allowed on payments made dur-

ing the initial term of the lease, but not for extensions or renewals of the lease. Deferral of tax is not allowed for lease payments for any period after the seventh calendar year following the calendar year for which the project is certified as operationally complete.

(5) What are the application and review processes? Applicants must apply for deferral to the department of revenue before the initiation of construction of, or acquisition of equipment or machinery for the investment project. When an application for sales and use tax deferral is timely submitted, costs incurred before the application date are allowable, if they otherwise qualify.

(a) What is "initiation of construction" for purposes of this section?

(i) On or after June 10, 2004.

(A) Initiation of construction means the date that a building permit is issued under the building code adopted under RCW 19.27.031 for:

(I) Construction of the qualified building, if the underlying ownership of the building vests exclusively with the person receiving the economic benefit of the deferral;

(II) Construction of the qualified building, if a lessor passes the economic benefits of the deferral to a lessee as provided in RCW 82.63.010(7); or

(III) Tenant improvements for a qualified building, if a lessor passes the economic benefits of the deferral to a lessee as provided in RCW 82.63.010(7).

(B) Initiation of construction does not include soil testing, site clearing and grading, site preparation, or any other related activities that are initiated before the issuance of a building permit for the construction of the foundation of the building.

(C) If the investment project is a phased project, initiation of construction must apply separately to each building. For purposes of this section, a "phased project" means construction of multiple buildings in different phases over the life of a project. A taxpayer may file a separate application for each qualified building, or the taxpayer may file one application for all qualified buildings. If a taxpayer files one application for all qualified buildings, initiation of construction must apply separately to each building.

(ii) Prior to June 10, 2004. Construction is initiated when workers start on-site building tasks. The initiation of construction does not include land clearing or site preparation prior to excavation of the building site. Also, the initiation of construction does not include design or planning activities.

(b) What is "acquisition of machinery and equipment" for purposes of this section? "Acquisition of machinery and equipment" means the machinery and equipment is under the dominion and control of the recipient or its agent.

(c) Lessor and lessee examples.

(i) Prior to the initiation of construction, Owner/Lessor A enters into an agreement with Lessee B, a company engaged in qualified research and development. Under the agreement, A will build a building to house B's research and development activities, will apply for a tax deferral on construction of the building, will lease the building to B, and will pass on the entire value of the deferral to B. B agrees in writing with the department to complete annual surveys. A

applies for the deferral before the date the building permit is issued. A is entitled to a deferral on building construction costs.

(ii) After construction has begun, Lessee C asks that certain tenant improvements be added to the building. Lessor D and Lessee C each agree to pay a portion of the cost of the improvements. D agrees with C in a written agreement that D will pass on the entire value of D's portion of the tax deferral to C, and C agrees in writing with the department to complete annual surveys. C and D each apply for a deferral on the costs of the tenant improvements they are legally responsible for before the date the building permit is issued for such tenant improvements. Both applications will be approved. While construction of the building was initiated before the applications were submitted, tenant improvements on a building under construction are deemed to be the expansion or renovation of an existing structure. Also, lessees are entitled to the deferral only if they are legally responsible and actually pay contractors for the improvements, rather than merely reimbursing lessors for the costs.

(iii) After construction has begun but before machinery or equipment has been acquired, Lessee E applies for a deferral on machinery and equipment. The application will be approved, and E is required to complete annual surveys. Even though it is too late to apply for a deferral of tax on building costs, it is not too late to apply for a deferral for the machinery and equipment.

(d) How may a taxpayer obtain an application form? Application forms may be obtained at department of revenue district offices, by downloading from the department's web site (dor.wa.gov), by telephoning the telephone information center (800-647-7706), or by contacting the department's special programs division at:

Department of Revenue
Special Programs Division
Post Office Box 47477
Olympia, WA 98504-7477
fax 360-586-2163

Applicants must mail or fax applications to the special programs division at the address or fax number given above. Applications received by the department in connection with the deferral program are not confidential and are subject to public disclosure.

For purposes of this section, "applicant" means a person applying for a tax deferral under chapter 82.63 RCW, and "department" means the department of revenue.

(e) What should an application form include? The application form should include information regarding the location of the investment project, the applicant's average employment in Washington for the prior year, estimated or actual new employment related to the project, estimated or actual wages of employees related to the project, estimated or actual costs, and time schedules for completion and operation. The application form may also include other information relevant to the project and the applicant's eligibility for deferral.

(f) What is the date of application? The date of application is the earlier of the postmark date or the date of receipt by the department.

(g) When will the department notify approval or disapproval of the deferral application? The department must rule on an application within sixty days. If an application is denied, the department must explain in writing the basis for the denial. An applicant may appeal a denial within thirty days under WAC 458-20-100 (Appeals).

(6) What happens after the department approves the deferral application? If an application is approved, the department must issue the applicant a sales and use tax deferral certificate.

The certificate provides for deferral of state and local sales and use taxes on the eligible investment project. The certificate will state the amount of tax deferral for which the recipient is eligible. It will also state the date by which the project will be operationally complete. The deferral is limited to investment in qualified buildings or qualified machinery and equipment. The deferral does not apply to the taxes of persons with whom the recipient does business, persons the recipient hires, or employees of the recipient.

For purposes of this section, "recipient" means a person receiving a tax deferral under chapter 82.63 RCW.

(7) How should a tax deferral certificate be used? A successful applicant, hereafter referred to as a recipient, must present a copy of the certificate to sellers of goods or retail services provided in connection with the eligible investment project in order to avoid paying sales or use tax. Sellers who accept these certificates in good faith are relieved of the responsibility to collect sales or use tax on transactions covered by the certificates. Sellers must retain copies of certificates as documentation for why sales or use tax was not collected on a transaction.

The certificate cannot be used to defer tax on repairs to, or replacement parts for, qualified machinery and equipment.

(8) May an applicant apply for new deferral at the site of an existing deferral project?

(a) The department must not issue a certificate for an investment project that has already received a deferral under chapter 82.60, 82.61, or 82.63 RCW. For example, replacement machinery and equipment that replaces qualified machinery and equipment is not eligible for the deferral. Also, if renovation is made from an existing building that has already received a deferral under chapter 82.60, 82.61, or 82.63 RCW for the construction of the building, the renovation is not eligible for the deferral.

(b) If expansion is made from an existing building that has already received a deferral under chapter 82.60, 82.61, or 82.63 RCW for the construction of the building, the expanded portion of the building may be eligible for the deferral. Acquisition of machinery and equipment to be used for the expanded portion of the qualified building may also be eligible.

(c) An investment project for qualified research and development that has already received a deferral may also receive an additional deferral certificate for adapting the investment project for use in pilot scale manufacturing.

(d) A certificate may be amended or a certificate issued for a new investment project at an existing facility.

(9) May an applicant or recipient amend an application or certificate? Applicants and recipients may make

written requests to the special programs division to amend an application or certificate.

(a) Grounds for requesting amendment include, but are not limited to:

- (i) The project will exceed the costs originally stated;
- (ii) The project will take more time to complete than originally stated;
- (iii) The original application is no longer accurate because of changes in the project; and
- (iv) Transfer of ownership of the project.

(b) The department must rule on the request within sixty days. If the request is denied, the department must explain in writing the basis for the denial. An applicant or recipient may appeal a denial within thirty days under WAC 458-20-100 (Appeals).

(10) What should a recipient of a tax deferral do when its investment project is operationally complete?

(a) When the building, machinery, or equipment is ready for use, the recipient must notify the special programs division in writing that the eligible investment project is operationally complete. The department must, after appropriate investigation: Certify that the project is operationally complete; not certify the project; or certify only a portion of the project. The certification will include the year in which the project is operationally complete.

(b) If all or any portion of the project is not certified, the recipient must repay all or a proportional part of the deferred taxes. The department will notify the recipient of the amount due, including interest, and the due date.

(c) The department must explain in writing the basis for not certifying all or any portion of a project. The decision of the department to not certify all or a portion of a project may be appealed under WAC 458-20-100 (Appeals) within thirty days.

(11) Is a recipient of a tax deferral required to submit annual surveys? Each recipient of a tax deferral granted under chapter 82.63 RCW must complete an annual survey. If the economic benefits of the deferral are passed to a lessee as provided in RCW 82.63.010(7), the lessee must agree to complete the annual survey and the applicant is not required to complete the annual survey. See WAC 458-20-268 (Annual surveys for certain tax adjustments) for more information on the requirements to file annual surveys.

(12) Is a recipient of tax deferral required to repay deferred taxes?

(a) **When is repayment required?** Deferred taxes must be repaid if an investment project is used for purposes other than qualified research and development or pilot scale manufacturing during the calendar year for which the department certifies the investment project as operationally complete or at any time during any of the succeeding seven calendar years. Taxes are immediately due according to the following schedule:

<u>Year in which nonqualify-</u> <u>ing use occurs</u>	<u>% of deferred taxes due</u>
<u>1</u>	<u>100%</u>
<u>2</u>	<u>87.5%</u>
<u>3</u>	<u>75%</u>
<u>4</u>	<u>62.5%</u>

<u>Year in which nonqualify-</u> <u>ing use occurs</u>	<u>% of deferred taxes due</u>
<u>5</u>	<u>50%</u>
<u>6</u>	<u>37.5%</u>
<u>7</u>	<u>25%</u>
<u>8</u>	<u>12.5%</u>

Interest on the taxes, but not penalties, must be paid retroactively to the date of deferral. For purposes of this section, the date of deferral is the date tax-deferred items are purchased.

(b) When is repayment not required?

(i) Deferred taxes need not be repaid if the investment project is used only for qualified research and development or pilot scale manufacturing during the calendar year for which the department certifies the investment project as operationally complete and during the succeeding seven calendar years.

(ii) Deferred taxes need not be repaid on particular items if the purchase or use of the item would have qualified for the machinery and equipment sales and use tax exemptions provided by RCW 82.08.02565 and 82.12.02565 (discussed in WAC 458-20-13601) at the time of purchase or first use.

(iii) Deferred taxes need not be repaid if qualified machinery and equipment on which the taxes were deferred is destroyed, becomes inoperable and cannot be reasonably repaired, wears out, or becomes obsolete and is no longer practical for use in the project. The use of machinery and equipment which becomes obsolete for purposes of the project and is used outside the project is subject to use tax at the time of such use.

(13) When will the tax deferral program expire? The authority of the department to issue deferral certificates expires January 1, 2015.

(14) Is debt extinguishable because of insolvency or sale? The debt for deferred taxes will not be extinguished by the insolvency or other failure of the recipient.

(15) Does transfer of ownership terminate tax deferral? Transfer of ownership does not terminate the deferral. The deferral may be transferred to the new owner if the new owner meets all eligibility requirements for the remaining periods of the deferral. The new owner must apply for an amendment to the deferral certificate. If the deferral is transferred, the new owner is liable for repayment of deferred taxes under the same terms as the original owner. If the new owner is a successor to the previous owner under the terms of WAC 458-20-216 (Successors, quitting business) and the deferral is not transferred, the new owner's liability for deferred taxes is limited to those that are due for payment at the time ownership is transferred.

PART II

SALES AND USE TAX EXEMPTION FOR PERSONS ENGAGED IN CERTAIN CONSTRUCTION ACTIVITIES FOR THE FEDERAL GOVERNMENT

(16) Persons engaged in construction activities for the federal government. Effective June 10, 2004, persons engaged in the business of constructing, repairing, decorating, or improving new or existing buildings or other structures under, upon, or above real property of or for the United

States, or any instrumentality thereof, are not liable for sales and use tax on tangible personal property incorporated into, installed in, or attached to such building or other structure, if the investment project would qualify for sales and use tax deferral under chapter 82.63 RCW if undertaken by a private entity. RCW 82.04.190(6).

PART III

BUSINESS AND OCCUPATION TAX CREDIT FOR RESEARCH AND DEVELOPMENT SPENDING

(17) Who is eligible for the business and occupation tax credit? RCW 82.04.4452 provides for a business and occupation tax credit for persons engaging in research and development in Washington in five areas of high technology: Advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology.

A person is eligible for the credit if its research and development spending in the calendar year for which credit is claimed exceeds 0.92 percent of the person's taxable amount for the same calendar year.

(a) What does the term "person" mean for purposes of this credit? "Person" has the meaning given in RCW 82.04.030.

(b) What is "research and development spending" for purposes of this section? "Research and development spending" means qualified research and development expenditures plus eighty percent of amounts paid to a person other than a public educational or research institution to conduct qualified research and development.

(c) What is "taxable amount" for purposes of this section? "Taxable amount" means the taxable amount subject to business and occupation tax required to be reported on the person's combined excise tax returns for the year for which the credit is claimed, less any taxable amount for which a multiple activities tax credit is allowed under RCW 82.04.440. See WAC 458-20-19301 (Multiple activities tax credits) for information on the multiple activities tax credit.

(d) What are "qualified research and development expenditures" for purposes of this section? "Qualified research and development expenditures" means operating expenses, including wages, compensation of a proprietor or a partner in a partnership, benefits, supplies, and computer expenses, directly incurred in qualified research and development by a person claiming the business and occupation tax credit provided by RCW 82.04.4452. The term does not include amounts paid to a person other than a public educational or research institution to conduct qualified research and development. Nor does the term include capital costs and overhead, such as expenses for land, structures, or depreciable property.

(i) In order for an operating expense to be a qualified research and development expenditure, it must be directly incurred in qualified research and development. If an employee performs qualified research and development activities and also performs other activities, only the wages and benefits proportionate to the time spent on qualified research and development activities are qualified research and development expenditures under this section. The wages of employees who supervise or are supervised by persons performing qualified research and development are qualified

research and development expenditures to the extent the work of those supervising or being supervised involves qualified research and development.

(ii) The compensation of a proprietor or a partner is determined in one of two ways:

(A) If there is net income for federal income tax purposes, the amount reported subject to self-employment tax is the compensation.

(B) If there is no net income for federal income tax purposes, reasonable cash withdrawals or cash advances are the compensation.

(iii) Depreciable property is any property with a useful life of at least a year. Expenses for depreciable property will not constitute qualified research and development expenditures even if such property may be fully deductible for federal income tax purposes in the year of acquisition.

(iv) Computer expenses do not include the purchase, lease, rental, maintenance, repair or upgrade of computer hardware or software. They do include internet subscriber fees, run time on a mainframe computer, and outside processing.

(v) Training expenses for employees are qualified research and development expenditures if the training is directly related to the research and development being performed. Training expenses include registration fees, materials, and travel expenses. Although the research and development must occur in Washington, training may take place outside of Washington.

(vi) Qualified research and development expenditures include the cost of clinical trials for drugs and certification by Underwriters Laboratories.

(vii) Qualified research and development expenditures do not include legal expenses, patent fees, or any other expense not incurred directly for qualified research and development.

(viii) Stock options granted as compensation to employees performing qualified research and development are qualified research and development expenditures to the extent they are reported on the W-2 forms of the employees and are taken as a deduction for federal income tax purposes by the employer.

(ix) Preemployment expenses related to employees who perform qualified research and development are qualified research and development expenditures. These expenses include recruiting and relocation expenses and employee placement fees.

(e) What does it mean to "conduct" qualified research and development for purposes of this section? A person is conducting qualified research and development when:

(i) The person is in charge of a project or a phase of the project; and

(ii) The activities performed by that person in the project or the phase of the project constitute qualified research and development.

(iii) Examples.

(A) Company C is conducting qualified research and development. It enters into a contract with Company D requiring D to provide workers to perform activities under the direction of C. D is not entitled to the credit because D is

not conducting qualified research and development. Its employees work under the direction of C. C is entitled to the credit if all other requirements of the credit are met.

(B) Company F enters into a contract with Company G requiring G to perform qualified research and development on a phase of its project. The phase of the project constitutes qualified research and development. F is not entitled to the credit because F is not conducting qualified research and development on that phase of the project. G, however, is entitled to the credit if all other requirements of the credit are met.

(f) What is "qualified research and development" for purposes of this section? "Qualified research and development" means research and development performed within this state in the fields of advanced computing, advanced materials, biotechnology, electronic device technology, and environmental technology.

(g) What is "research and development" for purposes of this section? See subsection (3)(c) of this section for more information on the definition of research and development.

(i) Example. A company that engages in environmental cleanup contracted to clean up a site. It had never faced exactly the same situation before, but guaranteed at the outset that it could do the job. It used a variety of existing technologies to accomplish the task in a combination it had never used before. The company was not engaged in qualified research and development in performing this contract. While the company applied existing technologies in a unique manner, there was no uncertainty to attain the desired or necessary specifications, and therefore the outcome of the project was certain.

(ii) Example. Same facts as (g)(i) of this subsection, except that the company performed research on a technology that had been applied in other contexts but never in the context where the company was attempting to use it, and it was uncertain at the outset whether the technology could achieve the desired outcome in the new context. If the company failed, it would have to apply an existing technology that is much more costly in its cleanup effort. The company was engaged in qualified research and development with respect to the research performed in developing the technology.

(iii) Example. Company A is engaged in research and development in biotechnology and needs to perform standard blood tests as part of its development of a drug. It contracts with a lab, B, to perform the tests. The costs of the tests are qualified research and development expenditures for A, the company engaged in the research and development. Although the tests themselves are routine, they are only a part of what A is doing in the course of developing the drug. B, the lab contracted to perform the testing, is not engaged in research and development with respect to the drug being developed. B is neither discovering technological information nor translating technological information into new or improved products, processes, techniques, formulas, inventions, or software. B is not entitled to a credit on account of the compensation it receives for conducting the tests.

(h) What are the five high technology areas? See subsection (3)(e) of this section for more information.

(18) How is the business and occupation tax credit calculated?

(a) **On or after July 1, 2004.** The amount of the credit is calculated as follows:

(i) A person must first determine the greater of:
The person's qualified research and development expenditures;

or

Eighty percent of amounts received by a person other than a public educational or research institution as compensation for conducting qualified research and development.

(ii) Then the person subtracts, from the amount determined under (a)(i) of this subsection, 0.92 percent of its taxable amount. If 0.92 percent of the taxable amount exceeds the amount determined under (a)(i) of this subsection, the person is not eligible for the credit.

(iii) The credit is calculated by multiplying the amount determined under (a)(ii) of this subsection by the following:

(A) For the periods of July 1, 2004, to December 31, 2006, the person's average tax rate for the calendar year for which the credit is claimed;

(B) For the periods of January 1, 2007, to December 31, 2007, the greater of the person's average tax rate for the calendar year or 0.75 percent;

(C) For the periods of January 1, 2008, to December 31, 2008, the greater of the person's average tax rate for the calendar year or 1.0 percent;

(D) For the periods of January 1, 2009, to December 31, 2009, the greater of the person's average tax rate for the calendar year or 1.25 percent; and

(E) For the periods after December 31, 2009, 1.50 percent.

(iv) For the purposes of this section, "average tax rate" means a person's total business and occupation tax liability for the calendar year for which the credit is claimed, divided by the person's total taxable amount for the calendar year for which the credit is claimed.

(v) For purposes of calculating the credit, if a person's reporting period is less than annual, the person may use an estimated average tax rate for the calendar year for which the credit is claimed, by using the person's average tax rate for each reporting period. When the person files its last return for the calendar year, the person must make an adjustment to the total credit claimed for the calendar year using the person's actual average tax rate for the calendar year.

(vi) Examples.

(A) A business engaging in qualified research and development has a taxable amount of \$10,000,000 in a year. It pays \$80,000 in that year in wages and benefits to employees directly engaged in qualified research and development. The business has no other qualified research and development expenditures. Its qualified research and development expenditures of \$80,000 are less than \$92,000 (0.92 percent of its taxable amount of \$10,000,000). If a business's qualified research and development expenditures (or eighty percent of amounts received for the conduct of qualified research and development) are less than 0.92 percent of its taxable amount, it is not eligible for the credit.

(B) A business engaging in qualified research and development has a taxable amount of \$10,000,000 in 2005. Seven million dollars of this amount is taxable at the rate of 0.015 under the B&O tax classification for services and \$3,000,000 is taxable at the rate of 0.00484 under the B&O tax classification for royalties. The business pays \$119,520 in B&O tax for this reporting period. It pays \$200,000 in that year to employees directly engaged in qualified research and development. The business has no other qualified research and development expenditures.

In order to determine the amount of its credit, the business subtracts \$92,000 (0.92 percent of its taxable amount of \$10,000,000) from \$200,000, its qualified research and development expenditures. The resulting amount of \$108,000 multiplied by the business's average tax rate equals the amount of the credit.

The business's average tax rate in 2005 is determined by dividing its B&O tax of \$119,520 by its taxable amount of \$10,000,000. The result, 0.01195, is multiplied by \$108,000 to determine the amount of the credit. The credit is \$1,291 (\$1,290.60 rounded to the nearest whole dollar).

(b) From July 1, 1998 to June 30, 2004. The amount of the credit is equal to the greater of:

The person's qualified research and development expenditures;

or

Eighty percent of amounts received by a person other than a public educational or research institution as compensation for conducting qualified research and development

multiplied by 0.00484 in the case of a nonprofit corporation or association; and

multiplied by 0.015 in the case of all other persons.

(c) Prior to July 1, 1998. The amount of the credit is equal to the greater of:

The person's qualified research and development expenditures;

or

Eighty percent of amounts received by a person other than a public educational or research institution as compensation for conducting qualified research and development

multiplied by 0.00515 in the case of a nonprofit corporation or association; and

multiplied by 0.025 in the case of all other persons.

(d) The credit for any calendar year may not exceed the lesser of two million dollars or the amount of business and occupation tax otherwise due for the calendar year.

(e) Credits may not be carried forward or carried back to other calendar years.

(19) Is the person claiming the business and occupation tax credit required to submit annual surveys? Each person claiming the credit granted under RCW 82.04.4452 must complete an annual survey. See WAC 458-20-268 (Annual surveys for certain tax adjustments) for more information on the requirements to file annual surveys.

(20) Is the business and occupation tax credit assignable? A person entitled to the credit because of qualified research and development conducted under contract for another person may assign all or a portion of the credit to the

person who contracted for the performance of the qualified research and development.

(a) Both the assignor and the assignee must be eligible for the credit for the assignment to be valid.

(b) The total of the credit claimed and the credit assigned by a person assigning credit may not exceed the lesser of two million dollars or the amount of business and occupation tax otherwise due from the assignor in any calendar year.

(c) The total of the credit claimed, including credit received by assignment, may not exceed the lesser of two million dollars or the amount of business and occupation tax otherwise due from the assignee in any calendar year.

(21) What happens if a person has claimed the business and occupation tax credit earlier but is later found ineligible? If a person has claimed the credit earlier but is later found ineligible for the credit, then the department will declare the taxes against which the credit was claimed to be immediately due and payable. Interest on the taxes, but not penalties, must be paid retroactively to the date the credit was claimed.

(22) When will the business and occupation tax credit program expire? The business and occupation tax credit program for high technology businesses expires January 1, 2015.

(23) Do staffing companies qualify for the business and occupation tax credit program? A staffing company may be eligible for the credit if its research and development spending in the calendar year for which credit is claimed exceeds 0.92 percent of the person's taxable amount for the same calendar year.

(a) Qualifications of the credit. In order to qualify for the credit, a staffing company must meet the following criteria:

(i) It must conduct qualified research and development through its employees;

(ii) Its employees must perform qualified research and development activities in a project or a phase of the project, without considering any activity performed:

(A) By the person contracting with the staffing company for such performance; or

(B) By any other person;

(iii) It must complete an annual survey by March 31st following any year in which the credit was taken; and

(iv) It must document any claim of the B&O tax credit.

(b) Examples.

(i) Company M, a staffing company, furnishes three employees to Company N for assisting a research project in electronic device technology. N has a manager and five employees working on the same project. The work of M's employees and N's employees combined as a whole constitutes qualified research and development. M's employees do not perform sufficient activities themselves to be considered performing qualified research and development. M does not qualify for the credit.

(ii) Company V, a staffing company, furnishes three employees to Company W for performing a phase of a research project in advanced materials. W has a manager and five employees working on other phases of the same project. V's employees are in charge of a phase of the project that results in discovery of technological information. The work

of V's employees alone constitutes qualified research and development. V qualifies for the credit if all other requirements of the credit are met.

(iii) Same as (b)(ii) of this subsection, except that the phase of the research project involves development of computer software for W's internal use. The work of V's employees alone constitutes qualified research and development. V qualifies for the credit if all other requirements of the credit are met.

WSR 06-18-082
PERMANENT RULES
DEPARTMENT OF
NATURAL RESOURCES
 (Aquatic Resources Program)

[Filed September 5, 2006, 1:46 p.m., effective October 6, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This rule-making proposal corrects a few typographical references and increases clarity. No substantive changes were made.

Citation of Existing Rules Affected by this Order: Amending WAC 332-30-123 Aquatic land use rental rates for nonwater dependent uses and 332-30-128 Rent review.

Statutory Authority for Adoption: RCW 79.105.360 Aquatic land use rental rates, 79.105.320 Administrative review of rent.

Adopted under notice filed as WSR 06-12-124 on June 7, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 5, 2006.

Doug Sutherland
 Commissioner of Public Lands

AMENDATORY SECTION (Amending Order 724, filed 2/16/06, effective 3/19/06)

WAC 332-30-123 Aquatic land use rentals for water-dependent uses. All requirements in this section shall apply to the department and to port districts managing aquatic lands under a management agreement (WAC 332-30-114). The annual rental for water-dependent use leases of state-owned aquatic land shall be: The per unit assessed value of the

upland tax parcel, exclusive of improvements, multiplied by the units of lease area multiplied by thirty percent multiplied by the real rate of return. Expressed as a formula, it is: $UV \times LA \times .30 \times r = AR$. Each of the letter variables in this formula have specific criteria for their use as described below. This step by step presentation covers the typical situations within each section first, followed by alternatives for more unique situations.

(1) Overall considerations.

(a) Criteria for use of formula. The formula:

(i) Shall be applied to all leases (~~(having structural uses that require a physical interface with upland property when a water dependent use occurs on such uplands (in conjunction with the water dependent use on the aquatic lands))~~ ~~for water dependent uses, except as otherwise provided by statute~~) for water-dependent uses, except as otherwise provided by statute;

(ii) (~~Shall be used for remote moorage leases by selecting an upland parcel as detailed in subsection (2) of this section;~~

~~(iii))~~ Shall not be used for areas of filled state-owned aquatic lands having upland characteristics where the department can charge rent for such fills (see WAC 332-30-125), renewable and nonrenewable resource uses, or areas meeting criteria for public use (see WAC 332-30-130); and

~~(iv))~~ ~~(iii))~~ (iii) Shall cease being used for leases intended for water-dependent uses when the lease area is not actively developed for such purposes as specified in the lease contract. Rental in such situations shall be determined under the appropriate section of this chapter.

(b) Criteria for applicability to leases. The formula shall be used to calculate rentals for:

(i) All new leases and all pending applications to lease or re-lease as of October 1, 1984;

(ii) All existing leases, where the lease allows calculation of total rent by the appropriate department methods in effect at the time of rental adjustment. Leases in this category previously affected by legislated rental increase limits, shall have the formula applied on the first lease anniversary date after September 30, 1984. Other conditions of these leases not related to rent shall continue until termination or amendment as specified by the lease contract. Leases in this category not previously affected by legislated rental increase limits and scheduled for a rent adjustment after October 1, 1985, shall have the option of retaining the current rent or electing to pay the formula rent under the same conditions as specified in (iii) of this subsection.

(iii) Leases containing specific rent adjustment procedures or schedules shall have the rent determined by the formula when requested by the lessee. Holders of such leases shall be notified prior to their lease anniversary date of both the lease contract rent and formula rent. A selection of the formula rent by the lessee shall require an amendment to the lease which shall include all applicable aquatic land laws and implementing regulations.

(2) Physical criteria of upland tax parcels.

(a) (~~Leases used in conjunction with and supportive of activities on the uplands.~~) The upland tax parcel used shall be (~~waterfront~~) ~~used in conjunction with the leased area~~) used in conjunction with the leased area and have some por-

tion with upland characteristics. ~~((The upland tax parcel shall be waterfront, except that if the waterfront parcel's assessed value is inconsistent with the purposes of the lease as described in subsection (3) of this section, and there is a landward parcel also used in conjunction with the leased area that meets all the criteria in this subsection (2) and is consistent with the purposes of the lease as described in subsection (3) of this section, then such landward parcel shall be used.))~~ The upland tax parcel shall be waterfront, except that if the waterfront parcel's assessed value is inconsistent with the purposes of the lease as described in subsection (3) of this section, and there is a landward parcel also used in conjunction with the leased area that meets all the criteria in this subsection (2) and is consistent with the purposes of the lease as described in subsection (3) of this section, then such landward parcel shall be used. If no upland tax parcel meets these criteria, then an alternative shall be selected under the criteria of subsection (4) of this section. ~~((For the purposes of this section, "upland characteristics" means fill or other improvements or alterations that allow for development of the property as if it were uplands and that have been valued by the county assessor as uplands.))~~ For the purposes of this section, "upland characteristics" means fill or other improvements or alterations that allow for development of the property as if it were uplands and that have been valued by the county assessor as uplands.

(b) ~~((Remote moorage leases. The upland tax parcel used shall be waterfront, have some portion with upland characteristics; and) [For leases without a physical connection with upland property (for example, open water moorage and anchorage areas, or mitigation or conservation sites not abutting the shoreline), the upland tax parcel used shall.])~~ For leases without a physical connection with upland property (for example, open water moorage and anchorage areas, or mitigation or conservation sites not abutting the shoreline), the upland tax parcel used shall:

(i) If the ~~((remote moorage) [lease])~~ lease is associated with a local upland facility, be an appropriate parcel at the facility; or

(ii) If the ~~((remote moorage is similar in nature of use to moorages in the area) [lease is of the same use class within the water-dependent category (as listed in subsection (4) of this section) as at least one other lease within the county that is])~~ lease is of the same use class within the water-dependent category (as listed in subsection (4) of this section) as at least one other lease within the county that is associated with a local upland facility, be an appropriate parcel at the ~~((nearest such))~~ nearest such facility; or

(iii) If ~~((the remote moorage is not associated with a) [there is no such])~~ there is no such local upland facility, be ~~((the parcel closest in distance to the moorage area) [an alternate parcel selected under the criteria of subsection (4) of this section])~~ an alternate parcel selected under the criteria of subsection (4) of this section.

(c) Priority of selection. If more than one upland tax parcel meets the physical criteria, the priority of selection shall be:

(i) The parcel that is structurally connected to the lease area;

(ii) The parcel that abuts the lease area;

(iii) The parcel closest in distance to the lease area.

If more than one upland tax parcel remains after this selection priority, then each upland tax parcel will be used for its portion of the lease area. If there is mutual agreement with the lessee, a single upland tax parcel may be used for the entire lease area. When the unit value of the upland tax parcels are equal, only one upland tax parcel shall be used for the lease area.

(d) The unit value of the upland tax parcel shall be expressed in terms of dollars per square foot or dollars per acre, by dividing the assessed value of the upland tax parcel by the number of square feet or acres in the upland tax parcel. This procedure shall be used in all cases even if the value attributable to the upland tax parcel was assessed using some other unit of value, e.g., front footage, or lot value. Only the "land value" category of the assessment record shall be used; not any assessment record category related to improvements.

(3) **Consistent assessment.** In addition to the criteria in subsection (2) of this section, the upland tax parcel's assessed value must be consistent with the purposes of the lease ~~((and method of rental establishment))~~. On this basis, the following situations ~~((are examples, but are not an exclusive list, of what the department))~~ are examples, but are not an exclusive list, of what the department will ~~((be considered) [consider])~~ consider inconsistent and shall either require adjustment as specified, or selection of an alternative upland tax parcel under subsection (4) of this section:

(a) The upland tax parcel is not assessed. (See chapter 84.36 RCW Exemptions);

(b) Official date of assessment is more than four years old. (See RCW 84.41.030);

(c) The "assessment" results from a special tax classification ~~((for other adjustment by the county assessor))~~ or other adjustment by the county assessor not reflecting fair market value ~~((as developable upland property))~~ as developable upland property. Examples include classifications under: State-regulated utilities (chapter 84.12 RCW), Timber and forest lands (chapter 84.33 RCW), and Open space (chapter 84.34 RCW). This inconsistency may be corrected by substituting the ~~((full) [fair market])~~ fair market value for the parcel if such value is part of the assessment records;

(d) If the assessed valuation of the upland tax parcel to be used is under appeal as a matter of record before any county or state agency, the valuation on the assessor's records shall be used, however, any changes in valuation resulting from such appeal will result in an equitable adjustment of future rental;

(e) The majority of the upland tax parcel area is not used ~~((for) [in conjunction with])~~ in conjunction with a water-dependent ~~((purpose) [use])~~ use. This inconsistency may be corrected by using the value and area of the portion of the upland tax parcel that is used ~~((for) [in conjunction with])~~ in conjunction with water-dependent ~~((purposes) [use])~~ use if this portion can be segregated from the assessment records; and

(f) The size of the upland tax parcel in acres or square feet is not known or its small size results in a nominal valuation, e.g., unbuildable lot ~~((-; and)~~

~~((g) The assessed value reflects the presence of contamination on the uplands, when the contamination on the uplands~~

does not impair the use of the leasehold. This inconsistency may be corrected by substituting the full value for the upland parcel as if there were no contamination, if such value is part of the assessment records.)) and

(g) The assessed value reflects the presence of contamination on the uplands, when the contamination on the uplands does not impair the use of the leasehold. This inconsistency may be corrected by substituting the full value for the upland parcel as if there were no contamination, if such value is part of the assessment records.

(4) Selection of the nearest comparable upland tax parcel. When the upland tax parcel does not meet the physical criteria or has an inconsistent assessment that can't be corrected from the assessment records, an alternative upland tax parcel shall be selected which meets the criteria. The nearest upland tax parcel shall be determined by measurement along the shoreline from the inconsistent upland tax parcel.

(a) The alternative upland tax parcel shall be located by order of selection priority:

- (i) Within the same city as the lease area, and if not applicable or found;
- (ii) Within the same county and water body as the lease area, and if not found;
- (iii) Within the same county on similar bodies of water, and if not found;
- (iv) Within the state.

(b) Within each locational priority of (a) of this subsection, the priority for a comparable upland tax parcel shall be:

(i) The same use class within the water-dependent category as the lease area use (For the purposes of this section, some examples of use classes include:

~~(A) Marinas and recreational moorage, including recreational boat launches and local upland facilities for open water moorage;~~

~~(B) Industrial and commercial shipping terminals and moorage;~~

~~(C) Conservation and natural resource protection areas;~~

~~(D) Mitigation sites; and~~

~~(E) For water-oriented floating homes, the same use class means any floating home.)) For the purposes of this section, some examples of use classes include:~~

(A) Marinas and recreational moorage, including recreational boat launches and local upland facilities for open water moorage;

(B) Industrial and commercial shipping terminals and moorage;

(C) Conservation and natural resource protection areas;

(D) Mitigation sites; and

(E) For water-oriented floating homes, the same use class means any floating home;

(ii) Any water-dependent use within the same upland zoning;

(iii) Any water-dependent use; and

(iv) Any water-oriented use.

(5) Aquatic land lease area. The area under lease shall be expressed in square feet or acres.

(a) Where more than one use class separately exist on a lease area, the formula shall only be applied to the water-dependent use area. Other use areas of the lease shall be treated according to the regulations for the specific use.

(b) If a water-dependent and a nonwater-dependent use exist on the same portion of the lease, the rent for such portion shall be negotiated taking into account the proportion of the improvements each use occupies.

(6) Real rate of return.

(a) Until July 1, 1989, the real rate of return to be used in the formula shall be five percent.

(b) On July 1, 1989, and on each July 1 thereafter the department shall calculate the real rate of return for that fiscal year under the following limitations:

(i) It shall not change by more than one percentage point from the rate in effect for the previous fiscal year; and

(ii) It shall not be greater than seven percent nor less than three percent.

(7) Annual inflation adjustment of rent. The department shall use the inflation rate on a fiscal year basis e.g., the inflation rate for calendar year 1984 shall be used during the period July 1, 1985 through June 30, 1986. The rate will be published in a newspaper of record. Adjustment to the annual rent of a lease shall occur on the anniversary date of the lease except when the rent is redetermined under subsection (9) of this section. The inflation adjustment each year is the inflation rate times the previous year's rent except in cases of stairstepping.

(8) Stairstepping rental changes.

(a) Initial increases for leases in effect on October 1, 1984. If the application of the formula results in an increase of more than one hundred dollars and more than thirty-three percent, stairstepping to the formula rent shall occur over the first three years in amounts equal to thirty-three percent of the difference between each year's inflation adjusted formula rent and the previous rent.

Example

Previous rent = \$100.00 Formula rent = \$403.00 Inflation = 5%/yr.

Yr.	Formula Rent	Previous Rent	Difference	33%	Stairstep Rent
1	\$403.00	\$100.00	\$303.00	\$100.00	\$200.00
2	423.15	100.00	323.15	106.64	306.64
3	444.31	100.00	344.31	113.62	420.26
4	466.52	-	-	-	466.52

(b) Initial decreases for leases in effect on October 1, 1984. If the application of the formula results in a decrease of more than thirty-three percent, stairstepping to the formula rent shall occur over the first three years in amounts equal to thirty-three percent of the difference between the previous rent and each year's inflation adjusted formula rent.

Example

Previous rent = \$403.00 Formula rent = \$100.00 Inflation = 5%/yr.

Yr.	Previous Rent	Formula Rent	Difference	33%	Stairstep Rent
1	\$403.00	\$100.00	\$303.00	\$100.00	\$303.00
2	403.00	105.00	298.00	98.34	204.66
3	403.00	110.25	292.75	96.61	108.05
4	-	115.76	-	-	115.76

(c) If a lease in effect on October 1, 1984, contains more than one water-dependent or water-oriented use and the rental calculations for each such use (e.g., log booming and

log storage) result in different rentals per unit of lease area, the total of the rents for those portions of the lease area shall be used to determine if the stairstepping provisions of (a) or (b) of this subsection apply to the lease.

(d) If a lease in effect on October 1, 1984, contains a nonwater-dependent use in addition to a water-dependent or oriented use, the stairstepping provisions of (a) or (b) of this subsection:

(i) Shall apply to the water-dependent use area if it exists separately (see subsection (5)(a) of this section);

(ii) Shall not apply to any portion of the lease area jointly occupied by a water-dependent and nonwater-dependent use (see subsection (5)(b) of this section).

(e) Subsequent increases. After completion of any initial stairstepping under (a) and (b) of this subsection due to the first application of the formula, the rent for any lease or portion thereof calculated by the formula shall not increase by more than fifty percent per unit area from the previous year's per unit area rent.

(f) All initial stairstepping of rentals shall only occur during the term of existing leases.

(9) The annual rental shall be redetermined by the formula every four years or as provided by the existing lease language. If an existing lease calls for redetermination of rental during an initial stairstepping period, it shall be determined on the scheduled date and applied (with inflation adjustments) at the end of the initial stairstep period.

AMENDATORY SECTION (Amending Order 724, filed 2/16/06, effective 3/19/06)

WAC 332-30-128 Rent review. This section shall not apply to port districts managing aquatic lands under a management agreement (WAC 332-30-114).

(1) **Eligibility to request review.** Any lessee or applicant to lease or release state-owned aquatic lands may request review of any rent proposed to be charged by the department.

(2) **Dispute officers.** The manager of the marine lands division will be the rental dispute officer (RDO). The supervisor of the department, or his designee, will be the rental dispute appeals officer (RDAO).

(3) **Submittals.** A request for review of the rent (an original and two copies) shall be submitted within thirty days of notification by the department of the rent due from the lessee/applicant. The request for review shall contain sufficient information for the officers to make a decision on the appropriateness of the rent initially determined by the department. The burden of proof for showing that the rent is incorrect shall rest with the lessee/applicant.

(4) **Rental due.** The request for review shall be accompanied by one year's rent payment based on the preceding year's rate, or a portion thereof as determined by RCW 79.105.340; or based on the rate proposed by the department, or a portion thereof as determined by RCW 79.105.340, whichever is less. The applicant shall pay any additional rent or be entitled to a refund, with interest, within thirty days after completion of the review process provided in this section.

(5) **Contents of request.** The request for review shall state what the lessee/applicant believes the rent should be and

shall contain, at the minimum, all necessary documentation to justify the lessee/applicant's position. This information shall include but not be limited to:

(a) **Rationale.** Why the rent established by the department is inappropriate. The supporting documentation for nonwater-dependent leases may include appraisals by professionally accredited appraisers.

(b) **Lease information.** A description of state-owned aquatic land under lease which shall include, but not be limited to:

(i) Lease or application number;

(ii) Map showing location of lease or proposed lease;

(iii) Legal description of lease area including area of lease;

(iv) The permitted or intended use on the leasehold; and

(v) The actual or current use on the leasehold premises.

(c) **Substitute upland parcel.** A lessee/applicant whose lease rent is determined according to RCW 79.105.240 (water-dependent leases) and who disputes the choice of the upland parcel as provided by WAC 332-30-123, shall indicate the upland parcel that should be substituted in the rental determination and shall provide the following information on the parcel:

(i) The county parcel number;

(ii) Its assessed value;

(iii) Its area in square feet or acres;

(iv) A map showing the location of the parcel; and

(v) A statement indicating the land use on the parcel and justifying why the parcel should be substituted.

(6) **RDO review.**

(a) The RDO shall evaluate the request for review within fifteen days of filing to determine if any further support materials are needed from the lessee/applicant or the department.

(b) The lessee/applicant or the department shall provide any needed materials to the RDO within thirty days of receiving a request from the RDO.

(c) The RDO may, at any time during the review, order a conference between the lessee/applicant and department staff to try to settle the rent dispute.

(d) The RDO shall issue a decision within sixty days of filing of the request. Such decision shall contain findings of fact for the decision. If a decision cannot be issued within that time, the lessee/applicant's request will automatically be granted and the rent proposed by the lessee/applicant will be the rent for the lease until the next rent revaluation; provided that, the RDO may extend the review period for one sixty-day period.

(7) **RDAO review.**

(a) The ~~((RDAO may, within fifteen days of the final decision by the RDO, be petitioned to review) [lessee/applicant may submit a petition within thirty days to the rental dispute appeals officer (RDAO) for review of])~~ lessee/applicant may submit a petition within thirty days to the rental dispute appeals officer (RDAO) for review of that decision.

(b) If the RDAO declines to review the petition on the decision of the RDO, the RDO's decision shall be the final decision of the RDAO.

(c) If the RDAO consents to review the decision, the review may only consider the factual record before the RDO and the written findings and decision of the RDO. The

RDAO shall issue a decision on the petition containing written findings within ~~((thirty][sixty]))~~ sixty days of the filing of the petition. ~~((The RDAO may extend the review period for one sixty-day period. This decision shall be the RDAO's final decision.))~~ The RDAO may extend the review period for one sixty-day period. This decision shall be the RDAO's final decision. This decision shall be the RDAO's final decision.

(8) Board review.

(a) ~~((The board of natural resources (board) may, within fifteen days of the final RDAO decision, be petitioned to review that decision.) [The lessee/applicant may submit a petition within thirty days to the board of natural resources (board) for review of the RDAO decision.])~~ The lessee/applicant may submit a petition within thirty days to the board of natural resources (board) for review of the RDAO decision.

(b) If the board declines to review the petition, the RDAO decision shall be the final decision of the board.

(c) If the board decides to review the petition, the department and the lessee/applicant shall present written statements on the final decision of the RDAO within ~~((fifteen][thirty]))~~ thirty days of the decision to review. The board may request oral statements from the lessee/applicant or the department if the board decides a decision cannot be made solely on the written statements.

(d) The board shall issue a decision on the petition within ~~((sixty][ninety]))~~ ninety days of the filing of the written statements by the lessee/applicant and the department.

WSR 06-18-102

PERMANENT RULES

DEPARTMENT OF ECOLOGY

[Order 05-18—Filed September 6, 2006, 10:18 a.m., effective October 7, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: This proposed rule making would amend chapter 173-153 WAC to reflect the legislative amendments to chapters 90.80 and 90.03 RCW adopted during the last two legislative sessions and provide additional information concerning the crediting of training credit to board commissioner during their term of service. SHB 2307, chapter 104, Laws of 2004, entitled Water conservancy board—Commissioner eligibility, provided a definition of a "water right holder" for the purpose of determining representation requirements of board commissioners. This definition differs from the definition within the rule proposed to be amended. ESSB 6125, chapter 10, Laws of 2004, entitled Water conservancy board—Alternate, defined the position of "alternate commissioner" and authorized certain conditions under which an alternate may serve in the place of an absent commissioner. The adopted definition and conditions for service as a commissioner differs from that contained within the rule. ESHB 2309, Laws of 2005, entitled Water right fees, modified the fees associated with the examination of water right change applications and eliminated the collection of a fee to ecology for applications filed with water conservancy boards. The proposed rule amendment eliminates the requirement that boards forward a

fee to the department and clarifies other application processing issues.

Citation of Existing Rules Affected by this Order: Amending WAC 173-153-030, 173-153-042, 173-153-045, 173-153-050, 173-153-070, 173-153-080, 173-153-090, 173-153-130, 173-153-140, and 173-153-150.

Statutory Authority for Adoption: RCW 90.80.040.

Adopted under notice filed as WSR 06-10-041 on April 28, 2006.

Changes Other than Editing from Proposed to Adopted Version: Six changes are being made between the proposed and adopted version of the rule amendments. A correction is made to WAC 173-153-045 to ensure that the rule is consistent with the discretionary authority of the counties in dissolving a board. A correction to WAC 173-153-070(15) is made to conform the rule to fee filing period provided by statute WAC 173-153-070(17) is reworded for clarity. WAC 173-153-080(1) is changed to remove a requirement that information within a public notice be in a prescribed order. WAC 173-153-080(5) is changed to more clearly describe circumstances that would result in a need to republish a public notice. WAC 173-153-150 (5)(b) is changed to add a citation of statute that sets for requirements for adoption of a record of decision by a water conservancy board.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 6, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 6, 2006.

Jay J. Manning
Director

AMENDATORY SECTION (Amending Order 01-13, filed 12/9/02, effective 1/9/03)

WAC 173-153-030 How are terms defined in this rule? For the purposes of this chapter, unless the context clearly indicates otherwise, the following definitions apply:

~~((**"Alternate"** means an individual who:~~

~~((1) May serve as an alternate commissioner of a board at the request of the board or the legislative authority or authorities of the county or counties;~~

~~((2) Serves a board in a nonvoting capacity;~~

~~((3) Is not considered for the purpose of satisfying a quorum; and~~

~~((4) Cannot take the place of a commissioner on a temporary basis.))~~

"Application" means an application made on an ecology form identified as an Application for Change/Transfer to Water Right, form number 040-1-97 for a transfer of a water right, including those transfers proposed under authority of RCW 90.03.380, 90.03.390 and 90.44.100. A board may supplement the application with additional forms or requests for additional documentation. These forms and documentation become a part of the application.

"Board" means a water conservancy board pursuant to chapter 90.80 RCW.

"Bylaws" means the internal operating procedures, policies, or other guidance adopted by a board and designated as the board's bylaws.

~~("Commissioner" means an individual appointed to serve as a voting member on a water conservancy board through a written statement by the legislative authority or authorities of the county or counties.)~~

"Consumptive use" means use of water whereby there is a diminishment of the water source.

"Director" means the director of the department of ecology.

"Ecology" means the department of ecology.

"Ecology regional office" means the water resources program at the ecology regional office designated to a board as the office where the board shall interact as identified within this chapter.

"Geographic area" means an area within the state of Washington in which an established board would have authority to process water right transfer applications. This area is identified by the legislative authority or authorities of the county or counties seeking to establish the water conservancy board. The area may be a single county, more than one county, a single water resource inventory area, or more than one water resource inventory area. If the identified geographic area contains all or part of more than one county, the counties involved must identify a "lead county" for certain administrative purposes.

"Lead county" means the county legislative authority with which ecology will communicate for administrative purposes in cases where a water conservancy board's geographic area includes more than one county legislative authority.

"Nonwater right holder" means, solely for the purpose of satisfying RCW 90.80.050(2) in regard to determining whether a potential water conservancy board commissioner is a "nonwater right holder," any party who:

- (1) Does not meet the criteria of a water right holder as defined in this section; or
- (2) Receives water solely through a water distributing entity.

"Record of decision" means the written conclusion reached by a water conservancy board regarding a transfer application, with documentation of each board commissioner's vote on the decision. The record of decision must be on a form provided by ecology and identified as a Record of Decision, form number 040-105.

"Report of examination" means the written explanation, factual findings, and analysis that support a board's record of decision. The report of examination is an integral part of the record of decision. The report of examination must be on a form provided by ecology and identified as Water

Conservancy Board Report of Examination, form number 040-106.

"Source" means the water body from which water is or would be diverted or withdrawn under an existing water right which an applicant has proposed to be transferred.

"Transfer" means a transfer, change, amendment, or other alteration of part or all of a water right, as authorized under RCW 90.03.380, 90.03.390 or 90.44.100.

"Trust water right" means any water right acquired by the state under chapter 90.38 or 90.42 RCW, for management in the state's trust water rights program.

"Water conservancy board coordinator" means the person designated by the director or his or her designee to coordinate statewide water conservancy board activities, communication, and training, and to advocate for consistent statewide implementation of chapter 90.80 RCW and chapter 173-153 WAC.

"Water right holder" means, solely for the purpose of satisfying RCW 90.80.020 (2)(d) and 90.80.050(2) in regard to determining whether the qualifications of petitioners to create a board and a potential water conservancy board commissioner are "water right holders," and as used within this rule, any individual who asserts that he or she has a water right and can provide appropriate documentation of a privately owned water right which is appurtenant to the land that they individually or through marital community property own or in which they have a majority interest. Exception to the definition of a water right holder for the purpose of determining a person's eligibility to be appointed as a commissioner is found in RCW 90.80.050(5).

AMENDATORY SECTION (Amending Order 01-13, filed 12/9/02, effective 1/9/03)

WAC 173-153-042 How are water conservancy board commissioners and alternates appointed and the length of their terms determined? How do counties notify ecology of board commissioner's and alternate's appointments and terms?

(1) Upon approval of a new board by ecology, or upon approval of restructuring the number of commissioners on an existing board, the legislative authority of the county or the lead county shall submit to ecology's water conservancy board coordinator a written statement identifying the individuals appointed to the board. The statement must include:

(a) The name, mailing address, and phone number or other contact information of the commissioners and/or alternates;

(b) The terms of office of the commissioners; these terms of office must be staggered as described in RCW 90.80.050 (1).

What happens when a board commissioner's term expires or a board position becomes vacant?

(2) Upon the expiration of a board commissioner's or alternate's term, the appropriate legislative authority or authorities of the county or counties shall either:

(a) Reappoint the incumbent commissioner or alternate;

or

(b) Appoint a new commissioner or alternate to the board. A written statement including the information as

described in subsection (1) of this section shall be submitted to ecology's water conservancy board coordinator.

(3) In the event a board position becomes vacant, the legislative authority or authorities of the county or counties shall appoint a new commissioner in accordance with RCW 90.80.050(2). A statement as described in subsection (1) of this section must be submitted to ecology's water conservancy board coordinator. The new commissioner or alternate shall fill the vacancy only for the remainder of the unexpired term and, upon completion of the unexpired term, may be reappointed, as described in subsection (2) of this section, to serve a full six-year term.

(4) If a board commissioner or alternate is reappointed to a position previously held by that commissioner or alternate within one year of resigning the position or within one year of the expiration of the commissioner's or alternate's term of service, then the original appointment date will be considered as the appointment date of record.

What are the terms of board commissioners and alternates?

~~((4))~~ (5) Initial terms of commissioners appointed to a newly created board shall be staggered as described in RCW 90.80.050. All alternate positions shall be for six-year terms.

~~((5))~~ (6) Upon the expiration of the initially appointed commissioners' terms, all subsequent appointments shall be for six-year terms.

~~((6))~~ (7) The initial terms of office of board commissioners on a restructured board shall be staggered as set forth in RCW 90.80.050. As each of the commissioners' term of office expires, newly or reappointed commissioners shall all be appointed to six-year terms. ~~((However, in order to maintain staggered terms, regardless of the date on which such commissioners may be appointed or reappointed, the expiration of all commissioners' terms shall be the same day and month as the expiration of the term of office of the first commissioner appointed to the board, varying only in the year of expiration.))~~

How would an appointed board ~~((member))~~ commissioner or alternate resign the position?

~~((7))~~ (8) A board commissioner or alternate may resign the board position by submitting a letter of resignation to the appointing county or counties. A copy of the resignation letter must be submitted to the water conservancy board coordinator by either the resigning board ~~((member))~~ commissioner or alternate or by the board.

What is the responsibility of a board in notification of board vacancies?

~~((8))~~ (9) It is the responsibility of the board to notify the appointing county(ies) and the water conservancy board coordinator that there is a board commissioner vacancy.

~~((9))~~ (10) The appointing county(ies) and the board will determine and conduct a process to fill the commissioner vacancy in accordance with subsection (3) of this section.

AMENDATORY SECTION (Amending Order 01-13, filed 12/9/02, effective 1/9/03)

WAC 173-153-045 What is the process for restructuring a board? (1) A board may be restructured as to the

number of commissioners on the board and the geographic area of its jurisdiction.

(2) A board, a county legislative authority, or a lead county legislative authority may request to restructure an existing board within its geographical jurisdiction. It is suggested that the legislative authority or authorities of the county or counties and the existing board communicate and work cooperatively during the board restructuring process.

(3) If a request is made to restructure an existing board to a multicounty board, WRIA board, or multi-WRIA board, the county legislative authority with the existing board must determine if the restructured board would include geographic areas within an additional county or counties. If the restructure includes a geographic area of another county, the county legislative authority or all county legislative authorities of the affected counties must agree:

(a) To the number of board commissioners serving on the board;

(b) Whether the commissioners and alternates currently appointed to and serving on the existing board or boards shall continue in that capacity;

(c) That areas within the county may be included within the geographic jurisdiction of the multicounty, WRIA, or multi-WRIA board.

(4) If the county legislative authorities included in the restructuring cannot agree to the terms of the restructure using an existing board, the county or counties in which a county legislative authority already has an established board may dissolve the existing board and work cooperatively with the other county legislative authority or county legislative authorities to establish a new board.

(5) The legislative authority or authorities of the pertinent county or counties shall hold a public hearing and adopt a resolution including:

(a) The manner of restructuring and the need for restructuring the board;

(b) The number of commissioners to serve on the board;

(c) The proposed geographic area of jurisdiction of the board;

(d) If the proposed geographic area of jurisdiction is restructured to include more than one county legislative authority, the legislative authorities of each county included within the restructuring shall identify a lead county; and

(e) A summary of the public testimony presented during the public hearing(s) conducted by the legislative authority or authorities of the county or counties in response to the resolution to restructure a board. The summary shall be clearly identified and include the date of the hearing.

~~((4))~~ (6) Upon submission to the water conservancy board coordinator of the required documentation pursuant to subsection (3) of this section, the director will determine whether the restructuring of a board will further the purposes of the law and be in the public interest as described in WAC 173-153-040(10).

~~((5))~~ (7) The director's determination to approve or deny restructuring of the board shall be made within forty-five days of receiving all items listed in subsection ~~((3))~~ (5) of this section.

~~((6))~~ (8) If the board restructuring is approved, ecology will include in its notice of approval any unique conditions or

provisions under which the approval is made, if any, and shall identify the date the restructuring of the board will take effect. The director shall also identify any additional training required of the board if it assumes jurisdiction of a new geographic area.

AMENDATORY SECTION (Amending Order 01-13, filed 12/9/02, effective 1/9/03)

WAC 173-153-050 What are the training requirements for board commissioners and alternates?

What training is required for newly appointed board commissioners and alternates?

(1) Every commissioner and alternate of a board shall complete a training program provided by ecology:

(a) Before participating in any decision concerning a water right transfer application being considered by the board:

(b) Within one year of appointment to the board by the county legislative authority. If the training program is offered and is not completed within one year of appointment to the board, ecology may inform the county and request the county to seek the commissioner's resignation;

(c) Not more than one year prior to the commissioner's or alternate's appointment to the board by the county legislative authority. If the training program is completed by board administrative staff or other participating noncommissioners more than one year prior to subsequent appointment to the board, the commissioner will be required to repeat the training.

(2) Attendance at a training session for new commissioners shall be limited to board commissioners, their administrative staff, board alternates, and individuals providing training. Due to the complexity of the training and the need to provide adequate time to focus on questions from board commissioners, the number of participants attending each training session shall be left to the discretion of the water conservancy board coordinator. Training for new commissioners shall be ~~((held at least once in the spring and once in the fall))~~ scheduled depending on, but not limited to:

(a) Whether ecology has sufficient staffing resources to provide the necessary training; and/or

(b) Whether there are sufficient numbers of board commissioners and/or alternates needing training.

~~((2))~~ (3) Successful completion of the training program will ~~((consist of))~~:

(a) ~~((Receiving))~~ Consist of at least thirty-two hours of instruction, from or sponsored by ecology, regarding hydrology, state water law, state water policy, administrative and judicial case law developments, field practices, evaluation of existing water rights, and practical experience working with ecology staff on applications for water right transfers; ~~((and))~~

(b) Require demonstrating an understanding of course materials during training, and demonstrating sufficient mastery of the training curriculum through an examination administered by an ecology employee upon completion of training; and

(c) Only be recognized and tracked by ecology for appointed commissioners and alternates.

~~((3))~~ (4) If a board is restructured to modify the geographic area, the director may require additional training of all board commissioners~~((s))~~.

~~((4))~~ (5) Upon a water conservancy board commissioner's or alternate's successful completion of the training, ecology will certify such completion in writing to the county or lead county of the geographic area served by the board. A copy of this letter shall also be sent to the board.

Are there continuing education requirements for board commissioners and alternates?

~~((5))~~ (6) After completing one year of service on a water conservancy board, each following year prior to the anniversary of their appointment date to the board, commissioners and alternates must complete an additional eight hours of continuing education provided or approved by ecology. Each commissioner and alternate shall complete the minimum continuing education requirement before participating in any decision concerning a water right transfer application being considered by a board. ~~((Continuing education may include, but is not limited to, readings, a seminar or conference, or field experience regarding, but not necessarily limited to, subjects such as state water law, state water policy, administrative and judicial case law developments, field practices, evaluation of existing water rights, and hydrology.~~

~~((6))~~ (7) The anniversary date for a board commissioner or alternate serving on more than one board concurrently will be determined by the earliest of all combined board appointment dates.

(8) If less than six months has passed between the termination of service as a commissioner or alternate and appointment to any board as a commissioner or alternate, any current continuing education credit received during the last twelve months of the period of service with the previous board will apply to the new term under the new date of appointment in accordance with WAC 173-153-042. If a period of greater than six months has passed between the termination of service as a commissioner or alternate and appointment to any other board as a commissioner or alternate, any current continuing education credit received during the period of service with the previous board will not apply to the new term under the new date of appointment.

(9) Each board commissioner and alternate must ensure his or her own eligibility and remain current on continuing education. Eligibility of a board commissioner or alternate could become a basis for ecology's reversal of a record of decision or an appeal by a third party of ecology's final administrative order.

(10) Ecology may, at its discretion, and in response to requests, provide continuing education training periodically. Ecology may also combine training for more than one board. Attendance at continuing education sessions provided by ecology water resources program shall generally be limited to board commissioners, administrative staff to boards, board alternates, and individuals providing training. Ecology may, at its discretion, and in response to requests, invite other identified entities to participate in continuing education sessions.

How can a board commissioner or alternate receive credit for continuing education not provided or sponsored by ecology water resources program?

~~((7))~~ (11) Continuing education training requirements ~~((under subsection (5) of this section))~~ may be fulfilled through training not provided or sponsored by ecology's water resources program. However, such training will be accepted only if it is reported to ecology on a form provided by ecology and identified as the Water Conservancy Board Training Credit Request Form, form number 040-104, and approved ~~((by))~~ at ecology's ~~((as appropriate training))~~ discretion.

~~((8))~~ (12) To receive continuing education credit for participating in a training activity sponsored by another entity other than ecology water resources program, a Water Conservancy Board Training Credit Request Form, form number 040-104:

(a) Must be used:

(b) Must be submitted to the water conservancy board coordinator at ecology:

(c) Must include all required information. If the form is incomplete, it will be returned to the commissioner or alternate requesting the credit:

(d) Must include documentation of course attendance. If attendance documentation is not provided, a written summary of the training activity and information learned must be included:

(e) Must provide enough information to justify the hours requested:

(f) Will only be accepted by ecology after completion of the commissioner's or alternate's participation in the training activity.

(13) The complete training credit request form identified under subsection (12) of this section will be reviewed as expeditiously as possible by ecology. The hours credited to the commissioner or alternate will be documented by ecology in a letter to the commissioner or alternate requesting the training credit. A copy of the letter will be sent to the ecology designated regional representative and the water conservancy board.

(14) The approved credit hours count toward a commissioner's or alternate's eligibility only upon the receipt by the commissioner or alternate of written confirmation from ecology.

(15) The hours credited in subsection (13) of this section are effective based on the date of the letter issued by ecology approving the training.

(16) Training means that the commissioner or alternate participates in a forum specifically intended for learning from another person such as an author, instructor, speaker, or presenter.

(17) Reasonable and appropriate continuing education subjects that directly relate to water conservancy board authorities and responsibilities include, but are not limited to:

(a) State water law;

(b) State water policy;

(c) Administrative and judicial case law developments;

(d) Field practices;

(e) Evaluation of existing water rights;

(f) Hydrology;

(g) Technical writing;

(h) Other related topics.

(18) Reasonable and appropriate continuing education activities that directly relate to water conservancy board authorities and responsibilities include, but are not limited to:

(a) Seminars;

(b) Conferences;

(c) Classes;

(d) Presentations given by others;

(e) Readings. Readings may include books on water resource issues or law, proceedings and papers associated with conferences related to subjects included in subsection (17) of this section;

(f) Field experiences; and

(g) Research completed for a presentation, speech, or instruction given by the board commissioner or alternate.

(19) Examples of activities not considered reasonable and appropriate continuing education include, but are not limited to:

(a) Meetings in which the commissioner or alternate acts as a member of a committee, or integral participant in proceedings, appeals, or litigation;

(b) Presentations, speeches, or instruction personally made by, or readings authored by, the commissioner or alternate requesting the training credit;

(c) Work done by a commissioner or alternate as part of the direct responsibilities of the water conservancy board such as:

(i) Field examinations;

(ii) Investigation of a water right change application;

(iii) Discussions of applications;

(iv) Technical assistance received specific to an application; and

(v) Litigation initiated by a water conservancy board, or a board commissioner or alternate or litigation initiated by an entity against the water conservancy board or board commissioner or alternate;

(d) Topics that do not directly relate to water conservancy board authorities and responsibilities.

(20) Board commissioners are encouraged to report to the water conservancy board coordinator all relevant continuing education received. Ecology will track all training received and reported by board commissioners and alternates as required in subsections (11) through (19) of this section. Any continuing education hours received and reported beyond the required eight hours annually will be documented and kept on file at ecology. Continuing education in excess of the required eight hours cannot be carried over to the next year.

AMENDATORY SECTION (Amending Order 01-13, filed 12/9/02, effective 1/9/03)

WAC 173-153-070 What does an applicant need to know about filing an application for transfer of a water right?

How are applications accepted for processing by a board?

(1) Ecology will provide water right transfer application forms and applicant instructions to boards, which will make

them available to the public upon request. All applications to a board must be made using the water right application for change/transfer form supplied by ecology, form number 040-1-97.

(2) Boards and ecology shall inform all applicants that the decision to file a transfer application with a board rather than directly with ecology is solely at the discretion of the applicant, provided a board is active in the area addressed by the transfer application.

(3) A water right transfer application is considered filed when it is received by a board commissioner, or a designated administrative support person for a board at the location designated by the board.

(4) A separate application must be filed for each water right that is proposed to be transferred.

(5) A majority vote of a quorum of a board is required to accept a complete application for processing.

What must a complete application include?

(6) Boards shall require that applications submitted directly to them are complete and legible. A complete application shall:

(a) ~~((Include the minimum ten-dollar examination fee required by RCW 90.03.470(1)).~~

~~((b))~~ Contain the information requested on the application form as applicable.

(b) Include all required signatures.

(c) Be accompanied by such maps and drawings, in duplicate, and such other data or fees, as may be required by the board. Such accompanying data shall be considered as part of the application as described in RCW 90.03.260.

(7) A board may request that an applicant provide additional information as part of the application by requiring, for example, that the applicant complete additional forms supplemental to the standard application or that applicant prepare and/or provide specific reports regarding aspects of the application.

How is an application number assigned to a water right transfer application filed with a board?

(8) The board shall assign a unique number to a water right transfer application upon acceptance of the application by the board.

(9) The number assigned by the board to the water right transfer application shall be written in ink within the "office use only" space provided on the application for the application number.

(10) The water right transfer application, public notice, record of decision, and report of examination produced by the board in processing the application shall reference the board-assigned number.

(11) The unique application number is assigned in accordance with the following three-part format:

(a) The first part of the board-assigned application number will identify the board that has accepted the application as follows:

(i) Boards having jurisdiction within a geographic area that is based upon a county boundary or the boundary of multiple counties will begin all application numbers with the first four letters of the name of the county or of the lead county. For example, a board with jurisdiction within Kittitas County will begin each application number with the letters "KITT."

(ii) Boards that have jurisdiction within a geographic area that is based upon a water resource inventory area (WRIA) or multiple WRIsAs will use the number of the WRIA of jurisdiction or, in the case of multi-WRIA boards, the WRIA of jurisdiction associated with the water right.

(b) The second part of the board-assigned application number will be the last two digits of the year in which the application was accepted. For example, applications that are accepted during the year 2003 will use the digits "03."

(c) The third part of the board-assigned application number will be a sequential two-digit number beginning with the number "01" for the first application accepted after the effective date of this rule and beginning with number "01" for the first application accepted by the board during each subsequent calendar year.

(d) A dash (-) will be used to separate the three parts of the application number as provided within (a), (b), and (c) of this subsection. For instance, the first application accepted by the Kittitas County water conservancy board during the year 2003 will be assigned number KITT-03-01.

~~((Are))~~ Can applications before a board also be considered ~~((dual-))~~ filed with ecology?

(12) The board must forward the complete original application form upon which the board has legibly written the board-assigned application number in the "office use only" space ~~((provided for that purpose and the statutory state application fee))~~ to the ecology ~~((regional office))~~ designated regional representative within five business days of the date the board accepts the application for processing.

(13) Within thirty business days from the date ecology receives the application from the board, ecology will assign a state water right change application number to the application and inform the board of the assigned number. The number assigned by ecology will be used for ecology's internal administrative purposes, including the recording of the application within the state water right record. The ecology-assigned number need not be used by the board in processing the application, including within the public notice.

(14) Ecology will open and maintain a file regarding the application for permanent recordkeeping. ~~((Ecology will inform the applicant if additional state fees are due. The board may not continue processing the application if notified by ecology that statutorily required application fees are due. Within three days of receipt of such fees, ecology shall inform the board of satisfaction of fee payment regarding any application in which ecology notified the board of outstanding fees.))~~ The application will not be considered as part of ecology's active application processing workload while the application is being processed by the board, but upon receipt of the application by ecology, the application is considered to be dual-filed with both the board and ecology. The application will retain a place in line with ecology based upon the date of acceptance by the board without payment of state examination fees as long as the board is processing the application.

(15) ~~((Upon acceptance of the application by ecology, the application is considered to be filed with both the board and ecology. However,))~~ Ecology shall not act on the application unless it is notified by the board that the board has declined to process the application and upon receiving a writ-

ten request from the applicant that ecology process the application. Upon written request from the applicant that ecology process the application, the required state examination fee will be due. Ecology shall notify the applicant that examination fees are due to ecology. The applicant must submit the required state examination fee within sixty days after the written request to ecology to process the application. Ecology will not process an application until all fees are paid.

(16) The applicant may voluntarily withdraw the application from the board by making such request to the board in written form. The board shall forward a copy of the applicant's request to withdraw the application to the ecology designated regional representative. The application is considered withdrawn from ecology upon the withdrawal of the application from the board. Ecology will remove the application from its line and reject the application.

How can responsibility for processing an application previously filed with ecology be transferred to a board?

~~((16) If an applicant makes a request to a board that an application previously filed with ecology be considered for processing by that board, the board may request that ecology forward a copy of the application file to the board.)~~ (17) If an application has previously been filed with ecology, the applicant may make a request that ecology convey the application to the board with geographic jurisdiction. Such a request must be in written form. A copy of the written request to ecology must be sent to the board at the same time. Ecology will comply with the request ~~(and)~~ by providing all related file documents to the appropriate board. The original application will continue to be on file and maintained at ecology but will not be considered as part of ecology's active workload while the application is being processed by the board.

~~((17))~~ (18) The board shall notify ecology if it accepts the application for processing. Upon acceptance for processing by the board, the application will retain its place in line at ecology and be considered dual-filed with both the board and ecology. Ecology will remove the application from its active workload. The board will assign an application number in accordance with subsection ~~((10))~~ (11) of this section and inform the ecology ~~designated~~ regional ~~(office)~~ representative in writing of the board's application number within five business days of accepting the application.

(19) If an application previously filed directly with ecology is accepted for processing by a board, the board shall ensure that a public notice of the application consistent with WAC 173-153-080 is made, regardless of whether the application was previously subject to public notice by ecology.

Can a board decide not to accept an application for processing, or decide to discontinue processing an application?

~~((18))~~ (20) By a majority vote of a quorum of a board, a board may decline to process or may discontinue processing an application at any time. The board must inform the applicant of its decision in writing within fourteen business days of making the decision. The board must, at the same time, send the ecology regional office a copy of the board's written notice to the applicant. If the basis of the board's decision to decline processing the application is not sufficiently clear from the written notice, and the applicant filed a written request that ecology process the application, ecology may

request a further written explanation regarding the board's decision not to process or finish processing the application. The board must provide this additional written explanation within thirty days of ecology's request.

~~((19))~~ (21) If a board declines to process or discontinues processing an application, it must return the application to the applicant and must inform the applicant that the application may be filed with ecology and advise the applicant of the appropriate ecology office where the application should be filed.

Who must receive copies of applications being processed by a board?

~~((20))~~ (22) Boards must ensure that copies of applications accepted by them for processing are provided to interested parties in compliance with existing laws. To assist the boards in this, ecology will provide a list of parties which have identified themselves to ecology as interested in the geographic area of the board. Additional interested parties, including Indian tribes, may request copies of applications from boards.

~~((21))~~ (23) A notice of each application accepted by a board shall be provided to any Indian tribe that has reservation lands or trust lands contiguous with or encompassed within the geographic area of the board's jurisdiction.

AMENDATORY SECTION (Amending Order 01-13, filed 12/9/02, effective 1/9/03)

WAC 173-153-080 What public notice is given on a water right transfer application before a board? (1) Upon acceptance by a board of a water right transfer application in accordance with ~~((WAC 173-153-070(2)))~~ this chapter, the board shall publish a public notice of the proposed water right transfer in accordance with RCW 90.03.280. This notice must be published at least once a week for two consecutive weeks in the legal notice section of a newspaper of general circulation in the project area of the county or counties where the application proposes to use, divert, withdraw and/or store water. Ecology must provide the board with a list of newspapers generally acceptable for the publication of public notices. The board should consider publishing an additional public notice in other areas that could be affected by the transfer proposal. The public notice of each individual application for transfer must include the following information~~(; in the following order)~~:

- (a) The applicant's name and city or county of residence;
- (b) The board's assigned water right change application number;
- (c) The water right priority date;
- (d) A description of the water right to be transferred, including the number of any water right document, that embodies the water right such as a permit, certificate or claim filed under chapter 90.14 RCW, the location of the point of diversion or withdrawal; the place of use; the purpose(s) of use; the period of use; if for irrigation purposes, the total acres irrigated; and the instantaneous rate and annual quantities as stated on the water right document;
- (e) A description of the proposed transfer(s) to be made, including, when applicable, the proposed location of point(s) of diversion or withdrawal; the proposed place(s) of use; the

proposed purpose(s) of use; if for irrigation purposes, the total number of acres to be irrigated; and the instantaneous rate and annual quantities of water associated with the proposed water right transfer including the description of a transfer that includes only a portion of a water right;

(f) The manner and time limit for filing protests with ecology under RCW 90.03.470 and WAC 508-12-170; and

(g) The manner for providing written and oral comments or other information to the board, including the board's mailing address and the place, date, and time of any public meeting or hearing scheduled to consider, discuss, or decide the application.

(2) The board may require the applicant to review and confirm the information in the public notice prior to publication. If the board does so, the applicant assumes responsibility for any errors contained in the description of the application published in the public notice.

How does the board verify that proper public notice of the application was made?

(3) The board must send a copy of the public notice to the ecology designated regional ~~((office))~~ representative at the same time the public notice is submitted for publication.

(4) Before ~~((acting))~~ issuing a decision on an application, the board must first receive a notarized affidavit of publication from each newspaper in which the public notice regarding the application was published, and the board must verify that publication occurred correctly. The board must also allow at least thirty days following the last date of publication of the notice, to allow for protests or objections to be filed with ecology before the board issues a record of decision.

How are errors or omissions in the public notice corrected? When does a public notice need to be republished?

(5) The public notice must be republished in all newspapers of original publication when an applicant substantively amends an application for a transfer of a water right subsequent to publication of the notice, or when the publication contains a substantive error or omission occurs in the publication. All parties who were sent the original application as required by WAC 173-153-070(22) and/or the original public notice ((as required by WAC 173-153-070(20))) must be sent corrected copies of any amended transfer application ~~((if necessary to keep ecology and all interested parties accurately informed))~~ and/or an amended public notice. For the purposes of this subsection, the term "substantive error ~~((# publication))~~ or omission" for publication purposes, refers to ~~((, but is not limited to,))~~ any item identified in subsection (1) of this section that is omitted from or inadequately characterized in the public notice. An application is considered substantively amended if it expands the intent of the original proposal or results in a substantial change, such as an alteration to the proposed point of diversion or withdrawal, proposed purpose(s) of use, or to the proposed place of use.

AMENDATORY SECTION (Amending Order 01-13, filed 12/9/02, effective 1/9/03)

WAC 173-153-090 How can protests and letters of concern or support on a water right transfer application be submitted to a board?

Where is a protest submitted regarding a water right transfer application before a board?

(1) A protest against granting a proposed water right change or transfer, as identified in RCW 90.03.470(12), must be received by ecology, with the statutory ~~((two-dollar))~~ protest fee, within thirty days of the last date of publication of the public notice.

(2) Ecology shall provide a copy of the protest to the appropriate board within five days of receipt of the protest.

(3) In accordance with WAC 508-12-170 and 508-12-220, a board will thoroughly investigate all pertinent protests of a transfer application before the board.

(4) Ecology shall consider all pertinent protests during its review of the board's record of decision on the application.

(5) Persons inquiring of the board or ecology regarding protest procedures shall be directed to file the protest with ecology.

(6) A board must immediately forward to ecology any protests it receives including the ~~((two-dollar))~~ statutory protest fee.

What is included in a valid protest?

(7) A protest must include:

(a) The name, address and phone number (if any) of the protesting party;

(b) Clear identification of the transfer application being protested; and

(c) A statement identifying the basis for the protest.

(d) The statutory ~~((two-dollar))~~ protest fee.

What is the difference between a protest and a letter of concern or support?

(8) Any protest received more than thirty days after the last date of publication of the public notice, or without the required fee, will be filed as a letter of concern.

(9) A letter of support is any comment addressing the benefit of the project proposed in an application.

(10) A party who provides a letter of concern or support regarding an application to a water conservancy board is not considered to be a protesting party unless the party has also filed a valid protest with ecology in compliance with this section.

Will a protest or letter of concern be considered?

(11) Boards must accept and consider any oral or written comments or protests in evaluating an application, in accordance with chapter 90.80 RCW, this chapter, and board bylaws.

AMENDATORY SECTION (Amending Order 01-13, filed 12/9/02, effective 1/9/03)

WAC 173-153-130 How are records of decision and reports of examination made by a water conservancy board? (1) Records of decision and reports of examination are adopted by a majority vote of a board, pursuant to RCW 90.80.070(4). A board's record of decision and report of examination must be in writing, and the record of decision and report of examination become part of the public record.

(2) When a board proposes to deny an application, in whole or in part, the board must issue to both the applicant and ecology a record of decision and report of examination

denying the transfer, or a portion of the transfer, subject to review and final determination by ecology.

(3) When a board proposes to approve an application, the board must issue to both the applicant and ecology a record of decision and a report of examination approving the transfer, subject to review and final approval by ecology.

What is included in a record of decision?

(4) The record of decision must be prepared on a form provided by ecology and identified as the Record of Decision, form number 040-105, and must include the conclusion of the board as to whether the application is denied or approved and a record of the individual vote or abstention of each participating commissioner or that a commissioner has recused him or herself.

What is included in a report of examination?

(5) It is the responsibility of the water conservancy board to ensure that all relevant issues identified during its evaluation of the application, or which are raised by any commenting party during the board's evaluation process, are thoroughly evaluated and discussed in the board's deliberations. These discussions must be fully documented in the report of examination.

(6) The report of examination will consist of a form provided by ecology and identified as Water Conservancy Board Report of Examination, form number 040-106, documenting and summarizing the basic facts associated with the decision. This shall include:

(a) Within a section entitled "background":

(i) A description of the water right proposed for transfer, including the board-assigned water right change application number, and the board's tentative determination as to the validity and quantification of the right, as well as the historical water use information that was considered by the board;

(ii) An explanation of how the board complied with the State Environmental Policy Act; and

(iii) A description of any previous change decisions associated with the water right.

(b) Within a section entitled "comments and protests": A description of any protests, and written or oral comments, including:

(i) The names and addresses of the protestors or commenters;

(ii) A description of the issues raised; and

(iii) The board's analysis regarding each issue raised.

(c) Within a section entitled "investigation":

(i) A description of the project proposed by the applicant, including any issues related to development, such as the applicant's proposed development schedule and an analysis of the effect of the proposed transfer on other water rights, pending applications for changes or transfers, and instream flows established under state law;

(ii) A narrative description of any other water rights or other water uses associated with both the current and proposed place of use and an explanation of how those other rights or uses will be exercised in conjunction with the right proposed to be transferred;

(iii) If the proposed transfer is authorized under RCW 90.44.100, an analysis of the transfer as to whether it is detrimental to the public interest, including impacts on any watershed planning activity. Public interest shall not be considered

if the proposed transfer is authorized pursuant to RCW 90.03.380 exclusively;

(iv) Any information indicating that an existing water right or portion of a water right has been relinquished or abandoned due to nonuse and the basis for the determination;

(v) A description of the results of any geologic, hydrogeologic, or other scientific investigations that were considered by the board and how this information contributed to the board's conclusions;

(d) Within a section entitled "conclusions": A list of conclusions that the board drew from the information compiled regarding the transfer proposal. Conclusions must, at a minimum, describe:

(i) Whether, and to what extent, a valid water right exists;

(ii) Any relinquishment or abandonment of the water right associated with the water right transfer application as discussed in subsection (6)(d)(i) of this section;

(iii) The result, as adopted by the board, of any hydraulic analysis done related to the proposed water right transfer;

(iv) The board's conclusions of issues raised by any comments and protests received;

(v) Whether the transfer proposal will impair existing rights of others; and

(vi) If the proposed transfer is authorized pursuant to RCW 90.44.100, whether it is detrimental to the public interest. Public interest shall not be considered if the proposed transfer is authorized pursuant to RCW 90.03.380 exclusively;

(e) Within a section entitled "decision": A complete description of the board's decision, fully and comprehensively addressing the entire application proposal;

(f) Within a section entitled "provisions":

(i) Any conditions and limitations recommended as part of an approved transfer, and/or any other corrective action necessary to maintain the water use in compliance with state laws and regulations;

(ii) Any requirement to mitigate adverse effects of the project. Mitigation may be proposed by the applicant or the board and be required in the board's decision; and

(iii) A schedule for development and completion of the water right transfer, if approved in part or in whole, that includes a definite date for completion of the transfer and application of the water to an authorized beneficial use.

(7) Ecology may request additional information from the ((applicant or)) water conservancy board regarding the application and the board's decision, in addition to the requirements of subsection (6) of this section.

(8) A board's record of decision must clearly state that the applicant is not permitted to proceed to act on the proposal until ecology makes a final decision affirming, in whole or in part, the board's recommendation. However, if ecology does not act on a board's recommendation within the time frame established in RCW 90.80.080, the applicant is allowed to initiate the water right transfer pursuant to the board's record of decision after that period of time has expired. It is advised that the applicant not proceed until the appeal period of ecology's decision is complete, in compliance with WAC 173-153-180.

AMENDATORY SECTION (Amending Order 01-13, filed 12/9/02, effective 1/9/03)

WAC 173-153-140 What is the process for notifying parties of a record of decision and report of examination?

Who is notified of a board's record of decision and report of examination?

(1) Ecology shall identify to all boards the ecology designated regional (~~(office designated)~~) representative for receipt of each board's records of decision. Boards shall hand deliver or send by mail records of decision and reports of examination to:

- (a) The applicant;
- (b) The ecology regional office;
- (c) Any person who protested the transfer;
- (d) Any person who requested notice of the board's record of decision;
- (e) Any tribe with reservation or trust lands contiguous with or wholly or partly within the area of jurisdiction of the board; and
- (f) Any commenting agency or tribe.

How is the record of decision and report of examination transmitted?

(2) Within (~~(five)~~) fifteen business days of a board's decision, the board shall simultaneously mail a copy of the record of decision and the report of examination to all parties identified in subsection (1) of this section. A paper copy of the following shall simultaneously be mailed or delivered to the ecology designated regional representative:

- (a) The record of decision;
- (b) The report of examination;
- (c) The application;
- (d) Public notices; and
- (e) Attachments to the application.

The board shall state to the parties receiving the record of decision and report of examination that it has been simultaneously sent to ecology. Whenever boards have the capacity to do so, they must transmit a signed electronic copy of the record of decision and report of examination to the ecology regional office on the same day that copies of the decision are mailed or hand-delivered.

(3) As stated in WAC 173-153-130, boards must fully document their process of arriving at a record of decision regarding water right transfer applications. Once the board has concluded its work on a water right transfer application, the board must submit to ecology, within fourteen days after the completion of ecology's review period, any remaining original documents not previously submitted to ecology in accordance with subsection (2) of this section, and any documents received or developed by the board related to its deliberations regarding the application upon which it has made a decision. All documents submitted shall be clearly marked with the board-assigned water right change application number on the water right transfer application pursuant to WAC 173-153-070(7). As noted, the original versions of these documents must be provided to ecology; copies are not acceptable for submission. These documents must be sent to the ecology regional office designated by ecology. The board may retain a copy of all of the above-mentioned documents. After the board completes its business on a water right transfer application, and upon submission to ecology of all records

related to the application file, ecology shall be responsible for public records requests related to that file.

(4) Any comments received by a board regarding its record of decision within thirty days after ecology's final decision must be forwarded to ecology within five business days of the board's receipt of such comments by the board. For the purposes of this subsection, the term "receipt" refers to the act of a board commissioner or designated administrative support person for the board picking up the board's mail. These comments must be submitted by the board to the ecology regional office.

AMENDATORY SECTION (Amending Order 01-13, filed 12/9/02, effective 1/9/03)

WAC 173-153-150 What is ecology's review process of a board's record of decision?

(1) Upon receipt of a record of decision and report of examination, ecology shall document and acknowledge the date of receipt of such documents in writing to the issuing board. Ecology will post on its internet site, generally within five business days, the record of decision, documenting the vote and signature of all board commissioners who participated in the decision, and the report of examination. For boards with the capacity to send signed documents electronically, ecology will post the record of decision and the report of examination generally within three business days of receiving the electronic version. The posted document will be referenced by both the board-assigned application number and by the ecology-assigned application number.

How does ecology review the record of decision?

(2) Ecology will review all records of decisions made by water conservancy boards. Upon receipt of a record of decision made by a board, ecology will review:

- (a) The record of decision for compliance with state water laws and regulations;
- (b) The record developed by the board in processing the application; and
- (c) Any other relevant information.

(3) In reviewing a board's decision, ecology may consider any letters of concern or support received within thirty days of the date ecology receives the board's record of decision.

(4) Ecology will not evaluate the internal operations of a board as it reviews a board's record of decision. Exceptions are to the extent that such review is necessary to determine whether the board's decision was in compliance with state laws and regulations concerning water right transfers, including possible cases of a conflict of interest as identified in RCW 90.80.120.

What are ecology's potential review responses and how are the responses made?

(5)(a) Ecology may affirm, reverse, or modify the records of decision (~~(made)~~) based upon the report of examination issued by boards.

(b) If ecology determines that a board's submitted decision was not adopted in accordance with WAC 173-153-130(1), which addresses the adoption of a decision by the board; WAC 173-153-050 (1) and (6), which address training requirements of board commissioners; RCW 90.80.070 (4)

through (8), which address the minimum number of commissioners required to adopt a decision on an application and the requirements for an alternate commissioner to participate in the decision; or, RCW 90.80.055, which addresses additional board powers, the submitted record of decision, report of examination, and supporting documents shall be returned to the board without action. Ecology's forty-five-day review period shall not begin until the board has satisfied all requirements in the adoption of a record of decision listed in this subsection and resubmitted the decision in accordance with WAC 173-153-140.

(c) Ecology's decision will be made in the form of a written administrative order and must be issued within forty-five days of receipt of the board's record of decision by the ecology regional office, except that the forty-five-day time period may be extended an additional thirty days by ecology's director, or his or her designee, or at the request of the board or applicant in accordance with RCW 90.80.080. If ecology does not act on the record of decision within the forty-five-day time period, or within the extension period, the board's record of decision becomes final.

(6) Ecology may issue an order affirming a board's decision. If ecology modifies the record of decision made by a board, ecology shall issue and send to the applicant and the board an order containing its modification of the record of decision. The order shall specify which part(s) of the record of decision ecology has modified. If ecology reverses the record of decision by the board, ecology shall send the applicant and the board an order reversing the record of decision with a detailed explanation of the reasons for the reversal.

Under what conditions may ecology remand a record of decision to a board?

(7) Ecology may consider conflict of interest issues during its final review of a board's record of decision. In accordance with chapter 90.80 RCW, if ecology determines that a commissioner should have been disqualified from participating in a decision on a particular application under review, the director, or his or her designee, must remand the record of decision to the board for reconsideration and resubmission of the record of decision. Upon ecology's remand, the disqualified commissioner shall not participate in any further board review of that particular application.

(8) Ecology's decision on whether to remand a record of decision under this section may only be appealed at the same time and in the same manner as an appeal of ecology's decision to affirm, modify, or reverse the record of decision after remand.

Can a board withdraw its record of decision from ecology?

(9) If ecology has not yet formally acted on a record of decision by a board, a board may withdraw the record of decision during the period allowed for ecology's review. If a board withdraws a record of decision, ecology shall remove the record of decision from its internet site and post a notice that the decision has been withdrawn. All of the associated documents submitted to ecology by the board with the record of decision will be returned to the board. A board may withdraw the record of decision under the following conditions:

(a) The board must follow chapter 42.30 RCW, the Open Public Meetings Act, in making a decision to withdraw the record of decision; ~~((and))~~

(b) The decision to withdraw the record of decision must be adopted by a majority of the quorum of the board; and

(c) The board must send a notice of withdrawal of a record of decision to ecology on a form provided by ecology and identified as Decision to Withdraw a Record of Decision, form number 040-107.

Who is notified of ecology's order relating to a record of decision?

(10) Ecology will send its order to all parties on the same day. The order must be sent by mail, within five business days of ecology reaching its decision, to:

- (a) The board;
- (b) The applicant;
- (c) Any person who protested;
- (d) Persons who requested notice of ecology's decision;
- (e) The Washington department of fish and wildlife;
- (f) Any affected Indian tribe; and
- (g) Any affected agency.

What is the process should ecology fail to act on a record of decision?

(11) Except as specified in subsection (5) of this section, if ecology fails to act within the specified time after receipt of the board's record of decision, the board's record of decision becomes the final order of ecology. If a board concludes that the time allowed for ecology to issue its order has lapsed, the board shall notify ecology, the applicant, any protestors, and any parties that have expressed interest to the board about the application that the time period has lapsed. If ecology agrees that the review period has lapsed, ecology will send an order to the board, and all entities listed in subsection (10) of this section, stating that the record of decision is final. If ecology disagrees with the board's conclusion, ecology shall work with the board to establish the beginning date of the review period based upon the date of receipt of the record of decision and report of examination by the ecology regional office.

WSR 06-18-103

PERMANENT RULES

SECRETARY OF STATE

(Elections Division)

[Filed September 6, 2006, 10:23 a.m., effective October 7, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To allow election administrators to complete their two years of required service within a three-year period for purposes of certification.

Citation of Existing Rules Affected by this Order: Amending WAC 434-260-220.

Statutory Authority for Adoption: RCW 29A.04.611.

Adopted under notice filed as WSR 06-14-045 on June 28, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or

Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 5, 2006.

Steve Excell

Assistant Secretary of State

AMENDATORY SECTION (Amending WSR 01-11-111, filed 5/21/01, effective 6/21/01)

WAC 434-260-220 Certification of election administrators. Election administrators shall become certified upon completion of the following:

(1) Completion of the secretary of state's mandatory orientation course;

(2) Two years(~~continuous~~) of service (~~as an election administrator~~) during the three-year period immediately prior to the (~~date of a~~) request for initial certification;

(3) Taking and passing the open book written test described in WAC 434-260-260;

(4) A minimum of forty hours participation in conferences and workshops involving elections related subjects or subjects approved by the election administration and certification board and sponsored by:

- (a) Washington Association of County Auditors;
- (b) Secretary of state;
- (c) The Elections Center;
- (d) Visiting other county election departments for training and/or orientation purposes (maximum four hours);
- (e) The Federal Election Commission;
- (f) Other national associations related to elections or government administration, approved by the Election Administration and Certification Board; or
- (g) Other conferences or courses approved by the Election Administration and Certification Board.

Such training shall be received not more than five years prior to the date of a request for initial certification and shall include at least thirty hours of election-specific training.

(5) A high school diploma or its equivalent.

WSR 06-18-105

PERMANENT RULES

SUPERINTENDENT OF PUBLIC INSTRUCTION

[Filed September 6, 2006, 11:38 a.m., effective October 7, 2006]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The purpose is to revise chapter 392-170 WAC, Special services programs for highly capable students. Rules need to be clarified and added according to RCW 28A.185.050. There are no substantial changes overall. Changes reflect RCW requirements to add a program evaluation and monitoring.

Citation of Existing Rules Affected by this Order: Amending chapter 392-170 WAC.

Statutory Authority for Adoption: RCW 28A.300.070.

Adopted under notice filed as WSR 06-14-028 on June 27, 2006.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 2, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 6, 2006.

Dr. Terry Bergeson

Superintendent of
Public Instruction

AMENDATORY SECTION (Amending Order 84-20, filed 6/28/84)

WAC 392-170-030 Substance of annual school district application. The school district's annual application shall contain the following:

- (1) Number of students to be served by grade level;
- (2) Brief description of plan to identify students;
- (3) Program (~~goals~~) services;
- (4) Instructional program description; (~~and~~)
- (5) Professional development;
- (6) Program evaluation and fiscal report; and
- (7) Assurances signed by the school district's authorized representative that the district shall comply with all applicable statutes and regulations.

AMENDATORY SECTION (Amending Order 98-07, filed 5/20/98, effective 6/20/98)

WAC 392-170-078 Program services. Education program (~~services~~) plans for each identified highly capable student or plans for a group of students with similar academic abilities shall be developed based on the results of the assessed academic need of that student or group of students. A variety of appropriate program services shall be made available. Once services are started, a continuum of services shall be provided and may include kindergarten through twelfth grade.

NEW SECTION**WAC 392-170-087 Program review and monitoring.**

In order to ensure that school districts are meeting the requirements of this chapter, the superintendent of public instruction shall monitor district programs no less than once every five years. Monitoring under this section may be conducted concurrently with other program reviews. The reviews shall monitor program components including:

- (1) The process used by the district to identify highly capable students;
- (2) Assessment data and other indicators to determine the degree to which districts are meeting the academic needs of identified students; and
- (3) Highly capable program expenditures.