



November 2001  
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# Property Tax Review

## ...A Few Thoughts

By Sandra Guilfoil, Assistant Director

One thing is certain, we have not lacked for 'news' to put in our newsletter! We have reported on any number of noteworthy property tax administration issues. We have reported moves and earthquakes, the addition of new staff, and the loss of old friends from our work group. We have seen Initiatives come in and go away.

This month is no exception. We have a new Initiative! Along with the September 11<sup>th</sup> tragedy, related events and an already hesitant economy, we are facing changes and challenges that exceed anything we could have predicted two years ago. These changes will not only affect each of us in very personal ways but in our roles as property tax administrators.

The coming years will require the most we can offer in energy, creativity, and commitment. None of the existing problems or challenges have gone away. We must continue to prioritize statewide uniformity and understandability of assessments and levy implementation. We must provide a level of service that promotes public confidence in this complex tax. These demands have not gone away.

All this must be done, of course, under the new financial and funding challenges that will result from the limitations of Initiative 747 and the poor economic outlook for the coming year.

I have confidence that the Department of Revenue's personnel are prepared and motivated to take on these challenges. We will continue to develop and promote tax simplification ideas, assist counties in assessing their strengths and weaknesses to help them administer property taxes as efficiently as possible, and provide our support in whatever ways we can when adequate funding is needed. We will provide affordable training and guidance in many and diverse ways and be a facilitator in addressing issues that cross affiliate or interest group boundaries.

We have long-term plans and lots of day-to-day issues. We will do our best to continue to serve all your needs and answer your questions. The contact list of key employees here at DOR is, again, included at the end of this newsletter. These people are good at what they do. Use them wisely as sources of knowledge and guidance. Then take what you learn and share that information with others in your offices. Distribute the newsletter or remember that it is available on the Internet.

Finally, despite all the sadness and uncertainty, we all have much to be thankful for. Enjoy your holiday weekend and those people around you that give you joy. ♦



## This Quarter's Reminders

### November 15

Last day for city and other taxing district budgets to be filed with clerks of Board of County Commissioners. ([RCW 84.52.020](#))

### November 30

Last day for Boards of Commissioners to certify to county assessors amount of taxes levied upon property in county for county purposes, and the respective amount of taxes levied by the board of each taxing district. ([RCW 84.52.070](#)) Also, governing body of each taxing district authorized to levy taxes directly shall certify to county assessor amount of taxes levied for district purposes. ([RCW 84.52.070](#))

### December 1

An additional penalty of 8 percent shall be assessed on current year's taxes delinquent on December 1. ([RCW 84.56.020](#))

### December 3 (First Monday)

Board of County Commissioners may meet to hold budget hearing provided for in [RCW 36.40.070](#). ([RCW 36.40.071](#))

### December 31

Last day to file application for designation of forest land or assessment roll. ([RCW 84.52.070](#)) Also, last day to apply for 2002 open space land, farmland, agricultural land, or timber assessment. ([RCW 84.52.070](#))

Cont page 3

## Distribution of Additional Tax, Compensating Tax, Interest, and Penalty

*By Peri Maxey, Technical Programs Manager*

Several questions have been brought to us on the proper distribution and allocation of additional tax, compensation tax, interest, and penalty in certain circumstances.

### Personal Property

If a taxpayer fails or refuses to file a personal property listing affidavit by the due date, the assessor must add a penalty to the tax of 5 percent to a maximum of 25 percent of the tax unless the failure to file was due to a reasonable cause. When collected, these penalty monies are distributed to the taxing districts. Keep in mind that, in the case of the state levy, the dollars associated with the penalty do not reduce the outstanding balance of the certified levy. The penalty is a windfall to the taxing districts.

If a taxpayer willfully gives a false or fraudulent list or fails or refuses to provide the list with the intent to defraud, the taxpayer is liable for the personal property tax plus a 100 percent penalty. This penalty is in lieu of the 5-25 percent penalty listed above. When collected, this penalty is distributed to the county current expense fund.

### Current Use Additional Tax, Interest, and Penalty

The additional tax associated with a withdrawal or removal of land from the Current Use Program is distributed to the taxing districts in the same manner as taxes applicable to the land are distributed. The interest and penalty are

distributed to the county's current expense fund.

### Designated Forest Land

Compensating tax due when land is removed from Designated Forest Land is distributed to the taxing districts in the same manner as taxes applicable to the land are distributed. ♦

## Keep A Look Out For Upcoming New Rule For Designated Forest Land

*By Pete Levine, Current Use Specialist*

The Department will soon distribute a new, draft, rule for the Designated Forest Land (DFL) program, under chapter 84.33 RCW. The rule has been drafted with those in mind who administer the program, by providing guidance in areas that include: procedures for sales or transfers of DFL; removal of DFL from the program; and administration of compensating tax. The new rule will also incorporate some of the changes resulting from the 2001 Legislature. ♦

**It takes less time to do something right than to explain why it was done wrong.**

*- Henry Wadsworth Longfellow (1807-1882)*



# Improvement to the Farm and Agricultural Interest Rate

By Pete Levine, Current Use Specialist

Annually, the Department updates by rule in WAC 458-30-262, the rate of interest and the property tax component used in the valuation process of classified farm and agricultural land in the Current Use Program under chapter 84.34 RCW. The two components comprise the rate used to capitalize the earning productive capacity when valuing those lands at their current use.

RCW 84.34.065 defines “the rate of interest” to be interest charged on long term loans secured by a mortgage on farm and agricultural land, averaged over the immediate past five years. Historically, the Department has determined the rate of interest by surveying large financial institutions which make mortgages on farm land, sometimes surveying up to 20 lenders per year. While the method generally produces reliable results, it is less effective when significant fluctuations in interest rates occur during the year, as has been the case for 2001. As a result, the Department selected a different method for 2001 in order to establish a more reliable rate of interest to be included in the five-year average for the 2002 assessment year.



This method uses an interest rate component associated with the rate of interest charged by the Farm Credit Administration [provided for in RCW 84.34.065(2)], by using the Federal Agricultural Mortgage Corporation’s (FAMC) Cost of Funds Index(CFI), published four times per year. The average rate for the year results in an initial, wholesale-like, rate. That rate is combined with a factor developed from previous mortgage surveys, to arrive at a retail rate (or market rate), producing a rate indicative of the rate of interest charged on long term mortgages secured by farm and agricultural lands.

By utilizing this method for 2001, and subsequent years, a more consistent approach to arriving at a reliable rate of interest will be obtained for use in valuing farm and agricultural lands under 84.34 RCW. If you have any questions related to this matter, please feel free to contact Pete Levine, Current Use Specialist, by phone at (360) 570-5865. ♦

# Does a Caretaker’s Residence Qualify on Designated Forest Land?

By Pete Levine, Current Use Specialist

A question recently answered by the Department had been put forward in light of the passage of Substitute Senate Bill (SSB) 5702. The question pertained to incidental usage versus residential usage on land designated as forest land – *Designated Forest Land* (DFL) – under chapter 84.33 RCW.

*Question:* Because incidental use is now defined in statute, and the definition of forest land is more specifically defined to not include a residential homesite, does a residential

## This Quarter’s Reminders

*Continued from page 2*

### December 31 (On or Before)

Department of Revenue sets stumpage values for January through June, 2002. ([RCW 84.33.091](#)) Senior citizen and disabled persons property tax exemption claims filed with assessor. ([RCW 84.36.385](#)) Interest rate applicable to open space values shall have been set by the Department of Revenue. ([RCW 84.34.065](#)) Department of Revenue determines true and fair value of each grade of forest land and certifies values to county assessor. ([RCW 84.33.120](#)) ♦

structure located on DFL and used as a property caretaker’s residence qualify as an allowable incidental use, if used as part of the management of the property?

*Answer:* The Legislature established a program creating a special system of taxation for property qualifying for treatment as forest land under the provisions of chapter 84.33 RCW. Forest land means a parcel of land that is 20 acres or more primarily devoted to and used for growing and harvesting of timber, and it means the land only. Since the inception of the forest land program, the land under a residential homesite has never been authorized to be classified or designated as forest land. The Department has received inquiries on this in the past, and the answer has always been the same – land under a residential homesite may not be included within the forest land program.

An appellate court ruled in 1983, in *Ancich vs. Turner* (35 Wn. App. 487, 667 P.2d 1112, 1983) on an issue that involved a 20-acre parcel of forest land where the owner built a cabin from trees

taken from the land. The court noted that the cabin permitted the owner to better tend to the forest and that the cabin did not alter the character of the land. Implicit in the decision was the element that the cabin was not permanently occupied, as the facts of the case noted the cabin was not serviced by public sewer, telephone, electricity, or water supply. The court noted that the “the dwelling is incidental to the Anciches’ primary use of their property – growing and harvesting timber.”

The most recent changes to the statute brought on by SSB 5702 did not substantively change the forest land program; in fact, the changes were made to strengthen and maintain its original intent as well as streamline the administration of lands categorized as forest land. The added language to not include a residential homesite as forest land is merely a clarification, as

an improvement is not likely to be serviced by utilities?

Second, does the use of the caretaker’s residence meet the definition of incidental use now defined by SSB 5702? Where, “incidental use” is defined to mean the “...use of designated forest land that is compatible with its purpose for growing and harvesting timber. An incidental use may include a gravel pit, a shed or land used to store machinery or equipment used in conjunction with the timber enterprise, and any other use that does not interfere with or indicate that the forest land is no longer primarily being used to grow and harvest timber.” [Emphasis added.]

Because of the two-fold consideration involved with answering the question, an allowable use of a caretaker’s residence may *or* may not qualify. If questionable parcels exist where

potential caretaker’s residences are located on DFL, then each parcel needs to be addressed and examined on a case-by-case basis. At that point, the assessor needs to determine whether the use falls within

either the intention of Ancich vs. Turner or the definition of “incidental use” as evidenced by being compatible with the purpose of the land.

Although not a precise answer to the question, the statute is clear – as it was prior to SSB 5702 –forest land means the land only, and a residential homesite is not permitted. Therefore, if determined that a caretaker’s residence

does not qualify because it is residential usage (or some other usage), then the area attributable to the residence or homesite needs to be removed from the designated forest land status. ♦

## From the Education Archives

*By Pete Levine, Education Specialist*

*Longview Daily News, Monday, October 5, 1959. “State Course On Real Estate Values Opened”*

*Registration for a County Property Appraisal Course offered by the Washington State Assessors’ Assn. And the State Tax Commission at the Hotel Monticello totaled 125 this morning.*

*The course, first of its kind offered in the state, was presented in Spokane last week for assessors and appraisers east of the Cascades. The program in Longview, for assessors and appraisers in the state west of the mountains, will conclude on Wednesday.*

*Those who successfully pass the course will receive a diploma following an examination Wednesday.*

*Course study will include lectures on basic principles of real estate values, the appraisal process, statutory bases (full value, market value), depreciation theory, land urban cost, and case studies.*

*Lecturers will include William Schneider, secretary of the state tax commission, and Clayton Sandstrom,*



residential usage was never allowed under the law.

With that said, consideration for the possible allowable use of a caretaker’s residence is twofold. First, does the use of a caretaker’s residence meet the outcome of Ancich vs. Turner by not altering the character of the forest land, evidenced by its necessity to better tend the land, coupled with the fact that such

**Look at how far you've come, not how far you have left to go.**  
*- unknown*

president of the state assessor's association.

Clark Squire, state tax commissioner, said the meeting is designed to bring the assessors of the state together to discuss common problems and seek solutions for them.

Squire said that special attention is given to the study uniform full, market values.

Incidentally, expenses for attending the conference included single rooms at the Hotel Monticello for \$3.50 per night without a bath, or \$4.50 per night with a bath. Breakfast, lunch and dinner could be purchased for \$1.00, \$1.25, and \$2.00 respectively. ♦

## Utility Valuation – 2001 Assessment Year

By Steve Yergeau, Utility Valuation Manager

The utility section valued 371 intercounty utility and transportation companies during the 2001 assessment year. Unequalized Washington State utility values rose nearly 8% over the 2000 assessment year to a new total of \$14.772 billion. The final values certified to each county are affected by the combination of the companies operating in each county, the final

actual cash value of those operating companies, and the county's real and personal property ratios. The table below illustrates the actual (or unequalized) statewide values of intercounty utility companies from the 2000 to the 2001 assessment years:

Table (dollars in millions)			
	2001	2000	Change
Actual Value	\$14,772	\$13,690	\$1.082 7.9%
Number of Companies	371	348	25 6.6%

This year's increases are mostly attributable to growth in the telecommunications and electric industries. ♦

## Property Tax Case Review

By Cameron G. Comfort, Assistant Attorney General, Revenue Division

Recently, the courts and the State Board of Tax Appeals have issued several decisions impacting property taxation in Washington State. Discussed below are two of the recent decisions addressing property tax issues.

\* \* \* \* \*

### (1) *Samas Land Co. v. City of Soap Lake*, 143 Wn.2d 798, 23 P.3d 477 (2001)

In a 7-1 decision, the Supreme Court struck down a standby charge imposed

by Soap Lake, Washington, on vacant unimproved lots that abutted, but were not connected to, city water and sewer lines. According to the Supreme Court, the standby charge was an unconstitutional property tax rather than a permissible regulatory fee.

The test for determining whether an exaction is a property tax versus a fee or an excise tax, as articulated by the Supreme Court, is as follows:

First, one must consider whether the primary purpose of the legislation in question is to "regulate" the fee payers or to collect revenue to finance broad-based public improvements that cost money. Second, one must determine whether or not the money collected from the fees is segregated and allocated exclusively to "regulating the entity or activity being assessed." Third, one must ascertain whether a direct relationship exists between the rate charged and either a service received by the fee payers or a burden to which they contribute.

143 Wn.2d at 806 (footnotes omitted).

Applying the first criteria, the Supreme Court said that the standby charge's primary purpose was not regulatory because the municipal ordinance imposing the charge made no attempt to regulate the use of water or sewer services. The standby charge did not satisfy the second criteria of the test because the money collected was not segregated and allocated only for the authorized regulatory purpose. As for the third criteria, the court said that there was no direct relationship between the fee charged and either the services received by fee payers or the burdens to which the fee payers contribute. Accordingly, the court concluded the standby charge was a tax rather than a

## Congratulations

Mary Geddes, Whatcom County Appraiser, has successfully completed the University of British Columbia's Certificate Program in Real Property Assessment, an intensive two-year course in computer-assisted modeling techniques for mass appraisal. Mary has been a Residential Appraiser for Whatcom County since 1991. ♦

regulatory fee. Next, since the standby charge imposed an avoidable demand on the ownership of property itself, the court concluded that was a property tax. Finally, because the standby charge was not assessed uniformly, the court held it violated the state constitution's uniformity clause.

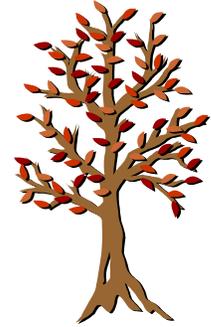
**(2) Boeing Co. v. Gelman, Dkt. Nos. 96-75 to 96-79, 2001 WL 718088 (Bd. Tax App. 2001)**

This appeal involved the fair market value as of January 1, 1996, of Boeing's newly constructed state-of-the-art aircraft wing and 777 empennage manufacturing facility at Frederickson. The assessor originally valued the facility using a variant of the reproduction cost new (RCN) approach known as the "Trended Investment Technique." She started with the original costs of constructing the buildings and acquiring and installing the machinery and equipment (M&E) as reported by Boeing, to which she added sales tax and an upward adjustment of six percent for unreported "soft costs." She then trended these costs to the valuation date in order to estimate reproduction cost new, and depreciated the costs to reflect the age and condition

of the property. The total value determined by the assessor was \$615,298,837.

Boeing appealed to the Pierce County Board of Equalization, which transferred the matter to the BTA. Both parties agreed that use of the "reproduction new less depreciation" cost approach was proper. Boeing, however, argued that the assessor erred in employing the Trended Investment Technique to estimate reproduction cost new of the buildings and improvements. In addition, although Boeing did not dispute the employment of the Trended Investment Technique to estimate the value of the M&E, the company contended that the assessor should not have included a sales tax adjustment, that she erred in applying the 6 percent "soft costs" adjustment, and she double counted some investments. Boeing also contended the assessor should not have applied a 7.5 percent depreciation rate to the acquisition cost new of the M&E. However, as explained by the BTA, by the time the matter went to hearing there was "no longer any dispute that the Assessor's sales tax adjustment is in error insofar as it is applied to the cost of purchasing and installing the manufacturing M&E. (See RCW

82.08.0165; Weyerhaeuser v. Ryan, BTA Docket No. 50381 [1997]). Sales tax should not be included in the original cost basis of the facility."



Regarding the use of the Trended Investment Technique, the BTA concluded that it is a proper method to value the subject property and that Boeing did not show that the Assessor abused her discretion in selecting that method to value the subject property. The BTA further concluded, however, that Boeing proved by clear, cogent, and convincing evidence that the assessor erred in application of the Trended Investment Technique by adopting an incorrect depreciation rate for the M&E, by including the 6 percent "soft costs" escalator, and by double counting some investments.

Regarding the "soft costs" escalator, the BTA found that although "soft costs" should be considered for inclusion in the reproduction cost new estimate, "such costs must be reasonably certain, identifiable, and attributable to the specific property being valued in order to be included[.]" The BTA held, however, that the assessor erred because she had based her conclusion on a generalized conclusion, rather than identifying any actual costs attributable to specific properties expensed in accordance with Generally Accepted Accounting Principles (GAAP).

Regarding the depreciation rate issue, the BTA held that "[i]t is highly probable that the Assessor overvalued the [ ] M&E by applying a depreciation schedule which assumes a 32-year life. Boeing urged the BTA to apply a depreciation schedule based on a 12-year economic life. The BTA declined,

## County Progress

*By Shawn Kyes, Revaluation Specialist*

The Department would like to recognize the following county assessment offices:

**Chelan, Ferry, Garfield, Kittitas, Lincoln, Pend Oreille, Pierce, Skamania, Wahkiakum, and Walla Walla**

These counties have been timely in closing assessment rolls and certifying values to their Boards of Equalization and the Department for each of the last three years. Item of note: Garfield and Wahkiakum both did their own sales reports for the ratio study for the first time this year and were two of the first counties in the state to provide the reports, and both had a high degree of accuracy for a first-time endeavor. We applaud your efforts in providing timely assessments to your public, taxing districts, and your friendly DOR! ♦



finding that the schedule urged by Boeing “assumes a 12-year economic life, which is considerably less than Boeing’s own highly persuasive testimonial evidence of a 20-year economic life for the [M&E].” Accordingly, the BTA held that the proper depreciation rate was midway between that allowed by the Assessor (7.5 percent based on a 32-year economic life) and that claimed by Boeing (14 percent based on a 12-year economic life).

Finally, the BTA found Boeing had over-reported certain costs that should have been deducted from the cost approach.

Based on its findings, the BTA concluded that the fair market value of the subject property was \$569,550,245. ♦

## 4<sup>th</sup> Annual Multi-State Personal Property Conference

September 2001, Flagstaff, Arizona

*By Neal R. Cook, Personal Property Specialist, MAI*

There were 17 representatives from seven states in attendance at this year’s Personal Property Conference held in Flagstaff, Arizona. I participated as a co-facilitator and participant on behalf of the Department. The conference

focused on the direction of personal property assessment and ways to share resources among the various states. Standards for valuation studies are being developed so that other states can use and rely on the work of other states when developing valuation guidelines, rules, and during the appeal process. “Best practices” were explored with regard to property discovery and valuation issues. Legislative trends and court cases were also reviewed.

Multi-county and multi-state appeals by one company were also discussed to help clarify the status of appeals, issues, role of the state, and to discover the

**...provisions of I-747 will be in effect for the calculation of 2001 levies for collection in 2002**

most effective approaches to deal with these issues. Networking through e-mail, conferences, etc., are regarded as effective methods of maintaining sound practices and solving common problems.

Methods for improving data collection and procedures for conducting surveys were discussed. Results of e-mail surveys by Association members are to be distributed to all participants in the Association. (There were a number of e-surveys done in the last year, and several were not published/distributed to summarize the results.) Presentations on those surveys were given at the conference for inclusion in the 2001 minutes. Most of the issues and problems of one state are common to others. This year the valuation and discovery of cell towers was a major point of discussion.

If you have questions about the conference contact Neal Cook at (360) 570-5881 or [nealc@dor.wa.gov](mailto:nealc@dor.wa.gov), or to obtain meeting minutes. ♦

## The Effects of I-747

*By Kathy Beith, Levy Specialist*

On November 6, the voters approved Initiative 747. The initiative will become effective once certified by the Secretary of State, which will be no later than December 6. So, the provisions of I-747 will be in effect for the calculation of 2001 levies for collection in 2002.

Initiative 747 changes the limitation on taxing district levy increases. Prior to adoption, taxing districts could increase levies each year by up to 6 percent over their highest lawful levy since 1985 for collection in 1986, depending on the resolutions or ordinances adopted by the taxing district. I-747 changes the maximum increase from 6 percent to 1 percent. No other provisions relating to property tax levies were amended by the initiative.

Since November 6, several counties and taxing districts have called with questions about the provisions of Initiative 747:

### **Question: How is banked levy capacity affected by passage of I-747?**

*Answer:* The initiative does not directly affect a taxing district's ability to accrue or use banked levy capacity. Taxing districts that have accumulated banked capacity, may use that capacity in the current year, or they may choose to use the banked capacity in future years. Levy limits will still be calculated using the highest lawful levy since 1985/1986. By applying the limit factor (1 percent under I-747) to the highest amount a taxing district could have levied (as opposed to what the district actually levied) the taxing district receives the benefit of banked levy capacity.

Taxing districts may also continue to accrue banked levy capacity, although the amount available to bank will be reduced. This is because districts could bank up to 6 percent (the maximum allowable increase) prior to passage of the initiative, but may now only bank up to 1 percent. The amount banked is dependent on the amount actually levied and the resolution/ordinance adopted by the district.

Question: Are taxing districts still required to adopt resolutions or ordinances to increase levies?

Answer: Yes. Taxing districts must adopt resolutions or ordinances in order to increase levies above the previous year levy amount, exclusive of increases

due to new construction and the increased value of state assessed property. Adoption of an ordinance or resolution will allow a taxing district to increase its levy amount by 1 percent over the highest lawful levy since 1985/1986, plus additions for new construction and increased value of state assessed property.

Because the rate of inflation as measured by the change in the Implicit

Price Deflator is greater than the one-percent limit in I-747, all taxing districts will be limited to an increase of 1 percent, regardless of population. So, there will be no need this year for taxing districts with populations above 10,000 to adopt a second resolution.

Question: If taxing districts have already certified budgets or resolutions, do they need to re-certify?

Answer: Assessors must adhere to the provisions of Initiative 747 when calculating levies this year. Even if a taxing district has certified a budget and/or resolution requesting a six-percent increase in its levy, the assessor must calculate the levy using the limitation in I-747 (1 percent above the highest lawful levy). Some taxing districts may want to adopt new resolutions showing the correct dollar and percentage increase in their levies. While there is no specific need for taxing districts to recertify their budgets or resolutions, assessors may want to work with the taxing districts to ensure all parties understand the limitations



**How are we doing?**

We'd love to hear what you think about *The Property Tax Review*, so we have a couple different ways for you to send us your comments, questions and requests:

1. Send us an e-mail at: [davids@dor.wa.gov](mailto:davids@dor.wa.gov)
2. Fill out the form at the right, place it in an envelope and mail it to:

Department of Revenue  
Property Tax Division  
Attn: The Property Tax Review  
PO Box 47471  
Olympia, WA 98504-7471

We hope to hear from you *soon!*

What I like best about the newsletter is: \_\_\_\_\_

What I don't like about the newsletter is: \_\_\_\_\_

I wish you would include an article about: \_\_\_\_\_

I'd like to talk to a DOR representative about \_\_\_\_\_

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Levy Assistance	Kathy Beith	570-5864	<a href="mailto:KATHYB@dor.wa.gov">KATHYB@dor.wa.gov</a>
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Utilities - Certification of Utility Values to Counties - Code Area/Taxing District Boundaries & Maps - Public Utility Assessment - PUD Privilege Tax	Ha Haynes Steve Yergeau " " Chuck Boyce	570-5879 570-5877 " 570-5878	<a href="mailto:HAH@dor.wa.gov">HAH@dor.wa.gov</a> <a href="mailto:STEVEY@dor.wa.gov">STEVEY@dor.wa.gov</a> " <a href="mailto:CHUCKB@dor.wa.gov">CHUCKB@dor.wa.gov</a>