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**BILL REQUEST - CODE REVISER'S OFFICE**

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BILL REQ. #: H-2600.4/01 4th draft

ATTY/TYPIST: KB:seg

BRIEF DESCRIPTION:

2 HB 2247 - H AMD  
3 By Representative

4

5 Strike everything after the enacting clause and insert the  
6 following:

7 "Sec. 1. RCW 80.50.010 and 1996 c 4 s 1 are each amended to read  
8 as follows:

9 The legislature finds that the present and predicted growth in  
10 energy demands in the state of Washington requires the development of  
11 a procedure for the selection and utilization of sites for energy  
12 facilities and the identification of a state position with respect to  
13 each proposed site. The legislature recognizes that the selection of  
14 sites will have a significant impact upon the welfare of the  
15 population, the location and growth of industry and the use of the  
16 natural resources of the state.

17 It is the policy of the state of Washington to recognize the  
18 pressing need for increased energy facilities, and to ensure through  
19 available and reasonable methods, that the location and operation of  
20 such facilities will produce minimal adverse effects on the  
21 environment, ecology of the land and its wildlife, and the ecology of  
22 state waters and their aquatic life.

23 It is the intent to seek courses of action that will balance the  
24 increasing demands for energy facility location and operation in  
25 conjunction with the broad interests of the public. Such action will  
26 be based on these premises:

27 (1) To assure Washington state citizens that, where applicable,  
28 operational safeguards are at least as stringent as the criteria  
29 established by the federal government and are technically sufficient  
30 for their welfare and protection.

31 (2) To preserve and protect the quality of the environment; to  
32 enhance the public's opportunity to enjoy the esthetic and recreational  
33 benefits of the air, water and land resources; to promote air  
34 cleanliness; and to pursue beneficial changes in the environment.

35 (3) To provide abundant energy at reasonable cost.

1 (4) To avoid costs of complete site restoration and demolition of  
2 improvements and infrastructure at unfinished nuclear energy sites, and  
3 to use unfinished nuclear energy facilities for public uses, including  
4 economic development, under the regulatory and management control of  
5 local governments and port districts.

6 (5) To avoid costly duplication in the siting process and ensure  
7 that decisions are made timely and without unnecessary delay.

8 **Sec. 2.** RCW 80.50.060 and 1977 ex.s. c 371 s 5 are each amended to  
9 read as follows:

10 (1) The provisions of this chapter shall apply to the construction  
11 of energy facilities which includes the new construction of energy  
12 facilities and the reconstruction or enlargement of existing energy  
13 facilities where the net increase in physical capacity or dimensions  
14 resulting from such reconstruction or enlargement meets or exceeds  
15 those capacities or dimensions set forth in RCW 80.50.020 (7) and  
16 ~~((17), as now or hereafter amended))~~ (14). No construction of such  
17 energy facilities may be undertaken, except as otherwise provided in  
18 this chapter, after July 15, 1977, without first obtaining  
19 certification in the manner provided in this chapter.

20 (2) The provisions of this chapter apply to the construction,  
21 reconstruction, or enlargement of a new or existing energy facility  
22 that exclusively uses alternative energy resources and chooses to  
23 receive certification under this chapter, regardless of the generating  
24 capacity of the project.

25 (3) The provisions of this chapter shall not apply to normal  
26 maintenance and repairs which do not increase the capacity or  
27 dimensions beyond those set forth in RCW 80.50.020 (7) and ~~((17), as~~  
28 ~~now or hereafter amended))~~ (14).

29 ~~((3))~~ (4) Applications for certification of energy facilities  
30 made prior to July 15, 1977 shall continue to be governed by the  
31 applicable provisions of law in effect on the day immediately preceding  
32 July 15, 1977 with the exceptions of RCW 80.50.190 and 80.50.071 which  
33 shall apply to such prior applications and to site certifications  
34 prospectively from July 15, 1977.

35 ~~((4))~~ (5) Applications for certification shall be upon forms  
36 prescribed by the council and shall be supported by such information  
37 and technical studies as the council may require.

1       **Sec. 3.** RCW 80.50.020 and 1995 c 69 s 1 are each amended to read  
2 as follows:

3       The definitions in this section apply throughout this chapter  
4 unless the context clearly requires otherwise.

5       (1) "Applicant" means any person who makes application for a site  
6 certification pursuant to the provisions of this chapter((?)).

7       (2) "Application" means any request for approval of a particular  
8 site or sites filed in accordance with the procedures established  
9 pursuant to this chapter, unless the context otherwise requires((?)).

10       (3) "Person" means an individual, partnership, joint venture,  
11 private or public corporation, association, firm, public service  
12 company, political subdivision, municipal corporation, government  
13 agency, public utility district, or any other entity, public or  
14 private, however organized((?)).

15       (4) "Site" means any proposed or approved location of an energy  
16 facility((?)).

17       (5) "Certification" means a binding agreement between an applicant  
18 and the state which shall embody compliance to the siting guidelines,  
19 in effect as of the date of certification, which have been adopted  
20 pursuant to RCW 80.50.040 as now or hereafter amended as conditions to  
21 be met prior to or concurrent with the construction or operation of any  
22 energy facility((?)).

23       (6) "Associated facilities" means storage, transmission, handling,  
24 or other related and supporting facilities connecting an energy plant  
25 with the existing energy supply, processing, or distribution system,  
26 including, but not limited to, communications, controls, mobilizing or  
27 maintenance equipment, instrumentation, and other types of ancillary  
28 transmission equipment, off-line storage or venting required for  
29 efficient operation or safety of the transmission system and overhead,  
30 and surface or subsurface lines of physical access for the inspection,  
31 maintenance, and safe operations of the transmission facility and new  
32 transmission lines constructed to operate at nominal voltages in excess  
33 of 200,000 volts to connect a thermal power plant to the northwest  
34 power grid: PROVIDED, That common carrier railroads or motor vehicles  
35 shall not be included((?)).

36       (7) "Transmission facility" means any of the following together  
37 with their associated facilities:

38       (a) Crude or refined petroleum or liquid petroleum product  
39 transmission pipeline of the following dimensions: A pipeline larger

1 than six inches minimum inside diameter between valves for the  
2 transmission of these products with a total length of at least fifteen  
3 miles;

4 (b) Natural gas, synthetic fuel gas, or liquified petroleum gas  
5 transmission pipeline of the following dimensions: A pipeline larger  
6 than fourteen inches minimum inside diameter between valves, for the  
7 transmission of these products, with a total length of at least fifteen  
8 miles for the purpose of delivering gas to a distribution facility,  
9 except an interstate natural gas pipeline regulated by the United  
10 States federal power commission((?)).

11 (8) "Independent consultants" means those persons who have no  
12 financial interest in the applicant's proposals and who are retained by  
13 the council to evaluate the applicant's proposals, supporting studies,  
14 or to conduct additional studies((?)).

15 (9) "Thermal power plant" means, for the purpose of certification,  
16 any electrical generating facility using any fuel, including nuclear  
17 materials, for distribution of electricity by electric utilities((?)).

18 (10) "Energy facility" means an energy plant or transmission  
19 facilities: PROVIDED, That the following are excluded from the  
20 provisions of this chapter:

21 (a) Facilities for the extraction, conversion, transmission or  
22 storage of water, other than water specifically consumed or discharged  
23 by energy production or conversion for energy purposes; and

24 (b) Facilities operated by and for the armed services for military  
25 purposes or by other federal authority for the national defense((?)).

26 (11) "Council" means the energy facility site evaluation council  
27 created by RCW 80.50.030((?)).

28 (12) "Counsel for the environment" means an assistant attorney  
29 general or a special assistant attorney general who shall represent the  
30 public in accordance with RCW 80.50.080((?)).

31 (13) "Construction" means on-site improvements, excluding  
32 exploratory work, which cost in excess of two hundred fifty thousand  
33 dollars((?)).

34 (14) "Energy plant" means the following facilities together with  
35 their associated facilities:

36 (a) Any stationary thermal power plant with generating capacity of  
37 ((two)) three hundred fifty thousand kilowatts or more, measured using  
38 maximum continuous electric generating capacity, less minimum auxiliary  
39 load, at average ambient temperature and pressure, and floating thermal

1 power plants of (~~fifty~~) one hundred thousand kilowatts or more,  
2 including associated facilities. For the purposes of this subsection,  
3 "floating thermal power plants" means a thermal power plant that is  
4 suspended on the surface of water by means of a barge, vessel, or other  
5 floating platform;

6 (b) Facilities which will have the capacity to receive liquified  
7 natural gas in the equivalent of more than one hundred million standard  
8 cubic feet of natural gas per day, which has been transported over  
9 marine waters;

10 (c) Facilities which will have the capacity to receive more than an  
11 average of fifty thousand barrels per day of crude or refined petroleum  
12 or liquified petroleum gas which has been or will be transported over  
13 marine waters, except that the provisions of this chapter shall not  
14 apply to storage facilities unless occasioned by such new facility  
15 construction;

16 (d) Any underground reservoir for receipt and storage of natural  
17 gas as defined in RCW 80.40.010 capable of delivering an average of  
18 more than one hundred million standard cubic feet of natural gas per  
19 day; and

20 (e) Facilities capable of processing more than twenty-five thousand  
21 barrels per day of petroleum into refined products(~~(+)~~).

22 (15) "Land use plan" means a comprehensive plan or land use element  
23 thereof adopted by a unit of local government pursuant to chapters  
24 35.63, 35A.63, or 36.70 RCW(~~(+)~~).

25 (16) "Zoning ordinance" means an ordinance of a unit of local  
26 government regulating the use of land and adopted pursuant to chapters  
27 35.63, 35A.63, or 36.70 RCW or Article XI of the state Constitution.

28 (17) "Alternative energy resource" means: (a) Wind; (b) solar  
29 energy; (c) geothermal energy; (d) landfill gas; (e) wave or tidal  
30 action; or (f) biomass energy based on solid organic fuels from wood,  
31 forest, or field residues, or dedicated energy crops that do not  
32 include wood pieces that have been treated with chemical preservatives  
33 such as creosote, pentachlorophenol, or copper-chrome-arsenic.

34 **Sec. 4.** RCW 80.50.030 and 1996 c 186 s 108 are each amended to  
35 read as follows:

36 (1) There is created and established the energy facility site  
37 evaluation council.

1 (2)(a) The ~~((chairman))~~ chair of the council shall be appointed by  
2 the governor with the advice and consent of the senate, shall have a  
3 vote on matters before the council, shall serve for a term coextensive  
4 with the term of the governor, and is removable for cause. The  
5 ~~((chairman))~~ chair may designate a member of the council to serve as  
6 acting ~~((chairman))~~ chair in the event of the ~~((chairman's))~~ chair's  
7 absence. The salary of the chair shall be determined under RCW  
8 43.03.040. The ~~((chairman))~~ chair is a "state employee" for the  
9 purposes of chapter 42.52 RCW. As applicable, when attending meetings  
10 of the council, members may receive reimbursement for travel expenses  
11 in accordance with RCW 43.03.050 and 43.03.060, and are eligible for  
12 compensation under RCW 43.03.250.

13 (b) The ~~((chairman))~~ chair or a designee shall execute all official  
14 documents, contracts, and other materials on behalf of the council.  
15 The Washington state department of community, trade, and economic  
16 development shall provide all administrative and staff support for the  
17 council. The director of the department of community, trade, and  
18 economic development has supervisory authority over the staff of the  
19 council and shall employ such personnel as are necessary to implement  
20 this chapter. Not more than three such employees may be exempt from  
21 chapter 41.06 RCW.

22 (3)(a) The council shall consist of the directors, administrators,  
23 or their designees, of the following departments, agencies,  
24 commissions, and committees or their statutory successors:

- 25 ~~((a))~~ (i) Department of ecology;  
26 ~~((b))~~ (ii) Department of fish and wildlife;  
27 ~~((c) Department of health;~~  
28 ~~(d) Military department;~~  
29 ~~(e))~~ (iii) Department of community, trade, and economic  
30 development;  
31 ~~((f))~~ (iv) Utilities and transportation commission; and  
32 ~~((g))~~ (v) Department of natural resources(~~(;~~  
33 ~~(h) Department of agriculture;~~  
34 ~~(i) Department of transportation))~~.

35 (b) The directors, administrators, or their designees, of the  
36 following departments, agencies, and commissions, or their statutory  
37 successors, may participate as councilmembers at their own discretion  
38 provided they elect to participate no later than sixty days after an  
39 application is filed:

- 1        (i) Department of agriculture;
- 2        (ii) Department of health;
- 3        (iii) Military department; and
- 4        (iv) Department of transportation.

5        (c) Council membership is discretionary for agencies that choose to  
6 participate under (b) of this subsection only for applications that are  
7 filed with the council on or after the effective date of this section.  
8 For applications filed before the effective date of this section,  
9 council membership is mandatory for those agencies listed in (b) of  
10 this subsection.

11        (4) The appropriate county legislative authority of every county  
12 wherein an application for a proposed site is filed shall appoint a  
13 member or designee as a voting member to the council. The member or  
14 designee so appointed shall sit with the council only at such times as  
15 the council considers the proposed site for the county which he or she  
16 represents, and such member or designee shall serve until there has  
17 been a final acceptance or rejection of the proposed site.

18        (5) The city legislative authority of every city within whose  
19 corporate limits an energy plant is proposed to be located shall  
20 appoint a member or designee as a voting member to the council. The  
21 member or designee so appointed shall sit with the council only at such  
22 times as the council considers the proposed site for the city which he  
23 or she represents, and such member or designee shall serve until there  
24 has been a final acceptance or rejection of the proposed site.

25        (6) For any port district wherein an application for a proposed  
26 port facility is filed subject to this chapter, the port district shall  
27 appoint a member or designee as a nonvoting member to the council. The  
28 member or designee so appointed shall sit with the council only at such  
29 times as the council considers the proposed site for the port district  
30 which he or she represents, and such member or designee shall serve  
31 until there has been a final acceptance or rejection of the proposed  
32 site. The provisions of this subsection shall not apply if the port  
33 district is the applicant, either singly or in partnership or  
34 association with any other person.

35        NEW SECTION. Sec. 5. A new section is added to chapter 80.50 RCW  
36 to read as follows:



1 (1) After the council has received a site application, council  
2 staff shall assist applicants in identifying issues presented by the  
3 application.

4 (2) Council staff shall review all information submitted and  
5 recommend resolutions to issues in dispute that would allow site  
6 approval.

7 (3) Council staff may make recommendations to the council on  
8 conditions that would allow site approval.

9 **Sec. 6.** RCW 80.50.040 and 1990 c 12 s 4 are each amended to read  
10 as follows:

11 The council shall have the following powers:

12 (1) To adopt, promulgate, amend, or rescind suitable rules and  
13 regulations, pursuant to chapter 34.05 RCW, to carry out the provisions  
14 of this chapter, and the policies and practices of the council in  
15 connection therewith;

16 (2) To develop and apply environmental and ecological guidelines in  
17 relation to the type, design, location, construction, and operational  
18 conditions of certification of energy facilities subject to this  
19 chapter;

20 (3) To establish rules of practice for the conduct of public  
21 hearings pursuant to the provisions of the Administrative Procedure  
22 Act, as found in chapter 34.05 RCW;

23 (4) To prescribe the form, content, and necessary supporting  
24 documentation for site certification;

25 (5) To receive applications for energy facility locations and to  
26 investigate the sufficiency thereof;

27 (6) To make and contract, when applicable, for independent studies  
28 of sites proposed by the applicant;

29 (7) To conduct hearings on the proposed location of the energy  
30 facilities;

31 (8) To prepare written reports to the governor which shall include:

32 (a) A statement indicating whether the application is in compliance  
33 with the council's guidelines, (b) criteria specific to the site and  
34 transmission line routing, (c) a council recommendation as to the  
35 disposition of the application, and (d) a draft certification agreement  
36 when the council recommends approval of the application;

37 (9) To prescribe the means for monitoring of the effects arising  
38 from the construction and the operation of energy facilities to assure

1 continued compliance with terms of certification and/or permits issued  
2 by the council pursuant to chapter 90.48 RCW or subsection (12) of this  
3 section: PROVIDED, That any on-site inspection required by the council  
4 shall be performed by other state agencies pursuant to interagency  
5 agreement: PROVIDED FURTHER, That the council (~~shall~~) may retain  
6 authority for determining compliance relative to monitoring;

7 (10) To integrate its site evaluation activity with activities of  
8 federal agencies having jurisdiction in such matters to avoid  
9 unnecessary duplication;

10 (11) To present state concerns and interests to other states,  
11 regional organizations, and the federal government on the location,  
12 construction, and operation of any energy facility which may affect the  
13 environment, health, or safety of the citizens of the state of  
14 Washington;

15 (12) To issue permits in compliance with applicable provisions of  
16 the federally approved state implementation plan adopted in accordance  
17 with the Federal Clean Air Act, as now existing or hereafter amended,  
18 for the new construction, reconstruction, or enlargement or operation  
19 of energy facilities: PROVIDED, That such permits shall become  
20 effective only if the governor approves an application for  
21 certification and executes a certification agreement pursuant to this  
22 chapter: AND PROVIDED FURTHER, That all such permits be conditioned  
23 upon compliance with all provisions of the federally approved state  
24 implementation plan which apply to energy facilities covered within the  
25 provisions of this chapter; and

26 (13) To serve as an interagency coordinating body for energy-  
27 related issues.

28 **Sec. 7.** RCW 80.50.090 and 1989 c 175 s 173 are each amended to  
29 read as follows:

30 (1) The council shall conduct ((a)) an informational public hearing  
31 in the county of the proposed site (~~(within sixty days of)~~) as soon as  
32 practicable but not later than sixty days after receipt of an  
33 application for site certification: PROVIDED, That the place of such  
34 public hearing shall be as close as practical to the proposed site.

35 (2) Subsequent to the informational public hearing, the council  
36 (~~must~~) shall conduct a public hearing to determine (~~(at the initial~~  
37 ~~public hearing)~~) whether or not the proposed site is consistent and in  
38 compliance with county or regional land use plans or zoning ordinances.

1 If it is determined that the proposed site does conform with existing  
2 land use plans or zoning ordinances in effect as of the date of the  
3 application, the county or regional planning authority shall not  
4 thereafter change such land use plans or zoning ordinances so as to  
5 affect the proposed site.

6 (3) Prior to the issuance of a council recommendation to the  
7 governor under RCW 80.50.100 a public hearing, conducted as an  
8 adjudicative proceeding under chapter 34.05 RCW, the Administrative  
9 Procedure Act, shall be held. At such public hearing any person shall  
10 be entitled to be heard in support of or in opposition to the  
11 application for certification.

12 (4) Additional public hearings shall be held as deemed appropriate  
13 by the council in the exercise of its functions under this chapter.

14 NEW SECTION. **Sec. 8.** A new section is added to chapter 80.50 RCW  
15 to read as follows:

16 The governor shall undertake an evaluation of the operations of the  
17 council to assess means to enhance its efficiency. The assessment must  
18 include whether the efficiency of the siting process would be improved  
19 by conducting the process under the state environmental policy act in  
20 a particular sequence relative to the adjudicative proceeding. The  
21 results of this assessment may include recommendations for  
22 administrative changes, statutory changes, or expanded staffing levels.

23 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.04 RCW  
24 to read as follows:

25 (1) Unless the context clearly requires otherwise, the definitions  
26 in this subsection apply throughout this section.

27 (a) "Direct service industrial customer" means a person who is an  
28 industrial customer that contracts for the purchase of power from the  
29 Bonneville Power Administration for direct consumption as of the  
30 effective date of this section. "Direct service industrial customer"  
31 includes a person who is a subsidiary that is more than fifty percent  
32 owned by a direct service industrial customer and who receives power  
33 from the Bonneville Power Administration pursuant to the parent's  
34 contract for power.

35 (b) "Facility" means a gas turbine electrical generation facility  
36 that does not exist on the effective date of this section and is owned

1 by a direct service industrial customer for the purpose of producing  
2 electricity to be consumed by the direct service industrial customer.

3 (c) "Average annual employment" means the total employment in this  
4 state for a calendar year at the direct service industrial customer's  
5 location where electricity from the facility will be consumed.

6 (2) Effective July 1, 2001, a credit is allowed against the tax due  
7 under this chapter to a direct service industrial customer who  
8 purchases natural or manufactured gas from a gas distribution business  
9 subject to the public utility tax under chapter 82.16 RCW. The credit  
10 is equal to the value of natural or manufactured gas purchased from a  
11 gas distribution business and used to generate electricity at the  
12 facility multiplied by the rate in effect for the public utility tax on  
13 gas distribution businesses under RCW 82.16.020. This credit may be  
14 used each reporting period for sixty months following the first month  
15 natural or manufactured gas was purchased from a gas distribution  
16 business by a direct service industrial customer who constructs a  
17 facility.

18 (3) Application for credit shall be made by the direct service  
19 industrial consumer before the first purchase of natural or  
20 manufactured gas. The application shall be in a form and manner  
21 prescribed by the department and shall include but is not limited to  
22 information regarding the location of the facility, the projected date  
23 of first purchase of natural or manufactured gas to generate  
24 electricity at the facility, the date construction is projected to  
25 begin or did begin, the applicant's average annual employment in the  
26 state for the six calendar years immediately preceding the year in  
27 which the application is made, and affirm the applicant's status as a  
28 direct service industrial customer. The department shall rule on the  
29 application within thirty days of receipt.

30 (4) Credit under this section is limited to the amount of tax  
31 imposed under this chapter. Refunds shall not be given in place of  
32 credits and credits may not be carried over to subsequent calendar  
33 years.

34 (5) All or part of the credit shall be disallowed and must be paid  
35 if the average of the direct service industrial customer's average  
36 annual employment for the five calendar years subsequent to the  
37 calendar year containing the first month of purchase of natural or  
38 manufactured gas to generate electricity at a facility is less than the  
39 six-year average annual employment stated on the application for credit

1 under this section. The direct service industrial customer will  
2 certify to the department by June 1st of the sixth calendar year  
3 following the calendar year in which the month of first purchase of gas  
4 occurs the average annual employment for each of the five prior  
5 calendar years. All or part of the credit that shall be disallowed and  
6 must be paid is commensurate with the decrease in the five-year average  
7 of average annual employment as follows:

8	<u>Decrease in Average Annual</u>	
9	<u>Employment Over</u>	
10	<u>Five-Year Period</u>	<u>% of Credit to be Paid</u>
11	Less than 10%	10%
12	10% or more but less than 25%	25%
13	25% or more but less than 50%	50%
14	50% or more but less than 75%	75%
15	75% or more	100%

16 (6)(a) The direct service industrial customer shall begin paying  
17 the credit that is disallowed and is to be paid in the sixth calendar  
18 year following the calendar year in which the month following the month  
19 of first purchase of natural or manufactured gas to generate  
20 electricity at the facility occurs. The first payment will be due on  
21 or before December 31st with subsequent annual payments due on or  
22 before December 31st of the following four years according to the  
23 following schedule:

24	<u>Payment Year</u>	<u>% of Credit to be Paid</u>
25	1	10%
26	2	15%
27	3	20%
28	4	25%
29	5	30%

30 (b) The department may authorize an accelerated payment schedule  
31 upon request of the taxpayer.

32 (c) Interest shall not be charged on the credit that is disallowed  
33 for the sixty-month period the credit may be taken, although all other  
34 penalties and interest applicable to delinquent excise taxes may be  
35 assessed and imposed. The debt for credit that is disallowed and must  
36 be paid will not be extinguished by insolvency or other failure of the  
37 direct service industrial customer. Transfer of ownership of the

1 facility does not affect eligibility for this credit. However, the  
2 credit is available to the successor only if the eligibility conditions  
3 of this section are met.

4 (7) The employment security department shall make, and certify to  
5 the department of revenue, all determinations of employment under this  
6 section as requested by the department.

7 (8) A person claiming this credit shall supply to the department  
8 quarterly reports containing information necessary to document the  
9 total volume of natural or manufactured gas purchased in the quarter,  
10 the value of that total volume, and the percentage of the total volume  
11 used to generate electricity at the facility.

12 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.12 RCW  
13 to read as follows:

14 (1) Unless the context clearly requires otherwise, the definitions  
15 in this subsection apply throughout this section.

16 (a) "Direct service industrial customer" means a person who is an  
17 industrial customer that contracts for the purchase of power from the  
18 Bonneville power administration for direct consumption as of the  
19 effective date of this section. "Direct service industrial customer"  
20 includes a person who is a subsidiary that is more than fifty percent  
21 owned by a direct service industrial customer and who receives power  
22 from the Bonneville Power Administration pursuant to the parent's  
23 contract for power.

24 (b) "Facility" means a gas turbine electrical generation facility  
25 that does not exist on the effective date of this section and is owned  
26 by a direct service industrial customer for the purpose of producing  
27 electricity to be consumed by the direct service industrial customer.

28 (c) "Average annual employment" means the total employment in this  
29 state for a calendar year at the direct service industrial customer's  
30 location where electricity from the facility will be consumed.

31 (2) Effective July 1, 2001, the tax levied in RCW 82.12.022 on the  
32 first sixty months' use of natural or manufactured gas by a direct  
33 service industrial customer that owns a facility shall be deferred.  
34 This deferral is limited to the tax on natural or manufactured gas used  
35 or consumed to generate electricity at the facility.

36 (3) Application for deferral shall be made by the direct service  
37 industrial customer before the first use of natural or manufactured  
38 gas. The application shall be in a form and manner prescribed by the

1 department and shall include but is not limited to information  
2 regarding the location of the facility, the projected date of first use  
3 of natural or manufactured gas to generate electricity at the facility,  
4 the date construction is projected to begin or did begin, the  
5 applicant's average annual employment in the state for the six calendar  
6 years immediately preceding the year in which the application is made,  
7 and shall affirm the applicant's status as a direct service industrial  
8 customer. The department shall rule on the application within thirty  
9 days of receipt.

10 (4)(a) The direct service industrial customer shall begin paying  
11 the deferred tax in the sixth calendar year following the calendar year  
12 in which the month of first use of natural or manufactured gas to  
13 generate electricity at the facility occurs. The first payment will be  
14 due on or before December 31st with subsequent annual payments due on  
15 or before December 31st of the following four years according to the  
16 following schedule:

17	<u>Payment Year</u>	<u>% of Deferred Tax to be Paid</u>
18	1	10%
19	2	15%
20	3	20%
21	4	25%
22	5	30%

23 (b) The department may authorize an accelerated payment schedule  
24 upon request of the taxpayer.

25 (c) Interest shall not be charged on the tax deferred under this  
26 section for the period of deferral, although all other penalties and  
27 interest applicable to delinquent excise taxes may be assessed and  
28 imposed. The debt for deferred tax will not be extinguished by  
29 insolvency or other failure of the direct service industrial customer.  
30 Transfer of ownership of the facility does not affect deferral  
31 eligibility. However, the deferral is available to the successor only  
32 if the eligibility conditions of this section are met.

33 (5)(a) If the average of the direct service industrial customer's  
34 average annual employment for the five calendar years subsequent to the  
35 calendar year containing the first month of use of natural or  
36 manufactured gas to generate electricity at a facility is equal to or  
37 exceeds the six-year average annual employment stated on the  
38 application for deferral under this section, the tax deferred need not

1 be paid. The direct service industrial customer shall certify to the  
2 department by June 1st of the sixth calendar year following the  
3 calendar year in which the month of first use of gas occurs the average  
4 annual employment for each of the five prior calendar years.

5 (b) If the five-year average calculated in (a) of this subsection  
6 is less than the average annual employment stated on the application  
7 for deferral under this section, the tax deferred under this section  
8 shall be paid in the amount as follows:

9	<u>Decrease in Average Annual</u>	
10	<u>Employment Over</u>	<u>% of Deferred</u>
11	<u>Five-Year Period</u>	<u>Tax to be Paid</u>
12	Less than 10%	10%
13	10% or more but less than 25%	25%
14	25% or more but less than 50%	50%
15	50% or more but less than 75%	75%
16	75% or more	100%

17 (c) Tax paid under this subsection shall be paid according to the  
18 schedule in subsection (4)(a) of this section and under the terms and  
19 conditions of subsection (4)(b) and (c) of this section.

20 (6) The employment security department shall make, and certify to  
21 the department of revenue, all determinations of employment under this  
22 section as requested by the department.

23 (7) A person claiming this deferral shall supply to the department  
24 quarterly reports containing information necessary to document the  
25 total volume of natural or manufactured gas purchased in the quarter,  
26 the value of that total volume, and the percentage of the total volume  
27 used to generate electricity at the facility.

28 NEW SECTION. Sec. 11. A new section is added to chapter 82.16 RCW  
29 to read as follows:

30 (1) Unless the context clearly requires otherwise, the definitions  
31 in this subsection apply throughout this section.

32 (a) "Direct service industrial customer" means a person who is an  
33 industrial customer that contracts for the purchase of power from the  
34 Bonneville Power Administration for direct consumption as of the  
35 effective date of this section. "Direct service industrial customer"  
36 includes a person who is a subsidiary that is more than fifty percent  
37 owned by a direct service industrial customer and who receives power



1 from the Bonneville Power Administration pursuant to the parent's  
2 contract for power.

3 (b) "Facility" means a gas turbine electrical generation facility  
4 that does not exist on the effective date of this section.

5 (c) "Average annual employment" means the total employment in this  
6 state for a calendar year at the direct service industrial customer's  
7 location where electricity from the facility will be consumed.

8 (2) Effective July 1, 2001, a credit is allowed against the tax due  
9 under this chapter on sales of electricity made from a facility to a  
10 direct service industrial customer if the contract for sale of  
11 electricity to a direct service industrial customer contains the  
12 following terms:

13 (a) Sales of electricity from the facility to the direct service  
14 industrial customer will be made for ten consecutive years or more;

15 (b) The price charged for the electricity will be reduced by an  
16 amount equal to the tax credit; and

17 (c) Disallowance of all or part of the credit under subsection (5)  
18 of this section is a breach of contract and the damages to be paid by  
19 the direct service industrial customer to the facility are the amount  
20 of tax credit disallowed.

21 (3) The credit is equal to the gross proceeds from the sale of the  
22 electricity to a direct service industrial customer multiplied by the  
23 rate in effect at the time of the sale for the public utility tax on  
24 light and power businesses under RCW 82.16.020. The credit may be used  
25 each reporting period for sixty months following the first month  
26 electricity is sold from a facility to a direct service industrial  
27 customer. Credit under this section is limited to the amount of tax  
28 imposed under this chapter. Refunds shall not be given in place of  
29 credits and credits may not be carried over to subsequent calendar  
30 years.

31 (4) Application for credit shall be made before the first sale of  
32 electricity from a facility to a direct service industrial customer.  
33 The application shall be in a form and manner prescribed by the  
34 department and shall include but is not limited to information  
35 regarding the location of the facility, identification of the direct  
36 service industrial customer who will receive electricity from the  
37 facility, the projected date of the first sale of electricity to a  
38 direct service industrial customer, the date construction is projected  
39 to begin or did begin, and the average annual employment in the state

1 of the direct service industrial customer who will receive electricity  
2 from the facility for the six calendar years immediately preceding the  
3 year in which the application is made. A copy of the contract for sale  
4 of electricity must be attached to the application. The department  
5 shall rule on the application within thirty days of receipt.

6 (5) All or part of the credit shall be disallowed and must be paid  
7 if the average of the direct service industrial customer's average  
8 annual employment for the five calendar years subsequent to the  
9 calendar year containing the first month of sale of electricity from a  
10 facility to a direct service industrial customer is less than the six-  
11 year average annual employment stated on the application for credit  
12 under this section. The direct service industrial customer shall  
13 certify to the department and to the facility by June 1st of the sixth  
14 calendar year following the calendar year in which the month of first  
15 sale occurs the average annual employment for each of the five prior  
16 calendar years. All or part of the credit that shall be disallowed and  
17 must be paid is commensurate with the decrease in the five-year average  
18 of average annual employment as follows:

19	<u>Decrease in Average Annual</u>	
20	<u>Employment Over</u>	
21	<u>Five-Year Period</u>	<u>% of Credit to be Paid</u>
22	Less than 10%	10%
23	10% or more but less than 25%	25%
24	25% or more but less than 50%	50%
25	50% or more but less than 75%	75%
26	75% or more	100%

27 (6)(a) Payments on credit that is disallowed shall begin in the  
28 sixth calendar year following the calendar year in which the month  
29 following the first month of sale of electricity from a facility to a  
30 direct service industrial customer occurs. The first payment will be  
31 due on or before December 31st with subsequent annual payments due on  
32 or before December 31st of the following four years according to the  
33 schedule in this subsection.

34	<u>Payment Year</u>	<u>% of Credit to be Paid</u>
35	1	10%
36	2	15%
37	3	20%
38	4	25%

2 (b) The department may authorize an accelerated payment schedule  
3 upon request of the taxpayer.

4 (c) Interest shall not be charged on the credit that is disallowed  
5 for the sixty-month period the credit may be taken, although all other  
6 penalties and interest applicable to delinquent excise taxes may be  
7 assessed and imposed. The debt for credit that is disallowed and must  
8 be paid will not be extinguished by insolvency or other failure of the  
9 taxpayer. Transfer of ownership of the facility does not affect  
10 eligibility for this credit. However, the credit is available to the  
11 successor only if the eligibility conditions of this section are met.

12 (7) The employment security department shall make, and certify to  
13 the department of revenue, all determinations of employment under this  
14 section as requested by the department.

15 NEW SECTION. **Sec. 12.** A new section is added to chapter 82.32 RCW  
16 to read as follows:

17 (1) The total combined credits and deferrals that may be taken  
18 under sections 9 through 11 of this act shall not exceed two million  
19 five hundred thousand dollars in any fiscal year. Each person is  
20 limited to no more than a total of one million five hundred thousand  
21 dollars in tax deferred and credit allowed in any fiscal year in which  
22 more than one person takes tax credits and claims tax deferral. The  
23 department may require reporting of the credits taken and amounts  
24 deferred in a manner and form as is necessary to keep a running total  
25 of the amounts.

26 (2) Credits and deferred tax are available on a first come basis.  
27 Priority for tax credits and deferrals among approved applicants shall  
28 be designated based on the first actual consumption of gas under  
29 section 9 or 10 of this act, or on the first actual use of electricity  
30 under section 11 of this act, by each approved applicant. The  
31 department shall disallow any credits or deferred tax, or portion  
32 thereof, that would cause the total amount of credits taken and  
33 deferred taxes claimed to exceed the fiscal year cap or to exceed the  
34 per person fiscal year cap. If the fiscal cap is reached or exceeded  
35 the department shall notify those persons who have approved  
36 applications under sections 9 through 11 of this act that no more  
37 credits may be taken or tax deferred during the remainder of the fiscal  
38 year. In addition, the department shall provide written notice to any

1 person who has taken any tax credits or claimed any deferred tax in  
2 excess of the fiscal year cap. The notice shall indicate the amount of  
3 tax due and shall provide that the tax be paid within thirty days from  
4 the date of such notice.

5 (3) No portion of an application for credit or deferral disallowed  
6 under this section may be carried back or carried forward nor may taxes  
7 ineligible for credit or deferral due to the fiscal cap having been  
8 reached or exceeded be carried forward or carried backward.

9 NEW SECTION. **Sec. 13.** A new section is added to chapter 82.16 RCW  
10 to read as follows:

11 (1) Unless the context clearly requires otherwise, the definitions  
12 in this subsection apply throughout this section.

13 (a) "Base credit" means the maximum amount of credit against the  
14 tax imposed by this chapter that each light and power business or gas  
15 distribution business may take each fiscal year as calculated by the  
16 department. The base credit is equal to the proportionate share that  
17 the total grants received by each light and power business or gas  
18 distribution business in the prior fiscal year bears to the total  
19 grants received by all light and power businesses and gas distribution  
20 businesses in the prior fiscal year multiplied by two million five  
21 hundred thousand dollars.

22 (b) "Billing discount" means a reduction in the amount charged for  
23 providing service to qualifying persons in Washington made by a light  
24 and power business or a gas distribution business. Billing discount  
25 does not include grants received by the light and power business or a  
26 gas distribution business.

27 (c) "Grant" means funds provided to a light and power business or  
28 gas distribution business by the department of community, trade, and  
29 economic development or by a qualifying organization.

30 (d) "Low-income home energy assistance program" means energy  
31 assistance programs for low-income households as defined on December  
32 31, 2000, in the low-income home energy assistance act of 1981 as  
33 amended August 1, 1999, 42 U.S.C. Sec. 8623 et seq.

34 (e) "Qualifying person" means a Washington resident who applies for  
35 assistance and qualifies for a grant regardless of whether that person  
36 receives a grant.

37 (f) "Qualifying contribution" means money given by a light and  
38 power business or a gas distribution business to a qualifying

1 organization, exclusive of money received in the prior fiscal year from  
2 its customers for the purpose of assisting other customers.

3 (g) "Qualifying organization" means an entity that has a  
4 contractual agreement with the department of community, trade, and  
5 economic development to administer in a specified service area low-  
6 income home energy assistance funds received from the federal  
7 government and such other funds that may be received by the entity.

8 (2) Subject to the limitations in this section, a light and power  
9 business or a gas distribution business may take a credit each fiscal  
10 year against the tax imposed under this chapter.

11 (a)(i) A credit may be taken for qualifying contributions if the  
12 dollar amount of qualifying contributions for the fiscal year in which  
13 the tax credit is taken is greater than one hundred twenty-five percent  
14 of the dollar amount of qualifying contributions given in fiscal year  
15 2000.

16 (ii) If no qualifying contributions were given in fiscal year 2000,  
17 a credit shall be allowed for the first fiscal year that qualifying  
18 contributions are given. Thereafter, credit shall be allowed if the  
19 qualifying contributions given exceed one hundred twenty-five percent  
20 of qualifying contributions given in the first fiscal year.

21 (iii) The amount of credit shall be fifty percent of the dollar  
22 amount of qualifying contributions given in the fiscal year in which  
23 the tax credit is taken.

24 (b)(i) A credit may be taken for billing discounts if the dollar  
25 amount of billing discounts for the fiscal year in which the tax credit  
26 is taken is greater than one hundred twenty-five percent of the dollar  
27 amount of billing discounts given in fiscal year 2000.

28 (ii) If no billing discounts were given in fiscal year 2000, a  
29 credit shall be allowed in the first fiscal year that billing discounts  
30 are given. Thereafter, credit shall be allowed if the dollar amount of  
31 billing discounts given exceeds one hundred twenty-five percent of  
32 billing discounts given in the first fiscal year.

33 (iii) The amount of credit shall be fifty percent of the dollar  
34 amount of the billing discounts given in the fiscal year in which the  
35 tax credit is taken.

36 (c) The total amount of credit that may be taken for qualifying  
37 contributions and billing discounts in a fiscal year is limited to the  
38 base credit for the same fiscal year.

1 (3) The total amount of credit, statewide, that may be taken in any  
2 fiscal year shall not exceed two million five hundred thousand dollars.  
3 By May 1st of each year starting in 2002, the department of community,  
4 trade, and economic development shall notify the department of revenue  
5 in writing of the grants received in the current fiscal year by each  
6 light and power business and gas distribution business.

7 (4)(a) Not later than June 1st of each year beginning in 2002, the  
8 department shall publish the base credit for each light and power  
9 business and gas distribution business for the next fiscal year.

10 (b) Not later than July 1st of each year beginning in 2002,  
11 application for credit must be made to the department including but not  
12 limited to the following information: Billing discounts given by the  
13 applicant in fiscal year 2000; qualifying contributions given by the  
14 applicant in the prior fiscal year; the amount of money received in the  
15 prior fiscal year from customers for the purpose of assisting other  
16 customers; the base credit for the next fiscal year for the applicant;  
17 the qualifying contributions anticipated to be given in the next fiscal  
18 year; and billing discounts anticipated to be given in the next fiscal  
19 year. No credit under this section will be allowed to a light and  
20 power business or gas distribution business that does not file the  
21 application by July 1st.

22 (c) Not later than August 1st of each year beginning in 2002, the  
23 department shall notify each applicant of the amount of credit that may  
24 be taken in that fiscal year.

25 (d) The balance of base credits not used by other light and power  
26 businesses and gas distribution businesses shall be ratably distributed  
27 to applicants under the formula in subsection (1)(a) of this section.  
28 The total amount of credit that may be taken by an applicant is the  
29 base credit plus any ratable portion of unused base credit.

30 (5) The credit taken under this section is limited to the amount of  
31 tax imposed under this chapter for the fiscal year. The credit must be  
32 claimed in the fiscal year in which the billing reduction is made. Any  
33 unused credit expires. Refunds shall not be given in place of credits.

34 (6) No credit may be taken for billing discounts made before July  
35 1, 2001. Within two weeks of the effective date of this section, the  
36 department of community, trade, and economic development shall notify  
37 the department of revenue in writing of the grants received in fiscal  
38 year 2001 by each light and power business and gas distribution  
39 business. Within four weeks of the effective date of this section, the

1 department of revenue shall publish the base credit for each light and  
2 power business and gas distribution business for fiscal year 2002.  
3 Within eight weeks of the effective date of this section, application  
4 to the department must be made showing the information required in  
5 subsection (4)(b) of this section. Within twelve weeks of the  
6 effective date of this section, the department shall notify each  
7 applicant of the amount of credit that may be taken in fiscal year  
8 2002.

9 NEW SECTION. **Sec. 14.** (1) The legislature hereby finds that:

10 (a) The economy of the state and the health, safety, and welfare of  
11 its citizens are threatened by the current energy supply and price  
12 instabilities;

13 (b) Many energy efficiency programs for public buildings launched  
14 during the 1970s and 1980s were not maintained during the subsequent  
15 sustained period of low energy costs and abundant supply; and

16 (c) Conservation programs originally established in the 1970s and  
17 1980s can be improved or updated. New programs drawing on recently  
18 developed technologies, including demand-side energy management  
19 systems, can materially increase the efficiency of energy use by the  
20 public sector.

21 (2) It is the policy of the state of Washington that:

22 (a) State government is committed to achieving significant gains in  
23 energy efficiency. Conventional conservation programs will be reviewed  
24 and updated in light of experience gained since their commencement;

25 (b) State government must play a leading role in demonstrating  
26 updated and new energy efficiency technologies. New programs or  
27 measures made possible by technological advances, such as demand-side  
28 response measures and energy management systems, shall be treated in  
29 the same manner as conventional conservation programs and will be  
30 integrated into the state's energy efficiency programs.

31 **Sec. 15.** RCW 39.35.010 and 1982 c 159 s 1 are each amended to read  
32 as follows:

33 The legislature hereby finds:

34 (1) That major publicly owned or leased facilities have a  
35 significant impact on our state's consumption of energy;

36 (2) That energy conservation practices including energy management  
37 systems and renewable energy systems adopted for the design,

1 construction, and utilization of such facilities will have a beneficial  
2 effect on our overall supply of energy;

3 (3) That the cost of the energy consumed by such facilities over  
4 the life of the facilities shall be considered in addition to the  
5 initial cost of constructing such facilities;

6 (4) That the cost of energy is significant and major facility  
7 designs shall be based on the total life-cycle cost, including the  
8 initial construction cost, and the cost, over the economic life of a  
9 major facility, of the energy consumed, and of the operation and  
10 maintenance of a major facility as they affect energy consumption; and

11 (5) That the use of energy systems in these facilities which  
12 utilize renewable resources such as solar energy, wood or wood waste,  
13 or other nonconventional fuels (~~should~~), and which incorporate energy  
14 management systems, shall be considered in the design of all publicly  
15 owned or leased facilities.

16 **Sec. 16.** RCW 39.35.030 and 1996 c 186 s 402 are each amended to  
17 read as follows:

18 For the purposes of this chapter the following words and phrases  
19 shall have the following meanings unless the context clearly requires  
20 otherwise:

21 (1) "Public agency" means every state office, officer, board,  
22 commission, committee, bureau, department, and all political  
23 subdivisions of the state.

24 (2) "Department" means the state department of general  
25 administration.

26 (3) "Major facility" means any publicly owned or leased building  
27 having twenty-five thousand square feet or more of usable floor space.

28 (4) "Initial cost" means the moneys required for the capital  
29 construction or renovation of a major facility.

30 (5) "Renovation" means additions, alterations, or repairs within  
31 any twelve-month period which exceed fifty percent of the value of a  
32 major facility and which will affect any energy system.

33 (6) "Economic life" means the projected or anticipated useful life  
34 of a major facility as expressed by a term of years.

35 (7) "Energy management system" means a program, energy efficiency  
36 equipment, technology, device, or other measure including, but not  
37 limited to, a management, educational, or promotional program, smart  
38 appliance, meter reading system that provides energy information



1 capability, computer software or hardware, communications equipment or  
2 hardware, thermostat or other control equipment, together with related  
3 administrative or operational programs, that allows identification and  
4 management of opportunities for improvement in the efficiency of energy  
5 use, including but not limited to a measure that allows:

6 (a) Energy consumers to obtain information about their energy usage  
7 and the cost of energy in connection with their usage;

8 (b) Interactive communication between energy consumers and their  
9 energy suppliers;

10 (c) Energy consumers to respond to energy price signals and to  
11 manage their purchase and use of energy; or

12 (d) For other kinds of dynamic, demand-side energy management.

13 (8) "Life-cycle cost" means the initial cost and cost of operation  
14 of a major facility over its economic life. This shall be calculated  
15 as the initial cost plus the operation, maintenance, and energy costs  
16 over its economic life, reflecting anticipated increases in these costs  
17 discounted to present value at the current rate for borrowing public  
18 funds, as determined by the office of financial management. The energy  
19 cost projections used shall be those provided by the department. The  
20 department shall update these projections at least every two years.

21 ~~((+8))~~ (9) "Life-cycle cost analysis" includes, but is not limited  
22 to, the following elements:

23 (a) The coordination and positioning of a major facility on its  
24 physical site;

25 (b) The amount and type of fenestration employed in a major  
26 facility;

27 (c) The amount of insulation incorporated into the design of a  
28 major facility;

29 (d) The variable occupancy and operating conditions of a major  
30 facility; and

31 (e) An energy-consumption analysis of a major facility.

32 ~~((+9))~~ (10) "Energy systems" means all utilities, including, but  
33 not limited to, heating, air-conditioning, ventilating, lighting, and  
34 the supplying of domestic hot water.

35 ~~((+10))~~ (11) "Energy-consumption analysis" means the evaluation of  
36 all energy systems and components by demand and type of energy  
37 including the internal energy load imposed on a major facility by its  
38 occupants, equipment, and components, and the external energy load  
39 imposed on a major facility by the climatic conditions of its location.

1 An energy-consumption analysis of the operation of energy systems of a  
2 major facility shall include, but not be limited to, the following  
3 elements:

4 (a) The comparison of three or more system alternatives, at least  
5 one of which shall include renewable energy systems, and one of which  
6 shall comply at a minimum with the sustainable design guidelines of the  
7 United States green building council leadership in energy and  
8 environmental design silver standard or similar design standard as may  
9 be adopted by rule by the department;

10 (b) The simulation of each system over the entire range of  
11 operation of such facility for a year's operating period; and

12 (c) The evaluation of the energy consumption of component equipment  
13 in each system considering the operation of such components at other  
14 than full or rated outputs.

15 The energy-consumption analysis shall be prepared by a professional  
16 engineer or licensed architect who may use computers or such other  
17 methods as are capable of producing predictable results.

18 (~~(11)~~) (12) "Renewable energy systems" means methods of facility  
19 design and construction and types of equipment for the utilization of  
20 renewable energy sources including, but not limited to, hydroelectric  
21 power, active or passive solar space heating or cooling, domestic solar  
22 water heating, windmills, waste heat, biomass and/or refuse-derived  
23 fuels, photovoltaic devices, and geothermal energy.

24 (~~(12)~~) (13) "Cogeneration" means the sequential generation of two  
25 or more forms of energy from a common fuel or energy source. Where  
26 these forms are electricity and thermal energy, then the operating and  
27 efficiency standards established by 18 C.F.R. Sec. 292.205 and the  
28 definitions established by 18 C.F.R. 292.202 (c) through (m) as of July  
29 28, 1991, shall apply.

30 (~~(13)~~) (14) "Selected buildings" means educational, office,  
31 residential care, and correctional facilities that are designed to  
32 comply with the design standards analyzed and recommended by the  
33 department.

34 (~~(14)~~) (15) "Design standards" means the heating, air-  
35 conditioning, ventilating, and renewable resource systems identified,  
36 analyzed, and recommended by the department as providing an efficient  
37 energy system or systems based on the economic life of the selected  
38 buildings.

1       **Sec. 17.** RCW 39.35.050 and 1996 c 186 s 403 are each amended to  
2 read as follows:

3       The department, in consultation with affected public agencies,  
4 shall develop and issue guidelines for administering this chapter. The  
5 purpose of the guidelines is to define a procedure and method for  
6 performance of life-cycle cost analysis to promote the selection of  
7 low-life-cycle cost alternatives. At a minimum, the guidelines must  
8 contain provisions that:

9       (1) Address energy considerations during the planning phase of the  
10 project;

11       (2) Identify energy components and system alternatives including  
12 energy management systems, renewable energy systems, and cogeneration  
13 applications prior to commencing the energy consumption analysis;

14       (3) Identify simplified methods to assure the lowest life-cycle  
15 cost alternatives for selected buildings with between twenty-five  
16 thousand and one hundred thousand square feet of usable floor area;

17       (4) Establish times during the design process for preparation,  
18 review, and approval or disapproval of the life-cycle cost analysis;

19       (5) Specify the assumptions to be used for escalation and inflation  
20 rates, equipment service lives, economic building lives, and  
21 maintenance costs;

22       (6) Determine life-cycle cost analysis format and submittal  
23 requirements to meet the provisions of chapter 201, Laws of 1991;

24       (7) Provide for review and approval of life-cycle cost analysis.

25       **Sec. 18.** RCW 39.35A.020 and 1985 c 169 s 2 are each amended to  
26 read as follows:

27       Unless the context clearly indicates otherwise, the definitions in  
28 this section shall apply throughout this chapter.

29       (1) "Energy equipment and services" means energy management systems  
30 and any equipment, materials, or supplies that are expected, upon  
31 installation, to reduce the energy use or energy cost of an existing  
32 building or facility, and the services associated with the equipment,  
33 materials, or supplies, including but not limited to design,  
34 engineering, financing, installation, project management, guarantees,  
35 operations, and maintenance.

36       (2) "Energy management system" has the definition provided in RCW  
37 39.35.030.

38       (3) "Municipality" has the definition provided in RCW 39.04.010.

1       (~~(3)~~) (4) "Performance-based contract" means one or more  
2 contracts for energy equipment and services between a municipality and  
3 any other persons or entities, if the payment obligation for each year  
4 under the contract, including the year of installation, is either: (a)  
5 Set as a percentage of the annual energy cost savings attributable  
6 under the contract to the energy equipment and services; or (b)  
7 guaranteed by the other persons or entities to be less than the annual  
8 energy cost savings attributable under the contract to the energy  
9 equipment and services. Such guarantee shall be, at the option of the  
10 municipality, a bond or insurance policy, or some other guarantee  
11 determined sufficient by the municipality to provide a level of  
12 assurance similar to the level provided by a bond or insurance policy.

13       NEW SECTION.   **Sec. 19.** A new section is added to chapter 39.35A  
14 RCW to read as follows:

15       The state department of general administration shall maintain a  
16 registry of energy service contractors and provide assistance to  
17 municipalities in identifying available performance-based contracting  
18 services.

19       **Sec. 20.** RCW 39.35C.010 and 1996 c 186 s 405 are each amended to  
20 read as follows:

21       Unless the context clearly requires otherwise, the definitions in  
22 this section apply throughout this chapter.

23       (1) "Cogeneration" means the sequential generation of two or more  
24 forms of energy from a common fuel or energy source. If these forms  
25 are electricity and thermal energy, then the operating and efficiency  
26 standards established by 18 C.F.R. Sec. 292.205 and the definitions  
27 established by 18 C.F.R. Sec. 292.202 (c) through (m) apply.

28       (2) "Conservation" means reduced energy consumption or energy cost,  
29 or increased efficiency in the use of energy, and activities, measures,  
30 or equipment designed to achieve such results, but does not include  
31 thermal or electric energy production from cogeneration.

32       (3) "Cost-effective" means that the present value to a state agency  
33 or school district of the energy reasonably expected to be saved or  
34 produced by a facility, activity, measure, or piece of equipment over  
35 its useful life, including any compensation received from a utility or  
36 the Bonneville power administration, is greater than the net present  
37 value of the costs of implementing, maintaining, and operating such

1 facility, activity, measure, or piece of equipment over its useful  
2 life, when discounted at the cost of public borrowing.

3 (4) "Energy" means energy as defined in RCW 43.21F.025(1).

4 (5) "Energy audit" has the definition provided in RCW 43.19.670.

5 (6) "Energy efficiency project" means a conservation or  
6 cogeneration project.

7 ~~((+6))~~ (7) "Energy efficiency services" means assistance furnished  
8 by the department to state agencies and school districts in  
9 identifying, evaluating, and implementing energy efficiency projects.

10 ~~((+7))~~ (8) "Department" means the state department of general  
11 administration.

12 ~~((+8))~~ (9) "Performance-based contracting" means contracts for  
13 which payment is conditional on achieving contractually specified  
14 energy savings.

15 ~~((+9))~~ (10) "Public agency" means every state office, officer,  
16 board, commission, committee, bureau, department, and all political  
17 subdivisions of the state.

18 ~~((+10))~~ (11) "Public facility" means a building or structure, or  
19 a group of buildings or structures at a single site, owned by a state  
20 agency or school district.

21 ~~((+11))~~ (12) "State agency" means every state office or  
22 department, whether elective or appointive, state institutions of  
23 higher education, and all boards, commissions, or divisions of state  
24 government, however designated.

25 ~~((+12))~~ (13) "State facility" means a building or structure, or a  
26 group of buildings or structures at a single site, owned by a state  
27 agency.

28 ~~((+13))~~ (14) "Utility" means privately or publicly owned electric  
29 and gas utilities, electric cooperatives and mutuals, whether located  
30 within or without Washington state.

31 ~~((+14))~~ (15) "Local utility" means the utility or utilities in  
32 whose service territory a public facility is located.

33 **Sec. 21.** RCW 39.35C.020 and 1996 c 186 s 406 are each amended to  
34 read as follows:

35 (1) Each state agency and school district shall implement cost-  
36 effective conservation improvements and maintain efficient operation of  
37 its facilities in order to minimize energy consumption and related  
38 environmental impacts and reduce operating costs. Each state agency

1 shall undertake an energy audit and implement cost-effective  
2 conservation measures pursuant to the time schedules and requirements  
3 set forth in chapter 43.19 RCW, except that any state agency that,  
4 after December 31, 1997, has completed energy audits and implemented  
5 cost-effective conservation measures, or has contracted with an energy  
6 service company for energy audits and conservation measures, is deemed  
7 to have met the requirements of this subsection for those facilities  
8 included in the audits and conservation measures. Each school district  
9 shall undertake an energy audit and implement cost-effective  
10 conservation measures pursuant to the time schedules and requirements  
11 set forth in section 22 of this act. Performance-based contracting  
12 shall be the preferred method for completing energy audits and  
13 implementing cost-effective conservation measures.

14 (2) The department shall assist state agencies and school districts  
15 in identifying, evaluating, and implementing cost-effective  
16 conservation projects at their facilities. The assistance shall  
17 include the following:

18 (a) Notifying state agencies and school districts of their  
19 responsibilities under this chapter;

20 (b) Apprising state agencies and school districts of opportunities  
21 to develop and finance such projects;

22 (c) Providing technical and analytical support, including  
23 procurement of performance-based contracting services;

24 (d) Reviewing verification procedures for energy savings; and

25 (e) Assisting in the structuring and arranging of financing for  
26 cost-effective conservation projects.

27 (3) Conservation projects implemented under this chapter shall have  
28 appropriate levels of monitoring to verify the performance and measure  
29 the energy savings over the life of the project. The department shall  
30 solicit involvement in program planning and implementation from  
31 utilities and other energy conservation suppliers, especially those  
32 that have demonstrated experience in performance-based energy programs.

33 (4) The department shall comply with the requirements of chapter  
34 39.80 RCW when contracting for architectural or engineering services.

35 (5) The department shall recover any costs and expenses it incurs  
36 in providing assistance pursuant to this section, including  
37 reimbursement from third parties participating in conservation  
38 projects. The department shall enter into a written agreement with the  
39 public agency for the recovery of costs.

1        NEW SECTION.    **Sec. 22.**    A new section is added to chapter 39.35C  
2 RCW to read as follows:

3        (1) Except as provided in subsections (2) and (3) of this section,  
4 each school district shall conduct an energy audit of its facilities.  
5 This energy audit may be conducted by contract or by other arrangement,  
6 including appropriate district staff. Performance-based contracting  
7 shall be the preferred method for implementing and completing energy  
8 audits.

9        (a) For each district facility, the energy consumption surveys  
10 shall be completed no later than December 31, 2001, and the walk-  
11 through surveys shall be completed no later than October 1, 2002. Upon  
12 completion of each walk-through survey, the district shall implement  
13 energy conservation maintenance and operation procedures that may be  
14 identified for any district facility. These procedures shall be  
15 implemented as soon as possible, but not later than twelve months after  
16 the walk-through survey.

17        (b) Except as provided in subsection (3) of this section, if a  
18 walk-through survey has identified potentially cost-effective energy  
19 conservation measures, the district shall undertake an investment grade  
20 audit of the facility. Investment grade audits shall be completed no  
21 later than June 30, 2003, and installation of cost-effective  
22 conservation measures recommended in the investment grade audit shall  
23 be completed no later than December 31, 2004.

24        (2) A school district that, after December 31, 1997, has completed  
25 energy audits and implemented cost-effective conservation measures, or  
26 has contracted with an energy service company for energy audits and  
27 conservation measures, is deemed to have met the requirements of this  
28 section for those facilities included in the audits and conservation  
29 measures.

30        (3) A school district that after reasonable efforts and  
31 consultation with the department is unable to obtain a contract with an  
32 energy service company to conduct an investment grade audit or install  
33 cost-effective conservation measures recommended in an investment grade  
34 audit, is exempt from the requirements of subsection (1)(b) of this  
35 section.

36        **Sec. 23.**    RCW 43.19.668 and 1993 c 204 s 6 are each amended to read  
37 as follows:

1       The legislature finds and declares that the buildings, facilities,  
2 equipment, and vehicles owned or leased by state government consume  
3 significant amounts of energy and that energy conservation actions,  
4 including energy management systems, to provide for efficient energy  
5 use in these buildings, facilities, equipment, and vehicles will reduce  
6 the costs of state government. In order for the operations of state  
7 government to provide the citizens of this state an example of energy  
8 use efficiency, the legislature further finds and declares that state  
9 government should undertake an aggressive program designed to reduce  
10 energy use in state buildings, facilities, equipment, and vehicles  
11 within a reasonable period of time. The use of appropriate tree  
12 plantings for energy conservation is encouraged as part of this  
13 program.

14       **Sec. 24.** RCW 43.19.669 and 1980 c 172 s 2 are each amended to read  
15 as follows:

16       It is the purpose of RCW 43.19.670 through 43.19.685 to require  
17 energy audits in state-owned buildings, to require energy audits as a  
18 lease condition in all new, renewed, and renegotiated leases of  
19 buildings by the state, to undertake such modifications and  
20 installations as are necessary to maximize the efficient use of energy  
21 in these buildings, including but not limited to energy management  
22 systems, and to establish a policy for the purchase of state vehicles,  
23 equipment, and materials which results in efficient energy use by the  
24 state.

25       For a building that is leased by the state, energy audits and  
26 implementation of cost-effective energy conservation measures are  
27 required only for that portion of the building that is leased by the  
28 state when the state leases less than one hundred percent of the  
29 building. When implementing cost-effective energy conservation  
30 measures in buildings leased by the state, those measures must generate  
31 savings sufficient to finance the building modifications and  
32 installations over a loan period not greater than ten years and allow  
33 repayment during the term of the lease.

34       **Sec. 25.** RCW 43.19.670 and 1982 c 48 s 1 are each amended to read  
35 as follows:



1 As used in RCW 43.19.670 through 43.19.685, the following terms  
2 have the meanings indicated unless the context clearly requires  
3 otherwise.

4 (1) "Energy audit" means a determination of the energy consumption  
5 characteristics of a facility which consists of the following elements:

6 (a) An energy consumption survey which identifies the type, amount,  
7 and rate of energy consumption of the facility and its major energy  
8 systems. This survey shall be made by the agency responsible for the  
9 facility.

10 (b) A walk-through survey which determines appropriate energy  
11 conservation maintenance and operating procedures and indicates the  
12 need, if any, for the acquisition and installation of energy  
13 conservation measures and energy management systems. This survey shall  
14 be made by the agency responsible for the facility if it has  
15 technically qualified personnel available. The director of general  
16 administration shall provide technically qualified personnel to the  
17 responsible agency if necessary.

18 (c) (~~(A technical assistance study)~~) An investment grade audit,  
19 which is an intensive engineering analysis of energy conservation and  
20 management measures for the facility, net energy savings, and a cost-  
21 effectiveness determination. This element is required only for those  
22 facilities designated in the (~~(technical assistance study)~~) schedule  
23 adopted under RCW 43.19.680(~~(+3)~~) (2).

24 (2) "Cost-effective energy conservation measures" means energy  
25 conservation measures that the investment grade audit concludes will  
26 generate savings sufficient to finance project loans of not more than  
27 ten years.

28 (3) "Energy conservation measure" means an installation or  
29 modification of an installation in a facility which is primarily  
30 intended to reduce energy consumption or allow the use of an  
31 alternative energy source, including:

32 (a) Insulation of the facility structure and systems within the  
33 facility;

34 (b) Storm windows and doors, multiglazed windows and doors, heat  
35 absorbing or heat reflective glazed and coated windows and door  
36 systems, additional glazing, reductions in glass area, and other window  
37 and door system modifications;

38 (c) Automatic energy control systems;

- 1 (d) Equipment required to operate variable steam, hydraulic, and  
2 ventilating systems adjusted by automatic energy control systems;
- 3 (e) Solar space heating or cooling systems, solar electric  
4 generating systems, or any combination thereof;
- 5 (f) Solar water heating systems;
- 6 (g) Furnace or utility plant and distribution system modifications  
7 including replacement burners, furnaces, and boilers which  
8 substantially increase the energy efficiency of the heating system;  
9 devices for modifying flue openings which will increase the energy  
10 efficiency of the heating system; electrical or mechanical furnace  
11 ignitions systems which replace standing gas pilot lights; and utility  
12 plant system conversion measures including conversion of existing oil-  
13 and gas-fired boiler installations to alternative energy sources;
- 14 (h) Caulking and weatherstripping;
- 15 (i) Replacement or modification of lighting fixtures which increase  
16 the energy efficiency of the lighting system;
- 17 (j) Energy recovery systems; ~~((and))~~
- 18 (k) Energy management systems; and
- 19 (l) Such other measures as the director finds will save a  
20 substantial amount of energy.
- 21 ~~((+3+))~~ (4) "Energy conservation maintenance and operating  
22 procedure" means modification or modifications in the maintenance and  
23 operations of a facility, and any installations within the facility,  
24 which are designed to reduce energy consumption in the facility and  
25 which require no significant expenditure of funds.
- 26 ~~((+4+))~~ (5) "Energy management system" has the definition contained  
27 in RCW 39.35.030.
- 28 (6) "Energy savings performance contracting" means the process  
29 authorized by chapter 39.35C RCW by which a company contracts with a  
30 state agency to conduct no-cost energy audits, guarantee savings from  
31 energy efficiency, provide financing for energy efficiency  
32 improvements, install or implement energy efficiency improvements, and  
33 agree to be paid for its investment solely from savings resulting from  
34 the energy efficiency improvements installed or implemented.
- 35 (7) "Energy service company" means a company or contractor  
36 providing energy savings performance contracting services.
- 37 (8) "Facility" means a building, a group of buildings served by a  
38 central energy distribution system, or components of a central energy  
39 distribution system.

1       (~~(5)~~) (9) "Implementation plan" means the annual tasks and budget  
2 required to complete all acquisitions and installations necessary to  
3 satisfy the recommendations of the energy audit.

4       **Sec. 26.** RCW 43.19.675 and 1982 c 48 s 2 are each amended to read  
5 as follows:

6       For each state-owned facility, the director of general  
7 administration, (~~in cooperation with the director of the state energy~~  
8 office)) or the agency responsible for the facility if other than the  
9 department of general administration, shall conduct(~~(, by contract or~~  
10 other arrangement,)) an energy audit (~~(for each state-owned))~~ of that  
11 facility. (~~All energy audits shall be coordinated with and complement~~  
12 other governmental energy audit programs. The energy audit for each  
13 state-owned facility located on the capitol campus shall be completed  
14 no later than July 1, 1981, and the results and findings of each energy  
15 audit shall be compiled and transmitted to the governor and the  
16 legislature no later than October 1, 1981.)) This energy audit may be  
17 conducted by contract or by other arrangement, including appropriate  
18 agency staff. Performance-based contracting shall be the preferred  
19 method for implementing and completing energy audits. For (~~every~~  
20 other)) each state-owned facility, the energy consumption surveys shall  
21 be completed no later than October 1, (~~1982~~) 2001, and the walk-  
22 through surveys shall be completed no later than July 1, (~~1983~~) 2002.

23       **Sec. 27.** RCW 43.19.680 and 1996 c 186 s 506 are each amended to  
24 read as follows:

25       (1) Upon completion of each walk-through survey required by RCW  
26 43.19.675, the director of general administration or the agency  
27 responsible for the facility if other than the department of general  
28 administration shall implement energy conservation maintenance and  
29 operation procedures that may be identified for any state-owned  
30 facility. These procedures shall be implemented as soon as possible  
31 but not later than twelve months after the walk-through survey.

32       (2) (~~(By December 31, 1981, for the capitol campus the director of~~  
33 ~~general administration shall prepare and transmit to the governor and~~  
34 ~~the legislature an implementation plan.))~~ If a walk-through survey has  
35 identified potentially cost-effective energy conservation measures, the  
36 agency responsible for the facility shall undertake an investment grade  
37 audit of the facility. Investment grade audits shall be completed no

1 later than December 1, 2002. Installation of cost-effective energy  
2 conservation measures recommended in the investment grade audit shall  
3 be completed no later than June 30, 2004.

4 ~~(3) ((By December 31, 1983, for all other state-owned facilities,~~  
5 ~~the director of general administration shall prepare and transmit to~~  
6 ~~the governor and the legislature the results of the energy consumption~~  
7 ~~and walk-through surveys and a schedule for the conduct of technical~~  
8 ~~assistance studies. This submission shall contain the energy~~  
9 ~~conservation measures planned for installation during the ensuing~~  
10 ~~biennium. Priority considerations for scheduling technical assistance~~  
11 ~~studies shall include but not be limited to a facility's energy~~  
12 ~~efficiency, responsible agency participation, comparative cost and type~~  
13 ~~of fuels, possibility of outside funding, logistical considerations~~  
14 ~~such as possible need to vacate the facility for installation of energy~~  
15 ~~conservation measures, coordination with other planned facility~~  
16 ~~modifications, and the total cost of a facility modification, including~~  
17 ~~other work which would have to be done as a result of installing energy~~  
18 ~~conservation measures. Energy conservation measure acquisitions and~~  
19 ~~installations shall be scheduled to be twenty-five percent complete by~~  
20 ~~June 30, 1985, or at the end of the capital budget biennium which~~  
21 ~~includes that date, whichever is later, fifty-five percent complete by~~  
22 ~~June 30, 1989, or at the end of the capital budget biennium which~~  
23 ~~includes that date, whichever is later, eighty-five percent complete by~~  
24 ~~June 30, 1993, or at the end of the capital budget biennium which~~  
25 ~~includes that date, whichever is later, and fully complete by June 30,~~  
26 ~~1995, or at the end of the capital budget biennium which includes that~~  
27 ~~date, whichever is later. Each state agency shall implement energy~~  
28 ~~conservation measures with a payback period of twenty-four months or~~  
29 ~~less that have a positive cash flow in the same biennium.))~~

30 For each biennium until all measures are installed, the director of  
31 general administration shall report to the governor and legislature  
32 installation progress, measures planned for installation during the  
33 ensuing biennium(~~(, and changes, if any, to the technical assistance~~  
34 ~~study schedule)). This report shall be submitted by December 31,~~  
35 ~~((1984))~~ 2004, or at the end of the following year whichever  
36 immediately precedes the capital budget adoption, and every two years  
37 thereafter until all measures are installed.

38 ~~(4) ((The director of general administration shall adopt rules to~~  
39 ~~facilitate private investment in energy conservation measures for~~

1 ~~state-owned buildings consistent with state law.))~~ Agencies may  
2 contract with energy service companies as authorized by chapter 39.35C  
3 RCW for energy audits and implementation of cost-effective energy  
4 conservation measures. The department shall provide technically  
5 qualified personnel to the responsible agency upon request. The  
6 department shall recover a fee for this service.

7 NEW SECTION. Sec. 28. A new section is added to chapter 19.29A  
8 RCW to read as follows:

9 (1) Beginning January 1, 2002, each electric utility must provide  
10 to its retail electricity customers a voluntary option to purchase  
11 qualified alternative energy resources in accordance with this section.

12 (2) Each electric utility must include with its retail electric  
13 customer's regular billing statements, at least quarterly, a voluntary  
14 option to purchase qualified alternative energy resources. The option  
15 may allow customers to purchase qualified alternative energy resources  
16 at fixed or variable rates and for fixed or variable periods of time,  
17 including but not limited to monthly, quarterly, or annual purchase  
18 agreements. A utility may provide qualified alternative energy  
19 resource options through either: (a) Resources it owns or contracts  
20 for; or (b) the purchase of credits issued by a clearinghouse or other  
21 system by which the utility may secure, for trade or other  
22 consideration, verifiable evidence that a second party has a qualified  
23 alternative energy resource and that the second party agrees to  
24 transfer such evidence exclusively to the benefit of the utility.

25 (3) For the purposes of this section, a "qualified alternative  
26 energy resource" means the electricity produced from generation  
27 facilities that are fueled by: (a) Wind; (b) solar energy; (c)  
28 geothermal energy; (d) landfill gas; (e) wave or tidal action; (f) gas  
29 produced during the treatment of wastewater; (g) qualified hydropower;  
30 or (h) biomass energy based on solid organic fuels from wood, forest,  
31 or field residues, or dedicated energy crops that do not include wood  
32 pieces that have been treated with chemical preservatives such as  
33 creosote, pentachlorophenol, or copper-chrome-arsenic.

34 (4) For the purposes of this section, "qualified hydropower" means  
35 the energy produced either: (a) As a result of modernizations or  
36 upgrades made after June 1, 1998, to hydropower facilities operating on  
37 the effective date of this section that have been demonstrated to  
38 reduce the mortality of anadromous fish; or (b) by run of the river or

1 run of the canal hydropower facilities that are not responsible for  
2 obstructing the passage of anadromous fish.

3 (5) The rates, terms, conditions, and customer notification of each  
4 utility's option or options offered in accordance with this section  
5 must be approved by the governing body of the consumer-owned utility or  
6 by the commission for investor-owned utilities. All costs and benefits  
7 associated with any option offered by an electric utility under this  
8 section must be allocated to the customers who voluntarily choose that  
9 option and may not be shifted to any customers who have not chosen such  
10 option.

11 (6) Each consumer-owned utility must report annually to the  
12 department and each investor-owned utility must report annually to the  
13 commission beginning October 1, 2002, until October 1, 2012, describing  
14 the option or options it is offering its customers under the  
15 requirements of this section, the rate of customer participation, the  
16 amount of qualified alternative energy resources purchased by  
17 customers, and the amount of utility investments in qualified  
18 alternative energy resources. The department and the commission  
19 together shall report annually to the legislature, beginning December  
20 1, 2002, until December 1, 2012, with the results of the utility  
21 reports.

22 **Sec. 29.** RCW 19.29A.040 and 1998 c 300 s 6 are each amended to  
23 read as follows:

24 The provisions of RCW 19.29A.020, 19.29A.030, ~~((and))~~ section 5,  
25 chapter 300, Laws of 1998, and section 28 of this act do not apply to  
26 a small utility. However, nothing in this section prohibits the  
27 governing body of a small utility from determining the utility should  
28 comply with any or all of the provisions of RCW 19.29A.020, 19.29A.030,  
29 ~~((and))~~ section 5, chapter 300, Laws of 1998, and section 28 of this  
30 act, which governing bodies are encouraged to do.

31 **Sec. 30.** RCW 44.39.010 and 1977 ex.s. c 328 s 13 are each amended  
32 to read as follows:

33 There is hereby created the joint committee on energy ~~((and~~  
34 ~~utilities))~~ supply of the legislature of the state of Washington.

35 **Sec. 31.** RCW 44.39.015 and 1977 ex.s. c 328 s 14 are each amended  
36 to read as follows:

1 The committee shall consist of four senators and four  
2 representatives who shall be selected biennially as follows:

3 (1) The president of the senate shall ~~((nominate))~~ appoint four  
4 members from the ~~((energy and utilities))~~ senate to serve on the  
5 committee, including the ~~((chairman,))~~ chair of the committee  
6 responsible for energy issues. Two members ~~((being))~~ from each major  
7 political party~~((, to serve on the committee, and shall submit the list~~  
8 of nominees to the senate for confirmation. Upon confirmation, the  
9 senators shall be deemed installed as members)) must be appointed.

10 (2) The speaker or co-speakers of the house of representatives  
11 shall ~~((nominate))~~ appoint four members from the ~~((energy and~~  
12 utilities)) house of representatives to serve on the committee,  
13 including the ~~((chairman,))~~ chair or co-chairs of the committee  
14 responsible for energy issues. Two members ~~((being))~~ from each major  
15 political party~~((, to serve on the committee, and shall submit the list~~  
16 of nominees to the house of representatives for confirmation. Upon  
17 confirmation, the representatives shall be deemed installed as members.  
18 The chairmen of the senate and house energy and utilities committees  
19 shall alternately serve as chairman for one year terms. The chairman  
20 of the house committee shall serve as the initial chairman. The  
21 chairman may designate another committee member to serve as chairman in  
22 his or her absence)) must be appointed.

23 (3) The committee shall elect a chair and a vice-chair. The chair  
24 shall be a member of the house of representatives in even-numbered  
25 years and a member of the senate in odd-numbered years. In the case of  
26 a tie in the membership of the house of representatives in an even-  
27 numbered year, the committee shall elect co-chairs from the house of  
28 representatives in that year.

29 NEW SECTION. Sec. 32. A new section is added to chapter 82.34 RCW  
30 to read as follows:

31 (1) The following definitions apply throughout this section:

32 (a) "Qualifying facility" means an air pollution control facility  
33 as that term is defined in RCW 82.34.010(1)(a) to be installed or  
34 acquired for a thermal electric peaking plant with a capacity of less  
35 than one hundred megawatts and which is approved pursuant to the  
36 Washington clean air act, chapter 70.94 RCW.

37 (b) "Thermal electric peaking plant" means a natural gas-fired  
38 thermal electric generating facility operated by a light and power

1 business and placed into service between January 1, 1978, and December  
2 31, 1984, and that is registered for the calendar year 2000 pursuant to  
3 RCW 70.94.151.

4 (c) "Light and power business" has the same meaning as in RCW  
5 82.16.010.

6 (2) A light and power business is exempt from sales tax on the  
7 installation or acquisition of up to two qualifying facilities after  
8 January 1, 2001, as provided in this section. Upon written request of  
9 a light and power business to which the approval issued under chapter  
10 70.94 RCW is attached, the department shall make a determination as to  
11 whether a plant is a thermal electric peaking plant acquiring or  
12 installing a qualifying facility eligible under this section. The  
13 department shall consult with the department of community, trade, and  
14 economic development and the department of ecology in making the  
15 determination. If the determination is in the affirmative, the  
16 department shall issue the light and power business a sales and use tax  
17 exemption certificate in a form and manner as deemed appropriate by the  
18 department.

19 (3) The charges for installation or acquisition of a qualifying  
20 facility by the holder of the certificate are exempt from sales tax  
21 imposed under chapter 82.08 RCW and use tax imposed under chapter 82.12  
22 RCW. The purchaser must provide the seller with a copy of the sales  
23 and use tax exemption certificate. The seller shall retain a copy of  
24 the certificate for the seller's files.

25 (4) The exemption in this section is limited to the installation or  
26 acquisition of a qualifying facility and does not apply to servicing,  
27 maintenance, operation, or repairs of a thermal electric peaking plant  
28 or of an air pollution control facility.

29 (5) This section expires June 30, 2003.

30 NEW SECTION. **Sec. 33.** If any provision of this act or its  
31 application to any person or circumstance is held invalid, the  
32 remainder of the act or the application of the provision to other  
33 persons or circumstances is not affected.

34 NEW SECTION. **Sec. 34.** This act is necessary for the immediate  
35 preservation of the public peace, health, or safety, or support of the  
36 state government and its existing public institutions, and takes effect  
37 immediately."



1 Correct the title.

--- END ---