
ENGROSSED HOUSE BILL 2247

State of Washington 57th Legislature 2001 Regular Session

By Representatives Crouse, Poulsen and Edwards

Read first time . Referred to Committee on .

1 AN ACT Relating to the management of state energy supply and
2 demand; amending RCW 80.50.010, 80.50.060, 80.50.020, 80.50.030,
3 80.50.040, 80.50.090, 39.35.010, 39.35.030, 39.35.050, 39.35A.020,
4 39.35C.010, 39.35C.020, 43.19.668, 43.19.669, 43.19.670, 43.19.675,
5 43.19.680, 19.29A.040, 44.39.010, and 44.39.015; adding new sections to
6 chapter 80.50 RCW; adding a new section to chapter 82.04 RCW; adding a
7 new section to chapter 82.12 RCW; adding new sections to chapter 82.16
8 RCW; adding a new section to chapter 82.32 RCW; adding a new section to
9 chapter 39.35A RCW; adding a new section to chapter 39.35C RCW; adding
10 a new section to chapter 19.29A RCW; adding a new section to chapter
11 82.34 RCW; creating a new section; providing an expiration date; and
12 declaring an emergency.

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

14 **Sec. 1.** RCW 80.50.010 and 1996 c 4 s 1 are each amended to read as
15 follows:

16 The legislature finds that the present and predicted growth in
17 energy demands in the state of Washington requires the development of
18 a procedure for the selection and utilization of sites for energy
19 facilities and the identification of a state position with respect to

1 each proposed site. The legislature recognizes that the selection of
2 sites will have a significant impact upon the welfare of the
3 population, the location and growth of industry and the use of the
4 natural resources of the state.

5 It is the policy of the state of Washington to recognize the
6 pressing need for increased energy facilities, and to ensure through
7 available and reasonable methods, that the location and operation of
8 such facilities will produce minimal adverse effects on the
9 environment, ecology of the land and its wildlife, and the ecology of
10 state waters and their aquatic life.

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

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

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

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

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

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

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

33 (1) The provisions of this chapter shall apply to the construction
34 of energy facilities which includes the new construction of energy
35 facilities and the reconstruction or enlargement of existing energy
36 facilities where the net increase in physical capacity or dimensions
37 resulting from such reconstruction or enlargement meets or exceeds
38 those capacities or dimensions set forth in RCW 80.50.020 (7) and

1 (~~((17), as now or hereafter amended))~~ (14). No construction of such
2 energy facilities may be undertaken, except as otherwise provided in
3 this chapter, after July 15, 1977, without first obtaining
4 certification in the manner provided in this chapter.

5 (2) The provisions of this chapter apply to the construction,
6 reconstruction, or enlargement of a new or existing energy facility
7 that exclusively uses alternative energy resources and chooses to
8 receive certification under this chapter, regardless of the generating
9 capacity of the project.

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

14 (~~((3))~~) (4) Applications for certification of energy facilities
15 made prior to July 15, 1977 shall continue to be governed by the
16 applicable provisions of law in effect on the day immediately preceding
17 July 15, 1977 with the exceptions of RCW 80.50.190 and 80.50.071 which
18 shall apply to such prior applications and to site certifications
19 prospectively from July 15, 1977.

20 (~~((4))~~) (5) Applications for certification shall be upon forms
21 prescribed by the council and shall be supported by such information
22 and technical studies as the council may require.

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

25 The definitions in this section apply throughout this chapter
26 unless the context clearly requires otherwise.

27 (1) "Applicant" means any person who makes application for a site
28 certification pursuant to the provisions of this chapter(~~((+))~~).

29 (2) "Application" means any request for approval of a particular
30 site or sites filed in accordance with the procedures established
31 pursuant to this chapter, unless the context otherwise requires(~~((+))~~).

32 (3) "Person" means an individual, partnership, joint venture,
33 private or public corporation, association, firm, public service
34 company, political subdivision, municipal corporation, government
35 agency, public utility district, or any other entity, public or
36 private, however organized(~~((+))~~).

37 (4) "Site" means any proposed or approved location of an energy
38 facility(~~((+))~~).

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

7 (6) "Associated facilities" means storage, transmission, handling,
8 or other related and supporting facilities connecting an energy plant
9 with the existing energy supply, processing, or distribution system,
10 including, but not limited to, communications, controls, mobilizing or
11 maintenance equipment, instrumentation, and other types of ancillary
12 transmission equipment, off-line storage or venting required for
13 efficient operation or safety of the transmission system and overhead,
14 and surface or subsurface lines of physical access for the inspection,
15 maintenance, and safe operations of the transmission facility and new
16 transmission lines constructed to operate at nominal voltages in excess
17 of 200,000 volts to connect a thermal power plant to the northwest
18 power grid: PROVIDED, That common carrier railroads or motor vehicles
19 shall not be included((?)).

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

22 (a) Crude or refined petroleum or liquid petroleum product
23 transmission pipeline of the following dimensions: A pipeline larger
24 than six inches minimum inside diameter between valves for the
25 transmission of these products with a total length of at least fifteen
26 miles;

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

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

1 (9) "Thermal power plant" means, for the purpose of certification,
2 any electrical generating facility using any fuel, including nuclear
3 materials, for distribution of electricity by electric utilities((?)).
4

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

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

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

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

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

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

21 (14) "Energy plant" means the following facilities together with
22 their associated facilities:

23 (a) Any stationary thermal power plant with generating capacity of
24 ((two)) three hundred fifty thousand kilowatts or more, measured using
25 maximum continuous electric generating capacity, less minimum auxiliary
26 load, at average ambient temperature and pressure, and floating thermal
27 power plants of ((fifty)) one hundred thousand kilowatts or more,
28 including associated facilities. For the purposes of this subsection,
29 "floating thermal power plants" means a thermal power plant that is
30 suspended on the surface of water by means of a barge, vessel, or other
31 floating platform;

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

36 (c) Facilities which will have the capacity to receive more than an
37 average of fifty thousand barrels per day of crude or refined petroleum
38 or liquified petroleum gas which has been or will be transported over
39 marine waters, except that the provisions of this chapter shall not

1 apply to storage facilities unless occasioned by such new facility
2 construction;

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

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

9 (15) "Land use plan" means a comprehensive plan or land use element
10 thereof adopted by a unit of local government pursuant to chapters
11 35.63, 35A.63, or 36.70 RCW((+)).

12 (16) "Zoning ordinance" means an ordinance of a unit of local
13 government regulating the use of land and adopted pursuant to chapters
14 35.63, 35A.63, or 36.70 RCW or Article XI of the state Constitution.

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

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

23 (1) There is created and established the energy facility site
24 evaluation council.

25 (2)(a) The ((chairman)) chair of the council shall be appointed by
26 the governor with the advice and consent of the senate, shall have a
27 vote on matters before the council, shall serve for a term coextensive
28 with the term of the governor, and is removable for cause. The
29 ((chairman)) chair may designate a member of the council to serve as
30 acting ((chairman)) chair in the event of the ((chairman's)) chair's
31 absence. The salary of the chair shall be determined under RCW
32 43.03.040. The ((chairman)) chair is a "state employee" for the
33 purposes of chapter 42.52 RCW. As applicable, when attending meetings
34 of the council, members may receive reimbursement for travel expenses
35 in accordance with RCW 43.03.050 and 43.03.060, and are eligible for
36 compensation under RCW 43.03.250.

37 (b) The ((chairman)) chair or a designee shall execute all official
38 documents, contracts, and other materials on behalf of the council.

1 The Washington state department of community, trade, and economic
2 development shall provide all administrative and staff support for the
3 council. The director of the department of community, trade, and
4 economic development has supervisory authority over the staff of the
5 council and shall employ such personnel as are necessary to implement
6 this chapter. Not more than three such employees may be exempt from
7 chapter 41.06 RCW.

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

11 ~~((a))~~ (i) Department of ecology;

12 ~~((b))~~ (ii) Department of fish and wildlife;

13 ~~((c) Department of health;~~

14 ~~(d) Military department;~~

15 ~~(e))~~ (iii) Department of community, trade, and economic
16 development;

17 ~~((f))~~ (iv) Utilities and transportation commission; and

18 ~~((g))~~ (v) Department of natural resources(~~(~~

19 ~~(h) Department of agriculture;~~

20 ~~(i) Department of transportation)).~~

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

26 (i) Department of agriculture;

27 (ii) Department of health;

28 (iii) Military department; and

29 (iv) Department of transportation.

30 (c) Council membership is discretionary for agencies that choose to
31 participate under (b) of this subsection only for applications that are
32 filed with the council on or after the effective date of this section.
33 For applications filed before the effective date of this section,
34 council membership is mandatory for those agencies listed in (b) of
35 this subsection.

36 (4) The appropriate county legislative authority of every county
37 wherein an application for a proposed site is filed shall appoint a
38 member or designee as a voting member to the council. The member or
39 designee so appointed shall sit with the council only at such times as

1 the council considers the proposed site for the county which he or she
2 represents, and such member or designee shall serve until there has
3 been a final acceptance or rejection of the proposed site.

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

11 (6) For any port district wherein an application for a proposed
12 port facility is filed subject to this chapter, the port district shall
13 appoint a member or designee as a nonvoting member to the council. The
14 member or designee so appointed shall sit with the council only at such
15 times as the council considers the proposed site for the port district
16 which he or she represents, and such member or designee shall serve
17 until there has been a final acceptance or rejection of the proposed
18 site. The provisions of this subsection shall not apply if the port
19 district is the applicant, either singly or in partnership or
20 association with any other person.

21 NEW SECTION. **Sec. 5.** A new section is added to chapter 80.50 RCW
22 to read as follows:

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

26 (2) Council staff shall review all information submitted and
27 recommend resolutions to issues in dispute that would allow site
28 approval.

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

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

33 The council shall have the following powers:

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

- 1 (2) To develop and apply environmental and ecological guidelines in
2 relation to the type, design, location, construction, and operational
3 conditions of certification of energy facilities subject to this
4 chapter;
- 5 (3) To establish rules of practice for the conduct of public
6 hearings pursuant to the provisions of the Administrative Procedure
7 Act, as found in chapter 34.05 RCW;
- 8 (4) To prescribe the form, content, and necessary supporting
9 documentation for site certification;
- 10 (5) To receive applications for energy facility locations and to
11 investigate the sufficiency thereof;
- 12 (6) To make and contract, when applicable, for independent studies
13 of sites proposed by the applicant;
- 14 (7) To conduct hearings on the proposed location of the energy
15 facilities;
- 16 (8) To prepare written reports to the governor which shall include:
17 (a) A statement indicating whether the application is in compliance
18 with the council's guidelines, (b) criteria specific to the site and
19 transmission line routing, (c) a council recommendation as to the
20 disposition of the application, and (d) a draft certification agreement
21 when the council recommends approval of the application;
- 22 (9) To prescribe the means for monitoring of the effects arising
23 from the construction and the operation of energy facilities to assure
24 continued compliance with terms of certification and/or permits issued
25 by the council pursuant to chapter 90.48 RCW or subsection (12) of this
26 section: PROVIDED, That any on-site inspection required by the council
27 shall be performed by other state agencies pursuant to interagency
28 agreement: PROVIDED FURTHER, That the council (~~shall~~) may retain
29 authority for determining compliance relative to monitoring;
- 30 (10) To integrate its site evaluation activity with activities of
31 federal agencies having jurisdiction in such matters to avoid
32 unnecessary duplication;
- 33 (11) To present state concerns and interests to other states,
34 regional organizations, and the federal government on the location,
35 construction, and operation of any energy facility which may affect the
36 environment, health, or safety of the citizens of the state of
37 Washington;
- 38 (12) To issue permits in compliance with applicable provisions of
39 the federally approved state implementation plan adopted in accordance

1 with the Federal Clean Air Act, as now existing or hereafter amended,
2 for the new construction, reconstruction, or enlargement or operation
3 of energy facilities: PROVIDED, That such permits shall become
4 effective only if the governor approves an application for
5 certification and executes a certification agreement pursuant to this
6 chapter: AND PROVIDED FURTHER, That all such permits be conditioned
7 upon compliance with all provisions of the federally approved state
8 implementation plan which apply to energy facilities covered within the
9 provisions of this chapter; and

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

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

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

19 (2) Subsequent to the informational public hearing, the council
20 ((must)) shall conduct a public hearing to determine ((~~at the initial~~
21 ~~public hearing~~)) whether or not the proposed site is consistent and in
22 compliance with county or regional land use plans or zoning ordinances.
23 If it is determined that the proposed site does conform with existing
24 land use plans or zoning ordinances in effect as of the date of the
25 application, the county or regional planning authority shall not
26 thereafter change such land use plans or zoning ordinances so as to
27 affect the proposed site.

28 (3) Prior to the issuance of a council recommendation to the
29 governor under RCW 80.50.100 a public hearing, conducted as an
30 adjudicative proceeding under chapter 34.05 RCW, the Administrative
31 Procedure Act, shall be held. At such public hearing any person shall
32 be entitled to be heard in support of or in opposition to the
33 application for certification.

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

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

1 The governor shall undertake an evaluation of the operations of the
2 council to assess means to enhance its efficiency. The assessment must
3 include whether the efficiency of the siting process would be improved
4 by conducting the process under the state environmental policy act in
5 a particular sequence relative to the adjudicative proceeding. The
6 results of this assessment may include recommendations for
7 administrative changes, statutory changes, or expanded staffing levels.

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

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

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

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

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

27 (2) Effective July 1, 2001, a credit is allowed against the tax due
28 under this chapter to a direct service industrial customer who
29 purchases natural or manufactured gas from a gas distribution business
30 subject to the public utility tax under chapter 82.16 RCW. The credit
31 is equal to the value of natural or manufactured gas purchased from a
32 gas distribution business and used to generate electricity at the
33 facility multiplied by the rate in effect for the public utility tax on
34 gas distribution businesses under RCW 82.16.020. This credit may be
35 used each reporting period for sixty months following the first month
36 natural or manufactured gas was purchased from a gas distribution
37 business by a direct service industrial customer who constructs a
38 facility.

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

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

17 (5) All or part of the credit shall be disallowed and must be paid
18 if the average of the direct service industrial customer's average
19 annual employment for the five calendar years subsequent to the
20 calendar year containing the first month of purchase of natural or
21 manufactured gas to generate electricity at a facility is less than the
22 six-year average annual employment stated on the application for credit
23 under this section. The direct service industrial customer will
24 certify to the department by June 1st of the sixth calendar year
25 following the calendar year in which the month of first purchase of gas
26 occurs the average annual employment for each of the five prior
27 calendar years. All or part of the credit that shall be disallowed and
28 must be paid is commensurate with the decrease in the five-year average
29 of average annual employment as follows:

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

1 (6)(a) The direct service industrial customer shall begin paying
2 the credit that is disallowed and is to be paid in the sixth calendar
3 year following the calendar year in which the month following the month
4 of first purchase of natural or manufactured gas to generate
5 electricity at the facility occurs. The first payment will be due on
6 or before December 31st with subsequent annual payments due on or
7 before December 31st of the following four years according to the
8 following schedule:

9	<u>Payment Year</u>	<u>% of Credit to be Paid</u>
10	1	10%
11	2	15%
12	3	20%
13	4	25%
14	5	30%

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

17 (c) Interest shall not be charged on the credit that is disallowed
18 for the sixty-month period the credit may be taken, although all other
19 penalties and interest applicable to delinquent excise taxes may be
20 assessed and imposed. The debt for credit that is disallowed and must
21 be paid will not be extinguished by insolvency or other failure of the
22 direct service industrial customer. Transfer of ownership of the
23 facility does not affect eligibility for this credit. However, the
24 credit is available to the successor only if the eligibility conditions
25 of this section are met.

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

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

34 NEW SECTION. Sec. 10. A new section is added to chapter 82.12 RCW
35 to read as follows:

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

1 (a) "Direct service industrial customer" means a person who is an
2 industrial customer that contracts for the purchase of power from the
3 Bonneville power administration for direct consumption as of the
4 effective date of this section. "Direct service industrial customer"
5 includes a person who is a subsidiary that is more than fifty percent
6 owned by a direct service industrial customer and who receives power
7 from the Bonneville Power Administration pursuant to the parent's
8 contract for power.

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

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

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

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

33 (4)(a) The direct service industrial customer shall begin paying
34 the deferred tax in the sixth calendar year following the calendar year
35 in which the month of first use of natural or manufactured gas to
36 generate electricity at the facility occurs. The first payment will be
37 due on or before December 31st with subsequent annual payments due on
38 or before December 31st of the following four years according to the
39 following schedule:

	<u>Payment Year</u>	<u>% of Deferred Tax to be Paid</u>
1		
2	1	10%
3	2	15%
4	3	20%
5	4	25%
6	5	30%

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

9 (c) Interest shall not be charged on the tax deferred under this
10 section for the period of deferral, although all other penalties and
11 interest applicable to delinquent excise taxes may be assessed and
12 imposed. The debt for deferred tax will not be extinguished by
13 insolvency or other failure of the direct service industrial customer.
14 Transfer of ownership of the facility does not affect deferral
15 eligibility. However, the deferral is available to the successor only
16 if the eligibility conditions of this section are met.

17 (5)(a) If the average of the direct service industrial customer's
18 average annual employment for the five calendar years subsequent to the
19 calendar year containing the first month of use of natural or
20 manufactured gas to generate electricity at a facility is equal to or
21 exceeds the six-year average annual employment stated on the
22 application for deferral under this section, the tax deferred need not
23 be paid. The direct service industrial customer shall certify to the
24 department by June 1st of the sixth calendar year following the
25 calendar year in which the month of first use of gas occurs the average
26 annual employment for each of the five prior calendar years.

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

<u>Decrease in Average Annual</u>	<u>% of Deferred</u>
<u>Employment Over</u>	<u>Tax to be Paid</u>
<u>Five-Year Period</u>	
34 Less than 10%	10%
35 10% or more but less than 25%	25%
36 25% or more but less than 50%	50%
37 50% or more but less than 75%	75%
38 75% or more	100%

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

4 (6) 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 (7) A person claiming this deferral 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. 11.** A new section is added to chapter 82.16 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.

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

29 (2) Effective July 1, 2001, a credit is allowed against the tax due
30 under this chapter on sales of electricity made from a facility to a
31 direct service industrial customer if the contract for sale of
32 electricity to a direct service industrial customer contains the
33 following terms:

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

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

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

5 (3) The credit is equal to the gross proceeds from the sale of the
6 electricity to a direct service industrial customer multiplied by the
7 rate in effect at the time of the sale for the public utility tax on
8 light and power businesses under RCW 82.16.020. The credit may be used
9 each reporting period for sixty months following the first month
10 electricity is sold from a facility to a direct service industrial
11 customer. Credit under this section is limited to the amount of tax
12 imposed under this chapter. Refunds shall not be given in place of
13 credits and credits may not be carried over to subsequent calendar
14 years.

15 (4) Application for credit shall be made before the first sale of
16 electricity from a facility to a direct service industrial customer.
17 The application shall be in a form and manner prescribed by the
18 department and shall include but is not limited to information
19 regarding the location of the facility, identification of the direct
20 service industrial customer who will receive electricity from the
21 facility, the projected date of the first sale of electricity to a
22 direct service industrial customer, the date construction is projected
23 to begin or did begin, and the average annual employment in the state
24 of the direct service industrial customer who will receive electricity
25 from the facility for the six calendar years immediately preceding the
26 year in which the application is made. A copy of the contract for sale
27 of electricity must be attached to the application. The department
28 shall rule on the application within thirty days of receipt.

29 (5) All or part of the credit shall be disallowed and must be paid
30 if the average of the direct service industrial customer's average
31 annual employment for the five calendar years subsequent to the
32 calendar year containing the first month of sale of electricity from a
33 facility to a direct service industrial customer is less than the six-
34 year average annual employment stated on the application for credit
35 under this section. The direct service industrial customer shall
36 certify to the department and to the facility by June 1st of the sixth
37 calendar year following the calendar year in which the month of first
38 sale occurs the average annual employment for each of the five prior
39 calendar years. All or part of the credit that shall be disallowed and

1 must be paid is commensurate with the decrease in the five-year average
2 of average annual employment as follows:

3	<u>Decrease in Average Annual</u>	
4	<u>Employment Over</u>	
5	<u>Five-Year Period</u>	<u>% of Credit to be Paid</u>
6	Less than 10%	10%
7	10% or more but less than 25%	25%
8	25% or more but less than 50%	50%
9	50% or more but less than 75%	75%
10	75% or more	100%

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

18	<u>Payment Year</u>	<u>% of Credit to be Paid</u>
19	1	10%
20	2	15%
21	3	20%
22	4	25%
23	5	30%

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

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

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

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

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

12 (2) Credits and deferred tax are available on a first come basis.
13 Priority for tax credits and deferrals among approved applicants shall
14 be designated based on the first actual consumption of gas under
15 section 9 or 10 of this act, or on the first actual use of electricity
16 under section 11 of this act, by each approved applicant. The
17 department shall disallow any credits or deferred tax, or portion
18 thereof, that would cause the total amount of credits taken and
19 deferred taxes claimed to exceed the fiscal year cap or to exceed the
20 per person fiscal year cap. If the fiscal cap is reached or exceeded
21 the department shall notify those persons who have approved
22 applications under sections 9 through 11 of this act that no more
23 credits may be taken or tax deferred during the remainder of the fiscal
24 year. In addition, the department shall provide written notice to any
25 person who has taken any tax credits or claimed any deferred tax in
26 excess of the fiscal year cap. The notice shall indicate the amount of
27 tax due and shall provide that the tax be paid within thirty days from
28 the date of such notice.

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

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

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

37 (a) "Base credit" means the maximum amount of credit against the
38 tax imposed by this chapter that each light and power business or gas

1 distribution business may take each fiscal year as calculated by the
2 department. The base credit is equal to the proportionate share that
3 the total grants received by each light and power business or gas
4 distribution business in the prior fiscal year bears to the total
5 grants received by all light and power businesses and gas distribution
6 businesses in the prior fiscal year multiplied by two million five
7 hundred thousand dollars.

8 (b) "Billing discount" means a reduction in the amount charged for
9 providing service to qualifying persons in Washington made by a light
10 and power business or a gas distribution business. Billing discount
11 does not include grants received by the light and power business or a
12 gas distribution business.

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

16 (d) "Low-income home energy assistance program" means energy
17 assistance programs for low-income households as defined on December
18 31, 2000, in the low-income home energy assistance act of 1981 as
19 amended August 1, 1999, 42 U.S.C. Sec. 8623 et seq.

20 (e) "Qualifying person" means a Washington resident who applies for
21 assistance and qualifies for a grant regardless of whether that person
22 receives a grant.

23 (f) "Qualifying contribution" means money given by a light and
24 power business or a gas distribution business to a qualifying
25 organization, exclusive of money received in the prior fiscal year from
26 its customers for the purpose of assisting other customers.

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

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

35 (a)(i) A credit may be taken for qualifying contributions if the
36 dollar amount of qualifying contributions for the fiscal year in which
37 the tax credit is taken is greater than one hundred twenty-five percent
38 of the dollar amount of qualifying contributions given in fiscal year
39 2000.

1 (ii) If no qualifying contributions were given in fiscal year 2000,
2 a credit shall be allowed for the first fiscal year that qualifying
3 contributions are given. Thereafter, credit shall be allowed if the
4 qualifying contributions given exceed one hundred twenty-five percent
5 of qualifying contributions given in the first fiscal year.

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

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

13 (ii) If no billing discounts were given in fiscal year 2000, a
14 credit shall be allowed in the first fiscal year that billing discounts
15 are given. Thereafter, credit shall be allowed if the dollar amount of
16 billing discounts given exceeds one hundred twenty-five percent of
17 billing discounts given in the first fiscal year.

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

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

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

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

33 (b) Not later than July 1st of each year beginning in 2002,
34 application for credit must be made to the department including but not
35 limited to the following information: Billing discounts given by the
36 applicant in fiscal year 2000; qualifying contributions given by the
37 applicant in the prior fiscal year; the amount of money received in the
38 prior fiscal year from customers for the purpose of assisting other
39 customers; the base credit for the next fiscal year for the applicant;

1 the qualifying contributions anticipated to be given in the next fiscal
2 year; and billing discounts anticipated to be given in the next fiscal
3 year. No credit under this section will be allowed to a light and
4 power business or gas distribution business that does not file the
5 application by July 1st.

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

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

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

18 (6) No credit may be taken for billing discounts made before July
19 1, 2001. Within two weeks of the effective date of this section, the
20 department of community, trade, and economic development shall notify
21 the department of revenue in writing of the grants received in fiscal
22 year 2001 by each light and power business and gas distribution
23 business. Within four weeks of the effective date of this section, the
24 department of revenue shall publish the base credit for each light and
25 power business and gas distribution business for fiscal year 2002.
26 Within eight weeks of the effective date of this section, application
27 to the department must be made showing the information required in
28 subsection (4)(b) of this section. Within twelve weeks of the
29 effective date of this section, the department shall notify each
30 applicant of the amount of credit that may be taken in fiscal year
31 2002.

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

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

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

1 (c) Conservation programs originally established in the 1970s and
2 1980s can be improved or updated. New programs drawing on recently
3 developed technologies, including demand-side energy management
4 systems, can materially increase the efficiency of energy use by the
5 public sector.

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

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

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

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

18 The legislature hereby finds:

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

21 (2) That energy conservation practices including energy management
22 systems and renewable energy systems adopted for the design,
23 construction, and utilization of such facilities will have a beneficial
24 effect on our overall supply of energy;

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

28 (4) That the cost of energy is significant and major facility
29 designs shall be based on the total life-cycle cost, including the
30 initial construction cost, and the cost, over the economic life of a
31 major facility, of the energy consumed, and of the operation and
32 maintenance of a major facility as they affect energy consumption; and

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

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

3 For the purposes of this chapter the following words and phrases
4 shall have the following meanings unless the context clearly requires
5 otherwise:

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

9 (2) "Department" means the state department of general
10 administration.

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

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

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

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

20 (7) "Energy management system" means a program, energy efficiency
21 equipment, technology, device, or other measure including, but not
22 limited to, a management, educational, or promotional program, smart
23 appliance, meter reading system that provides energy information
24 capability, computer software or hardware, communications equipment or
25 hardware, thermostat or other control equipment, together with related
26 administrative or operational programs, that allows identification and
27 management of opportunities for improvement in the efficiency of energy
28 use, including but not limited to a measure that allows:

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

31 (b) Interactive communication between energy consumers and their
32 energy suppliers;

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

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

36 (8) "Life-cycle cost" means the initial cost and cost of operation
37 of a major facility over its economic life. This shall be calculated
38 as the initial cost plus the operation, maintenance, and energy costs
39 over its economic life, reflecting anticipated increases in these costs

1 discounted to present value at the current rate for borrowing public
2 funds, as determined by the office of financial management. The energy
3 cost projections used shall be those provided by the department. The
4 department shall update these projections at least every two years.

5 ~~((+8+))~~ (9) "Life-cycle cost analysis" includes, but is not limited
6 to, the following elements:

7 (a) The coordination and positioning of a major facility on its
8 physical site;

9 (b) The amount and type of fenestration employed in a major
10 facility;

11 (c) The amount of insulation incorporated into the design of a
12 major facility;

13 (d) The variable occupancy and operating conditions of a major
14 facility; and

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

16 ~~((+9+))~~ (10) "Energy systems" means all utilities, including, but
17 not limited to, heating, air-conditioning, ventilating, lighting, and
18 the supplying of domestic hot water.

19 ~~((+10+))~~ (11) "Energy-consumption analysis" means the evaluation of
20 all energy systems and components by demand and type of energy
21 including the internal energy load imposed on a major facility by its
22 occupants, equipment, and components, and the external energy load
23 imposed on a major facility by the climatic conditions of its location.
24 An energy-consumption analysis of the operation of energy systems of a
25 major facility shall include, but not be limited to, the following
26 elements:

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

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

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

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

4 (~~(11)~~) (12) "Renewable energy systems" means methods of facility
5 design and construction and types of equipment for the utilization of
6 renewable energy sources including, but not limited to, hydroelectric
7 power, active or passive solar space heating or cooling, domestic solar
8 water heating, windmills, waste heat, biomass and/or refuse-derived
9 fuels, photovoltaic devices, and geothermal energy.

10 (~~(12)~~) (13) "Cogeneration" means the sequential generation of two
11 or more forms of energy from a common fuel or energy source. Where
12 these forms are electricity and thermal energy, then the operating and
13 efficiency standards established by 18 C.F.R. Sec. 292.205 and the
14 definitions established by 18 C.F.R. 292.202 (c) through (m) as of July
15 28, 1991, shall apply.

16 (~~(13)~~) (14) "Selected buildings" means educational, office,
17 residential care, and correctional facilities that are designed to
18 comply with the design standards analyzed and recommended by the
19 department.

20 (~~(14)~~) (15) "Design standards" means the heating, air-
21 conditioning, ventilating, and renewable resource systems identified,
22 analyzed, and recommended by the department as providing an efficient
23 energy system or systems based on the economic life of the selected
24 buildings.

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

27 The department, in consultation with affected public agencies,
28 shall develop and issue guidelines for administering this chapter. The
29 purpose of the guidelines is to define a procedure and method for
30 performance of life-cycle cost analysis to promote the selection of
31 low-life-cycle cost alternatives. At a minimum, the guidelines must
32 contain provisions that:

33 (1) Address energy considerations during the planning phase of the
34 project;

35 (2) Identify energy components and system alternatives including
36 energy management systems, renewable energy systems, and cogeneration
37 applications prior to commencing the energy consumption analysis;

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

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

6 (5) Specify the assumptions to be used for escalation and inflation
7 rates, equipment service lives, economic building lives, and
8 maintenance costs;

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

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

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

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

16 (1) "Energy equipment and services" means energy management systems
17 and any equipment, materials, or supplies that are expected, upon
18 installation, to reduce the energy use or energy cost of an existing
19 building or facility, and the services associated with the equipment,
20 materials, or supplies, including but not limited to design,
21 engineering, financing, installation, project management, guarantees,
22 operations, and maintenance.

23 (2) "Energy management system" has the definition provided in RCW
24 39.35.030.

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

26 ((+3+)) (4) "Performance-based contract" means one or more
27 contracts for energy equipment and services between a municipality and
28 any other persons or entities, if the payment obligation for each year
29 under the contract, including the year of installation, is either: (a)
30 Set as a percentage of the annual energy cost savings attributable
31 under the contract to the energy equipment and services; or (b)
32 guaranteed by the other persons or entities to be less than the annual
33 energy cost savings attributable under the contract to the energy
34 equipment and services. Such guarantee shall be, at the option of the
35 municipality, a bond or insurance policy, or some other guarantee
36 determined sufficient by the municipality to provide a level of
37 assurance similar to the level provided by a bond or insurance policy.

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

3 The state department of general administration shall maintain a
4 registry of energy service contractors and provide assistance to
5 municipalities in identifying available performance-based contracting
6 services.

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

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

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

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

20 (3) "Cost-effective" means that the present value to a state agency
21 or school district of the energy reasonably expected to be saved or
22 produced by a facility, activity, measure, or piece of equipment over
23 its useful life, including any compensation received from a utility or
24 the Bonneville power administration, is greater than the net present
25 value of the costs of implementing, maintaining, and operating such
26 facility, activity, measure, or piece of equipment over its useful
27 life, when discounted at the cost of public borrowing.

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

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

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

32 (~~(6)~~) (7) "Energy efficiency services" means assistance furnished
33 by the department to state agencies and school districts in
34 identifying, evaluating, and implementing energy efficiency projects.

35 (~~(7)~~) (8) "Department" means the state department of general
36 administration.

1 (~~(8)~~) (9) "Performance-based contracting" means contracts for
2 which payment is conditional on achieving contractually specified
3 energy savings.

4 (~~(9)~~) (10) "Public agency" means every state office, officer,
5 board, commission, committee, bureau, department, and all political
6 subdivisions of the state.

7 (~~(10)~~) (11) "Public facility" means a building or structure, or
8 a group of buildings or structures at a single site, owned by a state
9 agency or school district.

10 (~~(11)~~) (12) "State agency" means every state office or
11 department, whether elective or appointive, state institutions of
12 higher education, and all boards, commissions, or divisions of state
13 government, however designated.

14 (~~(12)~~) (13) "State facility" means a building or structure, or a
15 group of buildings or structures at a single site, owned by a state
16 agency.

17 (~~(13)~~) (14) "Utility" means privately or publicly owned electric
18 and gas utilities, electric cooperatives and mutuals, whether located
19 within or without Washington state.

20 (~~(14)~~) (15) "Local utility" means the utility or utilities in
21 whose service territory a public facility is located.

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

24 (1) Each state agency and school district shall implement cost-
25 effective conservation improvements and maintain efficient operation of
26 its facilities in order to minimize energy consumption and related
27 environmental impacts and reduce operating costs. Each state agency
28 shall undertake an energy audit and implement cost-effective
29 conservation measures pursuant to the time schedules and requirements
30 set forth in chapter 43.19 RCW, except that any state agency that,
31 after December 31, 1997, has completed energy audits and implemented
32 cost-effective conservation measures, or has contracted with an energy
33 service company for energy audits and conservation measures, is deemed
34 to have met the requirements of this subsection for those facilities
35 included in the audits and conservation measures. Each school district
36 shall undertake an energy audit and implement cost-effective
37 conservation measures pursuant to the time schedules and requirements
38 set forth in section 22 of this act. Performance-based contracting

1 shall be the preferred method for completing energy audits and
2 implementing cost-effective conservation measures.

3 (2) The department shall assist state agencies and school districts
4 in identifying, evaluating, and implementing cost-effective
5 conservation projects at their facilities. The assistance shall
6 include the following:

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

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

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

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

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

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

22 (4) The department shall comply with the requirements of chapter
23 39.80 RCW when contracting for architectural or engineering services.

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

29 NEW SECTION. Sec. 22. A new section is added to chapter 39.35C
30 RCW to read as follows:

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

37 (a) For each district facility, the energy consumption surveys
38 shall be completed no later than December 31, 2001, and the walk-

1 through surveys shall be completed no later than October 1, 2002. Upon
2 completion of each walk-through survey, the district shall implement
3 energy conservation maintenance and operation procedures that may be
4 identified for any district facility. These procedures shall be
5 implemented as soon as possible, but not later than twelve months after
6 the walk-through survey.

7 (b) Except as provided in subsection (3) of this section, if a
8 walk-through survey has identified potentially cost-effective energy
9 conservation measures, the district shall undertake an investment grade
10 audit of the facility. Investment grade audits shall be completed no
11 later than June 30, 2003, and installation of cost-effective
12 conservation measures recommended in the investment grade audit shall
13 be completed no later than December 31, 2004.

14 (2) A school district that, after December 31, 1997, has completed
15 energy audits and implemented cost-effective conservation measures, or
16 has contracted with an energy service company for energy audits and
17 conservation measures, is deemed to have met the requirements of this
18 section for those facilities included in the audits and conservation
19 measures.

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

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

28 The legislature finds and declares that the buildings, facilities,
29 equipment, and vehicles owned or leased by state government consume
30 significant amounts of energy and that energy conservation actions,
31 including energy management systems, to provide for efficient energy
32 use in these buildings, facilities, equipment, and vehicles will reduce
33 the costs of state government. In order for the operations of state
34 government to provide the citizens of this state an example of energy
35 use efficiency, the legislature further finds and declares that state
36 government should undertake an aggressive program designed to reduce
37 energy use in state buildings, facilities, equipment, and vehicles
38 within a reasonable period of time. The use of appropriate tree

1 plantings for energy conservation is encouraged as part of this
2 program.

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

5 It is the purpose of RCW 43.19.670 through 43.19.685 to require
6 energy audits in state-owned buildings, to require energy audits as a
7 lease condition in all new, renewed, and renegotiated leases of
8 buildings by the state, to undertake such modifications and
9 installations as are necessary to maximize the efficient use of energy
10 in these buildings, including but not limited to energy management
11 systems, and to establish a policy for the purchase of state vehicles,
12 equipment, and materials which results in efficient energy use by the
13 state.

14 For a building that is leased by the state, energy audits and
15 implementation of cost-effective energy conservation measures are
16 required only for that portion of the building that is leased by the
17 state when the state leases less than one hundred percent of the
18 building. When implementing cost-effective energy conservation
19 measures in buildings leased by the state, those measures must generate
20 savings sufficient to finance the building modifications and
21 installations over a loan period not greater than ten years and allow
22 repayment during the term of the lease.

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

25 As used in RCW 43.19.670 through 43.19.685, the following terms
26 have the meanings indicated unless the context clearly requires
27 otherwise.

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

30 (a) An energy consumption survey which identifies the type, amount,
31 and rate of energy consumption of the facility and its major energy
32 systems. This survey shall be made by the agency responsible for the
33 facility.

34 (b) A walk-through survey which determines appropriate energy
35 conservation maintenance and operating procedures and indicates the
36 need, if any, for the acquisition and installation of energy
37 conservation measures and energy management systems. This survey shall

1 be made by the agency responsible for the facility if it has
2 technically qualified personnel available. The director of general
3 administration shall provide technically qualified personnel to the
4 responsible agency if necessary.

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

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

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

19 (a) Insulation of the facility structure and systems within the
20 facility;

21 (b) Storm windows and doors, multiglazed windows and doors, heat
22 absorbing or heat reflective glazed and coated windows and door
23 systems, additional glazing, reductions in glass area, and other window
24 and door system modifications;

25 (c) Automatic energy control systems;

26 (d) Equipment required to operate variable steam, hydraulic, and
27 ventilating systems adjusted by automatic energy control systems;

28 (e) Solar space heating or cooling systems, solar electric
29 generating systems, or any combination thereof;

30 (f) Solar water heating systems;

31 (g) Furnace or utility plant and distribution system modifications
32 including replacement burners, furnaces, and boilers which
33 substantially increase the energy efficiency of the heating system;
34 devices for modifying flue openings which will increase the energy
35 efficiency of the heating system; electrical or mechanical furnace
36 ignitions systems which replace standing gas pilot lights; and utility
37 plant system conversion measures including conversion of existing oil-
38 and gas-fired boiler installations to alternative energy sources;

39 (h) Caulking and weatherstripping;

1 (i) Replacement or modification of lighting fixtures which increase
2 the energy efficiency of the lighting system;

3 (j) Energy recovery systems; ~~((and))~~

4 (k) Energy management systems; and

5 (l) Such other measures as the director finds will save a
6 substantial amount of energy.

7 ~~((+3))~~ (4) "Energy conservation maintenance and operating
8 procedure" means modification or modifications in the maintenance and
9 operations of a facility, and any installations within the facility,
10 which are designed to reduce energy consumption in the facility and
11 which require no significant expenditure of funds.

12 ~~((+4))~~ (5) "Energy management system" has the definition contained
13 in RCW 39.35.030.

14 (6) "Energy savings performance contracting" means the process
15 authorized by chapter 39.35C RCW by which a company contracts with a
16 state agency to conduct no-cost energy audits, guarantee savings from
17 energy efficiency, provide financing for energy efficiency
18 improvements, install or implement energy efficiency improvements, and
19 agree to be paid for its investment solely from savings resulting from
20 the energy efficiency improvements installed or implemented.

21 (7) "Energy service company" means a company or contractor
22 providing energy savings performance contracting services.

23 (8) "Facility" means a building, a group of buildings served by a
24 central energy distribution system, or components of a central energy
25 distribution system.

26 ~~((+5))~~ (9) "Implementation plan" means the annual tasks and budget
27 required to complete all acquisitions and installations necessary to
28 satisfy the recommendations of the energy audit.

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

31 For each state-owned facility, the director of general
32 administration, ~~((in cooperation with the director of the state energy~~
33 office)) or the agency responsible for the facility if other than the
34 department of general administration, shall conduct ~~((, by contract or~~
35 other arrangement,)) an energy audit ~~((for each state-owned))~~ of that
36 facility. ~~((All energy audits shall be coordinated with and complement~~
37 other governmental energy audit programs. The energy audit for each
38 state-owned facility located on the capitol campus shall be completed

1 no later than July 1, 1981, and the results and findings of each energy
2 audit shall be compiled and transmitted to the governor and the
3 legislature no later than October 1, 1981.)) This energy audit may be
4 conducted by contract or by other arrangement, including appropriate
5 agency staff. Performance-based contracting shall be the preferred
6 method for implementing and completing energy audits. For ((every
7 other)) each state-owned facility, the energy consumption surveys shall
8 be completed no later than October 1, ((1982)) 2001, and the walk-
9 through surveys shall be completed no later than July 1, ((1983)) 2002.

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

12 (1) Upon completion of each walk-through survey required by RCW
13 43.19.675, the director of general administration or the agency
14 responsible for the facility if other than the department of general
15 administration shall implement energy conservation maintenance and
16 operation procedures that may be identified for any state-owned
17 facility. These procedures shall be implemented as soon as possible
18 but not later than twelve months after the walk-through survey.

19 (2) ((By December 31, 1981, for the capitol campus the director of
20 general administration shall prepare and transmit to the governor and
21 the legislature an implementation plan.)) If a walk-through survey has
22 identified potentially cost-effective energy conservation measures, the
23 agency responsible for the facility shall undertake an investment grade
24 audit of the facility. Investment grade audits shall be completed no
25 later than December 1, 2002. Installation of cost-effective energy
26 conservation measures recommended in the investment grade audit shall
27 be completed no later than June 30, 2004.

28 (3) ((By December 31, 1983, for all other state-owned facilities,
29 the director of general administration shall prepare and transmit to
30 the governor and the legislature the results of the energy consumption
31 and walk through surveys and a schedule for the conduct of technical
32 assistance studies. This submission shall contain the energy
33 conservation measures planned for installation during the ensuing
34 biennium. Priority considerations for scheduling technical assistance
35 studies shall include but not be limited to a facility's energy
36 efficiency, responsible agency participation, comparative cost and type
37 of fuels, possibility of outside funding, logistical considerations
38 such as possible need to vacate the facility for installation of energy

1 conservation measures, coordination with other planned facility
2 modifications, and the total cost of a facility modification, including
3 other work which would have to be done as a result of installing energy
4 conservation measures. Energy conservation measure acquisitions and
5 installations shall be scheduled to be twenty five percent complete by
6 June 30, 1985, or at the end of the capital budget biennium which
7 includes that date, whichever is later, fifty five percent complete by
8 June 30, 1989, or at the end of the capital budget biennium which
9 includes that date, whichever is later, eighty five percent complete by
10 June 30, 1993, or at the end of the capital budget biennium which
11 includes that date, whichever is later, and fully complete by June 30,
12 1995, or at the end of the capital budget biennium which includes that
13 date, whichever is later. Each state agency shall implement energy
14 conservation measures with a payback period of twenty four months or
15 less that have a positive cash flow in the same biennium.))

16 For each biennium until all measures are installed, the director of
17 general administration shall report to the governor and legislature
18 installation progress, measures planned for installation during the
19 ensuing biennium(, and changes, if any, to the technical assistance
20 study schedule)). This report shall be submitted by December 31,
21 ((1984)) 2004, or at the end of the following year whichever
22 immediately precedes the capital budget adoption, and every two years
23 thereafter until all measures are installed.

24 (4) ((The director of general administration shall adopt rules to
25 facilitate private investment in energy conservation measures for
26 state-owned buildings consistent with state law.)) Agencies may
27 contract with energy service companies as authorized by chapter 39.35C
28 RCW for energy audits and implementation of cost-effective energy
29 conservation measures. The department shall provide technically
30 qualified personnel to the responsible agency upon request. The
31 department shall recover a fee for this service.

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

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

37 (2) Each electric utility must include with its retail electric
38 customer's regular billing statements, at least quarterly, a voluntary

1 option to purchase qualified alternative energy resources. The option
2 may allow customers to purchase qualified alternative energy resources
3 at fixed or variable rates and for fixed or variable periods of time,
4 including but not limited to monthly, quarterly, or annual purchase
5 agreements. A utility may provide qualified alternative energy
6 resource options through either: (a) Resources it owns or contracts
7 for; or (b) the purchase of credits issued by a clearinghouse or other
8 system by which the utility may secure, for trade or other
9 consideration, verifiable evidence that a second party has a qualified
10 alternative energy resource and that the second party agrees to
11 transfer such evidence exclusively to the benefit of the utility.

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

21 (4) For the purposes of this section, "qualified hydropower" means
22 the energy produced either: (a) As a result of modernizations or
23 upgrades made after June 1, 1998, to hydropower facilities operating on
24 the effective date of this section that have been demonstrated to
25 reduce the mortality of anadromous fish; or (b) by run of the river or
26 run of the canal hydropower facilities that are not responsible for
27 obstructing the passage of anadromous fish.

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

36 (6) Each consumer-owned utility must report annually to the
37 department and each investor-owned utility must report annually to the
38 commission beginning October 1, 2002, until October 1, 2012, describing
39 the option or options it is offering its customers under the

1 requirements of this section, the rate of customer participation, the
2 amount of qualified alternative energy resources purchased by
3 customers, and the amount of utility investments in qualified
4 alternative energy resources. The department and the commission
5 together shall report annually to the legislature, beginning December
6 1, 2002, until December 1, 2012, with the results of the utility
7 reports.

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

10 The provisions of RCW 19.29A.020, 19.29A.030, ~~((and))~~ section 5,
11 chapter 300, Laws of 1998, and section 28 of this act do not apply to
12 a small utility. However, nothing in this section prohibits the
13 governing body of a small utility from determining the utility should
14 comply with any or all of the provisions of RCW 19.29A.020, 19.29A.030,
15 ~~((and))~~ section 5, chapter 300, Laws of 1998, and section 28 of this
16 act, which governing bodies are encouraged to do.

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

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

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

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

25 (1) The president of the senate shall ~~((nominate))~~ appoint four
26 members from the ~~((energy and utilities))~~ senate to serve on the
27 committee, including the ((chairman,)) chair of the committee
28 responsible for energy issues. Two members ((being)) from each major
29 political party((, to serve on the committee, and shall submit the list
30 of nominees to the senate for confirmation. Upon confirmation, the
31 senators shall be deemed installed as members)) must be appointed.

32 (2) The speaker or co-speakers of the house of representatives
33 shall ~~((nominate))~~ appoint four members from the ~~((energy and~~
34 ~~utilities))~~ house of representatives to serve on the committee,
35 including the ((chairman,)) chair or co-chairs of the committee
36 responsible for energy issues. Two members ((being)) from each major

1 political party(~~(, to serve on the committee, and shall submit the list~~
2 ~~of nominees to the house of representatives for confirmation. Upon~~
3 ~~confirmation, the representatives shall be deemed installed as members.~~
4 ~~The chairmen of the senate and house energy and utilities committees~~
5 ~~shall alternately serve as chairman for one year terms. The chairman~~
6 ~~of the house committee shall serve as the initial chairman. The~~
7 ~~chairman may designate another committee member to serve as chairman in~~
8 ~~his or her absence)) must be appointed.~~

9 (3) The committee shall elect a chair and a vice-chair. The chair
10 shall be a member of the house of representatives in even-numbered
11 years and a member of the senate in odd-numbered years. In the case of
12 a tie in the membership of the house of representatives in an even-
13 numbered year, the committee shall elect co-chairs from the house of
14 representatives in that year.

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

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

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

23 (b) "Thermal electric peaking plant" means a natural gas-fired
24 thermal electric generating facility operated by a light and power
25 business and placed into service between January 1, 1978, and December
26 31, 1984, and that is registered for the calendar year 2000 pursuant to
27 RCW 70.94.151.

28 (c) "Light and power business" has the same meaning as in RCW
29 82.16.010.

30 (2) A light and power business is exempt from sales tax on the
31 installation or acquisition of up to two qualifying facilities after
32 January 1, 2001, as provided in this section. Upon written request of
33 a light and power business to which the approval issued under chapter
34 70.94 RCW is attached, the department shall make a determination as to
35 whether a plant is a thermal electric peaking plant acquiring or
36 installing a qualifying facility eligible under this section. The
37 department shall consult with the department of community, trade, and
38 economic development and the department of ecology in making the

1 determination. If the determination is in the affirmative, the
2 department shall issue the light and power business a sales and use tax
3 exemption certificate in a form and manner as deemed appropriate by the
4 department.

5 (3) The charges for installation or acquisition of a qualifying
6 facility by the holder of the certificate are exempt from sales tax
7 imposed under chapter 82.08 RCW and use tax imposed under chapter 82.12
8 RCW. The purchaser must provide the seller with a copy of the sales
9 and use tax exemption certificate. The seller shall retain a copy of
10 the certificate for the seller's files.

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

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

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

20 NEW SECTION. **Sec. 34.** This act is necessary for the immediate
21 preservation of the public peace, health, or safety, or support of the
22 state government and its existing public institutions, and takes effect
23 immediately.

--- END ---