
SENATE BILL 6177

State of Washington

57th Legislature

2001 Regular Session

By Senators Fraser, Morton, Brown, Winsley, Fairley, T. Sheldon, Finkbeiner, Franklin, Jacobsen, Spanel, Regala, Snyder, Prentice, Patterson, Hargrove, Constantine and Kohl-Welles

Read first time 04/11/2001. Referred to Committee on Environment, Energy & Water.

1 AN ACT Relating to the management of state energy supply and
2 demand; amending RCW 74.38.070, 19.29A.040, 80.50.020, 80.50.060,
3 80.50.030, 80.50.040, 80.50.090, 80.50.100, 44.39.010, 44.39.015,
4 80.52.030, 39.35.010, 39.35.030, 39.35.050, 39.35A.020, 39.35C.010,
5 39.35C.020, 43.19.668, 43.19.669, 43.19.670, 43.19.675, and 43.19.680;
6 adding new sections to chapter 82.16 RCW; adding a new section to
7 chapter 19.29A RCW; adding a new section to chapter 43.31 RCW; adding
8 a new section to chapter 80.50 RCW; adding a new section to chapter
9 82.04 RCW; adding a new section to chapter 82.12 RCW; adding a new
10 section to chapter 82.32 RCW; adding a new section to chapter 80.52
11 RCW; adding a new section to chapter 82.34 RCW; adding a new section to
12 chapter 39.35A RCW; adding a new section to chapter 39.35C RCW;
13 creating new sections; providing an expiration date; and declaring an
14 emergency.

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

16 NEW SECTION. **Sec. 1.** (1) The legislature finds that:

17 (a) A sufficient, reliable, and affordable supply of energy is
18 critically important to the health and welfare of the citizens of the
19 state and to the prosperity of the state and region;

1 (b) The state is experiencing dramatic increases in the costs of
2 electricity and natural gas as a result of many factors out of the
3 state's direct control, and these unprecedented price increases have a
4 disproportionate impact on the low-income citizens of the state;

5 (c) It remains in the state's best interests to encourage private
6 investment in renewable energy resources and to reduce the reliance on
7 a limited number of the energy resources used in this state;

8 (d) Energy generation and distribution systems and technologies
9 have changed greatly since the original enactment of the state's energy
10 facility siting laws thirty years ago. Experience during this time has
11 demonstrated that a state council with the primary responsibility for
12 energy facility siting approval is warranted, but that its procedures
13 and authorities can be improved to enhance energy supplies;

14 (e) Existing legislative oversight of the state's response to
15 energy shortages is in need of updating since the original creation of
16 the joint legislative committee on energy and utilities after the last
17 energy crisis; and

18 (f) The current energy situation requires that the state undertake
19 economic and policy decisions to effectuate both short-term and long-
20 term solutions that will assist individual consumers as well as
21 commercial and industrial customers of electricity while protecting the
22 environment.

23 (2) The legislature intends this act to:

24 (a) Help mitigate the adverse consequences of recent utility rate
25 increases on Washington's low-income citizens by creating incentives
26 for gas and electric utilities to adopt billing discounts and to make
27 contributions to low-income energy assistance programs;

28 (b) Provide electricity consumers the opportunity to exercise their
29 market power by choosing to purchase power from alternative energy
30 resources including renewable resources, and to reward businesses and
31 utilities that become "EnergySmart";

32 (c) Modify the statutory procedures and authorities of the energy
33 facility siting evaluation council to encourage generators to operate
34 their facilities to their fullest capacity;

35 (d) Modify the name and statutory procedures of the joint
36 legislative committee tasked with providing oversight in times of
37 energy shortages;

- 1 (e) Offer limited tax incentives to direct service industrial
2 customers to develop alternative sources of electricity and relieve the
3 burden their demand places on the Bonneville power administration; and
4 (f) Remove unnecessary barriers to the development of new, cost-
5 based electricity generation resources by public agencies.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 82.16 RCW
7 to read as follows:

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

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

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

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

27 (d) "Low-income home energy assistance program" means energy
28 assistance programs for low-income households as defined on December
29 31, 2000, in the low-income home energy assistance act of 1981 as
30 amended August 1, 1999, 42 U.S.C. Sec. 8623 et seq.

31 (e) "Qualifying person" means a Washington resident who applies for
32 assistance and qualifies for a grant regardless of whether that person
33 receives a grant.

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

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

6 (2) Subject to the limitations in this section, a light and power
7 business or a gas distribution business may take a credit each fiscal
8 year against the tax imposed under this chapter for qualifying
9 contributions that are equal to or greater than one hundred twenty-five
10 percent of the qualifying contributions given in fiscal year 2000 and
11 for billing discounts that are equal to or greater than one hundred
12 twenty-five percent of the billing discounts given in fiscal year 2000.
13 If no billing discounts were given in fiscal year 2000 a credit shall
14 be allowed on any billing discounts given in any subsequent fiscal
15 year. Thereafter, credit shall be allowed on billing discounts given
16 that are equal to or greater than one hundred twenty-five percent of
17 the billing discounts given in the first fiscal year such billing
18 discounts are given. The amount of credit shall be fifty percent of
19 the total billing discounts and qualifying contributions, limited to
20 the base credit for the same fiscal year.

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

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

30 (b) Not later than July 1st of each year beginning in 2002,
31 application for credit must be made to the department including but not
32 limited to the following information: Billing discounts given by the
33 applicant in fiscal year 2000; qualifying contributions given by the
34 applicant in the prior fiscal year; the amount of money received in the
35 prior fiscal year from customers for the purpose of assisting other
36 customers; the base credit for the next fiscal year for the applicant;
37 the qualifying contributions anticipated to be given in the next fiscal
38 year; and billing discounts anticipated to be given in the next fiscal
39 year. No credit under this section will be allowed to a light and

1 power business or gas distribution business that does not file the
2 application by July 1st.

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

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

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

15 (6) No credit may be taken for billing discounts made before July
16 1, 2001. Within two weeks of the effective date of this section, the
17 department of community, trade, and economic development shall notify
18 the department of revenue in writing of the grants received in fiscal
19 year 2001 by each light and power business and gas distribution
20 business. Within four weeks of the effective date of this section, the
21 department of revenue shall publish the base credit for each light and
22 power business and gas distribution business for fiscal year 2002.
23 Within eight weeks of the effective date of this section, application
24 to the department must be made showing the information required in
25 subsection (4)(b) of this section. Within twelve weeks of the
26 effective date of this section, the department shall notify each
27 applicant of the amount of credit that may be taken in fiscal year
28 2002.

29 **Sec. 3.** RCW 74.38.070 and 1998 c 300 s 8 are each amended to read
30 as follows:

31 (1) Notwithstanding any other provision of law, any county, city,
32 town, municipal corporation, or quasi municipal corporation providing
33 utility services may provide such services at reduced rates for low
34 income senior citizens or other low-income citizens: PROVIDED, That,
35 for the purposes of this section, "low-income senior citizen" or "other
36 low-income citizen" shall be defined by appropriate ordinance or
37 resolution adopted by the governing body of the county, city, town,
38 municipal corporation, or quasi municipal corporation providing the

1 utility services except as provided in subsection (2) of this section.
2 Any reduction in rates granted in whatever manner to low-income senior
3 citizens or other low-income citizens in one part of a service area
4 shall be uniformly extended to low-income senior citizens or other low-
5 income citizens in all other parts of the service area.

6 (2) For purposes of implementing this section by any public utility
7 district, (a) "low-income senior citizen" means a person who is sixty-
8 two years of age or older and whose total income, including that of his
9 or her spouse or cotenant, does not exceed the amount specified in RCW
10 84.36.381(5)(b), (~~as now or hereafter amended~~) and (b) "other low-
11 income citizen" means a person within the defined group established by
12 appropriate ordinance or resolution as provided in subsection (1) of
13 this section whose household income does not exceed the amount
14 specified in RCW 70.164.020(4).

15 NEW SECTION. Sec. 4. A new section is added to chapter 19.29A RCW
16 to read as follows:

17 (1) Beginning January 1, 2002, each electric utility must provide
18 to its retail electricity customers a voluntary option to purchase
19 qualified renewable energy resources in accordance with this section.

20 (2) Each electric utility must include on its retail electric
21 customer's regular billing statements a voluntary option to purchase
22 qualified renewable energy resources. The option may allow customers
23 to purchase qualified renewable energy resources at fixed or variable
24 rates and for fixed or variable periods of time. A utility may provide
25 qualified renewable energy resource options through either: (a)
26 Resources it owns or contracts for; or (b) the purchase of credits
27 issued by a clearinghouse or other system by which the utility may
28 secure, for trade or other consideration, verifiable evidence that a
29 second party has developed a qualified renewable energy resource and
30 that the second party agrees to transfer such evidence exclusively to
31 the credit of the utility.

32 (3) For the purposes of this section, a "qualified renewable energy
33 resource" means the electricity produced from generation facilities
34 that are fueled by: (a) Wind; (b) solar energy; (c) geothermal energy;
35 (d) landfill gas; (e) wave or tidal action; (f) gas produced during the
36 treatment of wastewater; (g) environmentally qualified hydropower, as
37 defined in RCW 82.08.02567; (h) fuel cells, as defined in RCW
38 82.08.02567; or (i) biomass energy based on solid organic fuels from

1 wood, forest, or field residues, or dedicated energy crops that do not
2 include wood pieces that have been treated with chemical preservatives
3 such as creosote, pentachlorophenol, or copper-chrome-arsenic.

4 (4) The rates, terms, conditions, and customer notification of each
5 utility's option or options offered in accordance with this section
6 must be approved by the governing body of the consumer-owned utility or
7 by the commission for investor-owned utilities.

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

18 **Sec. 5.** RCW 19.29A.040 and 1998 c 300 s 6 are each amended to read
19 as follows:

20 The provisions of RCW 19.29A.020, 19.29A.030, (~~and~~) section 5,
21 chapter 300, Laws of 1998, and section 4 of this act do not apply to a
22 small utility. However, nothing in this section prohibits the
23 governing body of a small utility from determining the utility should
24 comply with any or all of the provisions of RCW 19.29A.020, 19.29A.030,
25 (~~and~~) section 5, chapter 300, Laws of 1998, and section 4 of this
26 act, which governing bodies are encouraged to do.

27 NEW SECTION. **Sec. 6.** A new section is added to chapter 43.31 RCW
28 to read as follows:

29 (1) By December 15, 2001, the department of community, trade, and
30 economic development must establish the EnergySmart Washington program.
31 The purpose of the program is to give annual public recognition and
32 awards to individuals, businesses, utilities, government agencies, and
33 other institutions that provide leading examples of efficient use of
34 energy or that have made notable contributions to the development,
35 promotion, and deployment of energy efficiency. The program will
36 provide similar recognition for entities that demonstrate similar
37 achievements with regard to qualified renewable energy resources.

1 (2) In addition, the program will provide for annual awards of
2 certificates of achievement to utilities that develop a portfolio of
3 diverse energy resources, including but not limited to qualified
4 renewable energy resources. The purpose of awarding certificates of
5 achievement is to create an incentive for utilities to act in
6 accordance with state policy favoring a diversity of energy resources
7 and to recognize such achievement as a matter of environmental
8 distinction. A utility that receives a certificate of achievement may
9 publicize the certificate in its advertising, disclosures under chapter
10 19.29A RCW, and other means of publicity and advertising.

11 (3) For the purposes of this section, a "qualified renewable energy
12 resource" has the same meaning as that term is defined in section 4 of
13 this act.

14 **Sec. 7.** RCW 80.50.020 and 1995 c 69 s 1 are each amended to read
15 as follows:

16 The definitions in this section apply throughout this chapter
17 unless the context clearly requires otherwise.

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

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

23 (3) "Person" means an individual, partnership, joint venture,
24 private or public corporation, association, firm, public service
25 company, political subdivision, municipal corporation, government
26 agency, public utility district, or any other entity, public or
27 private, however organized((+)).

28 (4) "Site" means any proposed or approved location of an energy
29 facility((+)).

30 (5) "Certification" means a binding agreement between an applicant
31 and the state which shall embody compliance to the siting guidelines,
32 in effect as of the date of certification, which have been adopted
33 pursuant to RCW 80.50.040 as now or hereafter amended as conditions to
34 be met prior to or concurrent with the construction or operation of any
35 energy facility((+)).

36 (6) "Associated facilities" means storage, transmission, handling,
37 or other related and supporting facilities connecting an energy plant
38 with the existing energy supply, processing, or distribution system,

1 including, but not limited to, communications, controls, mobilizing or
2 maintenance equipment, instrumentation, and other types of ancillary
3 transmission equipment, off-line storage or venting required for
4 efficient operation or safety of the transmission system and overhead,
5 and surface or subsurface lines of physical access for the inspection,
6 maintenance, and safe operations of the transmission facility and new
7 transmission lines constructed to operate at nominal voltages in excess
8 of 200,000 volts to connect a thermal power plant to the northwest
9 power grid: PROVIDED, That common carrier railroads or motor vehicles
10 shall not be included((?)).

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

13 (a) Crude or refined petroleum or liquid petroleum product
14 transmission pipeline of the following dimensions: A pipeline larger
15 than six inches minimum inside diameter between valves for the
16 transmission of these products with a total length of at least fifteen
17 miles;

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

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

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

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

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

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

1 (11) "Council" means the energy facility site evaluation council
2 created by RCW 80.50.030((~~+~~)).

3 (12) "Counsel for the environment" means an assistant attorney
4 general or a special assistant attorney general who shall represent the
5 public in accordance with RCW 80.50.080((~~+~~)).

6 (13) "Construction" means on-site improvements, excluding
7 exploratory work, which cost in excess of two hundred fifty thousand
8 dollars((~~+~~)).

9 (14) "Energy plant" means the following facilities together with
10 their associated facilities:

11 (a) Any stationary thermal power plant with generating capacity of
12 ((~~two~~)) three hundred fifty thousand kilowatts or more, measured using
13 maximum continuous electric generating capacity, less minimum auxiliary
14 load, at average ambient temperature and pressure, and floating thermal
15 power plants of ((~~fifty~~)) fifty-five thousand kilowatts or more,
16 including associated facilities;

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

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

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

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

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

36 (16) "Zoning ordinance" means an ordinance of a unit of local
37 government regulating the use of land and adopted pursuant to chapters
38 35.63, 35A.63, or 36.70 RCW or Article XI of the state Constitution.

1 (17) "Renewable resource" means: (a) Wind; (b) solar energy; (c)
2 geothermal energy; (d) landfill gas; or (e) biomass energy based on
3 solid organic fuels from wood, forest, or field residues, or dedicated
4 energy crops that do not include wood pieces that have been treated
5 with chemical preservatives such as creosote, pentachlorophenol, or
6 copper-chrome-arsenic.

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

9 The council shall actively seek to implement the intent of this
10 chapter as set forth in RCW 80.50.010 by diligently and expediently
11 facilitating the siting of energy facilities to meet present and
12 emergent energy supply needs.

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

15 (1) The provisions of this chapter shall apply to the construction
16 of energy facilities which includes the new construction of energy
17 facilities and the reconstruction or enlargement of existing energy
18 facilities where the net increase in physical capacity or dimensions
19 resulting from such reconstruction or enlargement meets or exceeds
20 those capacities or dimensions set forth in RCW 80.50.020 (7) and
21 ~~((+17))~~ (14), as now or hereafter amended. No construction of such
22 energy facilities may be undertaken, except as otherwise provided in
23 this chapter, after July 15, 1977, without first obtaining
24 certification in the manner provided in this chapter.

25 (2) The provisions of this chapter apply to the construction,
26 reconstruction, or enlargement of a new or existing energy facility
27 that exclusively uses renewable resources and chooses to use the
28 process established in this chapter, regardless of the generating
29 capacity of the project.

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

34 ~~((+3))~~ (4) Applications for certification of energy facilities
35 made prior to July 15, 1977, shall continue to be governed by the
36 applicable provisions of law in effect on the day immediately preceding
37 July 15, 1977, with the exceptions of RCW 80.50.190 and 80.50.071 which

1 shall apply to such prior applications and to site certifications
2 prospectively from July 15, 1977.

3 ~~((4))~~ (5) Applications for certification shall be upon forms
4 prescribed by the council and shall be supported by such information
5 and technical studies as the council may require.

6 **Sec. 10.** RCW 80.50.030 and 1996 c 186 s 108 are each amended to
7 read as follows:

8 (1) There is created and established the energy facility site
9 evaluation council.

10 (2)(a) The ~~((chairman))~~ chair of the council shall be appointed by
11 the governor with the advice and consent of the senate, shall have a
12 vote on matters before the council, shall serve for a term coextensive
13 with the term of the governor, and is removable for cause. The
14 ~~((chairman))~~ chair may designate a member of the council to serve as
15 acting ~~((chairman))~~ chair in the event of the ~~((chairman's))~~ chair's
16 absence. The ~~((chairman))~~ chair is a "state employee" for the purposes
17 of chapter 42.52 RCW and shall receive a salary as determined under RCW
18 43.03.040. As applicable, when attending meetings of the council,
19 members may receive reimbursement for travel expenses in accordance
20 with RCW 43.03.050 and 43.03.060, and are eligible for compensation
21 under RCW 43.03.250.

22 (b) The ~~((chairman))~~ chair or a designee shall execute all official
23 documents, contracts, and other materials on behalf of the council.
24 The Washington state department of community, trade, and economic
25 development shall provide all administrative and staff support for the
26 council. The director of the department of community, trade, and
27 economic development has supervisory authority over the staff of the
28 council and shall employ such personnel as are necessary to implement
29 this chapter. Not more than three such employees may be exempt from
30 chapter 41.06 RCW.

31 (3) The council shall consist of the directors, administrators, or
32 their designees, of the following departments, agencies, commissions,
33 and committees or their statutory successors:

34 (a) Department of ecology;

35 (b) Department of fish and wildlife;

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

37 ~~(d) Military department;~~

38 ~~(e))~~ Department of community, trade, and economic development;

1 (~~(f)~~) (d) Utilities and transportation commission; and
2 (~~(g)~~) (e) Department of natural resources(~~(i~~
3 ~~(h)~~ Department of agriculture;
4 ~~(i)~~ Department of transportation)).

5 (4) The directors, administrators, or their designees, of the
6 following departments or their statutory successors, may participate as
7 councilmembers at their own discretion provided they elect to
8 participate no later than sixty days after the application is filed:

9 (a) Department of agriculture;

10 (b) Department of transportation;

11 (c) Military department; and

12 (d) Department of health.

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

20 (~~(5)~~) (6) The city legislative authority of every city within
21 whose corporate limits an energy plant is proposed to be located shall
22 appoint a member or designee as a voting member to the council. The
23 member or designee so appointed shall sit with the council only at such
24 times as the council considers the proposed site for the city which he
25 or she represents, and such member or designee shall serve until there
26 has been a final acceptance or rejection of the proposed site.

27 (~~(6)~~) (7) For any port district wherein an application for a
28 proposed port facility is filed subject to this chapter, the port
29 district shall appoint a member or designee as a nonvoting member to
30 the council. The member or designee so appointed shall sit with the
31 council only at such times as the council considers the proposed site
32 for the port district which he or she represents, and such member or
33 designee shall serve until there has been a final acceptance or
34 rejection of the proposed site. The provisions of this subsection
35 shall not apply if the port district is the applicant, either singly or
36 in partnership or association with any other person.

37 **Sec. 11.** RCW 80.50.040 and 1990 c 12 s 4 are each amended to read
38 as follows:

1 The council shall have the following powers:

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

6 (2) To develop and apply environmental and ecological guidelines in
7 relation to the type, design, location, construction, and operational
8 conditions of certification of energy facilities subject to this
9 chapter;

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

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

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

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

19 (7) To conduct hearings on the proposed location of the energy
20 facilities;

21 (8) To prepare written reports to the governor which shall include:
22 (a) A statement indicating whether the application is in compliance
23 with the council's guidelines, (b) criteria specific to the site and
24 transmission line routing, (c) a council recommendation as to the
25 disposition of the application, and (d) a draft certification agreement
26 when the council recommends approval of the application;

27 (9) To prescribe the means for monitoring of the effects arising
28 from the construction and the operation of energy facilities to assure
29 continued compliance with terms of certification and/or permits issued
30 by the council pursuant to chapter 90.48 RCW or subsection (12) of this
31 section: PROVIDED, That any on-site inspection required by the council
32 shall be performed by other state agencies pursuant to interagency
33 agreement: PROVIDED FURTHER, That the council (~~shall~~) may retain
34 authority for determining compliance relative to monitoring;

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

38 (11) To present state concerns and interests to other states,
39 regional organizations, and the federal government on the location,

1 construction, and operation of any energy facility which may affect the
2 environment, health, or safety of the citizens of the state of
3 Washington;

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

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

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

19 (1) The council shall conduct ((a)) an informational public hearing
20 in the county of the proposed site ((~~within sixty days of~~)) as soon as
21 practicable after receipt of an application for site certification:
22 PROVIDED, That the place of such public hearing shall be as close as
23 practical to the proposed site.

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

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

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

3 **Sec. 13.** RCW 80.50.100 and 1989 c 175 s 174 are each amended to
4 read as follows:

5 (1) The council shall report to the governor its recommendations as
6 to the approval or rejection of an application for certification within
7 twelve months of receipt by the council of such an application, or such
8 later time as is mutually agreed by the council and the applicant.
9 Pursuant to RCW 34.05.476, the council's report to the governor shall
10 be based on the administrative record developed during the public
11 hearing held under RCW 80.50.090(3), along with the environmental
12 impact statement prepared under RCW 43.21C.030, and relevant
13 information presented at other public hearings held by the council
14 under this chapter. If the council recommends approval of an
15 application for certification, it shall also submit a draft
16 certification agreement with the report. The council shall include
17 conditions in the draft certification agreement to implement the
18 provisions of this chapter, including, but not limited to, conditions
19 to protect state or local governmental or community interests affected
20 by the construction or operation of the energy facility, and conditions
21 designed to recognize the purpose of laws or ordinances, or rules or
22 regulations promulgated thereunder, that are preempted or superseded
23 pursuant to RCW 80.50.110 as now or hereafter amended.

24 (2) Within sixty days of receipt of the council's report the
25 governor shall take one of the following actions:

26 (a) Approve the application and execute the draft certification
27 agreement; or

28 (b) Reject the application; or

29 (c) Direct the council to reconsider certain aspects of the draft
30 certification agreement.

31 The council shall reconsider such aspects of the draft
32 certification agreement by reviewing the existing record of the
33 application or, as necessary, by reopening the adjudicative proceeding
34 for the purposes of receiving additional evidence. Such
35 reconsideration shall be conducted expeditiously. The council shall
36 resubmit the draft certification to the governor incorporating any
37 amendments deemed necessary upon reconsideration. Within sixty days of
38 receipt of such draft certification agreement, the governor shall

1 either approve the application and execute the certification agreement
2 or reject the application. The certification agreement shall be
3 binding upon execution by the governor and the applicant.

4 (3) The rejection of an application for certification by the
5 governor shall be final as to that application but shall not preclude
6 submission of a subsequent application for the same site on the basis
7 of changed conditions or new information.

8 **Sec. 14.** RCW 44.39.010 and 1977 ex.s. c 328 s 13 are each amended
9 to read as follows:

10 There is hereby created the joint committee on energy ((and
11 utilities)) shortages of the legislature of the state of Washington.

12 **Sec. 15.** RCW 44.39.015 and 1977 ex.s. c 328 s 14 are each amended
13 to read as follows:

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

16 (1) The president of the senate shall ((nominate)) appoint four
17 members from the ((energy and utilities)) senate to serve on the
18 committee, including the ((chairman,)) chair of the committee
19 responsible for energy issues. Two members ((being)) from each major
20 political party((, to serve on the committee, and shall submit the list
21 of nominees to the senate for confirmation. Upon confirmation, the
22 senators shall be deemed installed as members)) must be appointed.

23 (2) The speaker or co-speakers of the house of representatives
24 shall nominate four members from the ((energy and utilities)) house of
25 representatives to serve on the committee, including the ((chairman,))
26 chair or co-chairs of the committee responsible for energy issues. Two
27 members ((being)) from each major political party((, to serve on the
28 committee, and shall submit the list of nominees to the house of
29 representatives for confirmation. Upon confirmation, the
30 representatives shall be deemed installed as members. The chairmen of
31 the senate and house energy and utilities committees shall alternately
32 serve as chairman for one year terms. The chairman of the house
33 committee shall serve as the initial chairman. The chairman may
34 designate another committee member to serve as chairman in his or her
35 absence)) must be appointed.

36 (3) The committee shall elect a chair and a vice-chair. The chair
37 shall be a member of the house of representatives in even-numbered

1 years and a member of the senate in odd-numbered years. In the case of
2 a tie in the membership of the house of representatives in an even-
3 numbered year, the committee shall elect co-chairs from the house of
4 representatives in that year.

5 NEW SECTION. Sec. 16. A new section is added to chapter 82.04 RCW
6 to read as follows:

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

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

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

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

24 (2) Effective July 1, 2004, a credit is allowed against the tax due
25 under this chapter to a direct service industrial customer who
26 purchases natural or manufactured gas from a gas distribution business
27 subject to the public utility tax under chapter 82.16 RCW. The credit
28 is equal to the value of natural or manufactured gas purchased from a
29 gas distribution business and used to generate electricity at the
30 facility multiplied by the rate in effect for the public utility tax on
31 gas distribution businesses under RCW 82.16.020. This credit may be
32 used each reporting period for sixty months following the first month
33 natural or manufactured gas was purchased from a gas distribution
34 business by a direct service industrial customer who constructs a
35 facility.

36 (3) This credit is available only to a person who meets the
37 requirements for diversification of resources, as required in a

1 legislative act enacted in the 2001 legislative session. If such a
2 requirement is not enacted, this subsection (3) has no effect.

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

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

19 (6) All or part of the credit shall be disallowed and must be paid
20 if the average of the direct service industrial customer's average
21 annual employment for the five calendar years subsequent to the
22 calendar year containing the first month of purchase of natural or
23 manufactured gas to generate electricity at a facility is less than the
24 six-year average annual employment stated on the application for credit
25 under this section. The direct service industrial customer will
26 certify to the department by June 1st of the sixth calendar year
27 following the calendar year in which the month of first purchase of gas
28 occurs the average annual employment for each of the five prior
29 calendar years. All or part of the credit that shall be disallowed and
30 must be paid is commensurate with the decrease in the five-year average
31 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 (7)(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 (8) 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 (9) 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 (10) A direct service industrial customer claiming credit under
35 this section may not claim a deferral under section 17 of this act nor
36 be the beneficiary of a credit allowed under section 18 of this act.

1 NEW SECTION. **Sec. 17.** A new section is added to chapter 82.12 RCW
2 to read as follows:

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

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

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

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

20 (2) Effective July 1, 2004, the tax levied in RCW 82.12.022 on the
21 first sixty months' use of natural or manufactured gas by a direct
22 service industrial customer that owns a facility shall be deferred.
23 This deferral is limited to the tax on natural or manufactured gas used
24 or consumed to generate electricity at the facility.

25 (3) This deferral is available only to a person who meets the
26 requirements for diversification of resources, as required in a
27 legislative act enacted in the 2001 legislative session. If such a
28 requirement is not enacted, this subsection (3) has no effect.

29 (4) Application for deferral shall be made by the direct service
30 industrial customer before the first use of natural or manufactured
31 gas. The application shall be in a form and manner prescribed by the
32 department and shall include but is not limited to information
33 regarding the location of the facility, the projected date of first use
34 of natural or manufactured gas to generate electricity at the facility,
35 the date construction is projected to begin or did begin, the
36 applicant's average annual employment in the state for the six calendar
37 years immediately preceding the year in which the application is made,
38 and shall affirm the applicant's status as a direct service industrial

1 customer. The department shall rule on the application within thirty
2 days of receipt.

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

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

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

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

26 (6)(a) If the average of the direct service industrial customer's
27 average annual employment for the five calendar years subsequent to the
28 calendar year containing the first month of use of natural or
29 manufactured gas to generate electricity at a facility is equal to or
30 exceeds the six-year average annual employment stated on the
31 application for deferral under this section, the tax deferred need not
32 be paid. The direct service industrial customer shall certify to the
33 department by June 1st of the sixth calendar year following the
34 calendar year in which the month of first use of gas occurs the average
35 annual employment for each of the five prior calendar years.

36 (b) If the five-year average calculated in (a) of this subsection
37 is less than the average annual employment stated on the application

1 for deferral under this section, the tax deferred under this section
2 shall be paid in the amount as follows:

3	<u>Decrease in Average Annual</u>	
4	<u>Employment Over</u>	<u>% of Deferred</u>
5	<u>Five-Year Period</u>	<u>Tax 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 (c) Tax paid under this subsection shall be paid according to the
12 schedule in subsection (5)(a) of this section and under the terms and
13 conditions of subsection (5)(b) and (c) of this section.

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

17 (8) A person claiming this deferral shall supply to the department
18 quarterly reports containing information necessary to document the
19 total volume of natural or manufactured gas purchased in the quarter,
20 the value of that total volume, and the percentage of the total volume
21 used to generate electricity at the facility.

22 (9) A direct service industrial customer claiming a deferral under
23 this section may not claim a credit under section 16 of this act nor be
24 the beneficiary of a credit allowed under section 18 of this act.

25 NEW SECTION. Sec. 18. A new section is added to chapter 82.16 RCW
26 to read as follows:

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

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

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

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

6 (2) Effective July 1, 2004, a credit is allowed against the tax due
7 under this chapter on sales of electricity made from a facility to a
8 direct service industrial customer if the contract for sale of
9 electricity to a direct service industrial customer contains the
10 following terms:

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

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

15 (c) Disallowance of all or part of the credit under subsection (6)
16 of this section is a breach of contract and the damages to be paid by
17 the direct service industrial customer to the facility are the amount
18 of tax credit disallowed.

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

29 (4) This credit is available only to a person who meets the
30 requirements for diversification of resources, as required in a
31 legislative act enacted in the 2001 legislative session. If such a
32 requirement is not enacted, this subsection (4) has no effect.

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

1 direct service industrial customer, the date construction is projected
2 to begin or did begin, and the average annual employment in the state
3 of the direct service industrial customer who will receive electricity
4 from the facility for the six calendar years immediately preceding the
5 year in which the application is made. A copy of the contract for sale
6 of electricity must be attached to the application. The department
7 shall rule on the application within thirty days of receipt.

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

21	<u>Decrease in Average Annual</u>	
22	<u>Employment Over</u>	
23	<u>Five-Year Period</u>	<u>% of Credit to be Paid</u>
24	Less than 10%	10%
25	10% or more but less than 25%	25%
26	25% or more but less than 50%	50%
27	50% or more but less than 75%	75%
28	75% or more	100%

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

36	<u>Payment Year</u>	<u>% of Credit to be Paid</u>
37	1	10%
38	2	15%

1	3	20%
2	4	25%
3	5	30%

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

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

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

17 (9) A direct service industrial customer benefiting from a credit
18 allowed under this section may not claim a credit under section 16 of
19 this act nor a deferral under section 17 of this act.

20 NEW SECTION. **Sec. 19.** A new section is added to chapter 82.32 RCW
21 to read as follows:

22 (1) The total combined credits and deferrals that may be taken
23 under sections 16 through 18 of this act shall not exceed four million
24 dollars in any fiscal year. Each person is limited to no more than a
25 total of two million dollars in tax deferred and credit allowed in any
26 fiscal year. The department may require reporting of the credits taken
27 and amounts deferred in a manner and form as is necessary to keep a
28 running total of the amounts.

29 (2) Credits and deferred tax are available on a first come basis.
30 The department shall disallow any credits or deferred tax, or portion
31 thereof, that would cause the total amount of credits taken and
32 deferred taxes claimed to exceed the fiscal year cap or to exceed the
33 per person fiscal year cap. If the fiscal cap is reached or exceeded
34 the department shall notify those persons who have approved
35 applications under sections 16 through 18 of this act that no more
36 credits may be taken or tax deferred during the remainder of the fiscal
37 year. In addition, the department shall provide written notice to any
38 person who has taken any tax credits or claimed any deferred tax in

1 excess of the fiscal year cap. The notice shall indicate the amount of
2 tax due and shall provide that the tax be paid within thirty days from
3 the date of such notice.

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

8 **Sec. 20.** RCW 80.52.030 and 1995 c 69 s 2 are each amended to read
9 as follows:

10 The definitions set forth in this section apply throughout this
11 chapter unless the context clearly requires otherwise.

12 (1) "Public agency" means a public utility district, joint
13 operating agency, city, county, or any other state governmental agency,
14 entity, or political subdivision.

15 (2) "Major public energy project" means a nuclear power plant ((or
16 ~~installation capable, or intended to be capable, of generating~~
17 ~~electricity in an amount greater than two hundred fifty megawatts,~~
18 ~~measured using maximum continuous electric generating capacity, less~~
19 ~~minimum auxiliary load, at average ambient temperature and pressure.~~
20 ~~Where two or more such plants are located within the same geographic~~
21 ~~site, each plant shall be considered a major public energy project. An~~
22 ~~addition to an existing facility is not deemed to be a major energy~~
23 ~~project unless the addition itself is capable, or intended to be~~
24 ~~capable, of generating electricity in an amount greater than two~~
25 ~~hundred fifty megawatts)). A project which is under construction on~~
26 July 1, 1982, shall not be considered a major public energy project
27 unless the official agency budget or estimate for total construction
28 costs for the project as of July 1, 1982, is more than two hundred
29 percent of the first official estimate of total construction costs as
30 specified in the senate energy and utilities committee WPPSS inquiry
31 report, volume one, January 12, 1981, and unless, as of July 1, 1982,
32 the projected remaining cost of construction for that project exceeds
33 two hundred million dollars.

34 (3) "Cost of construction" means the total cost of planning and
35 building a major public energy project and placing it into operation,
36 including, but not limited to, planning cost, direct construction cost,
37 licensing cost, cost of fuel inventory for the first year's operation,

1 interest, and all other costs incurred prior to the first day of full
2 operation, whether or not incurred prior to July 1, 1982.

3 (4) "Cost of acquisition" means the total cost of acquiring a major
4 public energy project from another party, including, but not limited
5 to, principal and interest costs.

6 (5) "Bond" means a revenue bond, a general obligation bond, or any
7 other indebtedness issued by a public agency or its assignee.

8 (6) "Applicant" means a public agency, or the assignee of a public
9 agency, requesting the secretary of state to conduct an election
10 pursuant to this chapter.

11 (7) "Cost-effective" means that a project or resource is forecast:

12 (a) To be reliable and available within the time it is needed; and

13 (b) To meet or reduce the electric power demand of the intended
14 consumers at an estimated incremental system cost no greater than that
15 of the least-cost similarly reliable and available alternative project
16 or resource, or any combination thereof.

17 (8) "System cost" means an estimate of all direct costs of a
18 project or resource over its effective life, including, if applicable,
19 the costs of distribution to the consumer, and, among other factors,
20 waste disposal costs, end-of-cycle costs, and fuel costs (including
21 projected increases), and such quantifiable environmental costs and
22 benefits as are directly attributable to the project or resource.

23 NEW SECTION. **Sec. 21.** A new section is added to chapter 80.52 RCW
24 to read as follows:

25 (1) Before approving financing for any large public energy project
26 that is not subject to the voter approval requirements of this chapter,
27 a public agency must submit to its governing board a cost-effectiveness
28 study pertaining to the project under consideration. The study must be
29 prepared by an independent consultant and must be available for public
30 review and comment for at least thirty days after submission to the
31 governing board.

32 (2) At the end of the thirty-day period, the public agency must
33 conduct a public hearing on the project under consideration and the
34 cost-effectiveness study. Notice of the public hearing must provide at
35 least the following information:

36 (a) The name, location, and type of large public energy project,
37 expressed in common terms;

38 (b) The dollar amount and type of bonds being requested;

1 (c) If the bond issuance is intended to finance the acquisition of
2 all or a portion of the project, the anticipated total cost of the
3 acquisition of the project;

4 (d) If the bond issuance is intended to finance the planning or
5 construction of all or a portion of the project, the anticipated total
6 cost of construction of the project;

7 (e) The projected average rate increase for consumers of the
8 electricity to be generated by the project. The rate increase must be
9 that which is necessary to repay the total indebtedness incurred for
10 the project, including estimated interest;

11 (f) A summary of the final cost-effectiveness study conducted under
12 subsection (1) of this section;

13 (g) The anticipated functional life of the project; and

14 (h) The anticipated decommissioning costs of the project.

15 (3) For the purposes of this section, a "large public energy
16 project that is not subject to the voter approval requirements of this
17 chapter" means a nonnuclear plant or installation capable, or intended
18 to be capable, of generating electricity in an amount greater than two
19 hundred fifty megawatts, measured using maximum continuous electric
20 generating capacity, less minimum auxiliary load, at average ambient
21 temperature and pressure. Where two or more such plants are located
22 within the same geographic site, each plant is considered a large
23 public energy project. An addition to an existing facility is not a
24 large public energy project unless the addition itself is capable, or
25 intended to be capable, of generating electricity in an amount greater
26 than two hundred fifty megawatts.

27 NEW SECTION. **Sec. 22.** A new section is added to chapter 82.34 RCW
28 to read as follows:

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

30 (a) "Qualifying facility" means an air pollution control facility
31 as that term is defined in RCW 82.34.010(1)(a) to be installed or
32 acquired for a thermal electric peaking plant and which is approved
33 pursuant to the Washington clean air act, chapter 70.94 RCW.

34 (b) "Thermal electric peaking plant" means a natural gas-fired
35 thermal electric generating facility operated by a light and power
36 business and placed into service between January 1, 1978, and December
37 31, 1984, and that is registered for the calendar year 2000 pursuant to
38 RCW 70.94.151.

1 (c) "Light and power business" has the same meaning as in RCW
2 82.16.010.

3 (2) The department shall, upon written request of a light and power
4 business to which the approval issued under chapter 70.94 RCW is
5 attached, make a determination as to whether a plant is a thermal
6 electric peaking plant acquiring or installing a qualifying facility
7 eligible under this section. The department shall consult with the
8 department of community, trade, and economic development and the
9 department of ecology in making the determination. If the
10 determination is in the affirmative, the department shall issue the
11 light and power business a sales and use tax exemption certificate in
12 a form and manner as deemed appropriate by the department.

13 (3) The charges for installation or acquisition of a qualifying
14 facility by the holder of the certificate are exempt from sales tax
15 imposed under chapter 82.08 RCW and use tax imposed under chapter 82.12
16 RCW. The purchaser must provide the seller with a copy of the sales
17 and use tax exemption certificate. The seller shall retain a copy of
18 the certificate for the seller's files.

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

23 (5) This section expires June 30, 2011.

24 NEW SECTION. **Sec. 23.** (1) The legislature hereby finds that:

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

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

31 (c) Conservation programs originally established in the 1970s and
32 1980s can be improved or updated. New programs drawing on recently
33 developed technologies, including demand-side energy management
34 systems, can materially increase the efficiency of energy use by the
35 public sector.

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

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

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

10 **Sec. 24.** RCW 39.35.010 and 1982 c 159 s 1 are each amended to read
11 as follows:

12 The legislature hereby finds:

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

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

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

22 (4) That the cost of energy is significant and major facility
23 designs shall be based on the total life-cycle cost, including the
24 initial construction cost, and the cost, over the economic life of a
25 major facility, of the energy consumed, and of the operation and
26 maintenance of a major facility as they affect energy consumption; and

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

32 **Sec. 25.** RCW 39.35.030 and 1996 c 186 s 402 are each amended to
33 read as follows:

34 For the purposes of this chapter the following words and phrases
35 shall have the following meanings unless the context clearly requires
36 otherwise:

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

4 (2) "Department" means the state department of general
5 administration.

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

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

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

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

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

24 (a) Public agencies to obtain information about the cost of energy
25 before the time of consumption;

26 (b) Two-way interactive communication between public agencies and
27 their energy suppliers;

28 (c) Public agencies to respond to price signals and to manage their
29 purchase and use of electricity; or

30 (d) For other kinds of demand-side energy management.

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

1 (~~(8)~~) (9) "Life-cycle cost analysis" includes, but is not limited
2 to, the following elements:

3 (a) The coordination and positioning of a major facility on its
4 physical site;

5 (b) The amount and type of fenestration employed in a major
6 facility;

7 (c) The amount of insulation incorporated into the design of a
8 major facility;

9 (d) The variable occupancy and operating conditions of a major
10 facility; and

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

12 (~~(9)~~) (10) "Energy systems" means all utilities, including, but
13 not limited to, heating, air-conditioning, ventilating, lighting, and
14 the supplying of domestic hot water.

15 (~~(10)~~) (11) "Energy-consumption analysis" means the evaluation of
16 all energy systems and components by demand and type of energy
17 including the internal energy load imposed on a major facility by its
18 occupants, equipment, and components, and the external energy load
19 imposed on a major facility by the climatic conditions of its location.
20 An energy-consumption analysis of the operation of energy systems of a
21 major facility shall include, but not be limited to, the following
22 elements:

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

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

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

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

37 (~~(11)~~) (12) "Renewable energy systems" means methods of facility
38 design and construction and types of equipment for the utilization of
39 renewable energy sources including, but not limited to, hydroelectric

1 power, active or passive solar space heating or cooling, domestic solar
2 water heating, windmills, waste heat, biomass and/or refuse-derived
3 fuels, photovoltaic devices, and geothermal energy.

4 (~~(12)~~) (13) "Cogeneration" means the sequential generation of two
5 or more forms of energy from a common fuel or energy source. Where
6 these forms are electricity and thermal energy, then the operating and
7 efficiency standards established by 18 C.F.R. Sec. 292.205 and the
8 definitions established by 18 C.F.R. 292.202 (c) through (m) as of July
9 28, 1991, shall apply.

10 (~~(13)~~) (14) "Selected buildings" means educational, office,
11 residential care, and correctional facilities that are designed to
12 comply with the design standards analyzed and recommended by the
13 department.

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

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

21 The department, in consultation with affected public agencies,
22 shall develop and issue guidelines for administering this chapter. The
23 purpose of the guidelines is to define a procedure and method for
24 performance of life-cycle cost analysis to promote the selection of
25 low-life-cycle cost alternatives. At a minimum, the guidelines must
26 contain provisions that:

27 (1) Address energy considerations during the planning phase of the
28 project;

29 (2) Identify energy components and system alternatives including
30 energy management systems, renewable energy systems, and cogeneration
31 applications prior to commencing the energy consumption analysis;

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

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

1 (5) Specify the assumptions to be used for escalation and inflation
2 rates, equipment service lives, economic building lives, and
3 maintenance costs;

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

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

7 **Sec. 27.** RCW 39.35A.020 and 1985 c 169 s 2 are each amended to
8 read as follows:

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

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

18 (2) "Energy management system" has the definition provided in RCW
19 39.35.030.

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

21 ((+3)) (4) "Performance-based contract" means one or more
22 contracts for energy equipment and services between a municipality and
23 any other persons or entities, if the payment obligation for each year
24 under the contract, including the year of installation, is either: (a)
25 Set as a percentage of the annual energy cost savings attributable
26 under the contract to the energy equipment and services; or (b)
27 guaranteed by the other persons or entities to be less than the annual
28 energy cost savings attributable under the contract to the energy
29 equipment and services. Such guarantee shall be, at the option of the
30 municipality, a bond or insurance policy, or some other guarantee
31 determined sufficient by the municipality to provide a level of
32 assurance similar to the level provided by a bond or insurance policy.

33 NEW SECTION. **Sec. 28.** A new section is added to chapter 39.35A
34 RCW to read as follows:

35 The state department of general administration shall maintain a
36 registry of energy service contractors and provide assistance to

1 municipalities in identifying available performance-based contracting
2 services.

3 **Sec. 29.** RCW 39.35C.010 and 1996 c 186 s 405 are each amended to
4 read as follows:

5 Unless the context clearly requires otherwise, the definitions in
6 this section apply throughout this chapter.

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

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

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

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

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

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

28 ~~((+6))~~ (7) "Energy efficiency services" means assistance furnished
29 by the department to state agencies and school districts in
30 identifying, evaluating, and implementing energy efficiency projects.

31 ~~((+7))~~ (8) "Department" means the state department of general
32 administration.

33 ~~((+8))~~ (9) "Performance-based contracting" means contracts for
34 which payment is conditional on achieving contractually specified
35 energy savings.

36 ~~((+9))~~ (10) "Public agency" means every state office, officer,
37 board, commission, committee, bureau, department, and all political
38 subdivisions of the state.

1 (~~(10)~~) (11) "Public facility" means a building or structure, or
2 a group of buildings or structures at a single site, owned by a state
3 agency or school district.

4 (~~(11)~~) (12) "State agency" means every state office or
5 department, whether elective or appointive, state institutions of
6 higher education, and all boards, commissions, or divisions of state
7 government, however designated.

8 (~~(12)~~) (13) "State facility" means a building or structure, or a
9 group of buildings or structures at a single site, owned by a state
10 agency.

11 (~~(13)~~) (14) "Utility" means privately or publicly owned electric
12 and gas utilities, electric cooperatives and mutuals, whether located
13 within or without Washington state.

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

16 **Sec. 30.** RCW 39.35C.020 and 1996 c 186 s 406 are each amended to
17 read as follows:

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

35 (2) The department shall assist state agencies and school districts
36 in identifying, evaluating, and implementing cost-effective
37 conservation projects at their facilities. The assistance shall
38 include the following:

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

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

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

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

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

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

16 (4) The department shall comply with the requirements of chapter
17 39.80 RCW when contracting for architectural or engineering services.

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

23 NEW SECTION. **Sec. 31.** A new section is added to chapter 39.35C
24 RCW to read as follows:

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

31 (a) For each district facility, the energy consumption surveys
32 shall be completed no later than December 31, 2001, and the walk-
33 through surveys shall be completed no later than October 1, 2002. Upon
34 completion of each walk-through survey, the district shall implement
35 energy conservation maintenance and operation procedures that may be
36 identified for any district facility. These procedures shall be
37 implemented as soon as possible, but not later than twelve months after
38 the walk-through survey.

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

8 (2) A school district that, after December 31, 1997, has completed
9 energy audits and implemented cost-effective conservation measures, or
10 has contracted with an energy service company for energy audits and
11 conservation measures, is deemed to have met the requirements of this
12 section for those facilities included in the audits and conservation
13 measures.

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

20 **Sec. 32.** RCW 43.19.668 and 1993 c 204 s 6 are each amended to read
21 as follows:

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

35 **Sec. 33.** RCW 43.19.669 and 1980 c 172 s 2 are each amended to read
36 as follows:

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

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

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

21 As used in RCW 43.19.670 through 43.19.685, the following terms
22 have the meanings indicated unless the context clearly requires
23 otherwise.

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

26 (a) An energy consumption survey which identifies the type, amount,
27 and rate of energy consumption of the facility and its major energy
28 systems. This survey shall be made by the agency responsible for the
29 facility.

30 (b) A walk-through survey which determines appropriate energy
31 conservation maintenance and operating procedures and indicates the
32 need, if any, for the acquisition and installation of energy
33 conservation measures and energy management systems. This survey shall
34 be made by the agency responsible for the facility if it has
35 technically qualified personnel available. The director of general
36 administration shall provide technically qualified personnel to the
37 responsible agency if necessary.

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

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

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

15 (a) Insulation of the facility structure and systems within the
16 facility;

17 (b) Storm windows and doors, multiglazed windows and doors, heat
18 absorbing or heat reflective glazed and coated windows and door
19 systems, additional glazing, reductions in glass area, and other window
20 and door system modifications;

21 (c) Automatic energy control systems;

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

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

26 (f) Solar water heating systems;

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

35 (h) Caulking and weatherstripping;

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

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

39 (k) Energy management systems; and

1 (1) Such other measures as the director finds will save a
2 substantial amount of energy.

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

8 (~~(4)~~) (5) "Energy management system" has the definition contained
9 in RCW 39.35.030.

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

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

19 (8) "Facility" means a building, a group of buildings served by a
20 central energy distribution system, or components of a central energy
21 distribution system.

22 (~~(5)~~) (9) "Implementation plan" means the annual tasks and budget
23 required to complete all acquisitions and installations necessary to
24 satisfy the recommendations of the energy audit.

25 **Sec. 35.** RCW 43.19.675 and 1982 c 48 s 2 are each amended to read
26 as follows:

27 For each state-owned facility, the director of general
28 administration, ((in cooperation with the director of the state energy
29 office)) or the agency responsible for the facility if other than the
30 department of general administration, shall conduct((, by contract or
31 other arrangement,)) an energy audit ((for each state-owned)) of that
32 facility. ((All energy audits shall be coordinated with and complement
33 other governmental energy audit programs. The energy audit for each
34 state-owned facility located on the capitol campus shall be completed
35 no later than July 1, 1981, and the results and findings of each energy
36 audit shall be compiled and transmitted to the governor and the
37 legislature no later than October 1, 1981.)) This energy audit may be
38 conducted by contract or by other arrangement, including appropriate

1 agency staff. Performance-based contracting shall be the preferred
2 method for implementing and completing energy audits. For ~~((every~~
3 ~~other))~~ each state-owned facility, the energy consumption surveys shall
4 be completed no later than October 1, ~~((1982))~~ 2001, and the walk-
5 through surveys shall be completed no later than July 1, ~~((1983))~~ 2002.

6 **Sec. 36.** RCW 43.19.680 and 1996 c 186 s 506 are each amended to
7 read as follows:

8 (1) Upon completion of each walk-through survey required by RCW
9 43.19.675, the director of general administration or the agency
10 responsible for the facility if other than the department of general
11 administration shall implement energy conservation maintenance and
12 operation procedures that may be identified for any state-owned
13 facility. These procedures shall be implemented as soon as possible
14 but not later than twelve months after the walk-through survey.

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

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

1 ~~installations shall be scheduled to be twenty five percent complete by~~
2 ~~June 30, 1985, or at the end of the capital budget biennium which~~
3 ~~includes that date, whichever is later, fifty five percent complete by~~
4 ~~June 30, 1989, or at the end of the capital budget biennium which~~
5 ~~includes that date, whichever is later, eighty five percent complete by~~
6 ~~June 30, 1993, or at the end of the capital budget biennium which~~
7 ~~includes that date, whichever is later, and fully complete by June 30,~~
8 ~~1995, or at the end of the capital budget biennium which includes that~~
9 ~~date, whichever is later. Each state agency shall implement energy~~
10 ~~conservation measures with a payback period of twenty four months or~~
11 ~~less that have a positive cash flow in the same biennium.))~~

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

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

28 NEW SECTION. Sec. 37. If any provision of this act or its
29 application to any person or circumstance is held invalid, the
30 remainder of the act or the application of the provision to other
31 persons or circumstances is not affected.

32 NEW SECTION. Sec. 38. This act is necessary for the immediate
33 preservation of the public peace, health, or safety, or support of the
34 state government and its existing public institutions, and takes effect
35 immediately.

--- END ---