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**SUBSTITUTE HOUSE BILL 1022**

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**State of Washington**

**52nd Legislature**

**1991 Regular Session**

**By** House Committee on Energy & Utilities (originally sponsored by Representatives Cooper, May, Bray, Grant, H. Myers, Basich, Wineberry, R. Meyers, Peery, Phillips, R. Johnson, Wang, Sprenkle, Spanel, Sheldon, Miller, Ogden, Rayburn, Jones, Ludwig, Prentice, Kremen, Leonard, Rust, Braddock, R. King, Nelson, Pruitt, Cantwell, G. Fisher, Jacobsen, R. Fisher, Valle, Roland, Hine, Winsley, Rasmussen and Brekke; by request of Governor Gardner).

Read first time February 25, 1991.

1       AN ACT Relating to state energy policy; amending RCW 39.35.030;  
2 adding new sections to chapter 43.21F RCW; adding a new chapter to  
3 Title 39 RCW; adding new sections to chapter 39.35 RCW; and repealing  
4 1982 c 159 s 6 (uncodified).

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

6       NEW SECTION.   **Sec. 1.** A new section is added to chapter 43.21F RCW  
7 to read as follows:

8       The legislature finds that the citizens of the state are vitally  
9 affected by the development and use of energy. In order to further the  
10 interests of the state, a strategy to guide policies and actions  
11 impacting energy is needed. A state energy strategy should foster the  
12 development of adequate, reliable, secure, economical, and  
13 environmentally acceptable energy supplies. A state energy strategy  
14 must provide a means by which the various elements of public policy,  
15 such as preservation of the quality of the environment, public health

1 and welfare, and economic development are given proper and  
2 appropriately balanced consideration in decisions affecting energy  
3 supply and use. Such a strategy must be objective in its consideration  
4 of energy alternatives and facilitate the efficient operation of energy  
5 markets. It must also recognize the basic responsibility that  
6 utilities and other energy suppliers have in delivering energy to the  
7 citizens of the state. A state energy strategy must also assure that  
8 decisions and actions in other areas of public policy, such as  
9 transportation, land use, and protection of the environment take into  
10 consideration their impact on energy supply and use.

11 The legislature directs the development of a state energy strategy  
12 that is intended to achieve the foregoing goals. The strategy shall  
13 identify significant issues; develop a framework for evaluating  
14 policies and actions that affect energy supply and use; establish goals  
15 to guide energy-related decisions; recommend appropriate energy  
16 policies; and make clear the relevant costs, benefits, risks, and  
17 trade-offs.

18 The legislature further finds that state-funded facilities have  
19 significant opportunities for improving the efficiency of their energy  
20 use. Implementing such improvements would save public funds and serve  
21 as a model of energy-efficient operation and management for the  
22 citizens of the state. To accomplish this goal, the legislature  
23 directs the establishment of a new program for the effective management  
24 of expenditures for energy in public facilities and for the  
25 demonstration of the efficient use of energy in public facilities.

26 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.21F RCW  
27 to read as follows:

28 (1) The state energy office shall develop a state energy strategy.  
29 The strategy shall be developed in consultation with an advisory

1 committee. The advisory committee shall include eighteen members and  
2 represent different regions of the state, including thirteen citizens  
3 from the following groups: One person employed by an investor-owned  
4 electric utility, one person employed by an investor-owned natural gas  
5 utility, one person employed by a supplier of petroleum products, one  
6 person employed by a publicly owned electric utility, one person  
7 employed by an industrial energy user, one person employed by a  
8 commercial energy user, one person employed by an agricultural energy  
9 user, two persons representing local government, two persons  
10 representing civic organizations, and two representatives of  
11 environmental organizations. In addition, the advisory committee shall  
12 include one of the representatives of the state of Washington to the  
13 pacific northwest electric power and conservation planning council  
14 selected by the governor; the chair of the energy facility site  
15 evaluation council; one member of the utilities and transportation  
16 commission selected by the chair of the commission; one member of the  
17 house of representatives selected by the speaker of the house of  
18 representatives; and one member of the senate selected by the majority  
19 leader of the senate. The director may establish technical advisory  
20 groups as necessary to assist in the development of the strategy. The  
21 director shall provide for extensive public involvement throughout the  
22 development of the strategy.

23 (2) The state energy strategy shall consider all forms of energy  
24 and each major sector of energy consumption and shall:

25 (a) Assess future needs of the state for each form of energy;

26 (b) Identify measures to assist in maintaining adequate, reliable,  
27 secure, economic, and environmentally acceptable supplies;

28 (c) Identify and, to the extent possible, quantify the costs and  
29 benefits of energy alternatives including direct economic costs and

1 benefits, environmental costs and benefits, and the costs of inadequate  
2 or unreliable energy supplies;

3 (d) Develop a framework in which public decisions and actions  
4 affecting energy supply and use can be evaluated including the impact  
5 of decisions in other areas of public policy on energy supply and cost  
6 and on the use of energy and the establishment of goals to guide  
7 energy-related decisions;

8 (e) Evaluate the future role of the state energy office and means  
9 of financing those activities determined essential to the state; and

10 (f) Recommend energy goals and policies to the governor and the  
11 legislature.

12 (3) In developing the state energy strategy, the state energy  
13 office shall:

14 (a) Ensure that the information developed is objective and  
15 impartial and facilitates the effective and efficient operation of  
16 energy markets but shall not mandate the use of one energy source over  
17 another;

18 (b) Draw upon existing public and private sector information and  
19 expertise in energy matters to the fullest extent possible through  
20 consultation and cooperation;

21 (c) Recognize the planning horizons required for each segment of  
22 the energy industry and need for state actions and decisions to take  
23 those planning horizons into consideration; and

24 (d) Ensure that the strategy is coordinated with the energy  
25 planning activities of federal, state, and private entities and does  
26 not duplicate what is already available.

27 (4) The energy office shall provide a progress report to the house  
28 of representatives and senate committees on energy and utilities in  
29 January 1992. A final report shall be provided to the governor and the  
30 legislature by December 1, 1992.

1        NEW SECTION.    **Sec. 3.**    Unless the context clearly requires  
2 otherwise, the definitions in this section apply throughout this  
3 chapter.

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

9        (2) "Conservation" means reduced energy consumption or energy cost,  
10 or increased efficiency in the use of energy, and activities, measures,  
11 or equipment designed to achieve such results, but does not include  
12 district heating and cooling, or electric production from cogeneration.

13        (3) "Cost-effective" means providing positive net present value  
14 with a discount rate set equal to the cost of public borrowing.

15        (4) "District heating and cooling" means the production of thermal  
16 energy at a public facility and its sale for distribution or use or  
17 both, in buildings that are not part of the same facility.

18        (5) "Energy" means energy as defined in RCW 43.21F.025(1).

19        (6) "Energy efficiency" means conservation, cogeneration, district  
20 heating and cooling, or the use of alternative energy resources.

21        (7) "Energy office" means the Washington state energy office.

22        (8) "Host institution" means the local administrative body  
23 responsible for the public facility at which an energy efficiency  
24 measure or project is or may be implemented.

25        (9) "Person" means a natural person, private or public corporation,  
26 partnership, or association, or a combination thereof.

27        (10) "Project" means a project or projects designed to result in  
28 energy efficiency.

29        (11) "Public facility" means a building or structure, or a group  
30 of buildings or structures at a single site, owned by a public entity.

1 (12) "State agency" means every state office or department, whether  
2 elective or appointive, state institutions of higher education, and all  
3 boards, commissions, or divisions of state government, however  
4 designated.

5 (13) "State facility" means a building or structure, or a group of  
6 buildings or structures at a single site, owned by a state agency.

7 (14) "Utility" means privately or publicly owned electric, gas, and  
8 heating utilities, electric cooperatives, and federal power marketing  
9 agencies, whether located within or without Washington state.

10 NEW SECTION. **Sec. 4.** (1) State agencies and school districts  
11 shall pursue and maintain efficient operation of their facilities in  
12 order to minimize energy consumption and related environmental impacts  
13 and reduce operating costs.

14 (2) The energy office shall assist state agencies and school  
15 districts and host institutions in identifying, evaluating, and  
16 implementing cost-effective energy efficiency projects at public  
17 facilities. The assistance shall include notifying state agencies and  
18 school districts of their responsibilities under this chapter;  
19 apprising them of opportunities to develop and finance such projects;  
20 providing technical and analytical support; reviewing verification  
21 procedures for energy savings; and assisting in the structuring and  
22 arranging of financing for projects expected to result in reduced  
23 energy use or costs, increased energy efficiency, or other net benefits  
24 for state agencies, school districts, and the state. The energy office  
25 shall comply with the requirements of chapter 39.80 RCW when  
26 contracting for architectural or engineering services. The energy  
27 office shall recover costs for such assistance through written  
28 agreements, including reimbursement from third parties participating in

1 such projects, for any costs and expenses incurred in providing such  
2 assistance.

3 (3) Local gas and electric utilities shall be provided an  
4 opportunity to participate with the energy office and host institutions  
5 in the development of cogeneration projects at state and school  
6 district facilities which they serve. For the purposes of this  
7 section, development includes design and feasibility studies,  
8 construction, financing, and contract negotiations for purchase of  
9 electricity, sale of thermal energy, and purchase of natural gas. To  
10 facilitate such participation, state institutions and school districts,  
11 in consultation with the energy office, shall have the authority to  
12 enter into direct negotiations with the local utility. The opportunity  
13 to participate shall be offered to the local utility in the following  
14 manner:

15 (a) Prior to beginning a study of cogeneration project feasibility,  
16 the host institution in consultation with the energy office shall  
17 notify the local utility.

18 (b) If the local utility is interested in such participation,  
19 within sixty days of receipt of such notification it shall inform the  
20 host institution and the energy office of its intent and willingness to  
21 enter into direct negotiations and as to the nature and scope of its  
22 desired participation.

23 (c) Any negotiations resulting from such notification shall be  
24 conducted in good faith by all parties.

25 (4) The energy office shall consult with the local gas and electric  
26 utilities to develop priorities for energy conservation projects  
27 pursuant to this chapter, cooperate where possible with existing  
28 utility programs, and consult with the local gas and electric utilities  
29 prior to implementing projects in their service territory. Gas and  
30 electric utilities shall be offered the opportunity to participate in

1 the development of conservation projects. Electric utilities who are  
2 firm power requirements customers of a federal power marketing agency  
3 shall be offered the opportunity to participate in the following  
4 manner:

5 (a) Before initiating projects in the utility service territory,  
6 the energy office shall notify the local electric utility of state  
7 agency or school district facilities that the energy office has  
8 targeted for energy conservation projects.

9 (b) Within sixty days of receipt of this notification, the local  
10 electric utility may express interest in these projects by submitting  
11 to the energy office a proposal describing the role the utility is  
12 willing to play in developing and acquiring the conservation at these  
13 facilities.

14 (c) Upon receipt of this proposal, the energy office shall, through  
15 discussions with the local utility, and with involvement from state  
16 agencies and school districts, develop a plan for coordinated delivery  
17 of conservation services, financing, and utility payment for electric  
18 energy conservation to state agency and school district facilities in  
19 the utility's service territory. The plan shall identify the local  
20 utility in roles that the utility is willing and able to perform and  
21 that are consistent with the provisions of section 5(4) of this act.

22 NEW SECTION. **Sec. 5.** (1) The energy office shall, in  
23 coordination with electric utilities and host institutions, facilitate  
24 the sale or transmission of energy generated and the sale of energy  
25 saved at state agencies and school districts.

26 (2) State agencies and school districts considering submitting or  
27 participating in an offer to a utility for the sale of energy generated  
28 or saved at their facilities shall notify the energy office in advance  
29 of preparing the offer of their intention to submit or participate.

1 The advance notice must be at least thirty days before submittal of the  
2 offer to the utility.

3 (3) To ensure an equitable allocation of benefits to the state and  
4 its institutions, the energy office shall be involved in the following  
5 manner in transactions between public facilities and utilities for  
6 sales of energy generated or saved:

7 (a) The energy office and the host institution must both approve  
8 any transaction that provides utilities with energy generation or  
9 savings from state or school district facilities.

10 (b) The energy office and the host institution shall work together  
11 throughout the planning and negotiation process for major projects.

12 (c) The energy office shall negotiate directly with utilities in  
13 their resource acquisition programs involving the sale of energy  
14 generated or saved at public facilities.

15 (d) The energy office may base its approval upon a review of an  
16 individual project or a utility program. Review by the energy office  
17 may include the technical and economic feasibility of a proposed  
18 measure or project, the adequacy of procedures proposed for  
19 verification of resource performance, the degree of certainty of  
20 benefits, and the benefits offered to the state or school district  
21 relative to the value of the resource to the utility.

22 (4) In areas served by utilities purchasing firm power from a  
23 federal power marketing agency, the energy office shall approve  
24 agreements between the local utility and the state agency or school  
25 district that provide conservation from an institution if the local  
26 utility can offer comparable benefit to that offered by the federal  
27 power marketing agency. In determining whether the local utility is  
28 offering a comparable benefit, the energy office shall consider the net  
29 present value of the payment for conservation savings, or of any goods,  
30 services, or financial assistance provided by the utility, and the

1 value of any risks borne by the utility. Any direct negative financial  
2 impact on a nongrowing utility shall be considered. A "nongrowing  
3 utility" is one where its load growth is less than fifty percent of the  
4 average load growth for the previous five years of all utilities in the  
5 state distributing the same kind of energy resource.

6 (5) The energy office may waive review and approval for  
7 transactions or classes of transactions if it determines that its  
8 participation will not further the purpose of this section.

9 (6) The energy office shall develop and publish guidelines and  
10 procedures for compliance with this section by January 1, 1992.

11 (7) Nothing in this section or in this act should be construed as  
12 mandating or requiring public or private utilities to wheel electric  
13 energy resources within or beyond their service territories.

14 NEW SECTION. **Sec. 6.** In order to implement a wide variety of  
15 cost-effective energy efficiency projects for state agencies and school  
16 districts and the state, funding and financing sources that may be  
17 employed include:

18 (1) Capital budget funding, where authorized;

19 (2) Financing contracts under chapter 39.94 RCW;

20 (3) Third-party financing provided by private or public sources;

21 (4) Energy service contracts with private or public service  
22 providers; and

23 (5) The energy efficiency account established by section 9 of this  
24 act.

25 NEW SECTION. **Sec. 7.** In addition to any other authorities  
26 conferred by law:

27 (1) The energy office may, with the consent of the state agency or  
28 host institution responsible for a facility:

1 (a) Develop and finance conservation at state and school district  
2 facilities;

3 (b) Contract for energy services, including shared savings,  
4 guaranteed savings, or other performance-based arrangements at state  
5 facilities;

6 (c) Contract to sell electric energy generated or saved by energy  
7 efficiency projects at public facilities to or with utilities;

8 (d) Contract to sell thermal energy produced at state facilities to  
9 or with utilities or state agencies; and

10 (e) Participate in negotiations, competitive procurement, and other  
11 activities necessary or convenient for these purposes.

12 (2) Subject to section 5 of this act concerning certain utility  
13 transactions, state and regional universities acting independently, and  
14 other state agencies acting through the department of general  
15 administration or as otherwise authorized, may exercise the authorities  
16 enumerated in subsection (1) of this section for their facilities and  
17 may also:

18 (a) Acquire, install, permit, construct, own, operate, and maintain  
19 energy efficiency measures or equipment, or both, at their facilities;

20 (b) Lease state property to private or other public parties for the  
21 installation and operation of energy efficiency equipment at state  
22 facilities;

23 (c) Contract to purchase all or part of the electric or thermal  
24 output of cogeneration plants at their facilities;

25 (d) Contract to purchase or otherwise acquire fuel or other energy  
26 sources needed to operate cogeneration plants at their facilities; and

27 (e) Undertake procurements for third-party development of energy  
28 efficiency projects at state facilities, with successful proposers to  
29 be selected based on the responsible bid, including nonprice elements

1 listed in RCW 43.19.1911, that offers the greatest net achievable  
2 benefits to the state and its agencies.

3 For projects involving cogeneration at state facilities commenced  
4 after the effective date of this act, all such authorities shall be  
5 exercised in consultation with the energy office.

6 (3) Subject to section 5 of this act, school districts may:

7 (a) Develop and finance conservation at school district facilities;

8 (b) Contract for energy services, including shared savings,  
9 guaranteed savings, or other performance-based arrangements at state  
10 facilities;

11 (c) Contract to sell electric energy generated or saved by energy  
12 efficiency projects at school district facilities to utilities directly  
13 or to utilities through third parties.

14 (4) The leasing and contracting authorities provided in this  
15 section may be exercised for terms up to thirty years.

16 (5) The authorities under this section may be exercised only if  
17 their exercise is reasonably expected to yield lower energy use or  
18 costs or higher energy efficiency, or other net benefits including cash  
19 revenues, site enhancements, or environmental improvements, for the  
20 host institution, the agency, or the state over the life of the  
21 measures or projects to be undertaken.

22 NEW SECTION. **Sec. 8.** The energy office may use the net proceeds  
23 of bonds issued pursuant to capital budget authorization to make loans,  
24 in accordance with RCW 43.21F.060(2), to school districts to provide  
25 all or part of the financing for conservation projects. The energy  
26 office shall determine the eligibility of such projects for  
27 conservation loans and the terms of such loans. The repayments of such  
28 loans shall be sufficient to pay, when due, the principal of and  
29 interest on the bonds, the proceeds of which are used to fund said

1 conservation loans. The payments of principal of and interest on said  
2 conservation loans shall be pledged to the extent required to the  
3 payment of said bonds. The obligation to repay such loans shall have  
4 status equal to an obligation to make payment on nonvoted debt. To the  
5 extent that a school district applies the proceeds of such loans to a  
6 modernization project, such proceeds shall be considered a portion of  
7 the school district's share of the costs of such project.

8 NEW SECTION. **Sec. 9.** (1) The energy efficiency account is hereby  
9 created in the state treasury. Moneys in the account may be spent on  
10 efforts to reduce future energy use and costs, to increase energy  
11 efficiency, or to capture ancillary net benefits from energy projects  
12 such as improved reliability for state agencies and school districts.  
13 The source of funds for this account include, where appropriate,  
14 proceeds of general obligation bonds, project revenue bonds, and loan  
15 repayment revenue including repayment of loans initially financed  
16 through the energy office in the 1989-91 biennium capital budget.  
17 Funds from this account shall be used for construction and  
18 implementation of energy efficiency projects. Use of these funds may  
19 include project evaluation and verification of benefits, project  
20 design, project development, project construction and implementation,  
21 and project administration.

22 (2) Moneys in the account shall be administered by the energy  
23 office.

24 (3) The energy office may accept funds and make deposits to the  
25 account from any source, including other federal, state, and local  
26 government agencies and revenues from public or private sales of energy  
27 generated or saved at public facilities.

28 (4) Disbursements from the account shall be subject to  
29 appropriation.

1 (5) The energy office shall establish criteria to approve energy  
2 efficiency projects to be financed from funds disbursed from this  
3 account. The criteria shall include cost-effectiveness, reliability,  
4 and environmental costs or benefits. The energy office shall ensure  
5 that the criteria are applied with professional standards for  
6 engineering and review.

7 NEW SECTION. **Sec. 10.** (1) The energy services account is  
8 created in the state treasury. Funds in this account shall be used by  
9 the energy office to provide energy efficiency services to state  
10 agencies and school districts including administration of payments on  
11 principal and interest of bonds and review of life-cycle cost analyses.  
12 This account shall be treated as a budgeted internal services account  
13 to be administered by the energy office. Periodically, the director of  
14 the office of financial management shall examine the balance of this  
15 account. The energy office in conjunction with the office of financial  
16 management is empowered to transfer funds from the energy services  
17 account to the general fund as appropriate. These transfers shall  
18 first be made to meet debt repayment requirements and other  
19 requirements under bond resolutions and secondarily for other general  
20 fund purposes. The energy office may accept funds and make deposits to  
21 the account from any source, including other federal, state, and local  
22 government agencies, utility payments, project fees, loan repayment  
23 revenue, and revenues from public or private sales of energy generated  
24 or saved at public facilities.

25 (2) Within one hundred eighty days of the effective date of this  
26 act, the energy office shall adopt rules establishing criteria and  
27 procedures for setting a fee schedule, working capital requirements,  
28 receiving deposits, and making repayments to and disbursements from the  
29 account. A biennial business plan shall be prepared for this account.



1 portion of the host institution's share which exceeds its needs for the  
2 purposes specified in subsection (3) of this section, shall be  
3 deposited in the energy services account established by section 10 of  
4 this act.

5 (5) The use by state host institutions of net savings and net  
6 revenues from energy efficiency projects shall be in addition to, and  
7 shall not supplant or replace, funding from traditional sources for  
8 their normal operations and maintenance or capital budgets. It is the  
9 intent of this subsection to ensure that such institutions receive the  
10 full benefit intended by this section, and that such effect will not be  
11 diminished by budget adjustments inconsistent with this intent.

12 (6) Energy efficiency projects in school districts, funded in whole  
13 or in part with state assistance provided under chapter 28A.525 RCW, or  
14 with the financing mechanisms authorized by this chapter, shall be  
15 subject to the provisions of this section governing the apportionment  
16 and use of savings and revenues from energy efficiency projects.

17 (7) For purposes of this section, "net" savings and revenues shall  
18 mean savings and revenues remaining after payment of project capital  
19 costs, including debt service, debt service and loss reserves,  
20 arbitrage rebate accounts, mandatory renewal and replacement funds,  
21 such other payments and reserves as required by a bond resolution or  
22 loan agreement under this chapter, and payment of project operating and  
23 maintenance expenses. The energy office shall develop guidelines and  
24 procedures for determining net savings and net revenues for energy  
25 efficiency projects at state facilities by April 1, 1992.

26 NEW SECTION. **Sec. 12.** All interest received or earned on  
27 money deposited in each and every fund or account provided for in this  
28 chapter shall be credited to and become a part of the particular fund

1 upon which the interest accrues, unless the state finance committee  
2 directs otherwise.

3 **Sec. 13.** RCW 39.35.030 and 1982 c 159 s 3 are each amended to read  
4 as follows:

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

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

11 (2) "Office" means the Washington state energy office.

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

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

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

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

21 (7) "Life-cycle cost" means the initial cost and cost of operation  
22 of a major facility over its economic life. This shall be calculated  
23 as the initial cost plus the operation, maintenance, and energy costs  
24 over its economic life, reflecting anticipated increases in these costs  
25 discounted to present value at the current rate for borrowing public  
26 funds, as determined by the ~~((state finance committee))~~ office of  
27 financial management. The energy cost~~((s))~~ projections used shall be  
28 those ~~((projected))~~ provided by the state energy office. The office

1 shall update ~~((the))~~ these projections ~~((of energy costs))~~ at least  
2 every two years.

3 (8) "Life-cycle cost analysis" includes, but is not limited to, the  
4 following elements:

5 (a) The coordination and positioning of a major facility on its  
6 physical site;

7 (b) The amount and type of fenestration employed in a major  
8 facility;

9 (c) The amount of insulation incorporated into the design of a  
10 major facility;

11 (d) The variable occupancy and operating conditions of a major  
12 facility; and

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

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

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

24 (a) The comparison of three or more system alternatives, at least  
25 one of which shall include renewable energy systems;

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

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

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

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

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

16 NEW SECTION. Sec. 14. A new section is added to chapter 39.35 RCW  
17 to read as follows:

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

24 (1) Address energy considerations during the planning phase of the  
25 project;

26 (2) Identify energy components and system alternatives including  
27 renewable energy systems and cogeneration applications prior to  
28 commencing the energy consumption analysis;

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

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

6 (5) Determine life-cycle cost analysis format and submittal  
7 requirements to meet the provisions of this chapter;

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

9 NEW SECTION. **Sec. 15.** A new section is added to chapter 39.35  
10 RCW to read as follows:

11 The energy office may impose fees upon affected public agencies for  
12 the review of life-cycle cost analyses. The fees shall be deposited in  
13 the energy services account established in section 10 of this act. The  
14 purpose of the fee is to recover the costs by the office for review of  
15 the analyses. The office shall set fees at a level necessary to  
16 recover all of its costs related to increasing the energy efficiency of  
17 state-supported new construction. The fees shall not exceed one-tenth  
18 of one percent of the total cost of any project or exceed two thousand  
19 dollars for any project unless mutually agreed to. The office shall  
20 provide detailed calculation ensuring that the energy savings resulting  
21 from its review of life-cycle cost analysis justify the costs of  
22 performing that review.

23 NEW SECTION. **Sec. 16.** The energy office may adopt rules to  
24 implement sections 4 through 6, 11, and 14 of this act.

25 NEW SECTION. **Sec. 17.** Sections 3 through 12 and 16 of this  
26 act shall constitute a new chapter in Title 39 RCW.

1        NEW SECTION.    **Sec. 18.**        1982 c 159 s 6 (uncodified) is hereby  
2 repealed.

3        NEW SECTION.    **Sec. 19.**        If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.