
HOUSE BILL 1207

State of Washington

57th Legislature

2001 Regular Session

By Representatives Morris, Poulsen, Carrell, Reardon, Conway, Edwards and Linville

Read first time 01/19/2001. Referred to Committee on Technology, Telecommunications & Energy.

1 AN ACT Relating to energy; amending RCW 43.21F.015, 43.21F.025,
2 43.21F.045, 41.06.070, 43.09.025, 43.21F.060, 43.84.092, 43.84.092,
3 82.16.010, 82.16.020, 82.16.050, 82.16.090, 35.21.860, 35.21.865,
4 35.21.870, 52.18.020, and 82.02.030; adding new sections to chapter
5 43.21F RCW; adding a new section to chapter 82.04 RCW; adding a new
6 section to chapter 84.36 RCW; adding a new section to chapter 84.55
7 RCW; adding a new chapter to Title 82 RCW; creating new sections;
8 repealing RCW 82.16.0491, 82.16.053, 54.28.010, 54.28.011, 54.28.020,
9 54.28.025, 54.28.030, 54.28.040, 54.28.050, 54.28.055, 54.28.060,
10 54.28.070, 54.28.080, 54.28.090, 54.28.100, 54.28.110, 54.28.120,
11 43.21F.055, 43.21F.090, 80.50.010, 80.50.020, 80.50.030, 80.50.040,
12 80.50.060, 80.50.071, 80.50.075, 80.50.080, 80.50.090, 80.50.100,
13 80.50.105, 80.50.110, 80.50.120, 80.50.130, 80.50.140, 80.50.150,
14 80.50.160, 80.50.175, 80.50.180, 80.50.190, 80.50.300, 80.50.310,
15 80.50.900, 80.50.901, 80.50.902, 80.50.903, and 80.50.904; providing
16 effective dates; and providing an expiration date.

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

18 **PART I**

1 **Sec. 1.** RCW 43.21F.015 and 1994 c 207 s 3 are each amended to read
2 as follows:

3 It is the policy of the state of Washington that:

4 (1) The development and use of a diverse array of energy resources
5 with emphasis on conservation, renewable energy resources, and new
6 generation technologies shall be encouraged;

7 (2) The supply of energy shall be sufficient to insure the health
8 and economic welfare of its citizens that includes meeting projected
9 demand for Washington as well as other states or foreign countries
10 having an impact on this state's energy supply;

11 (3) The development and use of energy resources shall be consistent
12 with the statutory environmental policies of the state;

13 (4) Energy conservation and elimination of wasteful and uneconomic
14 uses of energy and materials shall be encouraged, and this conservation
15 should include, but is not limited to, resource recovery that achieves
16 at least a doubling of previous resource utilization or eighty percent
17 efficiency and materials recycling;

18 (5) In energy emergency shortage situations, energy requirements to
19 maintain ((the)) critical public health, safety, and welfare activities
20 shall be given priority in the allocation of energy resources while
21 curtailing noncritical government functions, and citizens and industry
22 shall be assisted in adjusting to the limited availability of energy in
23 order to minimize adverse impacts on their physical, social, and
24 economic well being;

25 (6) State government shall provide a source of impartial and
26 objective information in order that this energy policy may be enhanced;
27 and

28 (7) The state energy strategy shall provide primary guidance for
29 implementation of the state's energy policy.

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

32 (1) The Washington state strategic energy planning commission is
33 established. The commission consists of twelve members, two of whom
34 are the Washington state representatives to the Northwest power
35 planning council and these two members shall serve as cochairs of the
36 commission. The director of the department of community, trade, and
37 economic development, or the director's designee, shall serve as a

1 member of the commission. The following members are appointed by the
2 governor:

3 (a) Three members representing investor-owned utilities, two of
4 whom represent utilities that have a six percent or greater share of
5 the revenue derived from the retail sale of electricity within the
6 state and one who represents utilities that have less than a six
7 percent share of the revenue derived from the retail sale of
8 electricity within the state;

9 (b) One member representing rural electric cooperatives;

10 (c) One member representing public utility districts;

11 (d) One member representing municipal corporations providing
12 utility services;

13 (e) One member representing environmental organizations; and

14 (f) Two members representing energy users from the general public.

15 (2) Each member appointed by the governor shall serve for a term of
16 four years and is eligible to be reappointed. Of the initial members,
17 three members must be appointed for a two-year term, three members must
18 be appointed for a three-year term, and the remainder must be appointed
19 for four-year terms.

20 (3) Members of the commission shall be compensated under RCW
21 43.03.250 and shall be reimbursed for travel expenses under RCW
22 43.03.050 and 43.03.060.

23 **Sec. 3.** RCW 43.21F.025 and 1996 c 186 s 102 are each amended to
24 read as follows:

25 (1) "Energy" means petroleum or other liquid fuels; natural or
26 synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear
27 material; electricity; solar radiation; geothermal resources;
28 hydropower; organic waste products; wind; tidal activity; any other
29 substance or process used to produce heat, light, or motion; or the
30 savings from nongeneration technologies, including conservation or
31 improved efficiency in the usage of any of the sources described in
32 this subsection;

33 (2) "Person" means an individual, partnership, joint venture,
34 private or public corporation, association, firm, public service
35 company, political subdivision, municipal corporation, government
36 agency, public utility district, joint operating agency, or any other
37 entity, public or private, however organized;

1 (3) "Director" means the director of the department of community,
2 trade, and economic development;

3 (4) "Assistant director" means the assistant director of the
4 department of community, trade, and economic development responsible
5 for the office of strategic energy ((policy activities)) planning;

6 (5) "Department" means the department of community, trade, and
7 economic development;

8 (6) "Distributor" means any person, private corporation,
9 partnership, individual proprietorship, utility, including investor-
10 owned utilities, municipal utility, public utility district, joint
11 operating agency, or cooperative, which engages in or is authorized to
12 engage in the activity of generating, transmitting, or distributing
13 energy in this state; and

14 (7) (~~"State energy strategy" means the document and energy policy~~
15 ~~direction developed under section 1, chapter 201, Laws of 1991~~
16 ~~including any related appendices.~~) "Commission" means the Washington
17 state strategic energy planning commission.

18 NEW SECTION. Sec. 4. A new section is added to chapter 43.21F RCW
19 to read as follows:

20 (1) The commission shall develop the state energy strategy that
21 shall implement the state's energy policy. Development of the state
22 energy strategy is guided by the following:

23 (a) Establishing an affordable price for energy resources;

24 (b) Using conservation and other energy sources that present the
25 least environmental impact to the state and its communities;

26 (c) Using and deploying new technologies; and

27 (d) Increasing energy reliability.

28 (2) The commission shall assess the state's demand for production
29 and distribution of energy, both in-state and for export out-of-state,
30 during the next ten years.

31 (3) The commission shall allocate by county a portion of the
32 assessed demand to be sited in the county.

33 (4) The commission shall develop a process to allow a city or
34 county legislative authority to propose and designate sites and types
35 of energy production to meet the demand assessment determined under
36 subsection (2) of this section.

37 (5) The city or county legislative authority must authorize, within
38 one year from the effective date of this act through zoning and other

1 ordinances, sites that can accommodate siting of the preferred energy
2 generation. The commission shall provide technical assistance if
3 requested by the city or county legislative authority.

4 (6) Any demand not sited by a city or county legislative authority
5 shall be sited by the commission which shall function as an energy
6 siting authority only for those sites not selected and designated by a
7 city or county.

8 (7) The commission may delegate its duties to be performed by the
9 department.

10 NEW SECTION. Sec. 5. A new section is added to chapter 43.21F RCW
11 to read as follows:

12 In addition to other powers and duties granted to the commission,
13 the commission shall:

14 (1) Advocate the state energy strategy to the Northwest power
15 planning council and seek agreements that meet the state's strategic
16 energy goals with regional partners;

17 (2) Seek through the Pacific Northwest economic region alliances
18 and partnerships with the Canadian provinces of British Columbia,
19 Alberta, and the Yukon Territory to achieve the state's strategic
20 goals; and

21 (3) Represent the state of Washington in any forums where
22 agreements will be formed that impact the state's energy policy and
23 strategy.

24 Sec. 6. RCW 43.21F.045 and 1996 c 186 s 103 are each amended to
25 read as follows:

26 (1) The (~~department shall supervise and administer energy-related~~
27 ~~activities as specified in RCW 43.330.904 and~~) commission shall advise
28 the governor and the legislature with respect to energy matters
29 affecting the state.

30 (2) In addition to other powers and duties granted to the
31 (~~department~~) commission, the (~~department~~) commission shall have the
32 following powers and duties:

33 (a) Prepare and update contingency plans for implementation in the
34 event of energy shortages or emergencies. The plans shall conform to
35 chapter 43.21G RCW and shall include procedures for determining when
36 these shortages or emergencies exist, the state officers and agencies
37 to participate in the determination, and actions to be taken by various

1 agencies and officers of state government in order to reduce hardship
2 and maintain the general welfare during these emergencies. The
3 ~~((department))~~ commission shall coordinate the activities undertaken
4 pursuant to this subsection with other persons. The components of
5 plans that require legislation for their implementation shall be
6 presented to the legislature in the form of proposed legislation at the
7 earliest practicable date. The ~~((department))~~ commission shall report
8 to the governor and the legislature on probable, imminent, and existing
9 energy shortages, and shall administer energy allocation and
10 curtailment programs in accordance with chapter 43.21G RCW.

11 ~~((b))~~ ~~((Establish and maintain a central repository in state
12 government for collection of existing data on energy resources,
13 including:~~

14 ~~((i))~~ ~~Supply, demand, costs, utilization technology, projections, and
15 forecasts;~~

16 ~~((ii))~~ ~~Comparative costs of alternative energy sources, uses, and
17 applications; and~~

18 ~~((iii))~~ ~~Inventory data on energy research projects in the state
19 conducted under public and/or private auspices, and the results
20 thereof.~~

21 ~~((e))~~ ~~Coordinate federal energy programs appropriate for state-
22 level implementation, carry out such energy programs as are assigned to
23 it by the governor or the legislature, and monitor federally funded
24 local energy programs as required by federal or state regulations.~~

25 ~~((d))~~ ~~((c))~~ Develop energy policy recommendations for consideration
26 by the governor and the legislature.

27 ~~((e))~~ ~~Provide assistance, space, and other support as may be
28 necessary for the activities of the state's two representatives to the
29 Pacific northwest electric power and conservation planning council. To
30 the extent consistent with federal law, the director shall request that
31 Washington's council members request the administrator of the
32 Bonneville power administration to reimburse the state for the expenses
33 associated with the support as provided in the Pacific Northwest
34 Electric Power Planning and Conservation Act (P.L. 96-501).~~

35 ~~((f))~~ ~~((d))~~ Cooperate with state agencies, other governmental units,
36 and private interests in the prioritization and implementation of the
37 state energy strategy elements and on other energy matters.

38 ~~((g))~~ ~~((e))~~ Serve as the official state agency responsible for
39 coordinating implementation of the state energy strategy.

1 ~~((h))~~ (f) No later than December 1, 1982, and by December 1st of
2 each even-numbered year thereafter, prepare and transmit to the
3 governor and the appropriate committees of the legislature a report on
4 the implementation of the state energy strategy and other important
5 energy issues, as appropriate.

6 ~~((i))~~ (g) Provide support for increasing cost-effective energy
7 conservation, including assisting in the removal of impediments to
8 timely implementation.

9 ~~((j))~~ (h) Provide support for the development of cost-effective
10 energy resources including assisting in the removal of impediments to
11 timely construction.

12 ~~((k))~~ (i) Adopt rules, under chapter 34.05 RCW, necessary to
13 carry out the powers and duties enumerated in this chapter.

14 ~~((l) Provide administrative assistance, space, and other support
15 as may be necessary for the activities of the energy facility site
16 evaluation council, as provided for in RCW 80.50.030.~~

17 ~~(m) Appoint staff as may be needed to administer energy policy
18 functions and manage energy facility site evaluation council
19 activities. These employees are exempt from the provisions of chapter
20 41.06 RCW.)~~

21 (3) To the extent the powers and duties set out under this section
22 relate to energy education, applied research, and technology transfer
23 programs they are transferred to Washington State University.

24 (4) To the extent the powers and duties set out under this section
25 relate to energy efficiency in public buildings they are transferred to
26 the department of general administration.

27 **Sec. 7.** RCW 41.06.070 and 1998 c 245 s 40 are each amended to read
28 as follows:

29 (1) The provisions of this chapter do not apply to:

30 (a) The members of the legislature or to any employee of, or
31 position in, the legislative branch of the state government including
32 members, officers, and employees of the legislative council, joint
33 legislative audit and review committee, statute law committee, and any
34 interim committee of the legislature;

35 (b) The justices of the supreme court, judges of the court of
36 appeals, judges of the superior courts or of the inferior courts, or to
37 any employee of, or position in the judicial branch of state
38 government;

1 (c) Officers, academic personnel, and employees of technical
2 colleges;

3 (d) The officers of the Washington state patrol;

4 (e) Elective officers of the state;

5 (f) The chief executive officer of each agency;

6 (g) In the departments of employment security and social and health
7 services, the director and the director's confidential secretary; in
8 all other departments, the executive head of which is an individual
9 appointed by the governor, the director, his or her confidential
10 secretary, and his or her statutory assistant directors;

11 (h) In the case of a multimember board, commission, or committee,
12 whether the members thereof are elected, appointed by the governor or
13 other authority, serve ex officio, or are otherwise chosen:

14 (i) All members of such boards, commissions, or committees;

15 (ii) If the members of the board, commission, or committee serve on
16 a part-time basis and there is a statutory executive officer: The
17 secretary of the board, commission, or committee; the chief executive
18 officer of the board, commission, or committee; and the confidential
19 secretary of the chief executive officer of the board, commission, or
20 committee;

21 (iii) If the members of the board, commission, or committee serve
22 on a full-time basis: The chief executive officer or administrative
23 officer as designated by the board, commission, or committee; and a
24 confidential secretary to the chair of the board, commission, or
25 committee;

26 (iv) If all members of the board, commission, or committee serve ex
27 officio: The chief executive officer; and the confidential secretary
28 of such chief executive officer;

29 (i) The confidential secretaries and administrative assistants in
30 the immediate offices of the elective officers of the state;

31 (j) Assistant attorneys general;

32 (k) Commissioned and enlisted personnel in the military service of
33 the state;

34 (l) Inmate, student, part-time, or temporary employees, and part-
35 time professional consultants, as defined by the Washington personnel
36 resources board;

37 (m) The public printer or to any employees of or positions in the
38 state printing plant;

1 (n) Officers and employees of the Washington state fruit
2 commission;

3 (o) Officers and employees of the Washington state apple
4 advertising commission;

5 (p) Officers and employees of the Washington state dairy products
6 commission;

7 (q) Officers and employees of the Washington tree fruit research
8 commission;

9 (r) Officers and employees of the Washington state beef commission;

10 (s) Officers and employees of any commission formed under chapter
11 15.66 RCW;

12 ~~(t) ((Officers and employees of the state wheat commission formed
13 under chapter 15.63 RCW;~~

14 ~~(u))~~ Officers and employees of agricultural commissions formed
15 under chapter 15.65 RCW;

16 ~~((v))~~ (u) Officers and employees of the nonprofit corporation
17 formed under chapter 67.40 RCW;

18 ~~((w))~~ (v) Executive assistants for personnel administration and
19 labor relations in all state agencies employing such executive
20 assistants including but not limited to all departments, offices,
21 commissions, committees, boards, or other bodies subject to the
22 provisions of this chapter and this subsection shall prevail over any
23 provision of law inconsistent herewith unless specific exception is
24 made in such law;

25 ~~((x))~~ (w) In each agency with fifty or more employees: Deputy
26 agency heads, assistant directors or division directors, and not more
27 than three principal policy assistants who report directly to the
28 agency head or deputy agency heads;

29 ~~((y))~~ (x) All employees of the marine employees' commission;

30 ~~((z) Up to a total of five senior staff positions of the western
31 library network under chapter 27.26 RCW responsible for formulating
32 policy or for directing program management of a major administrative
33 unit. This subsection (1)(z) shall expire on June 30, 1997;~~

34 ~~(aa) Staff employed by the department of community, trade, and
35 economic development to administer energy policy functions and manage
36 energy site evaluation council activities under RCW 43.21F.045(2)(m);~~

37 ~~(bb))~~ (y) Staff employed by Washington State University to
38 administer energy education, applied research, and technology transfer
39 programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

1 (2) The following classifications, positions, and employees of
2 institutions of higher education and related boards are hereby exempted
3 from coverage of this chapter:

4 (a) Members of the governing board of each institution of higher
5 education and related boards, all presidents, vice-presidents, and
6 their confidential secretaries, administrative, and personal
7 assistants; deans, directors, and chairs; academic personnel; and
8 executive heads of major administrative or academic divisions employed
9 by institutions of higher education; principal assistants to executive
10 heads of major administrative or academic divisions; other managerial
11 or professional employees in an institution or related board having
12 substantial responsibility for directing or controlling program
13 operations and accountable for allocation of resources and program
14 results, or for the formulation of institutional policy, or for
15 carrying out personnel administration or labor relations functions,
16 legislative relations, public information, development, senior computer
17 systems and network programming, or internal audits and investigations;
18 and any employee of a community college district whose place of work is
19 one which is physically located outside the state of Washington and who
20 is employed pursuant to RCW 28B.50.092 and assigned to an educational
21 program operating outside of the state of Washington;

22 (b) Student, part-time, or temporary employees, and part-time
23 professional consultants, as defined by the Washington personnel
24 resources board, employed by institutions of higher education and
25 related boards;

26 (c) The governing board of each institution, and related boards,
27 may also exempt from this chapter classifications involving research
28 activities, counseling of students, extension or continuing education
29 activities, graphic arts or publications activities requiring
30 prescribed academic preparation or special training as determined by
31 the board: PROVIDED, That no nonacademic employee engaged in office,
32 clerical, maintenance, or food and trade services may be exempted by
33 the board under this provision;

34 (d) Printing craft employees in the department of printing at the
35 University of Washington.

36 (3) In addition to the exemptions specifically provided by this
37 chapter, the Washington personnel resources board may provide for
38 further exemptions pursuant to the following procedures. The governor
39 or other appropriate elected official may submit requests for exemption

1 to the Washington personnel resources board stating the reasons for
2 requesting such exemptions. The Washington personnel resources board
3 shall hold a public hearing, after proper notice, on requests submitted
4 pursuant to this subsection. If the board determines that the position
5 for which exemption is requested is one involving substantial
6 responsibility for the formulation of basic agency or executive policy
7 or one involving directing and controlling program operations of an
8 agency or a major administrative division thereof, the Washington
9 personnel resources board shall grant the request and such
10 determination shall be final as to any decision made before July 1,
11 1993. The total number of additional exemptions permitted under this
12 subsection shall not exceed one percent of the number of employees in
13 the classified service not including employees of institutions of
14 higher education and related boards for those agencies not directly
15 under the authority of any elected public official other than the
16 governor, and shall not exceed a total of twenty-five for all agencies
17 under the authority of elected public officials other than the
18 governor.

19 The salary and fringe benefits of all positions presently or
20 hereafter exempted except for the chief executive officer of each
21 agency, full-time members of boards and commissions, administrative
22 assistants and confidential secretaries in the immediate office of an
23 elected state official, and the personnel listed in subsections (1)(j)
24 through ~~((v), (y), (z),)~~ (u) and (x) and (2) of this section, shall
25 be determined by the Washington personnel resources board. However,
26 beginning with changes proposed for the 1997-99 fiscal biennium,
27 changes to the classification plan affecting exempt salaries must meet
28 the same provisions for classified salary increases resulting from
29 adjustments to the classification plan as outlined in RCW 41.06.152.

30 Any person holding a classified position subject to the provisions
31 of this chapter shall, when and if such position is subsequently
32 exempted from the application of this chapter, be afforded the
33 following rights: If such person previously held permanent status in
34 another classified position, such person shall have a right of
35 reversion to the highest class of position previously held, or to a
36 position of similar nature and salary.

37 Any classified employee having civil service status in a classified
38 position who accepts an appointment in an exempt position shall have

1 the right of reversion to the highest class of position previously
2 held, or to a position of similar nature and salary.

3 A person occupying an exempt position who is terminated from the
4 position for gross misconduct or malfeasance does not have the right of
5 reversion to a classified position as provided for in this section.

6 **Sec. 8.** RCW 43.09.025 and 1995 c 301 s 2 are each amended to read
7 as follows:

8 The state auditor may appoint deputies and assistant directors as
9 necessary to carry out the duties of the office of the state auditor.
10 These individuals serve at the pleasure of the state auditor and are
11 exempt from the provisions of chapter 41.06 RCW as stated in RCW
12 41.06.070(1)((+y)) (w).

13 **Sec. 9.** RCW 43.21F.060 and 1996 c 186 s 105 are each amended to
14 read as follows:

15 ~~((In addition to the duties prescribed in RCW 43.21F.045,))~~ The
16 department shall have the authority to:

17 (1) Obtain all necessary and existing information from energy
18 producers, suppliers, and consumers, doing business within the state of
19 Washington, from political subdivisions in this state, or any person as
20 may be necessary to carry out the provisions of chapter 43.21G RCW:
21 PROVIDED, That if the information is available in reports made to
22 another state agency, the department shall obtain it from that agency:
23 PROVIDED FURTHER, That, to the maximum extent practicable,
24 informational requests to energy companies regulated by the utilities
25 and transportation commission shall be channeled through the commission
26 and shall be accepted in the format normally used by the companies.
27 Such information may include but not be limited to:

- 28 (a) Sales volume;
29 (b) Forecasts of energy requirements; and
30 (c) Energy costs.

31 Notwithstanding any other provision of law to the contrary,
32 information furnished under this subsection shall be confidential and
33 maintained as such, if so requested by the person providing the
34 information, if the information is proprietary.

35 It shall be unlawful to disclose such information except as
36 hereinafter provided. A violation shall be punishable, upon
37 conviction, by a fine of not more than one thousand dollars for each

1 offense. In addition, any person who wilfully or with criminal
2 negligence, as defined in RCW 9A.08.010, discloses confidential
3 information in violation of this subsection may be subject to removal
4 from office or immediate dismissal from public employment
5 notwithstanding any other provision of law to the contrary.

6 Nothing in this subsection prohibits the use of confidential
7 information to prepare statistics or other general data for publication
8 when it is so presented as to prevent identification of particular
9 persons or sources of confidential information.

10 (2) Receive and expend funds obtained from the federal government
11 or other sources by means of contracts, grants, awards, payments for
12 services, and other devices in support of the duties enumerated in this
13 chapter.

14 (3) Establish and maintain a central repository in state government
15 for collection of existing data on energy resources, including:

16 (a) Supply, demand, costs, utilization technology, projections, and
17 forecasts;

18 (b) Comparative costs of alternative energy sources, uses, and
19 applications; and

20 (c) Inventory data on energy research projects in the state
21 conducted under public and/or private auspices, and the results of the
22 projects.

23 (4) Appoint staff as may be needed to administer energy policy
24 functions activities. These employees are exempt from the provisions
25 of chapter 41.06 RCW.

26 (5) Provide assistance, space, and other support as may be
27 necessary for the activities of the state's two representatives to the
28 Pacific Northwest electric power and conservation planning council. To
29 the extent consistent with federal law, the director shall request that
30 Washington's councilmembers request the administrator of the Bonneville
31 power administration to reimburse the state for the expenses associated
32 with the support as provided in the Pacific Northwest electric power
33 planning and conservation act (P.L. 96-501).

34 NEW SECTION. Sec. 10. A new section is added to chapter 43.21F
35 RCW to read as follows:

36 The commission shall review the state energy strategy periodically
37 and report its review to the governor and the appropriate legislative
38 committees.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 43.21F
2 RCW to read as follows:

3 The energy fund is created in the state treasury. The energy fund
4 shall consist of all moneys generated by the additional tax established
5 under section 15(1)(a)(ii) of this act. Moneys in the fund may be
6 spent only after appropriation. Expenditures from the fund may be used
7 only for the support and operation of the commission and the office of
8 strategic energy planning, and for reimbursement of expenses paid by
9 county governments in siting energy generation facilities under section
10 4 of this act.

11 **Sec. 12.** RCW 43.84.092 and 2000 2nd sp.s. c 4 s 5 are each amended
12 to read as follows:

13 (1) All earnings of investments of surplus balances in the state
14 treasury shall be deposited to the treasury income account, which
15 account is hereby established in the state treasury.

16 (2) The treasury income account shall be utilized to pay or receive
17 funds associated with federal programs as required by the federal cash
18 management improvement act of 1990. The treasury income account is
19 subject in all respects to chapter 43.88 RCW, but no appropriation is
20 required for refunds or allocations of interest earnings required by
21 the cash management improvement act. Refunds of interest to the
22 federal treasury required under the cash management improvement act
23 fall under RCW 43.88.180 and shall not require appropriation. The
24 office of financial management shall determine the amounts due to or
25 from the federal government pursuant to the cash management improvement
26 act. The office of financial management may direct transfers of funds
27 between accounts as deemed necessary to implement the provisions of the
28 cash management improvement act, and this subsection. Refunds or
29 allocations shall occur prior to the distributions of earnings set
30 forth in subsection (4) of this section.

31 (3) Except for the provisions of RCW 43.84.160, the treasury income
32 account may be utilized for the payment of purchased banking services
33 on behalf of treasury funds including, but not limited to, depository,
34 safekeeping, and disbursement functions for the state treasury and
35 affected state agencies. The treasury income account is subject in all
36 respects to chapter 43.88 RCW, but no appropriation is required for
37 payments to financial institutions. Payments shall occur prior to
38 distribution of earnings set forth in subsection (4) of this section.

1 (4) Monthly, the state treasurer shall distribute the earnings
2 credited to the treasury income account. The state treasurer shall
3 credit the general fund with all the earnings credited to the treasury
4 income account except:

5 (a) The following accounts and funds shall receive their
6 proportionate share of earnings based upon each account's and fund's
7 average daily balance for the period: The capitol building
8 construction account, the Cedar River channel construction and
9 operation account, the Central Washington University capital projects
10 account, the charitable, educational, penal and reformatory
11 institutions account, the common school construction fund, the county
12 criminal justice assistance account, the county sales and use tax
13 equalization account, the data processing building construction
14 account, the deferred compensation administrative account, the deferred
15 compensation principal account, the department of retirement systems
16 expense account, the drinking water assistance account, the Eastern
17 Washington University capital projects account, the education
18 construction fund, the emergency reserve fund, the energy fund, the
19 federal forest revolving account, the health services account, the
20 public health services account, the health system capacity account, the
21 personal health services account, the state higher education
22 construction account, the higher education construction account, the
23 highway infrastructure account, the industrial insurance premium refund
24 account, the judges' retirement account, the judicial retirement
25 administrative account, the judicial retirement principal account, the
26 local leasehold excise tax account, the local real estate excise tax
27 account, the local sales and use tax account, the medical aid account,
28 the mobile home park relocation fund, the multimodal transportation
29 account, the municipal criminal justice assistance account, the
30 municipal sales and use tax equalization account, the natural resources
31 deposit account, the perpetual surveillance and maintenance account,
32 the public employees' retirement system plan 1 account, the public
33 employees' retirement system plan 2 account, the Puyallup tribal
34 settlement account, the resource management cost account, the site
35 closure account, the special wildlife account, the state employees'
36 insurance account, the state employees' insurance reserve account, the
37 state investment board expense account, the state investment board
38 commingled trust fund accounts, the supplemental pension account, the
39 teachers' retirement system plan 1 account, the teachers' retirement

1 system combined plan 2 and plan 3 account, the tobacco prevention and
2 control account, the tobacco settlement account, the transportation
3 infrastructure account, the tuition recovery trust fund, the University
4 of Washington bond retirement fund, the University of Washington
5 building account, the volunteer fire fighters' and reserve officers'
6 relief and pension principal fund, the volunteer fire fighters' and
7 reserve officers' administrative fund, the Washington judicial
8 retirement system account, the Washington law enforcement officers' and
9 fire fighters' system plan 1 retirement account, the Washington law
10 enforcement officers' and fire fighters' system plan 2 retirement
11 account, the Washington school employees' retirement system combined
12 plan 2 and 3 account, the Washington state health insurance pool
13 account, the Washington state patrol retirement account, the Washington
14 State University building account, the Washington State University bond
15 retirement fund, the water pollution control revolving fund, and the
16 Western Washington University capital projects account. Earnings
17 derived from investing balances of the agricultural permanent fund, the
18 normal school permanent fund, the permanent common school fund, the
19 scientific permanent fund, and the state university permanent fund
20 shall be allocated to their respective beneficiary accounts. All
21 earnings to be distributed under this subsection (4)(a) shall first be
22 reduced by the allocation to the state treasurer's service fund
23 pursuant to RCW 43.08.190.

24 (b) The following accounts and funds shall receive eighty percent
25 of their proportionate share of earnings based upon each account's or
26 fund's average daily balance for the period: The aeronautics account,
27 the aircraft search and rescue account, the county arterial
28 preservation account, the department of licensing services account, the
29 essential rail assistance account, the ferry bond retirement fund, the
30 grade crossing protective fund, the high capacity transportation
31 account, the highway bond retirement fund, the highway safety account,
32 the motor vehicle fund, the motorcycle safety education account, the
33 pilotage account, the public transportation systems account, the Puget
34 Sound capital construction account, the Puget Sound ferry operations
35 account, the recreational vehicle account, the rural arterial trust
36 account, the safety and education account, the special category C
37 account, the state patrol highway account, the transportation equipment
38 fund, the transportation fund, the transportation improvement account,

1 the transportation improvement board bond retirement account, and the
2 urban arterial trust account.

3 (5) In conformance with Article II, section 37 of the state
4 Constitution, no treasury accounts or funds shall be allocated earnings
5 without the specific affirmative directive of this section.

6 **Sec. 13.** RCW 43.84.092 and 2000 2nd sp.s. c 4 s 6 are each amended
7 to read as follows:

8 (1) All earnings of investments of surplus balances in the state
9 treasury shall be deposited to the treasury income account, which
10 account is hereby established in the state treasury.

11 (2) The treasury income account shall be utilized to pay or receive
12 funds associated with federal programs as required by the federal cash
13 management improvement act of 1990. The treasury income account is
14 subject in all respects to chapter 43.88 RCW, but no appropriation is
15 required for refunds or allocations of interest earnings required by
16 the cash management improvement act. Refunds of interest to the
17 federal treasury required under the cash management improvement act
18 fall under RCW 43.88.180 and shall not require appropriation. The
19 office of financial management shall determine the amounts due to or
20 from the federal government pursuant to the cash management improvement
21 act. The office of financial management may direct transfers of funds
22 between accounts as deemed necessary to implement the provisions of the
23 cash management improvement act, and this subsection. Refunds or
24 allocations shall occur prior to the distributions of earnings set
25 forth in subsection (4) of this section.

26 (3) Except for the provisions of RCW 43.84.160, the treasury income
27 account may be utilized for the payment of purchased banking services
28 on behalf of treasury funds including, but not limited to, depository,
29 safekeeping, and disbursement functions for the state treasury and
30 affected state agencies. The treasury income account is subject in all
31 respects to chapter 43.88 RCW, but no appropriation is required for
32 payments to financial institutions. Payments shall occur prior to
33 distribution of earnings set forth in subsection (4) of this section.

34 (4) Monthly, the state treasurer shall distribute the earnings
35 credited to the treasury income account. The state treasurer shall
36 credit the general fund with all the earnings credited to the treasury
37 income account except:

1 (a) The following accounts and funds shall receive their
2 proportionate share of earnings based upon each account's and fund's
3 average daily balance for the period: The capitol building
4 construction account, the Cedar River channel construction and
5 operation account, the Central Washington University capital projects
6 account, the charitable, educational, penal and reformatory
7 institutions account, the common school construction fund, the county
8 criminal justice assistance account, the county sales and use tax
9 equalization account, the data processing building construction
10 account, the deferred compensation administrative account, the deferred
11 compensation principal account, the department of retirement systems
12 expense account, the drinking water assistance account, the Eastern
13 Washington University capital projects account, the education
14 construction fund, the emergency reserve fund, the energy fund, the
15 federal forest revolving account, the health services account, the
16 public health services account, the health system capacity account, the
17 personal health services account, the state higher education
18 construction account, the higher education construction account, the
19 highway infrastructure account, the industrial insurance premium refund
20 account, the judges' retirement account, the judicial retirement
21 administrative account, the judicial retirement principal account, the
22 local leasehold excise tax account, the local real estate excise tax
23 account, the local sales and use tax account, the medical aid account,
24 the mobile home park relocation fund, the multimodal transportation
25 account, the municipal criminal justice assistance account, the
26 municipal sales and use tax equalization account, the natural resources
27 deposit account, the perpetual surveillance and maintenance account,
28 the public employees' retirement system plan 1 account, the public
29 employees' retirement system combined plan 2 and plan 3 account, the
30 Puyallup tribal settlement account, the resource management cost
31 account, the site closure account, the special wildlife account, the
32 state employees' insurance account, the state employees' insurance
33 reserve account, the state investment board expense account, the state
34 investment board commingled trust fund accounts, the supplemental
35 pension account, the teachers' retirement system plan 1 account, the
36 teachers' retirement system combined plan 2 and plan 3 account, the
37 tobacco prevention and control account, the tobacco settlement account,
38 the transportation infrastructure account, the tuition recovery trust
39 fund, the University of Washington bond retirement fund, the University

1 of Washington building account, the volunteer fire fighters' and
2 reserve officers' relief and pension principal fund, the volunteer fire
3 fighters' and reserve officers' administrative fund, the Washington
4 judicial retirement system account, the Washington law enforcement
5 officers' and fire fighters' system plan 1 retirement account, the
6 Washington law enforcement officers' and fire fighters' system plan 2
7 retirement account, the Washington school employees' retirement system
8 combined plan 2 and 3 account, the Washington state health insurance
9 pool account, the Washington state patrol retirement account, the
10 Washington State University building account, the Washington State
11 University bond retirement fund, the water pollution control revolving
12 fund, and the Western Washington University capital projects account.
13 Earnings derived from investing balances of the agricultural permanent
14 fund, the normal school permanent fund, the permanent common school
15 fund, the scientific permanent fund, and the state university permanent
16 fund shall be allocated to their respective beneficiary accounts. All
17 earnings to be distributed under this subsection (4)(a) shall first be
18 reduced by the allocation to the state treasurer's service fund
19 pursuant to RCW 43.08.190.

20 (b) The following accounts and funds shall receive eighty percent
21 of their proportionate share of earnings based upon each account's or
22 fund's average daily balance for the period: The aeronautics account,
23 the aircraft search and rescue account, the county arterial
24 preservation account, the department of licensing services account, the
25 essential rail assistance account, the ferry bond retirement fund, the
26 grade crossing protective fund, the high capacity transportation
27 account, the highway bond retirement fund, the highway safety account,
28 the motor vehicle fund, the motorcycle safety education account, the
29 pilotage account, the public transportation systems account, the Puget
30 Sound capital construction account, the Puget Sound ferry operations
31 account, the recreational vehicle account, the rural arterial trust
32 account, the safety and education account, the special category C
33 account, the state patrol highway account, the transportation equipment
34 fund, the transportation fund, the transportation improvement account,
35 the transportation improvement board bond retirement account, and the
36 urban arterial trust account.

37 (5) In conformance with Article II, section 37 of the state
38 Constitution, no treasury accounts or funds shall be allocated earnings
39 without the specific affirmative directive of this section.

PART II

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NEW SECTION. **Sec. 14.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Customer" or "purchaser" means a person who acquires for consideration electricity for use or consumption and not for resale.

(2) "Distribution services provider" means a person controlling or operating distribution facilities for distribution of electricity to the public. A distribution services provider includes a purchaser who takes electricity directly from a transmission line and a purchaser who generates electricity for the purchaser's own use but does not include electricity generated by the purchaser for noncommercial use or for agricultural use.

(3) "Person" is defined as provided in RCW 82.04.030.

(4) "Transmission services provider" means a person controlling or operating transmission facilities.

(5) "Transmission facilities" means any facilities that are used to provide transmission services as determined by the utilities and transportation commission.

NEW SECTION. **Sec. 15.** (1)(a) Except as provided in subsection (3) of this section, a wholesale energy transaction tax is imposed upon electricity transmitted within the state as provided in this section.

(i) The tax is imposed at a rate of cents per kilowatt hour of electricity transmitted by a transmission services provider in the state.

(ii) An additional tax is imposed at a rate of of a cent per kilowatt hour of electricity transmitted by the transmission services provider in the state.

(b) For electricity produced in the state for delivery outside of the state, the taxpayer is the person making a sale of electricity for delivery outside the state. The transmission services provider shall collect the tax from the taxpayer based upon the kilowatt hours introduced onto transmission lines from the electrical generation facility. The amount of kilowatt hours subject to tax must be reduced by five percent to compensate for transmission line losses.

(c) For electricity produced in the state for delivery within the state, the taxpayer is the distribution services provider. The transmission services provider shall collect the tax based upon the

1 amount of kilowatt hours of electricity delivered to the distribution
2 services provider.

3 (d) For electricity produced outside the state for delivery inside
4 the state, the taxpayer is the distribution services provider. The
5 transmission services provider shall collect the tax based upon the
6 amount of kilowatt hours of electricity delivered to the distribution
7 services provider.

8 (2)(a) If more than one transmission services provider transmits
9 electricity, the last transmission services provider transmitting or
10 delivering the electricity shall collect the tax.

11 (b) If the transmission services provider is an agency of the
12 United States government, the distribution services provider receiving
13 the electricity shall self-assess the tax subject to the provisions of
14 this chapter.

15 (c) If an electrical generation facility located within the state
16 produces electricity for sale inside and outside the state, sales
17 within the state are considered to have come from electricity produced
18 within the state for purposes of the tax imposed by this section.

19 (3)(a) Electricity transmitted through the state that is not
20 produced or delivered in the state is exempt from the tax imposed by
21 this section.

22 (b) Electricity produced in the state by an agency of the United
23 States government for delivery outside of the state is exempt from the
24 tax imposed by this section.

25 (c) Electricity delivered to a purchaser that receives its power
26 directly from a transmission or distribution facility owned by an
27 entity of the United States government, or electricity that is
28 transmitted exclusively on transmission or distribution facilities
29 owned by an entity of the United States government, is exempt from the
30 tax imposed by this section.

31 (4) A distribution services provider is allowed to recover the tax
32 imposed by this section and the administrative costs to comply with
33 this chapter in its rates.

34 NEW SECTION. **Sec. 16.** A person, upon proof that the person has
35 paid a tax in another state on the transmission of electricity, is
36 allowed a credit against the tax imposed by this chapter if the tax has
37 been paid in another state.

1 NEW SECTION. **Sec. 17.** (1) A transmission services provider shall
2 collect the tax imposed under section 15 of this act from the taxpayer
3 and pay the tax collected to the department. If the transmission
4 services provider collects a tax in excess of the tax imposed by
5 section 15 of this act, both the tax and the excess must be remitted to
6 the department.

7 (2)(a) Tax collected under this chapter at a rate established in
8 section 15(1)(a)(i) of this act shall be deposited in the wholesale
9 energy transaction account created in section 19 of this act.

10 (b) Tax collected under this chapter as an additional tax at a rate
11 established in section 15(1)(a)(ii) of this act shall be deposited in
12 the energy fund created in section 11 of this act.

13 NEW SECTION. **Sec. 18.** Chapter 82.32 RCW applies to the taxes
14 imposed in this chapter. The tax due dates, reporting periods, and
15 return requirements applicable to chapter 82.04 RCW apply equally to
16 the taxes imposed in this chapter.

17 NEW SECTION. **Sec. 19.** (1) The wholesale energy transaction
18 account is created in the state treasury. Moneys in the account may be
19 spent only after appropriation for the purposes of distributions under
20 this section and for activities of the office of financial management
21 and the department of revenue related to administration of this
22 chapter.

23 (2) Under a distribution formula and method provided by the office
24 of financial management, money in the account shall be distributed, as
25 nearly as is practical, in a manner that replaces the fiscal year 2001
26 revenues generated by the taxation of light and power businesses, as
27 defined in subsection (3) of this section, or of electrical energy
28 businesses, as described in chapter 35.21 RCW, under the state and
29 local public utility taxes, the business and occupation tax, the public
30 utility district privilege tax, and the state and local property taxes.

31 (3) "Light and power business" means the business of operating a
32 plant or system for the generation, production, or distribution of
33 electrical energy for hire or sale and/or for the wheeling of
34 electricity for others.

35 **Sec. 20.** RCW 82.16.010 and 1996 c 150 s 1 are each amended to read
36 as follows:

1 For the purposes of this chapter, unless otherwise required by the
2 context:

3 (1) "Railroad business" means the business of operating any
4 railroad, by whatever power operated, for public use in the conveyance
5 of persons or property for hire. It shall not, however, include any
6 business herein defined as an urban transportation business.

7 (2) "Express business" means the business of carrying property for
8 public hire on the line of any common carrier operated in this state,
9 when such common carrier is not owned or leased by the person engaging
10 in such business.

11 (3) "Railroad car business" means the business of operating stock
12 cars, furniture cars, refrigerator cars, fruit cars, poultry cars, tank
13 cars, sleeping cars, parlor cars, buffet cars, tourist cars, or any
14 other kinds of cars used for transportation of property or persons upon
15 the line of any railroad operated in this state when such railroad is
16 not owned or leased by the person engaging in such business.

17 (4) "Water distribution business" means the business of operating
18 a plant or system for the distribution of water for hire or sale.

19 ~~(5) ("Light and power business" means the business of operating a
20 plant or system for the generation, production or distribution of
21 electrical energy for hire or sale and/or for the wheeling of
22 electricity for others.~~

23 ~~(6))~~ "Telegraph business" means the business of affording
24 telegraphic communication for hire.

25 ~~((7))~~ (6) "Gas distribution business" means the business of
26 operating a plant or system for the production or distribution for hire
27 or sale of gas, whether manufactured or natural.

28 ~~((8))~~ (7) "Motor transportation business" means the business
29 (except urban transportation business) of operating any motor propelled
30 vehicle by which persons or property of others are conveyed for hire,
31 and includes, but is not limited to, the operation of any motor
32 propelled vehicle as an auto transportation company (except urban
33 transportation business), common carrier or contract carrier as defined
34 by RCW 81.68.010 and 81.80.010: PROVIDED, That "motor transportation
35 business" shall not mean or include the transportation of logs or other
36 forest products exclusively upon private roads or private highways.

37 ~~((9))~~ (8) "Urban transportation business" means the business of
38 operating any vehicle for public use in the conveyance of persons or
39 property for hire, insofar as (a) operating entirely within the

1 corporate limits of any city or town, or within five miles of the
2 corporate limits thereof, or (b) operating entirely within and between
3 cities and towns whose corporate limits are not more than five miles
4 apart or within five miles of the corporate limits of either thereof.
5 Included herein, but without limiting the scope hereof, is the business
6 of operating passenger vehicles of every type and also the business of
7 operating cartage, pickup, or delivery services, including in such
8 services the collection and distribution of property arriving from or
9 destined to a point within or without the state, whether or not such
10 collection or distribution be made by the person performing a local or
11 interstate line-haul of such property.

12 ~~((10))~~ (9) "Public service business" means any of the businesses
13 defined in subdivisions (1), (2), (3), (4), (5), (6), (7), and (8)~~((7~~
14 ~~and (9))~~) or any business subject to control by the state, or having
15 the powers of eminent domain and the duties incident thereto, or any
16 business hereafter declared by the legislature to be of a public
17 service nature, except telephone business as defined in RCW 82.04.065
18 and low-level radioactive waste site operating companies as redefined
19 in RCW 81.04.010. It includes, among others, without limiting the
20 scope hereof: Airplane transportation, boom, dock, ferry, pipe line,
21 toll bridge, toll logging road, water transportation and wharf
22 businesses.

23 ~~((11))~~ (10) "Tugboat business" means the business of operating
24 tugboats, towboats, wharf boats or similar vessels in the towing or
25 pushing of vessels, barges or rafts for hire.

26 ~~((12))~~ (11) "Gross income" means the value proceeding or accruing
27 from the performance of the particular public service or transportation
28 business involved, including operations incidental thereto, but without
29 any deduction on account of the cost of the commodity furnished or
30 sold, the cost of materials used, labor costs, interest, discount,
31 delivery costs, taxes, or any other expense whatsoever paid or accrued
32 and without any deduction on account of losses.

33 ~~((13))~~ (12) The meaning attributed, in chapter 82.04 RCW, to the
34 term "tax year," "person," "value proceeding or accruing," "business,"
35 "engaging in business," "in this state," "within this state," "cash
36 discount" and "successor" shall apply equally in the provisions of this
37 chapter.

1 **Sec. 21.** RCW 82.16.020 and 1996 c 150 s 2 are each amended to read
2 as follows:

3 (1) There is levied and there shall be collected from every person
4 a tax for the act or privilege of engaging within this state in any one
5 or more of the businesses herein mentioned. The tax shall be equal to
6 the gross income of the business, multiplied by the rate set out after
7 the business, as follows:

8 (a) Express, sewerage collection, and telegraph businesses: Three
9 and six-tenths percent;

10 (b) ~~((Light and power business: Three and sixty two one hundredths~~
11 ~~percent;~~

12 ~~((c))~~ Gas distribution business: Three and six-tenths percent;

13 ~~((d))~~ (c) Urban transportation business: Six-tenths of one
14 percent;

15 ~~((e))~~ (d) Vessels under sixty-five feet in length, except
16 tugboats, operating upon the waters within the state: Six-tenths of
17 one percent;

18 ~~((f))~~ (e) Motor transportation, railroad, railroad car, and
19 tugboat businesses, and all public service businesses other than ones
20 mentioned above: One and eight-tenths of one percent;

21 ~~((g))~~ (f) Water distribution business: Four and seven-tenths
22 percent.

23 (2) An additional tax is imposed equal to the rate specified in RCW
24 82.02.030 multiplied by the tax payable under subsection (1) of this
25 section.

26 (3) Twenty percent of the moneys collected under subsection (1) of
27 this section on water distribution businesses and sixty percent of the
28 moneys collected under subsection (1) of this section on sewerage
29 collection businesses shall be deposited in the public works assistance
30 account created in RCW 43.155.050.

31 **Sec. 22.** RCW 82.16.050 and 2000 c 245 s 1 are each amended to read
32 as follows:

33 In computing tax there may be deducted from the gross income the
34 following items:

35 (1) Amounts derived by municipally owned or operated public service
36 businesses, directly from taxes levied for the support or maintenance
37 thereof: PROVIDED, That this section shall not be construed to exempt

1 service charges which are spread on the property tax rolls and
2 collected as taxes;

3 (2) Amounts derived from the sale of commodities to persons in the
4 same public service business as the seller, for resale as such within
5 this state. This deduction is allowed only with respect to water
6 distribution, gas distribution or other public service businesses which
7 furnish water, gas or any other commodity in the performance of public
8 service businesses;

9 (3) Amounts actually paid by a taxpayer to another person taxable
10 under this chapter as the latter's portion of the consideration due for
11 services furnished jointly by both, if the total amount has been
12 credited to and appears in the gross income reported for tax by the
13 former;

14 (4) The amount of cash discount actually taken by the purchaser or
15 customer;

16 (5) The amount of credit losses actually sustained by taxpayers
17 whose regular books of accounts are kept upon an accrual basis;

18 (6) Amounts derived from business which the state is prohibited
19 from taxing under the Constitution of this state or the Constitution or
20 laws of the United States;

21 (7) Amounts derived from the distribution of water through an
22 irrigation system, for irrigation purposes;

23 (8) Amounts derived from the transportation of commodities from
24 points of origin in this state to final destination outside this state,
25 or from points of origin outside this state to final destination in
26 this state, with respect to which the carrier grants to the shipper the
27 privilege of stopping the shipment in transit at some point in this
28 state for the purpose of storing, manufacturing, milling, or other
29 processing, and thereafter forwards the same commodity, or its
30 equivalent, in the same or converted form, under a through freight rate
31 from point of origin to final destination; and amounts derived from the
32 transportation of commodities from points of origin in the state to an
33 export elevator, wharf, dock or ship side on tidewater or navigable
34 tributaries thereto from which such commodities are forwarded, without
35 intervening transportation, by vessel, in their original form, to
36 interstate or foreign destinations: PROVIDED, That no deduction will
37 be allowed when the point of origin and the point of delivery to such
38 an export elevator, wharf, dock, or ship side are located within the
39 corporate limits of the same city or town;

1 (9) (~~Amounts derived from the production, sale, or transfer of~~
2 ~~electrical energy for resale within or outside the state or for~~
3 ~~consumption outside the state;~~

4 ~~(10))~~) Amounts derived from the distribution of water by a
5 nonprofit water association and used for capital improvements by that
6 nonprofit water association;

7 (~~(11))~~) (10) Amounts paid by a sewerage collection business
8 taxable under RCW 82.16.020(1)(a) to a person taxable under chapter
9 82.04 RCW for the treatment or disposal of sewage.

10 **Sec. 23.** RCW 82.16.090 and 1988 c 228 s 1 are each amended to read
11 as follows:

12 Any customer billing issued by a (~~light or power business or~~) gas
13 distribution business that serves a total of more than twenty thousand
14 customers and operates within the state shall include the following
15 information:

16 (1) The rates and amounts of taxes paid directly by the customer
17 upon products or services rendered by the (~~light and power business~~
18 ~~or~~) gas distribution business; and

19 (2) The rate, origin and approximate amount of each tax levied upon
20 the revenue of the (~~light and power business or~~) gas distribution
21 business and added as a component of the amount charged to the
22 customer. Taxes based upon revenue of the (~~light and power business~~
23 ~~or~~) gas distribution business to be listed on the customer billing
24 need not include taxes levied by the federal government or taxes levied
25 under chapter(~~s 54.287~~) 80.24(~~7~~) or 82.04 RCW.

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

28 This chapter shall not apply to any person with respect to the
29 business of operating a plant or system for the generation, production,
30 or distribution of electrical energy for hire or sale and/or for the
31 wheeling of electricity for others.

32 NEW SECTION. **Sec. 25.** A new section is added to chapter 84.36 RCW
33 to read as follows:

34 Property owned or used by a person for the business of operating a
35 plant or system for the generation, production, or distribution of

1 electrical energy for hire or sale and/or for the wheeling of
2 electricity for others, is exempt from taxation.

3 NEW SECTION. **Sec. 26.** A new section is added to chapter 84.55 RCW
4 to read as follows:

5 The levy for a taxing district in any year shall be reduced as
6 necessary to prevent exemptions under section 25 of this act from
7 resulting in a higher tax rate than would have occurred without the
8 exemptions.

9 **Sec. 27.** RCW 35.21.860 and 2000 c 83 s 8 are each amended to read
10 as follows:

11 (1) No city or town may impose a franchise fee or any other fee or
12 charge of whatever nature or description upon the (~~light and power,~~
13 ~~or~~) gas distribution (~~(businesses)~~) business, as defined in RCW
14 82.16.010, or telephone business, as defined in RCW 82.04.065, or
15 service provider for use of the right of way, except:

16 (a) A tax authorized by RCW 35.21.865 may be imposed;

17 (b) A fee may be charged to such businesses or service providers
18 that recovers actual administrative expenses incurred by a city or town
19 that are directly related to receiving and approving a permit, license,
20 and franchise, to inspecting plans and construction, or to the
21 preparation of a detailed statement pursuant to chapter 43.21C RCW;

22 (c) Taxes permitted by state law on service providers;

23 (d) Franchise requirements and fees for cable television services
24 as allowed by federal law; and

25 (e) A site-specific charge pursuant to an agreement between the
26 city or town and a service provider of personal wireless services
27 acceptable to the parties for:

28 (i) The placement of new structures in the right of way regardless
29 of height, unless the new structure is the result of a mandated
30 relocation in which case no charge will be imposed if the previous
31 location was not charged;

32 (ii) The placement of replacement structures when the replacement
33 is necessary for the installation or attachment of wireless facilities,
34 and the overall height of the replacement structure and the wireless
35 facility is more than sixty feet; or

36 (iii) The placement of personal wireless facilities on structures
37 owned by the city or town located in the right of way. However, a

1 site-specific charge shall not apply to the placement of personal
2 wireless facilities on existing structures, unless the structure is
3 owned by the city or town.

4 A city or town is not required to approve the use permit for the
5 placement of a facility for personal wireless services that meets one
6 of the criteria in this subsection absent such an agreement. If the
7 parties are unable to agree on the amount of the charge, the service
8 provider may submit the amount of the charge to binding arbitration by
9 serving notice on the city or town. Within thirty days of receipt of
10 the initial notice, each party shall furnish a list of acceptable
11 arbitrators. The parties shall select an arbitrator; failing to agree
12 on an arbitrator, each party shall select one arbitrator and the two
13 arbitrators shall select a third arbitrator for an arbitration panel.
14 The arbitrator or arbitrators shall determine the charge based on
15 comparable siting agreements involving public land and rights of way.
16 The arbitrator or arbitrators shall not decide any other disputed
17 issues, including but not limited to size, location, and zoning
18 requirements. Costs of the arbitration, including compensation for the
19 arbitrator's services, must be borne equally by the parties
20 participating in the arbitration and each party shall bear its own
21 costs and expenses, including legal fees and witness expenses, in
22 connection with the arbitration proceeding.

23 (2) No city or town may impose a franchise fee or any other fee or
24 charge of whatever nature or description upon the business of operating
25 a plant or system for the generation, production, or distribution of
26 electrical energy for hire or sale and/or for the wheeling of
27 electricity for others or upon a person for amounts received for the
28 sale of electrical energy for resale within or outside the state.

29 (3) Subsection (1) of this section does not prohibit franchise fees
30 imposed on an electrical energy, natural gas, or telephone business, by
31 contract existing on April 20, 1982, with a city or town, for the
32 duration of the contract, but the franchise fees shall be considered
33 taxes for the purposes of the limitations established in RCW 35.21.865
34 and 35.21.870 to the extent the fees exceed the costs allowable under
35 subsection (1) of this section.

36 **Sec. 28.** RCW 35.21.865 and 1983 c 99 s 4 are each amended to read
37 as follows:

1 No city or town may change the rate of tax it imposes on the
2 privilege of conducting (~~(an electrical energy,~~) a natural gas(~~(,)~~) or
3 telephone business which change applies to business activities
4 occurring before the effective date of the change, and no rate change
5 may take effect before the expiration of sixty days following the
6 enactment of the ordinance establishing the change except as provided
7 in RCW 35.21.870.

8 **Sec. 29.** RCW 35.21.870 and 1984 c 225 s 6 are each amended to read
9 as follows:

10 (1) No city or town may impose a tax on the privilege of conducting
11 (~~(an electrical energy,~~) a natural gas, steam energy, or telephone
12 business at a rate which exceeds six percent unless the rate is first
13 approved by a majority of the voters of the city or town voting on such
14 a proposition.

15 (2) If a city or town is imposing a rate of tax under subsection
16 (1) of this section in excess of six percent on April 20, 1982, the
17 city or town shall decrease the rate to a rate of six percent or less
18 by reducing the rate each year on or before November 1st by ordinances
19 to be effective on January 1st of the succeeding year, by an amount
20 equal to one-tenth the difference between the tax rate on April 20,
21 1982, and six percent.

22 Nothing in this subsection prohibits a city or town from reducing
23 its rates by amounts greater than the amounts required in this
24 subsection.

25 Voter approved rate increases under subsection (1) of this section
26 shall not be included in the computations under this subsection.

27 **Sec. 30.** RCW 52.18.020 and 1990 c 294 s 2 are each amended to read
28 as follows:

29 The term "personal property" for the purposes of this chapter shall
30 include every form of tangible personal property, including but not
31 limited to, all goods, chattels, stock in trade, estates, or crops:
32 PROVIDED, That all personal property not assessed and subjected to ad
33 valorem taxation under Title 84 RCW, all property under contract or for
34 which the district is receiving payment for as authorized by RCW
35 52.30.020 (~~(and all property subject to the provisions of chapter 54.28~~
36 ~~RCW)), or all property that is subject to a contract for services with
37 a fire protection district, shall be exempt from the benefit charge~~

1 imposed under this chapter: PROVIDED FURTHER, That the term "personal
2 property" shall not include any personal property used for farming,
3 field crops, farm equipment or livestock: AND PROVIDED FURTHER, That
4 the term "improvements to real property" shall not include permanent
5 growing crops, field improvements installed for the purpose of aiding
6 the growth of permanent crops, or other field improvements normally not
7 subject to damage by fire.

8 **Sec. 31.** RCW 82.02.030 and 1993 sp.s. c 25 s 107 are each amended
9 to read as follows:

10 The rate of the additional taxes under RCW (~~(54.28.020(2),~~
11 ~~54.28.025(2),~~) 66.24.210(2), 82.16.020(2), 82.27.020(5), and
12 82.29A.030(2) shall be seven percent.

13 NEW SECTION. **Sec. 32.** The following acts or parts of acts are
14 each repealed:

15 (1) RCW 82.16.0491 (Credit--Contributions to an electric utility
16 rural economic development revolving fund) and 1999 c 311 s 402;

17 (2) RCW 82.16.053 (Deductions in computing tax--Light and power
18 businesses) and 1996 c 145 s 1 & 1994 c 236 s 1;

19 (3) RCW 54.28.010 (Definitions) and 1977 ex.s. c 366 s 1, 1967
20 ex.s. c 26 s 22, 1959 c 274 s 1, & 1957 c 278 s 7;

21 (4) RCW 54.28.011 ("Gross revenue" defined) and 1957 c 278 s 12;

22 (5) RCW 54.28.020 (Tax imposed--Rates--Additional tax imposed) and
23 1983 2nd ex.s. c 3 s 8, 1982 1st ex.s. c 35 s 18, 1977 ex.s. c 366 s 2,
24 1959 c 274 s 2, & 1957 c 278 s 2;

25 (6) RCW 54.28.025 (Tax imposed with respect to thermal electric
26 generating facilities--Rate--Additional tax imposed) and 1983 2nd ex.s.
27 c 3 s 9, 1982 1st ex.s. c 35 s 19, & 1977 ex.s. c 366 s 6;

28 (7) RCW 54.28.030 (Districts' report to department of revenue) and
29 1977 ex.s. c 366 s 3, 1975 1st ex.s. c 278 s 30, 1959 c 274 s 3, & 1957
30 c 278 s 3;

31 (8) RCW 54.28.040 (Tax computed--Payment--Penalties--Disposition)
32 and 1996 c 149 s 16, 1982 1st ex.s. c 35 s 20, 1975 1st ex.s. c 278 s
33 31, & 1957 c 278 s 4;

34 (9) RCW 54.28.050 (Distribution of tax) and 1982 1st ex.s. c 35 s
35 21, 1980 c 154 s 8, 1977 ex.s. c 366 s 4, 1975 1st ex.s. c 278 s 32,
36 1959 c 274 s 4, & 1957 c 278 s 5;

1 (10) RCW 54.28.055 (Distribution of tax proceeds from thermal
2 electric generating facilities) and 1986 c 189 s 1, 1982 1st ex.s. c 35
3 s 22, 1979 c 151 s 165, & 1977 ex.s. c 366 s 7;
4 (11) RCW 54.28.060 (Interest) and 1996 c 149 s 12 & 1957 c 278 s 6;
5 (12) RCW 54.28.070 (Municipal taxes--May be passed on) and 1941 c
6 245 s 3;
7 (13) RCW 54.28.080 (Additional tax for payment on bonded
8 indebtedness of school districts) and 1957 c 278 s 8;
9 (14) RCW 54.28.090 (Deposit of funds to credit of certain taxing
10 districts) and 1980 c 154 s 9, 1977 ex.s. c 366 s 5, & 1957 c 278 s 10;
11 (15) RCW 54.28.100 (Use of moneys received by taxing district) and
12 1957 c 278 s 11;
13 (16) RCW 54.28.110 (Voluntary payments by district to taxing entity
14 for removal of property from tax rolls) and 1957 c 278 s 13;
15 (17) RCW 54.28.120 (Amount of tax if district acquires electric
16 utility property from public service company) and 1957 c 278 s 14;
17 (18) RCW 43.21F.055 (Intervention in certain regulatory proceedings
18 prohibited--Application to energy facility site evaluation council--
19 Avoidance of duplication of activity) and 1996 c 186 s 104 & 1981 c 295
20 s 5;
21 (19) RCW 43.21F.090 (State energy strategy--Review and report to
22 legislature) and 1996 c 186 s 106 & 1994 c 207 s 5;
23 (20) RCW 80.50.010 (Legislative finding--Policy--Intent) and 1996
24 c 4 s 1, 1975-'76 2nd ex.s. c 108 s 29, & 1970 ex.s. c 45 s 1;
25 (21) RCW 80.50.020 (Definitions) and 1995 c 69 s 1, 1977 ex.s. c
26 371 s 2, 1975-'76 2nd ex.s. c 108 s 30, & 1970 ex.s. c 45 s 2;
27 (22) RCW 80.50.030 (Energy facility site evaluation council--
28 Created--Membership--Support) and 1996 c 186 s 108;
29 (23) RCW 80.50.040 (Energy facility site evaluation council--Powers
30 enumerated) and 1990 c 12 s 4, 1985 c 67 s 2, 1979 ex.s. c 254 s 1,
31 1977 ex.s. c 371 s 4, 1975-'76 2nd ex.s. c 108 s 32, & 1970 ex.s. c 45
32 s 4;
33 (24) RCW 80.50.060 (Energy facilities to which chapter applies--
34 Applications for certification--Forms--Information) and 1977 ex.s. c
35 371 s 5, 1975-'76 2nd ex.s. c 108 s 34, & 1970 ex.s. c 45 s 6;
36 (25) RCW 80.50.071 (Council to receive applications--Fees or
37 charges for application processing or certification monitoring) and
38 1977 ex.s. c 371 s 16;

1 (26) RCW 80.50.075 (Expedited processing of applications) and 1989
2 c 175 s 172 & 1977 ex.s. c 371 s 17;
3 (27) RCW 80.50.080 (Counsel for the environment) and 1977 ex.s. c
4 371 s 6 & 1970 ex.s. c 45 s 8;
5 (28) RCW 80.50.090 (Public hearings) and 1989 c 175 s 173 & 1970
6 ex.s. c 45 s 9;
7 (29) RCW 80.50.100 (Recommendations to governor--Approval or
8 rejection of certification--Reconsideration) and 1989 c 175 s 174, 1977
9 ex.s. c 371 s 8, 1975-'76 2nd ex.s. c 108 s 36, & 1970 ex.s. c 45 s 10;
10 (30) RCW 80.50.105 (Transmission facilities for petroleum
11 products--Recommendations to governor) and 1991 c 200 s 1112;
12 (31) RCW 80.50.110 (Chapter governs and supersedes other law or
13 regulations--Preemption of regulation and certification by state) and
14 1975-'76 2nd ex.s. c 108 s 37 & 1970 ex.s. c 45 s 11;
15 (32) RCW 80.50.120 (Effect of certification) and 1977 ex.s. c 371
16 s 10, 1975-'76 2nd ex.s. c 108 s 38, & 1970 ex.s. c 45 s 12;
17 (33) RCW 80.50.130 (Revocation or suspension of certification--
18 Grounds) and 1970 ex.s. c 45 s 13;
19 (34) RCW 80.50.140 (Review) and 1988 c 202 s 62, 1981 c 64 s 3,
20 1977 ex.s. c 371 s 11, & 1970 ex.s. c 45 s 14;
21 (35) RCW 80.50.150 (Enforcement of compliance--Penalties) and 1979
22 ex.s. c 254 s 2, 1979 c 41 s 1, 1977 ex.s. c 371 s 12, & 1970 ex.s. c
23 45 s 15;
24 (36) RCW 80.50.160 (Availability of information) and 1970 ex.s. c
25 45 s 16;
26 (37) RCW 80.50.175 (Study of potential sites--Fee--Disposition of
27 payments) and 1983 c 3 s 205, 1977 ex.s. c 371 s 13, 1975-'76 2nd ex.s.
28 c 108 s 40, & 1974 ex.s. c 110 s 2;
29 (38) RCW 80.50.180 (Proposals and actions by other state agencies
30 and local political subdivisions pertaining to energy facilities exempt
31 from "detailed statement" required by RCW 43.21C.030) and 1977 ex.s. c
32 371 s 14;
33 (39) RCW 80.50.190 (Disposition of receipts from applicants) and
34 1977 ex.s. c 371 s 15;
35 (40) RCW 80.50.300 (Unfinished nuclear power projects--Transfer of
36 all or a portion of a site to a political subdivision or subdivisions
37 of the state--Water rights) and 2000 c 243 s 1 & 1996 c 4 s 2;
38 (41) RCW 80.50.310 (Council actions--Exemption from chapter 43.21C
39 RCW) and 1996 c 4 s 3;

1 (42) RCW 80.50.900 (Severability--1970 ex.s. c 45) and 1970 ex.s.
2 c 45 s 17;

3 (43) RCW 80.50.901 (Severability--1974 ex.s. c 110) and 1974 ex.s.
4 c 110 s 3;

5 (44) RCW 80.50.902 (Severability--1977 ex.s. c 371) and 1977 ex.s.
6 c 371 s 20;

7 (45) RCW 80.50.903 (Severability--1996 c 4) and 1996 c 4 s 5; and

8 (46) RCW 80.50.904 (Effective date--1996 c 4) and 1996 c 4 s 6.

9 NEW SECTION. **Sec. 33.** Sections 14 through 19 of this act
10 constitute a new chapter in Title 82 RCW.

11 NEW SECTION. **Sec. 34.** Section 25 of this act applies to taxes
12 levied for collection in 2002 and thereafter.

13 NEW SECTION. **Sec. 35.** Part headings used in this act are not any
14 part of the law.

15 NEW SECTION. **Sec. 36.** Except for section 13 of this act, this act
16 takes effect January 1, 2002.

17 NEW SECTION. **Sec. 37.** Section 12 of this act expires March 1,
18 2002.

19 NEW SECTION. **Sec. 38.** Section 13 of this act takes effect March
20 1, 2002.

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