

CERTIFICATION OF ENROLLMENT

ENGROSSED HOUSE BILL 2561

61st Legislature
2010 1st Special Session

Passed by the House April 12, 2010
Yeas 59 Nays 38

Speaker of the House of Representatives

Passed by the Senate April 12, 2010
Yeas 28 Nays 18

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2561** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

1 It is the intent of the legislature that these investments will
2 create jobs quickly and directly, at a time when the state's residents
3 need jobs. It is the further intent of the legislature that these
4 investments both accelerate innovation in the energy efficiency sector
5 and create locally developed technologies and companies to provide
6 sustainable jobs. The legislature intends to prioritize the use of
7 innovative technologies and facilitate the development of a sustainable
8 innovation cluster that creates and installs highly efficient building
9 technologies and creates jobs.

10 The legislature intends that these job-creating projects save
11 taxpayers money, with an estimated one hundred twenty-six million
12 dollars saved each year in public schools through reduced energy and
13 operational costs, and improve the health and safety of those
14 buildings. The energy savings are equivalent to the use of an
15 estimated ninety thousand houses. It is also the intent of the
16 legislature that these job-creating projects lead to reduced
17 pollutants, as the weatherization and energy efficiency projects will
18 reduce pollution emissions by an estimated amount equivalent to
19 removing an estimated one hundred thirty thousand cars from the roads
20 each year.

21 **PART II**
22 **BOND AUTHORIZATION**

23 NEW SECTION. **Sec. 201.** (1) For the purpose of creating jobs by
24 constructing needed capital improvements to public facilities for
25 energy, utility, and operational cost savings, the state finance
26 committee is authorized to issue general obligation bonds of the state
27 of Washington in the sum of five hundred five million dollars, or so
28 much thereof as may be required, for this purpose and all costs
29 incidental thereto. The bonds issued under the authority of this
30 section are known as jobs act bonds.

31 (2) Bonds authorized in this section must be sold in the manner, at
32 the time or times, in amounts, and at such prices as the state finance
33 committee determines.

34 (3) The authorization to issue bonds contained in this chapter does
35 not expire until the full authorization has been issued.

1 (4) No bonds authorized in this section may be offered for sale
2 without prior legislative appropriation of the net proceeds of the sale
3 of the bonds.

4 NEW SECTION. **Sec. 202.** (1) The nondebt-limit general fund bond
5 retirement account must be used for the payment of the principal of and
6 interest on the bonds authorized in section 201 of this act.

7 (2) The state finance committee must, on or before June 30th of
8 each year, certify to the state treasurer the amount needed in the
9 ensuing twelve months to meet the bond retirement and interest
10 requirements on the bonds authorized in section 201 of this act.

11 (3) On each date on which any interest or principal and interest
12 payment is due on bonds issued for the purposes of section 201 of this
13 act, the state treasurer shall withdraw from any general state revenues
14 received in the state treasury and deposit in the nondebt-limit general
15 fund bond retirement account an amount equal to the amount certified by
16 the state finance committee to be due on the payment date.

17 NEW SECTION. **Sec. 203.** (1) Bonds issued under this section and
18 sections 201 and 202 of this act must state that they are a general
19 obligation of the state of Washington, must pledge the full faith and
20 credit of the state to the payment of the principal thereof and the
21 interest thereon, and must contain an unconditional promise to pay the
22 principal and interest as the same shall become due.

23 (2) The owner and holder of each of the bonds or the trustee for
24 the owner and holder of any of the bonds may by mandamus or other
25 appropriate proceeding require the transfer and payment of funds as
26 directed in this section.

27 **PART III**

28 **PROGRAM REQUIREMENTS, APPROPRIATIONS, AND REVENUE PROVISIONS**

29 NEW SECTION. **Sec. 301.** (1) The department of commerce, in
30 consultation with the department of general administration and the
31 Washington State University energy program, shall administer the jobs
32 act.

33 (2) The department of general administration must develop
34 guidelines that are consistent with national and international energy

1 savings performance standards for the implementation of energy savings
2 performance contracting projects by the energy savings performance
3 contractors by December 31, 2010.

4 (3) The definitions in this section apply throughout this chapter
5 and section 302 of this act unless the context clearly requires
6 otherwise.

7 (a) "Cost-effectiveness" means that the present value to higher
8 education institutions and school districts of the energy reasonably
9 expected to be saved or produced by a facility, activity, measure, or
10 piece of equipment over its useful life, including any compensation
11 received from a utility or the Bonneville power administration, is
12 greater than the net present value of the costs of implementing,
13 maintaining, and operating such facility, activity, measure, or piece
14 of equipment over its useful life, when discounted at the cost of
15 public borrowing.

16 (b) "Energy cost savings" means savings realized in expenses for
17 energy use and expenses associated with water, wastewater, or solid
18 waste systems.

19 (c) "Energy equipment" means energy management systems and any
20 equipment, materials, or supplies that are expected, upon installation,
21 to reduce the energy use or energy cost of an existing building or
22 facility, and the services associated with the equipment, materials, or
23 supplies, including but not limited to design, engineering, financing,
24 installation, project management, guarantees, operations, and
25 maintenance. Reduction in energy use or energy cost may also include
26 reductions in the use or cost of water, wastewater, or solid waste.

27 (d) "Energy savings performance contracting" means the process
28 authorized by chapter 39.35C RCW by which a company contracts with a
29 public agency to conduct energy audits and guarantee energy savings
30 from energy efficiency.

31 (e) "Innovative measures" means advanced or emerging technologies,
32 systems, or approaches that may not yet be in common practice but
33 improve energy efficiency, accelerate deployment, or reduce energy
34 usage, and become widely commercially available in the future if proven
35 successful in demonstration programs without compromising the
36 guaranteed performance or measurable energy and operational cost
37 savings anticipated. Examples of innovative measures include, but are
38 not limited to, advanced energy and systems operations monitoring,

1 diagnostics, and controls systems for buildings; novel heating,
2 cooling, ventilation, and water heating systems; advanced windows and
3 insulation technologies, highly efficient lighting technologies,
4 designs, and controls; and integration of renewable energy sources into
5 buildings, and energy savings verification technologies and solutions.

6 (f) "Operational cost savings" means savings realized from parts,
7 service fees, capital renewal costs, and other measurable annual
8 expenses to maintain and repair systems. This definition does not mean
9 labor savings related to existing facility staff.

10 (g) "Public facilities" means buildings, building components, and
11 major equipment or systems owned by public school districts and public
12 higher education institutions.

13 NEW SECTION. **Sec. 302.** (1) Within appropriations specifically
14 provided for the purposes of this chapter, the department of commerce,
15 in consultation with the department of general administration, and the
16 Washington State University energy program shall establish a
17 competitive process to solicit and evaluate applications from public
18 school districts, public higher education institutions, and other state
19 agencies. Final grant awards shall be determined by the department of
20 commerce.

21 (2) Grants must be awarded in competitive rounds, based on demand
22 and capacity, with at least five percent of each grant round awarded to
23 small public school districts with fewer than one thousand full-time
24 equivalent students, based on demand and capacity.

25 (3) Within each competitive round, projects must be weighted and
26 prioritized based on the following criteria and in the following order:

27 (a) Leverage ratio: In each round, the higher the leverage ratio
28 of nonstate funding sources to state jobs act grant, the higher the
29 project ranking.

30 (b) Energy savings: In each round, the higher the energy savings,
31 the higher the project ranking. Applicants must submit documentation
32 that demonstrates energy and operational cost savings resulting from
33 the installation of the energy equipment and improvements. The energy
34 savings analysis must be performed by a licensed engineer and
35 documentation must include but is not limited to the following:

36 (i) A description of the energy equipment and improvements;

37 (ii) A description of the energy and operational cost savings; and

1 (iii) A description of the extent to which the project employs
2 collaborative and innovative measures and encourages demonstration of
3 new and emerging technologies with high energy savings or energy cost
4 reductions.

5 (c) Expediency of expenditure: Project readiness to spend funds
6 must be prioritized so that the legislative intent to expend funds
7 quickly is met.

8 (4) Projects that do not use energy savings performance contracting
9 must: (a) Verify energy and operational cost savings, as defined in
10 section 301 of this act, for ten years or until the energy and
11 operational costs savings pay for the project, whichever is shorter;
12 (b) follow the department of general administration's energy savings
13 performance contracting project guidelines developed pursuant to
14 section 301 of this act; and (c) employ a licensed engineer for the
15 energy audit and construction. The department of commerce may require
16 third-party verification of savings if a project is not implemented by
17 an energy savings performance contractor selected by the department of
18 general administration through the request of qualifications process.
19 Third-party verification must be conducted either by an energy savings
20 performance contractor selected by the department of general
21 administration through a request for qualifications, a licensed
22 engineer specializing in energy conservation, or by a project resource
23 conservation manager or educational service district resource
24 conservation manager.

25 (5) To intensify competition, the department of commerce may only
26 award funds to the top eighty-five percent of projects applying in a
27 round until the department of commerce determines a final round is
28 appropriate. Projects that do not receive a grant award in one round
29 may reapply in subsequent rounds.

30 (6) To match federal grants and programs that require state
31 matching funds and produce significantly higher efficiencies in
32 operations and utilities, the level of innovation criteria may be
33 increased for the purposes of weighted scoring to capture those federal
34 dollars for selected projects that require a higher level of innovation
35 and regional collaboration.

36 (7) Grant amounts awarded to each project must allow for the
37 maximum number of projects funded with the greatest energy and cost
38 benefit.

1 (8)(a) The department of commerce must use bond proceeds to pay
2 one-half of the preliminary audit, up to five cents per square foot,
3 if the project does not meet the school district's and higher education
4 institution's predetermined cost-effectiveness criteria. School
5 districts and higher education institutions must pay the other one-half
6 of the cost of the preliminary audit if the project does not meet their
7 predetermined cost-effectiveness criteria.

8 (b) The energy savings performance contractor may not charge for an
9 investment grade audit if the project does not meet the school
10 district's and higher education institution's predetermined cost-
11 effectiveness criteria. School districts and higher education
12 institutions must pay the full price of an investment grade audit if
13 they do not proceed with a project that meets the school district's and
14 higher education institution's predetermined cost-effectiveness
15 criteria.

16 (9) The department of commerce may charge projects administrative
17 fees and may pay the department of general administration and the
18 Washington State University energy program administration fees in an
19 amount determined through a memorandum of understanding.

20 (10) The department of commerce and the department of general
21 administration must submit a joint report to the appropriate committees
22 of the legislature and the office of financial management on the timing
23 and use of the grant funds, program administrative function, compliance
24 with apprenticeship utilization requirements in RCW 39.04.320,
25 compliance with prevailing wage requirements, and administration fees
26 by the end of each fiscal year, until the funds are fully expended and
27 all savings verification requirements are fulfilled.

28 **NEW SECTION. Sec. 303. FOR THE DEPARTMENT OF COMMERCE--JOBS ACT**

29 The appropriation in this section is subject to the following
30 conditions and limitations: The appropriation is for fiscal year 2011
31 and is provided solely for grants to public school districts and public
32 higher education institutions for energy and operational cost savings
33 improvements to public facilities and related projects that result in
34 energy and operational cost savings under the provision and
35 requirements of sections 301 and 302 of this act. Related projects are
36 those projects that must be completed in order for the energy
37 efficiency improvements to be effective.

1	Appropriation:	
2	Washington Works Account--State	\$500,000,000
3	Prior Biennia (Expenditures)	\$0
4	Future Biennia (Projected Costs)	\$0
5	TOTAL	\$500,000,000

6 NEW SECTION. **Sec. 304.** The legislature intends to increase
7 general state revenues to pay for a portion of the increased debt
8 service costs for voter-approved bonds and for debt-limit bonds
9 authorized by the legislature for projects awarded grants under
10 sections 301 and 302 of this act for energy efficiency projects in
11 public facilities.

12 **Sec. 305.** RCW 82.08.0293 and 2010 1st sp.s. c ... (2ESSB 6143) s
13 902 are each amended to read as follows:

14 (1) The tax levied by RCW 82.08.020 does not apply to sales of food
15 and food ingredients. "Food and food ingredients" means substances,
16 whether in liquid, concentrated, solid, frozen, dried, or dehydrated
17 form, that are sold for ingestion or chewing by humans and are consumed
18 for their taste or nutritional value. "Food and food ingredients" does
19 not include:

20 (a) "Alcoholic beverages," which means beverages that are suitable
21 for human consumption and contain one-half of one percent or more of
22 alcohol by volume; and

23 (b) "Tobacco," which means cigarettes, cigars, chewing or pipe
24 tobacco, or any other item that contains tobacco.

25 (2) (~~Until July 1, 2013,~~) The exemption of "food and food
26 ingredients" provided for in subsection (1) of this section does not
27 apply to prepared food, soft drinks, bottled water, candy, or dietary
28 supplements. ((Beginning July 1, 2013, the exemption of "food and food
29 ingredients" provided for in subsection (1) of this section does not
30 apply to prepared food, soft drinks, candy, or dietary supplements.))

31 For purposes of this subsection, the following definitions apply:

32 (a) "Dietary supplement" means any product, other than tobacco,
33 intended to supplement the diet that:

34 (i) Contains one or more of the following dietary ingredients:

35 (A) A vitamin;

36 (B) A mineral;

1 (C) An herb or other botanical;
2 (D) An amino acid;
3 (E) A dietary substance for use by humans to supplement the diet by
4 increasing the total dietary intake; or
5 (F) A concentrate, metabolite, constituent, extract, or combination
6 of any ingredient described in this subsection;
7 (ii) Is intended for ingestion in tablet, capsule, powder, softgel,
8 gelcap, or liquid form, or if not intended for ingestion in such form,
9 is not represented as conventional food and is not represented for use
10 as a sole item of a meal or of the diet; and
11 (iii) Is required to be labeled as a dietary supplement,
12 identifiable by the "supplement facts" box found on the label as
13 required pursuant to 21 C.F.R. Sec. 101.36, as amended or renumbered as
14 of January 1, 2003.
15 (b)(i) "Prepared food" means:
16 (A) Food sold in a heated state or heated by the seller;
17 (B) Food sold with eating utensils provided by the seller,
18 including plates, knives, forks, spoons, glasses, cups, napkins, or
19 straws. A plate does not include a container or packaging used to
20 transport the food; or
21 (C) Two or more food ingredients mixed or combined by the seller
22 for sale as a single item, except:
23 (I) Food that is only cut, repackaged, or pasteurized by the
24 seller; or
25 (II) Raw eggs, fish, meat, poultry, and foods containing these raw
26 animal foods requiring cooking by the consumer as recommended by the
27 federal food and drug administration in chapter 3, part 401.11 of The
28 Food Code, published by the food and drug administration, as amended or
29 renumbered as of January 1, 2003, so as to prevent foodborne illness.
30 (ii) "Prepared food" does not include the following food or food
31 ingredients, if the food or food ingredients are sold without eating
32 utensils provided by the seller:
33 (A) Food sold by a seller whose proper primary North American
34 industry classification system (NAICS) classification is manufacturing
35 in sector 311, except subsector 3118 (bakeries), as provided in the
36 "North American industry classification system--United States, 2002";
37 (B) Food sold in an unheated state by weight or volume as a single
38 item; or

1 (C) Bakery items. The term "bakery items" includes bread, rolls,
2 buns, biscuits, bagels, croissants, pastries, donuts, Danish, cakes,
3 tortes, pies, tarts, muffins, bars, cookies, or tortillas.

4 (c) "Soft drinks" means nonalcoholic beverages that contain natural
5 or artificial sweeteners. Soft drinks do not include beverages that
6 contain: Milk or milk products; soy, rice, or similar milk
7 substitutes; or greater than fifty percent of vegetable or fruit juice
8 by volume.

9 (d) "Candy" means a preparation of sugar, honey, or other natural
10 or artificial sweeteners in combination with chocolate, fruits, nuts,
11 or other ingredients or flavorings in the form of bars, drops, or
12 pieces. "Candy" does not include any preparation containing flour and
13 does not require refrigeration.

14 (e) "Bottled water" means water that is placed in a sealed
15 container or package for human consumption. Bottled water is calorie
16 free and does not contain sweeteners or other additives except that it
17 may contain: (i) Antimicrobial agents; (ii) fluoride; (iii)
18 carbonation; (iv) vitamins, minerals, and electrolytes; (v) oxygen;
19 (vi) preservatives; and (vii) only those flavors, extracts, or essences
20 derived from a spice or fruit. "Bottled water" includes water that is
21 delivered to the buyer in a reusable container that is not sold with
22 the water.

23 (3) Notwithstanding anything in this section to the contrary, the
24 exemption of "food and food ingredients" provided in this section
25 applies to food and food ingredients that are furnished, prepared, or
26 served as meals:

27 (a) Under a state administered nutrition program for the aged as
28 provided for in the older Americans act (P.L. 95-478 Title III) and RCW
29 74.38.040(6);

30 (b) That are provided to senior citizens, individuals with
31 disabilities, or low-income persons by a not-for-profit organization
32 organized under chapter 24.03 or 24.12 RCW; or

33 (c) That are provided to residents, sixty-two years of age or
34 older, of a qualified low-income senior housing facility by the lessor
35 or operator of the facility. The sale of a meal that is billed to both
36 spouses of a marital community or both domestic partners of a domestic
37 partnership meets the age requirement in this subsection (3)(c) if at

1 least one of the spouses or domestic partners is at least sixty-two
2 years of age. For purposes of this subsection, "qualified low-income
3 senior housing facility" means a facility:

4 (i) That meets the definition of a qualified low-income housing
5 project under 26 U.S.C. Sec. 42 of the federal internal revenue code,
6 as existing on August 1, 2009;

7 (ii) That has been partially funded under 42 U.S.C. Sec. 1485; and

8 (iii) For which the lessor or operator has at any time been
9 entitled to claim a federal income tax credit under 26 U.S.C. Sec. 42
10 of the federal internal revenue code.

11 (4)(a) Subsection (1) of this section notwithstanding, the retail
12 sale of food and food ingredients is subject to sales tax under RCW
13 82.08.020 if the food and food ingredients are sold through a vending
14 machine. Except as provided in (b) of this subsection, the selling
15 price of food and food ingredients sold through a vending machine for
16 purposes of RCW 82.08.020 is fifty-seven percent of the gross receipts.

17 (b) For soft drinks and hot prepared food and food ingredients,
18 other than food and food ingredients which are heated after they have
19 been dispensed from the vending machine, the selling price is the total
20 gross receipts of such sales divided by the sum of one plus the sales
21 tax rate expressed as a decimal.

22 (c) For tax collected under this subsection (4), the requirements
23 that the tax be collected from the buyer and that the amount of tax be
24 stated as a separate item are waived.

25 **Sec. 306.** RCW 82.12.0293 and 2010 1st sp.s. c ... (2ESSB 6143) s
26 903 are each amended to read as follows:

27 (1) The provisions of this chapter do not apply in respect to the
28 use of food and food ingredients for human consumption. "Food and food
29 ingredients" has the same meaning as in RCW 82.08.0293.

30 (2) ~~((Until July 1, 2013,))~~ The exemption of "food and food
31 ingredients" provided for in subsection (1) of this section does not
32 apply to prepared food, soft drinks, bottled water, candy, or dietary
33 supplements. ~~((Beginning July 1, 2013, the exemption of "food and food
34 ingredients" provided for in subsection (1) of this section does not
35 apply to prepared food, soft drinks, candy, or dietary supplements.))~~
36 "Prepared food," "soft drinks," "dietary supplements," "candy," and
37 "bottled water" have the same meanings as in RCW 82.08.0293.

1 (3) Notwithstanding anything in this section to the contrary, the
2 exemption of "food and food ingredients" provided in this section
3 (~~apply~~) applies to food and food ingredients which are furnished,
4 prepared, or served as meals:

5 (a) Under a state administered nutrition program for the aged as
6 provided for in the older Americans act (P.L. 95-478 Title III) and RCW
7 74.38.040(6);

8 (b) Which are provided to senior citizens, individuals with
9 disabilities, or low-income persons by a not-for-profit organization
10 organized under chapter 24.03 or 24.12 RCW; or

11 (c) That are provided to residents, sixty-two years of age or
12 older, of a qualified low-income senior housing facility by the lessor
13 or operator of the facility. The sale of a meal that is billed to both
14 spouses of a marital community or both domestic partners of a domestic
15 partnership meets the age requirement in this subsection (3)(c) if at
16 least one of the spouses or domestic partners is at least sixty-two
17 years of age. For purposes of this subsection, "qualified low-income
18 senior housing facility" has the same meaning as in RCW 82.08.0293.

19 **PART IV**
20 **TECHNICAL PROVISIONS**

21 NEW SECTION. **Sec. 401.** (1) The legislature may provide additional
22 means for raising moneys for the payment of the principal of and
23 interest on the bonds authorized in section 201 of this act, and
24 section 202 of this act may not be deemed to provide an exclusive
25 method for the payment.

26 (2) The office of the state treasurer must determine a mechanism to
27 allow individual Washington state residents to purchase jobs act bonds.

28 NEW SECTION. **Sec. 402.** The bonds authorized by this chapter
29 constitute a legal investment for all state funds or for funds under
30 state control and all funds of municipal corporations.

31 NEW SECTION. **Sec. 403.** The state finance committee is authorized
32 to prescribe the form, terms, conditions, and covenants of the bonds
33 provided for in this act, the time or times of sale of all or any

1 portion of them, and the conditions and manner of their sale and
2 issuance.

3 NEW SECTION. **Sec. 404.** The Washington works account is created in
4 the state treasury. All receipts from bonds authorized under section
5 201 of this act must be deposited in the account. Moneys in the
6 account may be spent only after appropriation. The proceeds from the
7 sale of the bonds authorized in section 201 of this act must be
8 deposited in the account. Moneys in the account must be used
9 exclusively for:

10 (1) The purposes of sections 301, 302, and 303 of this act, which
11 includes energy and operational cost savings improvements and related
12 projects that result in energy and operational cost savings for public
13 school districts and public higher education institutions; and

14 (2) The payment of the expenses incurred in connection with the
15 sale and issuance of the bonds.

16 NEW SECTION. **Sec. 405.** If the state finance committee deems it
17 necessary to issue any portion of the bonds authorized in this chapter
18 as taxable bonds in order to comply with federal internal revenue
19 service rules and regulations pertaining to the use of nontaxable bond
20 proceeds, the proceeds of such taxable bonds must be transferred to the
21 state taxable building construction account in lieu of any deposits
22 otherwise provided by section 404 of this act. The state treasurer
23 must submit written notice to the director of financial management if
24 it is determined that any such transfer to the state taxable building
25 construction account is necessary. Moneys in the account may be spent
26 only after appropriation. For purposes of this section, "nontaxable
27 bond proceeds" includes proceeds from bonds issued as tax exempt bonds
28 and proceeds from taxable bonds eligible for direct federal subsidy
29 under federal internal revenue service rules.

30 **Sec. 406.** RCW 39.94.040 and 2003 c 6 s 2 are each amended to read
31 as follows:

32 (1) Except as provided in RCW 28B.10.022, the state may not enter
33 into any financing contract for itself if the aggregate principal
34 amount payable thereunder is greater than an amount to be established
35 from time to time by the state finance committee or participate in a

1 program providing for the issuance of certificates of participation,
2 including any contract for credit enhancement, without the prior
3 approval of the state finance committee. Except as provided in RCW
4 28B.10.022, the state finance committee shall approve the form of all
5 financing contracts or a standard format for all financing contracts.
6 The state finance committee also may:

7 (a) Consolidate existing or potential financing contracts into
8 master financing contracts with respect to property acquired by one or
9 more agencies, departments, instrumentalities of the state, the state
10 board for community and technical colleges, or a state institution of
11 higher learning; or to be acquired by an other agency;

12 (b) Approve programs providing for the issuance of certificates of
13 participation in master financing contracts for the state or for other
14 agencies;

15 (c) Enter into agreements with trustees relating to master
16 financing contracts; and

17 (d) Make appropriate rules for the performance of its duties under
18 this chapter.

19 (2) In the performance of its duties under this chapter, the state
20 finance committee may consult with representatives from the department
21 of general administration, the office of financial management, and the
22 department of information services.

23 (3) With the approval of the state finance committee, the state
24 also may enter into agreements with trustees relating to financing
25 contracts and the issuance of certificates of participation.

26 (4) Except for financing contracts for real property used for the
27 purposes described under chapter 28B.140 RCW, the state may not enter
28 into any financing contract for real property of the state without
29 prior approval of the legislature.

30 (5) The state may not enter into any financing contract on behalf
31 of an other agency without the approval of such a financing contract by
32 the governing body of the other agency. For the purposes of this
33 requirement, a financing contract must be treated as used for real
34 property if it is being entered into by the state for the acquisition
35 of land; the acquisition of an existing building; the construction of
36 a new building; or a major remodeling, renovation, rehabilitation, or
37 rebuilding of an existing building. Prior approval of the legislature
38 is not required under this chapter for a financing contract entered

1 into by the state under this chapter for energy conservation
2 improvements to existing buildings where such improvements include (a)
3 fixtures and equipment that are not part of a major remodeling,
4 renovation, rehabilitation, or rebuilding of the building, or (b) other
5 improvements to the building that are being performed for the primary
6 purpose of energy conservation. Such energy conservation improvements
7 must be determined eligible for financing under this chapter by the
8 office of financial management in accordance with financing guidelines
9 established by the state treasurer, and are to be treated as personal
10 property for the purposes of this chapter.

11 **PART V**
12 **REFERENDUM PROVISIONS**

13 NEW SECTION. Sec. 501. (1) The secretary of state shall submit
14 sections 101 through 203 and 401 through 405 of this act to the people
15 for their adoption and ratification, or rejection, at the next general
16 election to be held in this state, in accordance with Article II,
17 section 1 and Article VIII, section 3 of the state Constitution and the
18 laws adopted to facilitate their operation.

19 (2) If the people ratify this act as specified under subsection (1)
20 of this section, revenues generated shall be spent as detailed in this
21 act.

22 (3) Pursuant to RCW 29A.72.050(6), the statement of subject and
23 concise description for the ballot title shall read: "The legislature
24 has passed Engrossed House Bill No. 2561 (this act), concerning job
25 creation through energy efficiency projects in school buildings. This
26 bill would promote job creation by authorizing bonds to construct
27 energy efficiency savings improvements to schools, including higher
28 education buildings."

29 NEW SECTION. Sec. 502. Sections 303 through 306 of this act are
30 contingent upon approval by the voters of sections 101 through 203 and
31 401 through 405 of this act. If sections 101 through 203 and 401
32 through 405 of this act are not approved by the voters by December 1,
33 2010, sections 303 through 306 of this act are null and void.

