

SENATE BILL REPORT

2SHB 1391

As of February 24, 2024

Title: An act relating to energy in buildings.

Brief Description: Concerning energy in buildings.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Ramel, Doglio, Duerr, Berry, Pollet and Reed).

Brief History: Passed House: 2/8/24, 58-39.

Committee Activity: Environment, Energy & Technology: 3/22/23, 3/24/23; 2/16/24, 2/21/24 [DPA-WM, DNP].

Ways & Means: 2/24/24.

Brief Summary of Amended Bill

- Directs the Department of Commerce (Commerce) to contract with an administrator to establish a Statewide Building Energy Upgrade Navigator Program (Navigator Program) by January 1, 2025, to provide outreach, and deliver energy services to residential building owners and renters and owners of commercial buildings under 20,000 square feet.
- Requires Commerce to convene a technical advisory group to provide ongoing guidance to the Navigator Program and to report to the Legislature beginning May 1, 2026.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: Do pass as amended and be referred to Committee on Ways & Means.
Signed by Senators Nguyen, Chair; Lovelett, Vice Chair; Lovick, Trudeau and Wellman.

Minority Report: Do not pass.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators MacEwen, Ranking Member; Boehnke and Short.

Staff: Kimberly Cushing (786-7421)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jed Herman (786-7346)

Background: State Energy Strategy. State law declares that a successful state energy strategy balances three goals:

- maintaining competitive energy prices that are fair and reasonable for consumers and businesses and support the state's continued economic success;
- increasing competitiveness by fostering a clean energy economy and jobs through business and workforce development; and
- meeting the state's obligations to reduce greenhouse gas (GHG) emissions.

To meet those goals, state law lays out nine principles to guide strategy development and implementation.

The Department of Commerce (Commerce) is charged with periodically reviewing the state energy strategy with the guidance of an advisory committee.

In 2019, the Legislature directed Commerce to review the state energy strategy to align it with the requirements of the Energy Independence Act, the Clean Energy Transformation Act and the state's GHG emission reduction limits. Commerce published the updated state energy strategy in 2021.

Summary of Amended Bill: Statewide Building Energy Upgrade Navigator Program. Commerce must establish and oversee a Statewide Building Energy Upgrade Navigator Program (Navigator Program) to propel Washington toward its emissions and energy goals while improving the health, well-being, and economic livelihood of building residents, promoting economic development and job growth in the building sector, and maximizing the collective impact of efficiency and electrification programs across the state. The Navigator Program must be aligned with and support coordination among utility, local, city, county, state, private, and federal programs and funding, including the federal Inflation Reduction Act and the federal Infrastructure Investment and Jobs Act. Nothing about the Navigator Program may supplant energy efficiency programs administered by energy utilities.

Commerce must consult with the Washington State University Extension Energy Program, and may consult with others, on the design, administration, and implementation of the Navigator Program.

By January 1, 2025, Commerce must contract with one or more administrators to run the

Navigator Program. The administrator may be an entity including a nonprofit organization or community organization, but may not be an energy utility. Administrator contracts may not exceed five years and contracts must include performance metrics. Commerce, in the selection process, must give consideration to entities that have relevant experience and expertise and have established market share or brand recognition in Washington.

Outreach and Energy Services Requirements for the Navigator Program's Administrator.

The administrator must prioritize education and outreach to customers on navigating through relevant funding opportunities and leverage existing energy programs.

Striving to serve all regions of the state, the administrator must provide outreach and deliver energy services to:

- residential building owners and renters, including multifamily dwellings; and
- owners of commercial buildings under 20,000 square feet.

The administrator must:

- support energy efficient and emissions reductions alternatives for buildings that use all types of fuel;
- ensure that the Navigator Program dedicates a minimum of 40 percent of outreach expenditures to low-income households, vulnerable populations, and overburdened communities, including tribal communities, and consider energy decarbonization pathways of the Utilities and Transportation Commission's natural gas decarbonization study;
- develop a streamlined application process that prioritizes low-income and moderate-income households, vulnerable populations, and overburdened communities, and that includes elements such as categorical eligibility, geographic eligibility, and a single application form;
- support the integrated implementation of all relevant utility energy efficiency and electrification programs, any city or county efficiency or electrification programs, and all clean building programs funded by the state; and
- develop a contractor network to assist with finding and accessing qualified energy contractors for customers and coordinate with existing energy utility contractor network programs.

The contractor network must consist of contractors that are committed to meeting any training requirements or other provisions required by the administrator or recommended by the Technical Advisory Group (TAG). Contractors in the contractor network must pledge that they will not recommend or install fossil fuel appliances to a customer through the Navigator Program. The contractor network must strive to reflect the diversity of the communities it serves. Commerce must conduct targeted outreach and coordinate with the Office of Minority and Women's Business Enterprises and small rural businesses to enhance their participation in the contractor network. Dedicated support groups must be established to provide training, coaching, and peer learning opportunities to support minority and women's business enterprises and small rural businesses in service delivery.

Outreach conducted by the administrator of the Navigator Program may include a variety of methods of direct interaction with customers to inform them of energy efficiency and weatherization opportunities. Outreach must be provided in culturally appropriate and accessible ways. The administrator must provide the following outreach services:

- create and maintain updated and educational marketing materials, to include advice about all funds and financial assistance available from federal, state, local, and energy utility programs;
- provide scientific and industry-accepted strategies for energy and electrification upgrades through information programs, planning tools, and technical support where possible; and
- facilitate ongoing communication and collaboration with other programs related to clean energy and efficiency in order to minimize duplicative efforts.

The administrator must perform energy assessments and energy audits or assist with accessing energy assessment and energy audits, or both. An energy assessment may be conducted in person or remotely and should identify obvious opportunities for energy cost savings and energy efficiency services or electrification services or suggest whether a more complete energy audit is warranted.

An energy audit must provide recommendations to customers on a range of cost-effective energy and health improvements. Energy audits are assessments of building energy efficiency and fossil fuel reduction opportunities, including replacing appliances and equipment that do not use fossil fuels. Energy audits must provide recommendations on improvements including weatherization, electric appliance conversions or upgrades, electrification, information on the availability of smart meter technology provided by utilities, solar photovoltaic panels, battery storage and other on-site renewable energy, electric vehicle charging, and smart thermostats. Energy audits must include utility bill analysis for multifamily rental buildings to understand the potential impacts for tenants.

The administrator must provide recommendations for energy services, and may provide energy services directly, including:

- electrification services, including evaluations of on-site renewable energy, heat pumps and heat pump water heaters, efficient electric appliances, and electric vehicle charging;
- energy efficiency services, including energy efficiency retrofits, energy management systems, and smart metering;
- weatherization, which could achieve energy and resource conservation, energy efficiency improvements, indoor air quality improvements, health and safety improvements, or client education;
- assistance with paperwork and program qualification for utility, federal, state, and other rebates, grants, and tax credits;
- arranging and securing financing, program design and development, and other post-energy audit assistance and education to help customers meet energy savings goals;

- finding and accessing qualified energy contractors to implement energy audits; and
- recommendations for programs based on income eligibility.

The administrator must develop and populate a data system and tracking portal, subject to the approval process for technology projects under the operating budget. Commerce must have access to and own this data. The administrator must identify and track the geographic location of services provided, customer interactions, performance metrics for work completed, outreach and service delivery to specified populations, and other information required by Commerce.

Commerce or the administrator may develop and deliver other services as deemed necessary to increase program effectiveness, such as establishing uniform lists of appliance models that qualify for incentive programs, bulk purchasing discounts and retail discounts, and standardization and privacy agreements to support data integration and sharing across all relevant energy efficiency and electrification programs. The administrator may directly administer program incentives and rebates as directed by Commerce and collect income verification information and share this information with entities that Commerce deems appropriate

The administrator may not provide any assistance for projects that include installing new natural gas or other fossil fuel appliances.

Reporting. Every even-numbered year beginning September 1, 2026, Commerce must report on the implementation of the Navigator Program to the Legislature. The report must include details on specific performance metrics, as well as recommendations for additional energy programs for customers.

Performance metrics must include:

- monetary, GHG, and energy savings achieved;
- cost-effectiveness trends for efficiency and electrification;
- wage levels of jobs created;
- use of state registered preapprentice and apprenticeship programs;
- use of certified and self-identified minority and women-owned contractors;
- efficiency and speed of service delivery;
- public health benefits, including air quality improvements and increased access to cooling; and
- reduction of energy burdens for and percent of funding dedicated to serving low-income and moderate-income households, vulnerable populations, and overburdened communities.

Technical Advisory Group. By July 1, 2025, Commerce must convene a TAG to provide ongoing guidance to the Navigator Program. The TAG must provide recommendations for the program on how to improve and grow, address gaps in program design and implementation, address split incentives, incorporate the Department of Health's

environmental health disparities mapping tool, workforce development, contractor needs, and needed training curriculum. The TAG may recommend expanding the size of projects to buildings larger than 20,000 square feet, including schools, which could be paired with consolidated labor standards.

The TAG members must be appointed by Commerce, and Commerce must strive to represent the geographical diversity of the state in its appointments. Membership must consist of the following members, with specifications:

- seven members representing low-income households, vulnerable populations, and overburdened communities;
- three members representing labor and workforce;
- three members representing industry;
- two members representing utilities; and
- three members representing the environment.

To assist the TAG, the administrator must convene labor representatives, participating contractors, and other stakeholders to evaluate whether and how a workforce agreement could streamline project implementation where multiple funding sources have various program reporting requirements. In consultation with this evaluation, the TAG must make recommendations about how to ensure that projects supported by the Navigator Program pay workers at least the prevailing wage and ensure there is a path for small business and minority and women-owned contractors to comply with the Navigator Program.

Beginning May 1, 2026, and May 1st of every year, the TAG must provide an implementation progress report on the Navigator Program to the Legislature.

EFFECT OF ENVIRONMENT, ENERGY & TECHNOLOGY COMMITTEE AMENDMENT(S):

- Reorganizes sections of the bill and creates a new chapter in state law for the navigator program rather than amending and adding sections to an existing chapter.
- Requires Commerce to consult, rather than coordinate and collaborate, with the WSU extension energy program, and to consult with city and county governments, representatives of low-income and moderate-income households, vulnerable populations, and overburdened communities when designing the navigator program.
- Delays by ten months the requirement for Commerce to enter into a contract with one or more administrators—from March 1, 2024, to January 1, 2025.
- Specifies that, in addition to aligning the Navigator Program with the federal inflation reduction act and infrastructure investment and jobs act, the Navigator Program must be aligned with and support coordination among utility, local, city, county, state, private, and other federal programs and funding.
- Directs the administrator of the Navigator Program to:
 1. dedicate a minimum of 40 percent of outreach expenditures, rather than prioritize services, to low-income households, vulnerable populations, and

- overburdened communities;
2. develop a streamlined application process that prioritizes low-income and moderate-income households, vulnerable populations, and overburdened communities;
 3. provide outreach in culturally appropriate and accessible ways and facilitate ongoing communication and collaboration with other programs related to clean energy and efficiency in order to minimize duplicative efforts;
 4. perform or assist with energy assessments in addition to energy audits; and
 5. develop and deliver other services as deemed necessary to increase program effectiveness, such as establishing uniform lists of appliance models and standardization and privacy agreements to support data integration and sharing across all relevant energy efficiency and electrification programs.
- Specifies that contractors in the contractor network must pledge that they will not recommend or install fossil fuel appliances to a customer through the Navigator Program and that the contractor network will strive to reflect the diversity of the communities it serves.
 - Directs that energy audits must include utility bill analysis for multifamily rental buildings to understand the potential impacts for tenants.
 - Clarifies that Commerce must have access to and own data in the database developed by the administrator.
 - Authorizes the administrator to collect income verification information and share this information with entities that Commerce deems appropriate.
 - Makes the data system and tracking portal subject to the approval process for technology projects under the operating budget.
 - Replaces the start date for Commerce to convene a technical advisory group by December 1, 2023, with July 1, 2025, and changes the due date for the technical advisory group's progress report to Commerce, rather than the Legislature, to every other year beginning May 1, 2026, rather than every year by December 1st.
 - Removes the null and void clause.
 - Makes technical corrections.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Second Substitute House Bill (Environment, Energy & Technology) (Regular Session 2024): *The committee recommended a different version of the bill than what was heard.* PRO: The Navigator Program provides a much needed one-stop shop to help building owners determine what clean energy upgrades they qualify for and make it as easy as possible to make improvements. Overtime, it will help us

identify gaps in our services, address challenges in overburdened communities, and target CCA investments. We will propose a substitute bill that updates dates and definitions and emphasizes outreach to overburdened communities. Work is slow in electric industry currently, but we've seen massive investments of federal and state dollars that would bring work to these families. The bill would create a process and system to distribute these funds to people that need it the most, create real jobs, remove carbon from the environment, and distribute funding in fair and predictable manner. There are barriers to getting clean energy incentives such as not translating information to preferred languages. The Navigator Program would partner with community groups and prioritize them, and connect with those who need the dollars the most. This bill is how people will benefit from CCA dollars. The Navigator Program is not a new idea. Other states have similar programs, and the bill will leverage those models. A lot of federal money is coming and Commerce envisions implementing the Navigator Program this year. Assessing programs becomes complex quickly without proper guidance. Washington can use the Navigator Program to maximize its return on investment from money already allocated.

CON: The idea has merit—matching homeowners to the multiple pools of money out there. But the bill has restrictive parameters and sets strings that do not exist in federal guidelines. The bill exempts a category of homeowners and businesses with natural gas or fossil fuel-based appliances, but we can make upgrades to natural gas systems to reduce energy burdens and GHG emissions. Federal funding explicitly allows for high efficiency natural gas appliances. We support some concepts of the legislation, but the program discriminates against a subset of customers by restricting federal funding for upgrades for high efficiency gas appliances. The navigator bill would function contradictory to its name by making it harder for natural gas customers to access information. The legislation is heavy on process and administration. The utilities currently have robust programs and relationships with energy customers, rather than standing up an entirely new program it would make sense to work in concert with the utilities.

Persons Testifying (Environment, Energy & Technology): PRO: Representative Alex Ramel, Prime Sponsor; Liz Reichart, Washington State Department of Commerce (SEO); Rachel Koller, Shift Zero; Matthew Hepner, IBEW/CEWW; Dewi Ali, Emerald Cities Collaborative; Dave Buescher, American Institute of Architects WA Council.

CON: Charlie Brown, Cascade Natural Gas and NW Natural; John Rothlin, Avista; Natasha Jackson, Northwest Gas Association.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): No one.

Staff Summary of Public Testimony on Bill as Amended by Environment, Energy & Technology (Ways & Means): CON: I think this bill runs afoul of federal energy rules and policies. This bill is an affront to people who want to access federal funding that they are entitled to that allows natural gas products. The Senate operating budget solves the

problems that this bill is attempting to solve without the burdensome provisions and additional expenses of this bill. We can update natural gas heating systems and reduce energy burdens and greenhouse gas emissions. We prefer the less expensive and less prescriptive approach taken in the Senate operating budget.

OTHER: We are concerned about the pledge in the bill requiring that navigators cannot work with natural gas products. Even if you put individuals into a residence with a fully electric heat pump, there needs to be a discussion around backup heating capacity. We need to look at how we maximize total energy efficiency.

Persons Testifying (Ways & Means):

CON: Charlie Brown, Cascade Natural Gas and NW Natural; John Rothlin, Avista.

OTHER: Carolyn Logue, WA Air Conditioning Contractors Association.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.