

CERTIFICATION OF ENROLLMENT

**ENGROSSED HOUSE BILL 2247**

Chapter 214, Laws of 2001

57th Legislature  
2001 Regular Legislative Session

ENERGY--SUPPLY AND DEMAND MANAGEMENT

EFFECTIVE DATE: 5/8/01

Passed by the House April 20, 2001  
Yeas 92 Nays 0

FRANK CHOPP  
**Speaker of the House of Representatives**

CLYDE BALLARD  
**Speaker of the House of Representatives**

Passed by the Senate April 20, 2001  
Yeas 41 Nays 1

BRAD OWEN  
**President of the Senate**

Approved May 8, 2001

GARY F. LOCKE  
**Governor of the State of Washington**

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED HOUSE BILL 2247** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN  
**Chief Clerk**

CYNTHIA ZEHNDER  
**Chief Clerk**

FILED

May 8, 2001 - 11:01 a.m.

**Secretary of State  
State of Washington**

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ENGROSSED HOUSE BILL 2247

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Passed Legislature - 2001 Regular Session

State of Washington                      57th Legislature                      2001 Regular Session

By Representatives Crouse and Poulsen

Read first time . Referred to Committee on .

1            AN ACT Relating to the management of state energy supply and  
2 demand; amending RCW 80.50.010, 80.50.060, 80.50.020, 80.50.030,  
3 80.50.040, 80.50.090, 39.35.010, 39.35.030, 39.35.050, 39.35A.020,  
4 39.35C.010, 39.35C.020, 43.19.668, 43.19.669, 43.19.670, 43.19.675,  
5 43.19.680, 19.29A.040, 44.39.010, and 44.39.015; adding new sections to  
6 chapter 80.50 RCW; adding a new section to chapter 82.04 RCW; adding a  
7 new section to chapter 82.12 RCW; adding new sections to chapter 82.16  
8 RCW; adding a new section to chapter 82.32 RCW; adding a new section to  
9 chapter 39.35A RCW; adding a new section to chapter 39.35C RCW; adding  
10 a new section to chapter 19.29A RCW; adding a new section to chapter  
11 82.34 RCW; creating a new section; providing an expiration date; and  
12 declaring an emergency.

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

14            **Sec. 1.** RCW 80.50.010 and 1996 c 4 s 1 are each amended to read as  
15 follows:

16            The legislature finds that the present and predicted growth in  
17 energy demands in the state of Washington requires the development of  
18 a procedure for the selection and utilization of sites for energy  
19 facilities and the identification of a state position with respect to

1 each proposed site. The legislature recognizes that the selection of  
2 sites will have a significant impact upon the welfare of the  
3 population, the location and growth of industry and the use of the  
4 natural resources of the state.

5 It is the policy of the state of Washington to recognize the  
6 pressing need for increased energy facilities, and to ensure through  
7 available and reasonable methods, that the location and operation of  
8 such facilities will produce minimal adverse effects on the  
9 environment, ecology of the land and its wildlife, and the ecology of  
10 state waters and their aquatic life.

11 It is the intent to seek courses of action that will balance the  
12 increasing demands for energy facility location and operation in  
13 conjunction with the broad interests of the public. Such action will  
14 be based on these premises:

15 (1) To assure Washington state citizens that, where applicable,  
16 operational safeguards are at least as stringent as the criteria  
17 established by the federal government and are technically sufficient  
18 for their welfare and protection.

19 (2) To preserve and protect the quality of the environment; to  
20 enhance the public's opportunity to enjoy the esthetic and recreational  
21 benefits of the air, water and land resources; to promote air  
22 cleanliness; and to pursue beneficial changes in the environment.

23 (3) To provide abundant energy at reasonable cost.

24 (4) To avoid costs of complete site restoration and demolition of  
25 improvements and infrastructure at unfinished nuclear energy sites, and  
26 to use unfinished nuclear energy facilities for public uses, including  
27 economic development, under the regulatory and management control of  
28 local governments and port districts.

29 (5) To avoid costly duplication in the siting process and ensure  
30 that decisions are made timely and without unnecessary delay.

31 **Sec. 2.** RCW 80.50.060 and 1977 ex.s. c 371 s 5 are each amended to  
32 read as follows:

33 (1) The provisions of this chapter shall apply to the construction  
34 of energy facilities which includes the new construction of energy  
35 facilities and the reconstruction or enlargement of existing energy  
36 facilities where the net increase in physical capacity or dimensions  
37 resulting from such reconstruction or enlargement meets or exceeds  
38 those capacities or dimensions set forth in RCW 80.50.020 (7) and

1 (~~((17), as now or hereafter amended))~~) (14). No construction of such  
2 energy facilities may be undertaken, except as otherwise provided in  
3 this chapter, after July 15, 1977, without first obtaining  
4 certification in the manner provided in this chapter.

5 (2) The provisions of this chapter apply to the construction,  
6 reconstruction, or enlargement of a new or existing energy facility  
7 that exclusively uses alternative energy resources and chooses to  
8 receive certification under this chapter, regardless of the generating  
9 capacity of the project.

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

14 (~~((3))~~) (4) Applications for certification of energy facilities  
15 made prior to July 15, 1977 shall continue to be governed by the  
16 applicable provisions of law in effect on the day immediately preceding  
17 July 15, 1977 with the exceptions of RCW 80.50.190 and 80.50.071 which  
18 shall apply to such prior applications and to site certifications  
19 prospectively from July 15, 1977.

20 (~~((4))~~) (5) Applications for certification shall be upon forms  
21 prescribed by the council and shall be supported by such information  
22 and technical studies as the council may require.

23 **Sec. 3.** RCW 80.50.020 and 1995 c 69 s 1 are each amended to read  
24 as follows:

25 The definitions in this section apply throughout this chapter  
26 unless the context clearly requires otherwise.

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

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

32 (3) "Person" means an individual, partnership, joint venture,  
33 private or public corporation, association, firm, public service  
34 company, political subdivision, municipal corporation, government  
35 agency, public utility district, or any other entity, public or  
36 private, however organized(~~((+))~~).

37 (4) "Site" means any proposed or approved location of an energy  
38 facility(~~((+))~~).

1 (5) "Certification" means a binding agreement between an applicant  
2 and the state which shall embody compliance to the siting guidelines,  
3 in effect as of the date of certification, which have been adopted  
4 pursuant to RCW 80.50.040 as now or hereafter amended as conditions to  
5 be met prior to or concurrent with the construction or operation of any  
6 energy facility((?)).

7 (6) "Associated facilities" means storage, transmission, handling,  
8 or other related and supporting facilities connecting an energy plant  
9 with the existing energy supply, processing, or distribution system,  
10 including, but not limited to, communications, controls, mobilizing or  
11 maintenance equipment, instrumentation, and other types of ancillary  
12 transmission equipment, off-line storage or venting required for  
13 efficient operation or safety of the transmission system and overhead,  
14 and surface or subsurface lines of physical access for the inspection,  
15 maintenance, and safe operations of the transmission facility and new  
16 transmission lines constructed to operate at nominal voltages in excess  
17 of 200,000 volts to connect a thermal power plant to the northwest  
18 power grid: PROVIDED, That common carrier railroads or motor vehicles  
19 shall not be included((?)).

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

22 (a) Crude or refined petroleum or liquid petroleum product  
23 transmission pipeline of the following dimensions: A pipeline larger  
24 than six inches minimum inside diameter between valves for the  
25 transmission of these products with a total length of at least fifteen  
26 miles;

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

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

1 (9) "Thermal power plant" means, for the purpose of certification,  
2 any electrical generating facility using any fuel, including nuclear  
3 materials, for distribution of electricity by electric utilities((+)).

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

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

10 (b) Facilities operated by and for the armed services for military  
11 purposes or by other federal authority for the national defense((+)).

12 (11) "Council" means the energy facility site evaluation council  
13 created by RCW 80.50.030((+)).

14 (12) "Counsel for the environment" means an assistant attorney  
15 general or a special assistant attorney general who shall represent the  
16 public in accordance with RCW 80.50.080((+)).

17 (13) "Construction" means on-site improvements, excluding  
18 exploratory work, which cost in excess of two hundred fifty thousand  
19 dollars((+)).

20 (14) "Energy plant" means the following facilities together with  
21 their associated facilities:

22 (a) Any stationary thermal power plant with generating capacity of  
23 ((two)) three hundred fifty thousand kilowatts or more, measured using  
24 maximum continuous electric generating capacity, less minimum auxiliary  
25 load, at average ambient temperature and pressure, and floating thermal  
26 power plants of ((fifty)) one hundred thousand kilowatts or more,  
27 including associated facilities. For the purposes of this subsection,  
28 "floating thermal power plants" means a thermal power plant that is  
29 suspended on the surface of water by means of a barge, vessel, or other  
30 floating platform;

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

35 (c) Facilities which will have the capacity to receive more than an  
36 average of fifty thousand barrels per day of crude or refined petroleum  
37 or liquified petroleum gas which has been or will be transported over  
38 marine waters, except that the provisions of this chapter shall not

1 apply to storage facilities unless occasioned by such new facility  
2 construction;

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

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

9 (15) "Land use plan" means a comprehensive plan or land use element  
10 thereof adopted by a unit of local government pursuant to chapters  
11 35.63, 35A.63, or 36.70 RCW((+)).

12 (16) "Zoning ordinance" means an ordinance of a unit of local  
13 government regulating the use of land and adopted pursuant to chapters  
14 35.63, 35A.63, or 36.70 RCW or Article XI of the state Constitution.

15 (17) "Alternative energy resource" means: (a) Wind; (b) solar  
16 energy; (c) geothermal energy; (d) landfill gas; (e) wave or tidal  
17 action; or (f) biomass energy based on solid organic fuels from wood,  
18 forest, or field residues, or dedicated energy crops that do not  
19 include wood pieces that have been treated with chemical preservatives  
20 such as creosote, pentachlorophenol, or copper-chrome-arsenic.

21 **Sec. 4.** RCW 80.50.030 and 1996 c 186 s 108 are each amended to  
22 read as follows:

23 (1) There is created and established the energy facility site  
24 evaluation council.

25 (2)(a) The ((~~chairman~~)) chair of the council shall be appointed by  
26 the governor with the advice and consent of the senate, shall have a  
27 vote on matters before the council, shall serve for a term coextensive  
28 with the term of the governor, and is removable for cause. The  
29 ((~~chairman~~)) chair may designate a member of the council to serve as  
30 acting ((~~chairman~~)) chair in the event of the ((~~chairman's~~)) chair's  
31 absence. The salary of the chair shall be determined under RCW  
32 43.03.040. The ((~~chairman~~)) chair is a "state employee" for the  
33 purposes of chapter 42.52 RCW. As applicable, when attending meetings  
34 of the council, members may receive reimbursement for travel expenses  
35 in accordance with RCW 43.03.050 and 43.03.060, and are eligible for  
36 compensation under RCW 43.03.250.

37 (b) The ((~~chairman~~)) chair or a designee shall execute all official  
38 documents, contracts, and other materials on behalf of the council.

1 The Washington state department of community, trade, and economic  
2 development shall provide all administrative and staff support for the  
3 council. The director of the department of community, trade, and  
4 economic development has supervisory authority over the staff of the  
5 council and shall employ such personnel as are necessary to implement  
6 this chapter. Not more than three such employees may be exempt from  
7 chapter 41.06 RCW.

8 (3)(a) The council shall consist of the directors, administrators,  
9 or their designees, of the following departments, agencies,  
10 commissions, and committees or their statutory successors:

11 ~~((a))~~ (i) Department of ecology;

12 ~~((b))~~ (ii) Department of fish and wildlife;

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

14 ~~(d) Military department;~~

15 ~~(e))~~ (iii) Department of community, trade, and economic  
16 development;

17 ~~((f))~~ (iv) Utilities and transportation commission; and

18 ~~((g))~~ (v) Department of natural resources(~~(~~

19 ~~(h) Department of agriculture;~~

20 ~~(i) Department of transportation)).~~

21 (b) The directors, administrators, or their designees, of the  
22 following departments, agencies, and commissions, or their statutory  
23 successors, may participate as councilmembers at their own discretion  
24 provided they elect to participate no later than sixty days after an  
25 application is filed:

26 (i) Department of agriculture;

27 (ii) Department of health;

28 (iii) Military department; and

29 (iv) Department of transportation.

30 (c) Council membership is discretionary for agencies that choose to  
31 participate under (b) of this subsection only for applications that are  
32 filed with the council on or after the effective date of this section.  
33 For applications filed before the effective date of this section,  
34 council membership is mandatory for those agencies listed in (b) of  
35 this subsection.

36 (4) The appropriate county legislative authority of every county  
37 wherein an application for a proposed site is filed shall appoint a  
38 member or designee as a voting member to the council. The member or  
39 designee so appointed shall sit with the council only at such times as



1 the council considers the proposed site for the county which he or she  
2 represents, and such member or designee shall serve until there has  
3 been a final acceptance or rejection of the proposed site.

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

11 (6) For any port district wherein an application for a proposed  
12 port facility is filed subject to this chapter, the port district shall  
13 appoint a member or designee as a nonvoting member to the council. The  
14 member or designee so appointed shall sit with the council only at such  
15 times as the council considers the proposed site for the port district  
16 which he or she represents, and such member or designee shall serve  
17 until there has been a final acceptance or rejection of the proposed  
18 site. The provisions of this subsection shall not apply if the port  
19 district is the applicant, either singly or in partnership or  
20 association with any other person.

21 NEW SECTION. **Sec. 5.** A new section is added to chapter 80.50 RCW  
22 to read as follows:

23 (1) After the council has received a site application, council  
24 staff shall assist applicants in identifying issues presented by the  
25 application.

26 (2) Council staff shall review all information submitted and  
27 recommend resolutions to issues in dispute that would allow site  
28 approval.

29 (3) Council staff may make recommendations to the council on  
30 conditions that would allow site approval.

31 **Sec. 6.** RCW 80.50.040 and 1990 c 12 s 4 are each amended to read  
32 as follows:

33 The council shall have the following powers:

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

- 1 (2) To develop and apply environmental and ecological guidelines in  
2 relation to the type, design, location, construction, and operational  
3 conditions of certification of energy facilities subject to this  
4 chapter;
- 5 (3) To establish rules of practice for the conduct of public  
6 hearings pursuant to the provisions of the Administrative Procedure  
7 Act, as found in chapter 34.05 RCW;
- 8 (4) To prescribe the form, content, and necessary supporting  
9 documentation for site certification;
- 10 (5) To receive applications for energy facility locations and to  
11 investigate the sufficiency thereof;
- 12 (6) To make and contract, when applicable, for independent studies  
13 of sites proposed by the applicant;
- 14 (7) To conduct hearings on the proposed location of the energy  
15 facilities;
- 16 (8) To prepare written reports to the governor which shall include:  
17 (a) A statement indicating whether the application is in compliance  
18 with the council's guidelines, (b) criteria specific to the site and  
19 transmission line routing, (c) a council recommendation as to the  
20 disposition of the application, and (d) a draft certification agreement  
21 when the council recommends approval of the application;
- 22 (9) To prescribe the means for monitoring of the effects arising  
23 from the construction and the operation of energy facilities to assure  
24 continued compliance with terms of certification and/or permits issued  
25 by the council pursuant to chapter 90.48 RCW or subsection (12) of this  
26 section: PROVIDED, That any on-site inspection required by the council  
27 shall be performed by other state agencies pursuant to interagency  
28 agreement: PROVIDED FURTHER, That the council (~~shall~~) may retain  
29 authority for determining compliance relative to monitoring;
- 30 (10) To integrate its site evaluation activity with activities of  
31 federal agencies having jurisdiction in such matters to avoid  
32 unnecessary duplication;
- 33 (11) To present state concerns and interests to other states,  
34 regional organizations, and the federal government on the location,  
35 construction, and operation of any energy facility which may affect the  
36 environment, health, or safety of the citizens of the state of  
37 Washington;
- 38 (12) To issue permits in compliance with applicable provisions of  
39 the federally approved state implementation plan adopted in accordance

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

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

12 **Sec. 7.** RCW 80.50.090 and 1989 c 175 s 173 are each amended to  
13 read as follows:

14 (1) The council shall conduct ((a)) an informational public hearing  
15 in the county of the proposed site ((~~within sixty days of~~)) as soon as  
16 practicable but not later than sixty days after receipt of an  
17 application for site certification: PROVIDED, That the place of such  
18 public hearing shall be as close as practical to the proposed site.

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

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

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

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

1 The governor shall undertake an evaluation of the operations of the  
2 council to assess means to enhance its efficiency. The assessment must  
3 include whether the efficiency of the siting process would be improved  
4 by conducting the process under the state environmental policy act in  
5 a particular sequence relative to the adjudicative proceeding. The  
6 results of this assessment may include recommendations for  
7 administrative changes, statutory changes, or expanded staffing levels.

8 NEW SECTION. **Sec. 9.** A new section is added to chapter 82.04 RCW  
9 to read as follows:

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

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

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

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

27 (2) Effective July 1, 2001, a credit is allowed against the tax due  
28 under this chapter to a direct service industrial customer who  
29 purchases natural or manufactured gas from a gas distribution business  
30 subject to the public utility tax under chapter 82.16 RCW. The credit  
31 is equal to the value of natural or manufactured gas purchased from a  
32 gas distribution business and used to generate electricity at the  
33 facility multiplied by the rate in effect for the public utility tax on  
34 gas distribution businesses under RCW 82.16.020. This credit may be  
35 used each reporting period for sixty months following the first month  
36 natural or manufactured gas was purchased from a gas distribution  
37 business by a direct service industrial customer who constructs a  
38 facility.

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

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

17 (5) All or part of the credit shall be disallowed and must be paid  
18 if the average of the direct service industrial customer's average  
19 annual employment for the five calendar years subsequent to the  
20 calendar year containing the first month of purchase of natural or  
21 manufactured gas to generate electricity at a facility is less than the  
22 six-year average annual employment stated on the application for credit  
23 under this section. The direct service industrial customer will  
24 certify to the department by June 1st of the sixth calendar year  
25 following the calendar year in which the month of first purchase of gas  
26 occurs the average annual employment for each of the five prior  
27 calendar years. All or part of the credit that shall be disallowed and  
28 must be paid is commensurate with the decrease in the five-year average  
29 of average annual employment as follows:

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

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

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

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

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

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

29 (8) A person claiming this credit shall supply to the department  
30 quarterly reports containing information necessary to document the  
31 total volume of natural or manufactured gas purchased in the quarter,  
32 the value of that total volume, and the percentage of the total volume  
33 used to generate electricity at the facility.

34 NEW SECTION. Sec. 10. A new section is added to chapter 82.12 RCW  
35 to read as follows:

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

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

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

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

16 (2) Effective July 1, 2001, the tax levied in RCW 82.12.022 on the  
17 first sixty months' use of natural or manufactured gas by a direct  
18 service industrial customer that owns a facility shall be deferred.  
19 This deferral is limited to the tax on natural or manufactured gas used  
20 or consumed to generate electricity at the facility.

21 (3) Application for deferral shall be made by the direct service  
22 industrial customer before the first use of natural or manufactured  
23 gas. The application shall be in a form and manner prescribed by the  
24 department and shall include but is not limited to information  
25 regarding the location of the facility, the projected date of first use  
26 of natural or manufactured gas to generate electricity at the facility,  
27 the date construction is projected to begin or did begin, the  
28 applicant's average annual employment in the state for the six calendar  
29 years immediately preceding the year in which the application is made,  
30 and shall affirm the applicant's status as a direct service industrial  
31 customer. The department shall rule on the application within thirty  
32 days of receipt.

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

	<u>Payment Year</u>	<u>% of Deferred Tax to be Paid</u>
1		
2	1	10%
3	2	15%
4	3	20%
5	4	25%
6	5	30%

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

9 (c) Interest shall not be charged on the tax deferred under this  
10 section for the period of deferral, although all other penalties and  
11 interest applicable to delinquent excise taxes may be assessed and  
12 imposed. The debt for deferred tax will not be extinguished by  
13 insolvency or other failure of the direct service industrial customer.  
14 Transfer of ownership of the facility does not affect deferral  
15 eligibility. However, the deferral is available to the successor only  
16 if the eligibility conditions of this section are met.

17 (5)(a) If the average of the direct service industrial customer's  
18 average annual employment for the five calendar years subsequent to the  
19 calendar year containing the first month of use of natural or  
20 manufactured gas to generate electricity at a facility is equal to or  
21 exceeds the six-year average annual employment stated on the  
22 application for deferral under this section, the tax deferred need not  
23 be paid. The direct service industrial customer shall certify to the  
24 department by June 1st of the sixth calendar year following the  
25 calendar year in which the month of first use of gas occurs the average  
26 annual employment for each of the five prior calendar years.

27 (b) If the five-year average calculated in (a) of this subsection  
28 is less than the average annual employment stated on the application  
29 for deferral under this section, the tax deferred under this section  
30 shall be paid in the amount as follows:

<u>Decrease in Average Annual</u>	<u>% of Deferred</u>
<u>Employment Over</u>	<u>Tax to be Paid</u>
<u>Five-Year Period</u>	
31 Less than 10%	10%
32 10% or more but less than 25%	25%
33 25% or more but less than 50%	50%
34 50% or more but less than 75%	75%
35 75% or more	100%



1 (c) Tax paid under this subsection shall be paid according to the  
2 schedule in subsection (4)(a) of this section and under the terms and  
3 conditions of subsection (4)(b) and (c) of this section.

4 (6) The employment security department shall make, and certify to  
5 the department of revenue, all determinations of employment under this  
6 section as requested by the department.

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

12 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.16 RCW  
13 to read as follows:

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

16 (a) "Direct service industrial customer" means a person who is an  
17 industrial customer that contracts for the purchase of power from the  
18 Bonneville Power Administration for direct consumption as of the  
19 effective date of this section. "Direct service industrial customer"  
20 includes a person who is a subsidiary that is more than fifty percent  
21 owned by a direct service industrial customer and who receives power  
22 from the Bonneville Power Administration pursuant to the parent's  
23 contract for power.

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

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

29 (2) Effective July 1, 2001, a credit is allowed against the tax due  
30 under this chapter on sales of electricity made from a facility to a  
31 direct service industrial customer if the contract for sale of  
32 electricity to a direct service industrial customer contains the  
33 following terms:

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

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

1 (c) Disallowance of all or part of the credit under subsection (5)  
2 of this section is a breach of contract and the damages to be paid by  
3 the direct service industrial customer to the facility are the amount  
4 of tax credit disallowed.

5 (3) The credit is equal to the gross proceeds from the sale of the  
6 electricity to a direct service industrial customer multiplied by the  
7 rate in effect at the time of the sale for the public utility tax on  
8 light and power businesses under RCW 82.16.020. The credit may be used  
9 each reporting period for sixty months following the first month  
10 electricity is sold from a facility to a direct service industrial  
11 customer. Credit under this section is limited to the amount of tax  
12 imposed under this chapter. Refunds shall not be given in place of  
13 credits and credits may not be carried over to subsequent calendar  
14 years.

15 (4) Application for credit shall be made before the first sale of  
16 electricity from a facility to a direct service industrial customer.  
17 The application shall be in a form and manner prescribed by the  
18 department and shall include but is not limited to information  
19 regarding the location of the facility, identification of the direct  
20 service industrial customer who will receive electricity from the  
21 facility, the projected date of the first sale of electricity to a  
22 direct service industrial customer, the date construction is projected  
23 to begin or did begin, and the average annual employment in the state  
24 of the direct service industrial customer who will receive electricity  
25 from the facility for the six calendar years immediately preceding the  
26 year in which the application is made. A copy of the contract for sale  
27 of electricity must be attached to the application. The department  
28 shall rule on the application within thirty days of receipt.

29 (5) All or part of the credit shall be disallowed and must be paid  
30 if the average of the direct service industrial customer's average  
31 annual employment for the five calendar years subsequent to the  
32 calendar year containing the first month of sale of electricity from a  
33 facility to a direct service industrial customer is less than the six-  
34 year average annual employment stated on the application for credit  
35 under this section. The direct service industrial customer shall  
36 certify to the department and to the facility by June 1st of the sixth  
37 calendar year following the calendar year in which the month of first  
38 sale occurs the average annual employment for each of the five prior  
39 calendar years. All or part of the credit that shall be disallowed and

1 must be paid is commensurate with the decrease in the five-year average  
2 of average annual employment as follows:

3	<u>Decrease in Average Annual</u>	
4	<u>Employment Over</u>	
5	<u>Five-Year Period</u>	<u>% of Credit to be Paid</u>
6	Less than 10%	10%
7	10% or more but less than 25%	25%
8	25% or more but less than 50%	50%
9	50% or more but less than 75%	75%
10	75% or more	100%

11 (6)(a) Payments on credit that is disallowed shall begin in the  
12 sixth calendar year following the calendar year in which the month  
13 following the first month of sale of electricity from a facility to a  
14 direct service industrial customer occurs. The first payment will be  
15 due on or before December 31st with subsequent annual payments due on  
16 or before December 31st of the following four years according to the  
17 schedule in this subsection.

18	<u>Payment Year</u>	<u>% of Credit to be Paid</u>
19	1	10%
20	2	15%
21	3	20%
22	4	25%
23	5	30%

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

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

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

1        NEW SECTION.    **Sec. 12.**    A new section is added to chapter 82.32 RCW  
2 to read as follows:

3        (1) The total combined credits and deferrals that may be taken  
4 under sections 9 through 11 of this act shall not exceed two million  
5 five hundred thousand dollars in any fiscal year.    Each person is  
6 limited to no more than a total of one million five hundred thousand  
7 dollars in tax deferred and credit allowed in any fiscal year in which  
8 more than one person takes tax credits and claims tax deferral.    The  
9 department may require reporting of the credits taken and amounts  
10 deferred in a manner and form as is necessary to keep a running total  
11 of the amounts.

12        (2) Credits and deferred tax are available on a first come basis.  
13 Priority for tax credits and deferrals among approved applicants shall  
14 be designated based on the first actual consumption of gas under  
15 section 9 or 10 of this act, or on the first actual use of electricity  
16 under section 11 of this act, by each approved applicant.    The  
17 department shall disallow any credits or deferred tax, or portion  
18 thereof, that would cause the total amount of credits taken and  
19 deferred taxes claimed to exceed the fiscal year cap or to exceed the  
20 per person fiscal year cap.    If the fiscal cap is reached or exceeded  
21 the department shall notify those persons who have approved  
22 applications under sections 9 through 11 of this act that no more  
23 credits may be taken or tax deferred during the remainder of the fiscal  
24 year.    In addition, the department shall provide written notice to any  
25 person who has taken any tax credits or claimed any deferred tax in  
26 excess of the fiscal year cap.    The notice shall indicate the amount of  
27 tax due and shall provide that the tax be paid within thirty days from  
28 the date of such notice.

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

33        NEW SECTION.    **Sec. 13.**    A new section is added to chapter 82.16 RCW  
34 to read as follows:

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

37        (a) "Base credit" means the maximum amount of credit against the  
38 tax imposed by this chapter that each light and power business or gas

1 distribution business may take each fiscal year as calculated by the  
2 department. The base credit is equal to the proportionate share that  
3 the total grants received by each light and power business or gas  
4 distribution business in the prior fiscal year bears to the total  
5 grants received by all light and power businesses and gas distribution  
6 businesses in the prior fiscal year multiplied by two million five  
7 hundred thousand dollars.

8 (b) "Billing discount" means a reduction in the amount charged for  
9 providing service to qualifying persons in Washington made by a light  
10 and power business or a gas distribution business. Billing discount  
11 does not include grants received by the light and power business or a  
12 gas distribution business.

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

16 (d) "Low-income home energy assistance program" means energy  
17 assistance programs for low-income households as defined on December  
18 31, 2000, in the low-income home energy assistance act of 1981 as  
19 amended August 1, 1999, 42 U.S.C. Sec. 8623 et seq.

20 (e) "Qualifying person" means a Washington resident who applies for  
21 assistance and qualifies for a grant regardless of whether that person  
22 receives a grant.

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

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

32 (2) Subject to the limitations in this section, a light and power  
33 business or a gas distribution business may take a credit each fiscal  
34 year against the tax imposed under this chapter.

35 (a)(i) A credit may be taken for qualifying contributions if the  
36 dollar amount of qualifying contributions for the fiscal year in which  
37 the tax credit is taken is greater than one hundred twenty-five percent  
38 of the dollar amount of qualifying contributions given in fiscal year  
39 2000.

1 (ii) If no qualifying contributions were given in fiscal year 2000,  
2 a credit shall be allowed for the first fiscal year that qualifying  
3 contributions are given. Thereafter, credit shall be allowed if the  
4 qualifying contributions given exceed one hundred twenty-five percent  
5 of qualifying contributions given in the first fiscal year.

6 (iii) The amount of credit shall be fifty percent of the dollar  
7 amount of qualifying contributions given in the fiscal year in which  
8 the tax credit is taken.

9 (b)(i) A credit may be taken for billing discounts if the dollar  
10 amount of billing discounts for the fiscal year in which the tax credit  
11 is taken is greater than one hundred twenty-five percent of the dollar  
12 amount of billing discounts given in fiscal year 2000.

13 (ii) If no billing discounts were given in fiscal year 2000, a  
14 credit shall be allowed in the first fiscal year that billing discounts  
15 are given. Thereafter, credit shall be allowed if the dollar amount of  
16 billing discounts given exceeds one hundred twenty-five percent of  
17 billing discounts given in the first fiscal year.

18 (iii) The amount of credit shall be fifty percent of the dollar  
19 amount of the billing discounts given in the fiscal year in which the  
20 tax credit is taken.

21 (c) The total amount of credit that may be taken for qualifying  
22 contributions and billing discounts in a fiscal year is limited to the  
23 base credit for the same fiscal year.

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

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

33 (b) Not later than July 1st of each year beginning in 2002,  
34 application for credit must be made to the department including but not  
35 limited to the following information: Billing discounts given by the  
36 applicant in fiscal year 2000; qualifying contributions given by the  
37 applicant in the prior fiscal year; the amount of money received in the  
38 prior fiscal year from customers for the purpose of assisting other  
39 customers; the base credit for the next fiscal year for the applicant;

1 the qualifying contributions anticipated to be given in the next fiscal  
2 year; and billing discounts anticipated to be given in the next fiscal  
3 year. No credit under this section will be allowed to a light and  
4 power business or gas distribution business that does not file the  
5 application by July 1st.

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

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

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

18 (6) No credit may be taken for billing discounts made before July  
19 1, 2001. Within two weeks of the effective date of this section, the  
20 department of community, trade, and economic development shall notify  
21 the department of revenue in writing of the grants received in fiscal  
22 year 2001 by each light and power business and gas distribution  
23 business. Within four weeks of the effective date of this section, the  
24 department of revenue shall publish the base credit for each light and  
25 power business and gas distribution business for fiscal year 2002.  
26 Within eight weeks of the effective date of this section, application  
27 to the department must be made showing the information required in  
28 subsection (4)(b) of this section. Within twelve weeks of the  
29 effective date of this section, the department shall notify each  
30 applicant of the amount of credit that may be taken in fiscal year  
31 2002.

32 NEW SECTION. **Sec. 14.** (1) The legislature hereby finds that:

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

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

1 (c) Conservation programs originally established in the 1970s and  
2 1980s can be improved or updated. New programs drawing on recently  
3 developed technologies, including demand-side energy management  
4 systems, can materially increase the efficiency of energy use by the  
5 public sector.

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

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

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

16 **Sec. 15.** RCW 39.35.010 and 1982 c 159 s 1 are each amended to read  
17 as follows:

18 The legislature hereby finds:

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

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

25 (3) That the cost of the energy consumed by such facilities over  
26 the life of the facilities shall be considered in addition to the  
27 initial cost of constructing such facilities;

28 (4) That the cost of energy is significant and major facility  
29 designs shall be based on the total life-cycle cost, including the  
30 initial construction cost, and the cost, over the economic life of a  
31 major facility, of the energy consumed, and of the operation and  
32 maintenance of a major facility as they affect energy consumption; and

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



1       **Sec. 16.** RCW 39.35.030 and 1996 c 186 s 402 are each amended to  
2 read as follows:

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

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

9       (2) "Department" means the state department of general  
10 administration.

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

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

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

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

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

29       (a) Energy consumers to obtain information about their energy usage  
30 and the cost of energy in connection with their usage;

31       (b) Interactive communication between energy consumers and their  
32 energy suppliers;

33       (c) Energy consumers to respond to energy price signals and to  
34 manage their purchase and use of energy; or

35       (d) For other kinds of dynamic, demand-side energy management.

36       (8) "Life-cycle cost" means the initial cost and cost of operation  
37 of a major facility over its economic life. This shall be calculated  
38 as the initial cost plus the operation, maintenance, and energy costs  
39 over its economic life, reflecting anticipated increases in these costs

1 discounted to present value at the current rate for borrowing public  
2 funds, as determined by the office of financial management. The energy  
3 cost projections used shall be those provided by the department. The  
4 department shall update these projections at least every two years.

5 ~~((+8+))~~ (9) "Life-cycle cost analysis" includes, but is not limited  
6 to, the following elements:

7 (a) The coordination and positioning of a major facility on its  
8 physical site;

9 (b) The amount and type of fenestration employed in a major  
10 facility;

11 (c) The amount of insulation incorporated into the design of a  
12 major facility;

13 (d) The variable occupancy and operating conditions of a major  
14 facility; and

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

16 ~~((+9+))~~ (10) "Energy systems" means all utilities, including, but  
17 not limited to, heating, air-conditioning, ventilating, lighting, and  
18 the supplying of domestic hot water.

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

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

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

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

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

4 (~~(11)~~) (12) "Renewable energy systems" means methods of facility  
5 design and construction and types of equipment for the utilization of  
6 renewable energy sources including, but not limited to, hydroelectric  
7 power, active or passive solar space heating or cooling, domestic solar  
8 water heating, windmills, waste heat, biomass and/or refuse-derived  
9 fuels, photovoltaic devices, and geothermal energy.

10 (~~(12)~~) (13) "Cogeneration" means the sequential generation of two  
11 or more forms of energy from a common fuel or energy source. Where  
12 these forms are electricity and thermal energy, then the operating and  
13 efficiency standards established by 18 C.F.R. Sec. 292.205 and the  
14 definitions established by 18 C.F.R. 292.202 (c) through (m) as of July  
15 28, 1991, shall apply.

16 (~~(13)~~) (14) "Selected buildings" means educational, office,  
17 residential care, and correctional facilities that are designed to  
18 comply with the design standards analyzed and recommended by the  
19 department.

20 (~~(14)~~) (15) "Design standards" means the heating, air-  
21 conditioning, ventilating, and renewable resource systems identified,  
22 analyzed, and recommended by the department as providing an efficient  
23 energy system or systems based on the economic life of the selected  
24 buildings.

25 **Sec. 17.** RCW 39.35.050 and 1996 c 186 s 403 are each amended to  
26 read as follows:

27 The department, in consultation with affected public agencies,  
28 shall develop and issue guidelines for administering this chapter. The  
29 purpose of the guidelines is to define a procedure and method for  
30 performance of life-cycle cost analysis to promote the selection of  
31 low-life-cycle cost alternatives. At a minimum, the guidelines must  
32 contain provisions that:

33 (1) Address energy considerations during the planning phase of the  
34 project;

35 (2) Identify energy components and system alternatives including  
36 energy management systems, renewable energy systems, and cogeneration  
37 applications prior to commencing the energy consumption analysis;

- 1 (3) Identify simplified methods to assure the lowest life-cycle  
2 cost alternatives for selected buildings with between twenty-five  
3 thousand and one hundred thousand square feet of usable floor area;  
4 (4) Establish times during the design process for preparation,  
5 review, and approval or disapproval of the life-cycle cost analysis;  
6 (5) Specify the assumptions to be used for escalation and inflation  
7 rates, equipment service lives, economic building lives, and  
8 maintenance costs;  
9 (6) Determine life-cycle cost analysis format and submittal  
10 requirements to meet the provisions of chapter 201, Laws of 1991;  
11 (7) Provide for review and approval of life-cycle cost analysis.

12 **Sec. 18.** RCW 39.35A.020 and 1985 c 169 s 2 are each amended to  
13 read as follows:

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

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

23 (2) "Energy management system" has the definition provided in RCW  
24 39.35.030.

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

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

1        NEW SECTION.    **Sec. 19.**    A new section is added to chapter 39.35A  
2    RCW to read as follows:

3        The state department of general administration shall maintain a  
4    registry of energy service contractors and provide assistance to  
5    municipalities in identifying available performance-based contracting  
6    services.

7        **Sec. 20.**    RCW 39.35C.010 and 1996 c 186 s 405 are each amended to  
8    read as follows:

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

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

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

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

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

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

30        (6) "Energy efficiency project" means a conservation or  
31   cogeneration project.

32        (~~(6)~~) (7) "Energy efficiency services" means assistance furnished  
33   by the department to state agencies and school districts in  
34   identifying, evaluating, and implementing energy efficiency projects.

35        (~~(7)~~) (8) "Department" means the state department of general  
36   administration.

1       (~~(8)~~) (9) "Performance-based contracting" means contracts for  
2 which payment is conditional on achieving contractually specified  
3 energy savings.

4       (~~(9)~~) (10) "Public agency" means every state office, officer,  
5 board, commission, committee, bureau, department, and all political  
6 subdivisions of the state.

7       (~~(10)~~) (11) "Public facility" means a building or structure, or  
8 a group of buildings or structures at a single site, owned by a state  
9 agency or school district.

10       (~~(11)~~) (12) "State agency" means every state office or  
11 department, whether elective or appointive, state institutions of  
12 higher education, and all boards, commissions, or divisions of state  
13 government, however designated.

14       (~~(12)~~) (13) "State facility" means a building or structure, or a  
15 group of buildings or structures at a single site, owned by a state  
16 agency.

17       (~~(13)~~) (14) "Utility" means privately or publicly owned electric  
18 and gas utilities, electric cooperatives and mutuals, whether located  
19 within or without Washington state.

20       (~~(14)~~) (15) "Local utility" means the utility or utilities in  
21 whose service territory a public facility is located.

22       **Sec. 21.** RCW 39.35C.020 and 1996 c 186 s 406 are each amended to  
23 read as follows:

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

1 shall be the preferred method for completing energy audits and  
2 implementing cost-effective conservation measures.

3 (2) The department shall assist state agencies and school districts  
4 in identifying, evaluating, and implementing cost-effective  
5 conservation projects at their facilities. The assistance shall  
6 include the following:

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

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

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

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

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

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

22 (4) The department shall comply with the requirements of chapter  
23 39.80 RCW when contracting for architectural or engineering services.

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

29 NEW SECTION. Sec. 22. A new section is added to chapter 39.35C  
30 RCW to read as follows:

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

37 (a) For each district facility, the energy consumption surveys  
38 shall be completed no later than December 31, 2001, and the walk-

1 through surveys shall be completed no later than October 1, 2002. Upon  
2 completion of each walk-through survey, the district shall implement  
3 energy conservation maintenance and operation procedures that may be  
4 identified for any district facility. These procedures shall be  
5 implemented as soon as possible, but not later than twelve months after  
6 the walk-through survey.

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

14 (2) A school district that, after December 31, 1997, has completed  
15 energy audits and implemented cost-effective conservation measures, or  
16 has contracted with an energy service company for energy audits and  
17 conservation measures, is deemed to have met the requirements of this  
18 section for those facilities included in the audits and conservation  
19 measures.

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

26 **Sec. 23.** RCW 43.19.668 and 1993 c 204 s 6 are each amended to read  
27 as follows:

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



1 plantings for energy conservation is encouraged as part of this  
2 program.

3 **Sec. 24.** RCW 43.19.669 and 1980 c 172 s 2 are each amended to read  
4 as follows:

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

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

23 **Sec. 25.** RCW 43.19.670 and 1982 c 48 s 1 are each amended to read  
24 as follows:

25 As used in RCW 43.19.670 through 43.19.685, the following terms  
26 have the meanings indicated unless the context clearly requires  
27 otherwise.

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

30 (a) An energy consumption survey which identifies the type, amount,  
31 and rate of energy consumption of the facility and its major energy  
32 systems. This survey shall be made by the agency responsible for the  
33 facility.

34 (b) A walk-through survey which determines appropriate energy  
35 conservation maintenance and operating procedures and indicates the  
36 need, if any, for the acquisition and installation of energy  
37 conservation measures and energy management systems. This survey shall

1 be made by the agency responsible for the facility if it has  
2 technically qualified personnel available. The director of general  
3 administration shall provide technically qualified personnel to the  
4 responsible agency if necessary.

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

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

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

19 (a) Insulation of the facility structure and systems within the  
20 facility;

21 (b) Storm windows and doors, multiglazed windows and doors, heat  
22 absorbing or heat reflective glazed and coated windows and door  
23 systems, additional glazing, reductions in glass area, and other window  
24 and door system modifications;

25 (c) Automatic energy control systems;

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

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

30 (f) Solar water heating systems;

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

39 (h) Caulking and weatherstripping;

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

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

4 (k) Energy management systems; and

5 (l) Such other measures as the director finds will save a  
6 substantial amount of energy.

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

12 ~~((+4))~~ (5) "Energy management system" has the definition contained  
13 in RCW 39.35.030.

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

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

23 (8) "Facility" means a building, a group of buildings served by a  
24 central energy distribution system, or components of a central energy  
25 distribution system.

26 ~~((+5))~~ (9) "Implementation plan" means the annual tasks and budget  
27 required to complete all acquisitions and installations necessary to  
28 satisfy the recommendations of the energy audit.

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

31 For each state-owned facility, the director of general  
32 administration, ~~((in cooperation with the director of the state energy~~  
33 office)) or the agency responsible for the facility if other than the  
34 department of general administration, shall conduct ~~((, by contract or~~  
35 other arrangement,)) an energy audit ~~((for each state-owned))~~ of that  
36 facility. ~~((All energy audits shall be coordinated with and complement~~  
37 other governmental energy audit programs. The energy audit for each  
38 state-owned facility located on the capitol campus shall be completed

1 no later than July 1, 1981, and the results and findings of each energy  
2 audit shall be compiled and transmitted to the governor and the  
3 legislature no later than October 1, 1981.)) This energy audit may be  
4 conducted by contract or by other arrangement, including appropriate  
5 agency staff. Performance-based contracting shall be the preferred  
6 method for implementing and completing energy audits. For ((every  
7 other)) each state-owned facility, the energy consumption surveys shall  
8 be completed no later than October 1, ((1982)) 2001, and the walk-  
9 through surveys shall be completed no later than July 1, ((1983)) 2002.

10 **Sec. 27.** RCW 43.19.680 and 1996 c 186 s 506 are each amended to  
11 read as follows:

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

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

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

1 conservation measures, coordination with other planned facility  
2 modifications, and the total cost of a facility modification, including  
3 other work which would have to be done as a result of installing energy  
4 conservation measures. Energy conservation measure acquisitions and  
5 installations shall be scheduled to be twenty five percent complete by  
6 June 30, 1985, or at the end of the capital budget biennium which  
7 includes that date, whichever is later, fifty five percent complete by  
8 June 30, 1989, or at the end of the capital budget biennium which  
9 includes that date, whichever is later, eighty five percent complete by  
10 June 30, 1993, or at the end of the capital budget biennium which  
11 includes that date, whichever is later, and fully complete by June 30,  
12 1995, or at the end of the capital budget biennium which includes that  
13 date, whichever is later. Each state agency shall implement energy  
14 conservation measures with a payback period of twenty four months or  
15 less that have a positive cash flow in the same biennium.))

16 For each biennium until all measures are installed, the director of  
17 general administration shall report to the governor and legislature  
18 installation progress, measures planned for installation during the  
19 ensuing biennium(, and changes, if any, to the technical assistance  
20 study schedule)). This report shall be submitted by December 31,  
21 ((1984)) 2004, or at the end of the following year whichever  
22 immediately precedes the capital budget adoption, and every two years  
23 thereafter until all measures are installed.

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

32 NEW SECTION. Sec. 28. A new section is added to chapter 19.29A  
33 RCW to read as follows:

34 (1) Beginning January 1, 2002, each electric utility must provide  
35 to its retail electricity customers a voluntary option to purchase  
36 qualified alternative energy resources in accordance with this section.

37 (2) Each electric utility must include with its retail electric  
38 customer's regular billing statements, at least quarterly, a voluntary

1 option to purchase qualified alternative energy resources. The option  
2 may allow customers to purchase qualified alternative energy resources  
3 at fixed or variable rates and for fixed or variable periods of time,  
4 including but not limited to monthly, quarterly, or annual purchase  
5 agreements. A utility may provide qualified alternative energy  
6 resource options through either: (a) Resources it owns or contracts  
7 for; or (b) the purchase of credits issued by a clearinghouse or other  
8 system by which the utility may secure, for trade or other  
9 consideration, verifiable evidence that a second party has a qualified  
10 alternative energy resource and that the second party agrees to  
11 transfer such evidence exclusively to the benefit of the utility.

12 (3) For the purposes of this section, a "qualified alternative  
13 energy resource" means the electricity produced from generation  
14 facilities that are fueled by: (a) Wind; (b) solar energy; (c)  
15 geothermal energy; (d) landfill gas; (e) wave or tidal action; (f) gas  
16 produced during the treatment of wastewater; (g) qualified hydropower;  
17 or (h) biomass energy based on solid organic fuels from wood, forest,  
18 or field residues, or dedicated energy crops that do not include wood  
19 pieces that have been treated with chemical preservatives such as  
20 creosote, pentachlorophenol, or copper-chrome-arsenic.

21 (4) For the purposes of this section, "qualified hydropower" means  
22 the energy produced either: (a) As a result of modernizations or  
23 upgrades made after June 1, 1998, to hydropower facilities operating on  
24 the effective date of this section that have been demonstrated to  
25 reduce the mortality of anadromous fish; or (b) by run of the river or  
26 run of the canal hydropower facilities that are not responsible for  
27 obstructing the passage of anadromous fish.

28 (5) The rates, terms, conditions, and customer notification of each  
29 utility's option or options offered in accordance with this section  
30 must be approved by the governing body of the consumer-owned utility or  
31 by the commission for investor-owned utilities. All costs and benefits  
32 associated with any option offered by an electric utility under this  
33 section must be allocated to the customers who voluntarily choose that  
34 option and may not be shifted to any customers who have not chosen such  
35 option.

36 (6) Each consumer-owned utility must report annually to the  
37 department and each investor-owned utility must report annually to the  
38 commission beginning October 1, 2002, until October 1, 2012, describing  
39 the option or options it is offering its customers under the

1 requirements of this section, the rate of customer participation, the  
2 amount of qualified alternative energy resources purchased by  
3 customers, and the amount of utility investments in qualified  
4 alternative energy resources. The department and the commission  
5 together shall report annually to the legislature, beginning December  
6 1, 2002, until December 1, 2012, with the results of the utility  
7 reports.

8 **Sec. 29.** RCW 19.29A.040 and 1998 c 300 s 6 are each amended to  
9 read as follows:

10 The provisions of RCW 19.29A.020, 19.29A.030, ~~((and))~~ section 5,  
11 chapter 300, Laws of 1998, and section 28 of this act do not apply to  
12 a small utility. However, nothing in this section prohibits the  
13 governing body of a small utility from determining the utility should  
14 comply with any or all of the provisions of RCW 19.29A.020, 19.29A.030,  
15 ~~((and))~~ section 5, chapter 300, Laws of 1998, and section 28 of this  
16 act, which governing bodies are encouraged to do.

17 **Sec. 30.** RCW 44.39.010 and 1977 ex.s. c 328 s 13 are each amended  
18 to read as follows:

19 There is hereby created the joint committee on energy ~~((and~~  
20 ~~utilities))~~ supply of the legislature of the state of Washington.

21 **Sec. 31.** RCW 44.39.015 and 1977 ex.s. c 328 s 14 are each amended  
22 to read as follows:

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

25 (1) The president of the senate shall ~~((nominate))~~ appoint four  
26 members from the ~~((energy and utilities))~~ senate to serve on the  
27 committee, including the ~~((chairman,))~~ chair of the committee  
28 responsible for energy issues. Two members ~~((being))~~ from each major  
29 political party~~((, to serve on the committee, and shall submit the list~~  
30 ~~of nominees to the senate for confirmation. Upon confirmation, the~~  
31 ~~senators shall be deemed installed as members))~~ must be appointed.

32 (2) The speaker or co-speakers of the house of representatives  
33 shall ~~((nominate))~~ appoint four members from the ~~((energy and~~  
34 ~~utilities))~~ house of representatives to serve on the committee,  
35 including the ~~((chairman,))~~ chair or co-chairs of the committee  
36 responsible for energy issues. Two members ~~((being))~~ from each major

1 political party(~~(, to serve on the committee, and shall submit the list~~  
2 ~~of nominees to the house of representatives for confirmation. Upon~~  
3 ~~confirmation, the representatives shall be deemed installed as members.~~  
4 ~~The chairmen of the senate and house energy and utilities committees~~  
5 ~~shall alternately serve as chairman for one year terms. The chairman~~  
6 ~~of the house committee shall serve as the initial chairman. The~~  
7 ~~chairman may designate another committee member to serve as chairman in~~  
8 ~~his or her absence)) must be appointed.~~

9 (3) The committee shall elect a chair and a vice-chair. The chair  
10 shall be a member of the house of representatives in even-numbered  
11 years and a member of the senate in odd-numbered years. In the case of  
12 a tie in the membership of the house of representatives in an even-  
13 numbered year, the committee shall elect co-chairs from the house of  
14 representatives in that year.

15 NEW SECTION. Sec. 32. A new section is added to chapter 82.34 RCW  
16 to read as follows:

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

18 (a) "Qualifying facility" means an air pollution control facility  
19 as that term is defined in RCW 82.34.010(1)(a) to be installed or  
20 acquired for a thermal electric peaking plant with a capacity of less  
21 than one hundred megawatts and which is approved pursuant to the  
22 Washington clean air act, chapter 70.94 RCW.

23 (b) "Thermal electric peaking plant" means a natural gas-fired  
24 thermal electric generating facility operated by a light and power  
25 business and placed into service between January 1, 1978, and December  
26 31, 1984, and that is registered for the calendar year 2000 pursuant to  
27 RCW 70.94.151.

28 (c) "Light and power business" has the same meaning as in RCW  
29 82.16.010.

30 (2) A light and power business is exempt from sales tax on the  
31 installation or acquisition of up to two qualifying facilities after  
32 January 1, 2001, as provided in this section. Upon written request of  
33 a light and power business to which the approval issued under chapter  
34 70.94 RCW is attached, the department shall make a determination as to  
35 whether a plant is a thermal electric peaking plant acquiring or  
36 installing a qualifying facility eligible under this section. The  
37 department shall consult with the department of community, trade, and  
38 economic development and the department of ecology in making the



1 determination. If the determination is in the affirmative, the  
2 department shall issue the light and power business a sales and use tax  
3 exemption certificate in a form and manner as deemed appropriate by the  
4 department.

5 (3) The charges for installation or acquisition of a qualifying  
6 facility by the holder of the certificate are exempt from sales tax  
7 imposed under chapter 82.08 RCW and use tax imposed under chapter 82.12  
8 RCW. The purchaser must provide the seller with a copy of the sales  
9 and use tax exemption certificate. The seller shall retain a copy of  
10 the certificate for the seller's files.

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

15 (5) This section expires June 30, 2003.

16 NEW SECTION. **Sec. 33.** If any provision of this act or its  
17 application to any person or circumstance is held invalid, the  
18 remainder of the act or the application of the provision to other  
19 persons or circumstances is not affected.

20 NEW SECTION. **Sec. 34.** This act is necessary for the immediate  
21 preservation of the public peace, health, or safety, or support of the  
22 state government and its existing public institutions, and takes effect  
23 immediately.

Passed the House April 20, 2001.

Passed the Senate April 20, 2001.

Approved by the Governor May 8, 2001.

Filed in Office of Secretary of State May 8, 2001.