

CERTIFICATION OF ENROLLMENT
FOURTH SUBSTITUTE HOUSE BILL 2009

54th Legislature
1996 Regular Session

Passed by the House February 10, 1996
Yeas 80 Nays 17

Speaker of the
House of Representatives

Passed by the Senate February 29, 1996
Yeas 43 Nays 6

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Timothy A. Martin, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **FOURTH SUBSTITUTE HOUSE BILL 2009** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

FOURTH SUBSTITUTE HOUSE BILL 2009

AS AMENDED BY THE SENATE

Passed Legislature - 1996 Regular Session

State of Washington 54th Legislature 1996 Regular Session

By House Committee on Appropriations (originally sponsored by Representatives Casada, Huff, Campbell, Clements, Goldsmith, Elliot, Pelesky, Backlund, Reams, Smith, Delvin, Blanton and Beeksma)

Read first time 02/03/96.

1 AN ACT Relating to the energy office; amending RCW 43.21F.025,
2 43.21F.045, 43.21F.055, 43.21F.060, 43.21F.090, 43.140.050, 41.06.070,
3 39.35.030, 39.35.050, 39.35.060, 39.35C.010, 39.35C.020, 39.35C.030,
4 39.35C.040, 39.35C.050, 39.35C.060, 39.35C.070, 39.35C.080, 39.35C.090,
5 39.35C.100, 39.35C.110, 39.35C.130, 19.27.190, 19.27A.020, 28A.515.320,
6 43.06.115, 43.19.680, 43.21G.010, 43.31.621, 43.88.195, 43.140.040,
7 43.140.050, 47.06.110, 70.94.527, 70.94.537, 70.94.541, 70.94.551,
8 70.94.960, 70.120.210, 70.120.220, 80.28.260, 82.35.020, 82.35.080, and
9 90.03.247; reenacting and amending RCW 80.50.030 and 42.17.2401; adding
10 a new section to chapter 43.330 RCW; adding new sections to chapter
11 28B.30 RCW; adding a new section to chapter 47.01 RCW; adding a new
12 section to chapter 43.19 RCW; creating new sections; repealing RCW
13 43.21F.035, 43.21F.065, 39.35C.120, 41.06.081, 43.41.175, and
14 19.27A.055; and providing an effective date.

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

16 NEW SECTION. **Sec. 1.** The legislature finds responsibilities of
17 state government need to be limited to core services in support of
18 public safety and welfare. Services provided by the Washington state
19 energy office are primarily advisory and can be eliminated. The

1 legislature further finds a need to redefine the state's role in
2 energy-related regulatory functions. The state may be better served by
3 allowing regulatory functions to be performed by other appropriate
4 entities, simplifying state government while maintaining core services.
5 Further, it is the intent of the legislature that the state continue to
6 receive oil overcharge restitution funds for our citizens while every
7 effort is being made to maximize federal funds available for energy
8 conservation purposes.

9 **PART I**

10 **FUNCTIONS OF THE DEPARTMENT OF COMMUNITY, TRADE,**
11 **AND ECONOMIC DEVELOPMENT**

12 NEW SECTION. **Sec. 101.** A new section is added to chapter 43.330
13 RCW to read as follows:

14 (1) All powers, duties, and functions of the state energy office
15 relating to energy resource policy and planning and energy facility
16 siting are transferred to the department of community, trade, and
17 economic development. All references to the director or the state
18 energy office in the Revised Code of Washington shall be construed to
19 mean the director or the department of community, trade, and economic
20 development when referring to the functions transferred in this
21 section.

22 The director shall appoint an assistant director for energy policy,
23 and energy policy staff shall have no additional responsibilities
24 beyond activities concerning energy policy.

25 (2)(a) All reports, documents, surveys, books, records, files,
26 papers, or written material in the possession of the state energy
27 office pertaining to the powers, functions, and duties transferred
28 shall be delivered to the custody of the department of community,
29 trade, and economic development. All cabinets, furniture, office
30 equipment, software, data base, motor vehicles, and other tangible
31 property employed by the state energy office in carrying out the
32 powers, functions, and duties transferred shall be made available to
33 the department of community, trade, and economic development.

34 (b) Any appropriations made to the state energy office for carrying
35 out the powers, functions, and duties transferred shall, on the
36 effective date of this section, be transferred and credited to the
37 department of community, trade, and economic development.

1 (c) Whenever any question arises as to the transfer of any funds,
2 books, documents, records, papers, files, software, data base,
3 equipment, or other tangible property used or held in the exercise of
4 the powers and the performance of the duties and functions transferred,
5 the director of financial management shall make a determination as to
6 the proper allocation and certify the same to the state agencies
7 concerned.

8 (3) All employees of the state energy office engaged in performing
9 the powers, functions, and duties pertaining to the energy facility
10 site evaluation council are transferred to the jurisdiction of the
11 department of community, trade, and economic development. All
12 employees engaged in energy facility site evaluation council duties
13 classified under chapter 41.06 RCW, the state civil service law, are
14 assigned to the department of community, trade, and economic
15 development to perform their usual duties upon the same terms as
16 formerly, without any loss of rights, subject to any action that may be
17 appropriate thereafter in accordance with the laws and rules governing
18 state civil service.

19 (4) All rules and all pending business before the state energy
20 office pertaining to the powers, functions, and duties transferred
21 shall be continued and acted upon by the department of community,
22 trade, and economic development. All existing contracts and
23 obligations shall remain in full force and shall be performed by the
24 department of community, trade, and economic development.

25 (5) The transfer of the powers, duties, and functions of the state
26 energy office does not affect the validity of any act performed before
27 the effective date of this section.

28 (6) If apportionments of budgeted funds are required because of the
29 transfers directed by this section, the director of the office of
30 financial management shall certify the apportionments to the agencies
31 affected, the state auditor, and the state treasurer. Each of these
32 shall make the appropriate transfer and adjustments in funds and
33 appropriation.

34 (7) The department of community, trade, and economic development
35 shall direct the closure of the financial records of the state energy
36 office.

37 (8) Responsibility for implementing energy education, applied
38 research, and technology transfer programs rests with Washington State
39 University. The department of community, trade, and economic

1 development shall provide Washington State University available
2 existing and future oil overcharge restitution and federal energy block
3 funding for a minimum period of five years to carry out energy programs
4 under an interagency agreement with the department of community, trade,
5 and economic development. The interagency agreement shall also outline
6 the working relationship between the department of community, trade,
7 and economic development and Washington State University as it pertains
8 to the relationship between energy policy development and public
9 outreach. Nothing in chapter, Laws of 1996 (this act)
10 prohibits Washington State University from seeking grant, contract, or
11 fee-for-service funding for energy or related programs directly from
12 other entities.

13 **Sec. 102.** RCW 43.21F.025 and 1994 c 207 s 2 are each amended to
14 read as follows:

15 (1) "Energy" means petroleum or other liquid fuels; natural or
16 synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear
17 material; electricity; solar radiation; geothermal resources;
18 hydropower; organic waste products; wind; tidal activity; any other
19 substance or process used to produce heat, light, or motion; or the
20 savings from nongeneration technologies, including conservation or
21 improved efficiency in the usage of any of the sources described in
22 this subsection;

23 (2) "Person" means an individual, partnership, joint venture,
24 private or public corporation, association, firm, public service
25 company, political subdivision, municipal corporation, government
26 agency, public utility district, joint operating agency, or any other
27 entity, public or private, however organized;

28 (3) "Director" means the director of the (~~state energy office~~)
29 department of community, trade, and economic development;

30 (4) (~~"Office" means the Washington state energy office~~)
31 "Assistant director" means the assistant director of the department of
32 community, trade, and economic development responsible for energy
33 policy activities;

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

36 (~~(+5)~~) (6) "Distributor" means any person, private corporation,
37 partnership, individual proprietorship, utility, including investor-
38 owned utilities, municipal utility, public utility district, joint

1 operating agency, or cooperative, which engages in or is authorized to
2 engage in the activity of generating, transmitting, or distributing
3 energy in this state; and

4 ~~((6))~~ (7) "State energy strategy" means the document and energy
5 policy direction developed under section 1, chapter 201, Laws of 1991
6 including any related appendices.

7 **Sec. 103.** RCW 43.21F.045 and 1994 c 207 s 4 are each amended to
8 read as follows:

9 ~~((The energy office shall have the following duties:~~

10 ~~(1) The office shall))~~ (1) The department shall supervise and
11 administer energy-related activities as specified in section 101 of
12 this act and shall advise the governor and the legislature with respect
13 to energy matters affecting the state.

14 (2) In addition to other powers and duties granted to the
15 department, the department shall have the following powers and duties:

16 (a) Prepare and update contingency plans for implementation in the
17 event of energy shortages or emergencies. The plans shall conform to
18 chapter 43.21G RCW and shall include procedures for determining when
19 these shortages or emergencies exist, the state officers and agencies
20 to participate in the determination, and actions to be taken by various
21 agencies and officers of state government in order to reduce hardship
22 and maintain the general welfare during these emergencies. The
23 ~~((office))~~ department shall coordinate the activities undertaken
24 pursuant to this subsection with other persons. The components of
25 plans that require legislation for their implementation shall be
26 presented to the legislature in the form of proposed legislation at the
27 earliest practicable date. The ~~((office)) department shall report to
28 the governor and the legislature on probable, imminent, and existing
29 energy shortages, and shall administer energy allocation and
30 curtailment programs in accordance with chapter 43.21G RCW.~~

31 ~~((2) The office shall))~~ (b) Establish and maintain a central
32 repository in state government for collection of existing data on
33 energy resources, including:

34 ~~((a))~~ (i) Supply, demand, costs, utilization technology,
35 projections, and forecasts;

36 ~~((b))~~ (ii) Comparative costs of alternative energy sources, uses,
37 and applications; and

1 ~~((e))~~ (iii) Inventory data on energy research projects in the
2 state conducted under public and/or private auspices, and the results
3 thereof.

4 ~~((3) The office shall)~~ (c) Coordinate federal energy programs
5 appropriate for state-level implementation, carry out such energy
6 programs as are assigned to it by the governor or the legislature, and
7 monitor federally funded local energy programs as required by federal
8 or state regulations.

9 ~~((4) The office shall)~~ (d) Develop energy policy recommendations
10 for consideration by the governor and the legislature.

11 ~~((5) The office shall)~~ (e) Provide assistance, space, and other
12 support as may be necessary for the activities of the state's two
13 representatives to the Pacific northwest electric power and
14 conservation planning council. To the extent consistent with federal
15 law, the ~~((office))~~ director shall request that Washington's council
16 members request the administrator of the Bonneville power
17 administration to reimburse the state for the expenses associated with
18 the support as provided in the Pacific Northwest Electric Power
19 Planning and Conservation Act (P.L. 96-501).

20 ~~((6) The office shall)~~ (f) Cooperate with state agencies, other
21 governmental units, and private interests in the prioritization and
22 implementation of the state energy strategy elements and on other
23 energy matters.

24 ~~((7) The office shall represent the interests of the state in the
25 siting, construction, and operation of nuclear waste storage and
26 disposal facilities.~~

27 ~~(8) The office shall)~~ (g) Serve as the official state agency
28 responsible for coordinating implementation of the state energy
29 strategy.

30 ~~((9))~~ (h) No later than December 1, 1982, and by December 1st of
31 each even-numbered year thereafter, ~~((the office shall))~~ prepare and
32 transmit to the governor and the appropriate committees of the
33 legislature a report on the implementation of the state energy strategy
34 and other important energy issues, as appropriate.

35 ~~((10) The office shall)~~ (i) Provide support for increasing cost-
36 effective energy conservation, including assisting in the removal of
37 impediments to timely implementation.

1 (~~((11) The office shall))~~) (j) Provide support for the development
2 of cost-effective energy resources including assisting in the removal
3 of impediments to timely construction.

4 (~~((12) The office shall))~~) (k) Adopt rules, under chapter 34.05 RCW,
5 necessary to carry out the powers and duties enumerated in this
6 chapter.

7 (~~((13) The office shall))~~) (l) Provide administrative assistance,
8 space, and other support as may be necessary for the activities of the
9 energy facility site evaluation council, as provided for in RCW
10 80.50.030.

11 (m) Appoint staff as may be needed to administer energy policy
12 functions and manage energy facility site evaluation council
13 activities. These employees are exempt from the provisions of chapter
14 41.06 RCW.

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

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

21 **Sec. 104.** RCW 43.21F.055 and 1981 c 295 s 5 are each amended to
22 read as follows:

23 The ~~((office))~~ department shall not intervene in any regulatory
24 proceeding before the Washington utilities and transportation
25 commission or proceedings of utilities not regulated by the commission.
26 Nothing in this chapter abrogates or diminishes the functions, powers,
27 or duties of the energy facility site evaluation council pursuant to
28 chapter 80.50 RCW, the utilities and transportation commission pursuant
29 to Title 80 RCW, or other state or local agencies established by law.

30 The ~~((office))~~ department shall avoid duplication of activity with
31 other state agencies and officers and other persons.

32 **Sec. 105.** RCW 43.21F.060 and 1981 c 295 s 6 are each amended to
33 read as follows:

34 In addition to the duties prescribed in RCW 43.21F.045, the
35 ~~((energy office))~~ department shall have the authority to:

36 (1) Obtain all necessary and existing information from energy
37 producers, suppliers, and consumers, doing business within the state of

1 Washington, from political subdivisions in this state, or any person as
2 may be necessary to carry out the provisions of (~~this~~) chapter 43.21G
3 RCW: PROVIDED, That if the information is available in reports made to
4 another state agency, the (~~office~~) department shall obtain it from
5 that agency: PROVIDED FURTHER, That, to the maximum extent
6 practicable, informational requests to energy companies regulated by
7 the utilities and transportation commission shall be channeled through
8 the commission and shall be accepted in the format normally used by the
9 companies. Such information may include but not be limited to:

- 10 (a) Sales volume;
- 11 (b) Forecasts of energy requirements; and
- 12 (c) Energy costs.

13 Notwithstanding any other provision of law to the contrary,
14 information furnished under this subsection shall be confidential and
15 maintained as such, if so requested by the person providing the
16 information, if the information is proprietary.

17 It shall be unlawful to disclose such information except as
18 hereinafter provided. A violation shall be punishable, upon
19 conviction, by a fine of not more than one thousand dollars for each
20 offense. In addition, any person who wilfully or with criminal
21 negligence, as defined in RCW 9A.08.010, discloses confidential
22 information in violation of this subsection may be subject to removal
23 from office or immediate dismissal from public employment
24 notwithstanding any other provision of law to the contrary.

25 Nothing in this subsection prohibits the use of confidential
26 information to prepare statistics or other general data for publication
27 when it is so presented as to prevent identification of particular
28 persons or sources of confidential information.

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

33 **Sec. 106.** RCW 43.21F.090 and 1994 c 207 s 5 are each amended to
34 read as follows:

35 The (~~office~~) department shall review the state energy strategy as
36 developed under section 1, chapter 201, Laws of 1991, periodically with
37 the guidance of an advisory committee. For each review, an advisory
38 committee shall be established with a membership resembling as closely

1 as possible the original energy strategy advisory committee specified
2 under section 1, chapter 201, Laws of 1991. Upon completion of a
3 public hearing regarding the advisory committee's advice and
4 recommendations for revisions to the energy strategy, a written report
5 shall be conveyed by the (~~office~~) department to the governor and the
6 appropriate legislative committees. Any advisory committee established
7 under this section shall be dissolved within three months after their
8 written report is conveyed.

9 **Sec. 107.** RCW 43.140.050 and 1981 c 158 s 5 are each amended to
10 read as follows:

11 The state treasurer shall be responsible for distribution of funds
12 to the county of origin. Each county's share of rentals and royalties
13 from a lease including lands in more than one county shall be computed
14 on the basis of the ratio that the acreage within each county has to
15 the total acreage in the lease. (~~The Washington state energy office or~~
16 ~~its statutory successor~~) Washington State University shall obtain the
17 necessary information to make the distribution of funds on such a
18 basis.

19 **Sec. 108.** RCW 80.50.030 and 1994 c 264 s 75 and 1994 c 154 s 315
20 are each reenacted and amended to read as follows:

21 (1) There is created and established the energy facility site
22 evaluation council.

23 (2)(a) The chairman of the council shall be appointed by the
24 governor with the advice and consent of the senate, shall have a vote
25 on matters before the council, shall serve for a term coextensive with
26 the term of the governor, and is removable for cause. The chairman may
27 designate a member of the council to serve as acting chairman in the
28 event of the chairman's absence. The chairman is a "state employee"
29 for the purposes of chapter 42.52 RCW. As applicable, when attending
30 meetings of the council, members may receive reimbursement for travel
31 expenses in accordance with RCW 43.03.050 and 43.03.060, and are
32 eligible for compensation under RCW (~~43.03.240~~) 43.03.250.

33 (b) The chairman or a designee shall execute all official
34 documents, contracts, and other materials on behalf of the council.
35 The Washington state (~~energy office~~) department of community, trade,
36 and economic development shall provide all administrative and staff
37 support for the council. The director of the (~~energy office~~)

1 department of community, trade, and economic development has
2 supervisory authority over the staff of the council and shall employ
3 such personnel as are necessary to implement this chapter. Not more
4 than three such employees may be exempt from chapter 41.06 RCW.

5 (3) The council shall consist of the directors, administrators, or
6 their designees, of the following departments, agencies, commissions,
7 and committees or their statutory successors:

8 (a) Department of ecology;

9 (b) Department of fish and wildlife;

10 (c) ~~((Parks and recreation commission;~~

11 ~~(d))~~ Department of health;

12 ~~((e) State energy office;~~

13 ~~(f))~~ (d) Military department;

14 (e) Department of community, trade, and economic development;

15 ~~((g))~~ (f) Utilities and transportation commission;

16 ~~((h) Office of financial management;~~

17 ~~(i))~~ (g) Department of natural resources;

18 ~~((j))~~ (h) Department of agriculture;

19 ~~((k))~~ (i) Department of transportation.

20 (4) The appropriate county legislative authority of every county
21 wherein an application for a proposed site is filed shall appoint a
22 member or designee as a voting member to the council. The member or
23 designee so appointed shall sit with the council only at such times as
24 the council considers the proposed site for the county which he or she
25 represents, and such member or designee shall serve until there has
26 been a final acceptance or rejection of the proposed site;

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

34 (6) For any port district wherein an application for a proposed
35 port facility is filed subject to this chapter, the port district shall
36 appoint a member or designee as a nonvoting member to the council. The
37 member or designee so appointed shall sit with the council only at such
38 times as the council considers the proposed site for the port district
39 which he or she represents, and such member or designee shall serve

1 until there has been a final acceptance or rejection of the proposed
2 site. The provisions of this subsection shall not apply if the port
3 district is the applicant, either singly or in partnership or
4 association with any other person.

5 **Sec. 109.** RCW 41.06.070 and 1995 c 163 s 1 are each amended to
6 read as follows:

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

8 (a) The members of the legislature or to any employee of, or
9 position in, the legislative branch of the state government including
10 members, officers, and employees of the legislative council,
11 legislative budget committee, statute law committee, and any interim
12 committee of the legislature;

13 (b) The justices of the supreme court, judges of the court of
14 appeals, judges of the superior courts or of the inferior courts, or to
15 any employee of, or position in the judicial branch of state
16 government;

17 (c) Officers, academic personnel, and employees of technical
18 colleges;

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

20 (e) Elective officers of the state;

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

22 (g) In the departments of employment security and social and health
23 services, the director and the director's confidential secretary; in
24 all other departments, the executive head of which is an individual
25 appointed by the governor, the director, his or her confidential
26 secretary, and his or her statutory assistant directors;

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

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

31 (ii) If the members of the board, commission, or committee serve on
32 a part-time basis and there is a statutory executive officer: The
33 secretary of the board, commission, or committee; the chief executive
34 officer of the board, commission, or committee; and the confidential
35 secretary of the chief executive officer of the board, commission, or
36 committee;

37 (iii) If the members of the board, commission, or committee serve
38 on a full-time basis: The chief executive officer or administrative

1 officer as designated by the board, commission, or committee; and a
2 confidential secretary to the chair of the board, commission, or
3 committee;

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

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

9 (j) Assistant attorneys general;

10 (k) Commissioned and enlisted personnel in the military service of
11 the state;

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

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

17 (n) Officers and employees of the Washington state fruit
18 commission;

19 (o) Officers and employees of the Washington state apple
20 advertising commission;

21 (p) Officers and employees of the Washington state dairy products
22 commission;

23 (q) Officers and employees of the Washington tree fruit research
24 commission;

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

26 (s) Officers and employees of any commission formed under chapter
27 15.66 RCW;

28 (t) Officers and employees of the state wheat commission formed
29 under chapter 15.63 RCW;

30 (u) Officers and employees of agricultural commissions formed under
31 chapter 15.65 RCW;

32 (v) Officers and employees of the nonprofit corporation formed
33 under chapter 67.40 RCW;

34 (w) Executive assistants for personnel administration and labor
35 relations in all state agencies employing such executive assistants
36 including but not limited to all departments, offices, commissions,
37 committees, boards, or other bodies subject to the provisions of this
38 chapter and this subsection shall prevail over any provision of law
39 inconsistent herewith unless specific exception is made in such law;

1 (x) In each agency with fifty or more employees: Deputy agency
2 heads, assistant directors or division directors, and not more than
3 three principal policy assistants who report directly to the agency
4 head or deputy agency heads;

5 (y) All employees of the marine employees' commission;

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

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

13 (bb) Staff employed by Washington State University to administer
14 energy education, applied research, and technology transfer programs
15 under RCW 43.21F.045 as provided in section 201(5) of this act.

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

19 (a) Members of the governing board of each institution of higher
20 education and related boards, all presidents, vice-presidents and their
21 confidential secretaries, administrative and personal assistants;
22 deans, directors, and chairs; academic personnel; and executive heads
23 of major administrative or academic divisions employed by institutions
24 of higher education; principal assistants to executive heads of major
25 administrative or academic divisions; other managerial or professional
26 employees in an institution or related board having substantial
27 responsibility for directing or controlling program operations and
28 accountable for allocation of resources and program results, or for the
29 formulation of institutional policy, or for carrying out personnel
30 administration or labor relations functions, legislative relations,
31 public information, development, senior computer systems and network
32 programming, or internal audits and investigations; and any employee of
33 a community college district whose place of work is one which is
34 physically located outside the state of Washington and who is employed
35 pursuant to RCW 28B.50.092 and assigned to an educational program
36 operating outside of the state of Washington;

37 (b) Student, part-time, or temporary employees, and part-time
38 professional consultants, as defined by the Washington personnel

1 resources board, employed by institutions of higher education and
2 related boards;

3 (c) The governing board of each institution, and related boards,
4 may also exempt from this chapter classifications involving research
5 activities, counseling of students, extension or continuing education
6 activities, graphic arts or publications activities requiring
7 prescribed academic preparation or special training as determined by
8 the board: PROVIDED, That no nonacademic employee engaged in office,
9 clerical, maintenance, or food and trade services may be exempted by
10 the board under this provision;

11 (d) Printing craft employees in the department of printing at the
12 University of Washington.

13 (3) In addition to the exemptions specifically provided by this
14 chapter, the Washington personnel resources board may provide for
15 further exemptions pursuant to the following procedures. The governor
16 or other appropriate elected official may submit requests for exemption
17 to the Washington personnel resources board stating the reasons for
18 requesting such exemptions. The Washington personnel resources board
19 shall hold a public hearing, after proper notice, on requests submitted
20 pursuant to this subsection. If the board determines that the position
21 for which exemption is requested is one involving substantial
22 responsibility for the formulation of basic agency or executive policy
23 or one involving directing and controlling program operations of an
24 agency or a major administrative division thereof, the Washington
25 personnel resources board shall grant the request and such
26 determination shall be final as to any decision made before July 1,
27 1993. The total number of additional exemptions permitted under this
28 subsection shall not exceed one percent of the number of employees in
29 the classified service not including employees of institutions of
30 higher education and related boards for those agencies not directly
31 under the authority of any elected public official other than the
32 governor, and shall not exceed a total of twenty-five for all agencies
33 under the authority of elected public officials other than the
34 governor. The Washington personnel resources board shall report to
35 each regular session of the legislature during an odd-numbered year all
36 exemptions granted under subsections (1) (w) and (x) and (2) of this
37 section, together with the reasons for such exemptions.

38 The salary and fringe benefits of all positions presently or
39 hereafter exempted except for the chief executive officer of each

1 agency, full-time members of boards and commissions, administrative
2 assistants and confidential secretaries in the immediate office of an
3 elected state official, and the personnel listed in subsections (1) (j)
4 through (v) and (2) of this section, shall be determined by the
5 Washington personnel resources board.

6 Any person holding a classified position subject to the provisions
7 of this chapter shall, when and if such position is subsequently
8 exempted from the application of this chapter, be afforded the
9 following rights: If such person previously held permanent status in
10 another classified position, such person shall have a right of
11 reversion to the highest class of position previously held, or to a
12 position of similar nature and salary.

13 Any classified employee having civil service status in a classified
14 position who accepts an appointment in an exempt position shall have
15 the right of reversion to the highest class of position previously
16 held, or to a position of similar nature and salary.

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

20 PART II

21 FUNCTIONS OF WASHINGTON STATE UNIVERSITY

22 NEW SECTION. **Sec. 201.** A new section is added to chapter 28B.30
23 RCW to read as follows:

24 (1) All powers, duties, and functions of the state energy office
25 under RCW 43.21F.045 relating to implementing energy education, applied
26 research, and technology transfer programs shall be transferred to
27 Washington State University.

28 (2) The specific programs transferred to Washington State
29 University shall include but not be limited to the following:
30 Renewable energy, energy software, industrial energy efficiency,
31 education and information, energy ideas clearinghouse, and
32 telecommunications.

33 (3)(a) All reports, documents, surveys, books, records, files,
34 papers, or written material in the possession of the state energy
35 office pertaining to the powers, functions, and duties transferred
36 shall be delivered to the custody of Washington State University. All
37 cabinets, furniture, office equipment, software, data base, motor

1 vehicles, and other tangible property employed by the state energy
2 office in carrying out the powers, functions, and duties transferred
3 shall be made available to Washington State University.

4 (b) Any appropriations made to, any other funds provided to, or any
5 grants made to or contracts with the state energy office for carrying
6 out the powers, functions, and duties transferred shall, on the
7 effective date of this section, be transferred and credited to
8 Washington State University.

9 (c) Whenever any question arises as to the transfer of any funds,
10 books, documents, records, papers, files, software, data base,
11 equipment, or other tangible property used or held in the exercise of
12 the powers and the performance of the duties and functions transferred,
13 an arbitrator mutually agreed upon by the parties in dispute shall make
14 a determination as to the proper allocation and certify the same to the
15 state agencies concerned.

16 (d) All rules and all pending business before the state energy
17 office pertaining to the powers, functions, and duties transferred
18 shall be continued and acted upon by Washington State University. All
19 existing contracts, grants, and obligations, excluding personnel
20 contracts and obligations, shall remain in full force and shall be
21 assigned to and performed by Washington State University.

22 (e) The transfer of the powers, duties, and functions of the state
23 energy office does not affect the validity of any act performed before
24 the effective date of this section.

25 (f) If apportionments of budgeted funds are required because of the
26 transfers directed by this section, the director of the office of
27 financial management shall certify the apportionments to the agencies
28 affected, the state auditor, and the state treasurer. Each of these
29 shall make the appropriate transfer and adjustments in funds and
30 appropriation.

31 (4) Washington State University shall enter into an interagency
32 agreement with the department of community, trade, and economic
33 development regarding the relationship between policy development and
34 public outreach. The department of community, trade, and economic
35 development shall provide Washington State University available
36 existing and future oil overcharge restitution and federal energy block
37 funding for a minimum period of five years to carry out energy
38 programs. Nothing in chapter . . . , Laws of 1996 (this act) prohibits

1 Washington State University from seeking grant funding for energy-
2 related programs directly from other entities.

3 (5) Washington State University shall select and appoint existing
4 state energy office employees to positions to perform the duties and
5 functions transferred. Employees appointed by Washington State
6 University are exempt from the provisions of chapter 41.06 RCW unless
7 otherwise designated by the institution. Any future vacant or new
8 positions will be filled using Washington State University's standard
9 hiring procedures.

10 NEW SECTION. **Sec. 202.** A new section is added to chapter 28B.30
11 RCW to read as follows:

12 In addition to the powers and duties transferred, Washington State
13 University shall have the authority to establish administrative units
14 as may be necessary to coordinate either energy education or energy
15 program delivery programs, or both, and to revise, restructure,
16 redirect, or eliminate programs transferred to Washington State
17 University based on available funding or to better serve the people and
18 businesses of Washington state.

19 **PART III**

20 **FUNCTIONS OF THE DEPARTMENT OF TRANSPORTATION**

21 NEW SECTION. **Sec. 301.** A new section is added to chapter 47.01
22 RCW to read as follows:

23 (1) All powers, duties, and functions of the state energy office
24 pertaining to the commute trip reduction program are transferred to the
25 department of transportation. All references to the director or the
26 state energy office in the Revised Code of Washington shall be
27 construed to mean the secretary or the department of transportation
28 when referring to the functions transferred in this section.

29 (2)(a) All reports, documents, surveys, books, records, files,
30 papers, or written material in the possession of the state energy
31 office pertaining to the powers, functions, and duties transferred
32 shall be delivered to the custody of the department of transportation.
33 All cabinets, furniture, office equipment, software, data base, motor
34 vehicles, and other tangible property employed by the state energy
35 office in carrying out the powers, functions, and duties transferred
36 shall be made available to the department of transportation. All

1 funds, credits, or other assets held in connection with the powers,
2 functions, and duties transferred shall be assigned to the department
3 of transportation.

4 (b) Any appropriations made to the state energy office for carrying
5 out the powers, functions, and duties transferred shall, on the
6 effective date of this section, be transferred and credited to the
7 department of transportation.

8 (c) Whenever any question arises as to the transfer of any
9 personnel, funds, books, documents, records, papers, files, equipment,
10 or other tangible property used or held in the exercise of the powers
11 and the performance of the duties and functions transferred, the
12 director of financial management shall make a determination as to the
13 proper allocation and certify the same to the state agencies concerned.

14 (3) All employees of the state energy office engaged in performing
15 the powers, functions, and duties transferred are transferred to the
16 jurisdiction of the department of transportation. All employees
17 classified under chapter 41.06 RCW, the state civil service law, are
18 assigned to the department of transportation to perform their usual
19 duties upon the same terms as formerly, without any loss of rights,
20 subject to any action that may be appropriate thereafter in accordance
21 with the laws and rules governing state civil service.

22 (4) All rules and all pending business before the state energy
23 office pertaining to the powers, functions, and duties transferred
24 shall be continued and acted upon by the department of transportation.
25 All existing contracts and obligations, excluding personnel contracts
26 and obligations, shall remain in full force and shall be performed by
27 the department of transportation.

28 (5) The transfer of the powers, duties, functions, and personnel of
29 the state energy office shall not affect the validity of any act
30 performed before the effective date of this section.

31 (6) If apportionments of budgeted funds are required because of the
32 transfers directed by this section, the director of financial
33 management shall certify the apportionments to the agencies affected,
34 the state auditor, and the state treasurer. Each of these shall make
35 the appropriate transfer and adjustments in funds and appropriation
36 accounts and equipment records in accordance with the certification.

37 (7) The department of transportation shall report to the
38 legislature by December 1, 1996, on the effects of this section.

1 PART IV

2 FUNCTIONS OF THE DEPARTMENT OF GENERAL ADMINISTRATION

3 NEW SECTION. Sec. 401. A new section is added to chapter 43.19
4 RCW to read as follows:

5 (1) All powers, duties, and functions of the state energy office
6 pertaining to energy efficiency in public buildings are transferred to
7 the department of general administration. All references to the
8 director or the state energy office in the Revised Code of Washington
9 shall be construed to mean the director or the department of general
10 administration when referring to the functions transferred in this
11 section.

12 (2)(a) All reports, documents, surveys, books, records, files,
13 papers, or written material in the possession of the state energy
14 office pertaining to the powers, functions, and duties transferred
15 shall be delivered to the custody of the department of general
16 administration. All cabinets, furniture, office equipment, software,
17 data base, motor vehicles, and other tangible property employed by the
18 state energy office in carrying out the powers, functions, and duties
19 transferred shall be made available to the department of general
20 administration. All funds, credits, or other assets held in connection
21 with the powers, functions, and duties transferred shall be assigned to
22 the department of general administration.

23 (b) Any appropriations made to the state energy office for carrying
24 out the powers, functions, and duties transferred shall, on the
25 effective date of this section, be transferred and credited to the
26 department of general administration.

27 (c) Whenever any question arises as to the transfer of any
28 personnel, funds, books, documents, records, papers, files, equipment,
29 or other tangible property used or held in the exercise of the powers
30 and the performance of the duties and functions transferred, the
31 director of financial management shall make a determination as to the
32 proper allocation and certify the same to the state agencies concerned.

33 (3) Within funds available, employees of the state energy office
34 whose primary responsibility is performing the powers, functions, and
35 duties pertaining to energy efficiency in public buildings are
36 transferred to the jurisdiction of the department of general
37 administration. All employees classified under chapter 41.06 RCW, the
38 state civil service law, are assigned to the department of general

1 administration to perform their usual duties upon the same terms as
2 formerly, without any loss of rights, subject to any action that may be
3 appropriate thereafter in accordance with the laws and rules governing
4 state civil service.

5 (4) All rules and all pending business before the state energy
6 office pertaining to the powers, functions, and duties transferred
7 shall be continued and acted upon by the department of general
8 administration. All existing contracts and obligations, excluding
9 personnel contracts and obligations, shall remain in full force and
10 shall be performed by the department of general administration.

11 (5) The transfer of the powers, duties, functions, and personnel of
12 the state energy office shall not affect the validity of any act
13 performed before the effective date of this section.

14 (6) If apportionments of budgeted funds are required because of the
15 transfers directed by this section, the director of financial
16 management shall certify the apportionments to the agencies affected,
17 the state auditor, and the state treasurer. Each of these shall make
18 the appropriate transfer and adjustments in funds and appropriation
19 accounts and equipment records in accordance with the certification.

20 **Sec. 402.** RCW 39.35.030 and 1994 c 242 s 1 are each amended to
21 read as follows:

22 For the purposes of this chapter the following words and phrases
23 shall have the following meanings unless the context clearly requires
24 otherwise:

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

28 (2) (~~("Office" means the Washington state energy office.)~~)
29 "Department" means the state department of general administration.

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

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

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

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

1 (7) "Life-cycle cost" means the initial cost and cost of operation
2 of a major facility over its economic life. This shall be calculated
3 as the initial cost plus the operation, maintenance, and energy costs
4 over its economic life, reflecting anticipated increases in these costs
5 discounted to present value at the current rate for borrowing public
6 funds, as determined by the office of financial management. The energy
7 cost projections used shall be those provided by the (~~state energy~~
8 ~~office~~) department. The (~~office~~) department shall update these
9 projections at least every two years.

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

12 (a) The coordination and positioning of a major facility on its
13 physical site;

14 (b) The amount and type of fenestration employed in a major
15 facility;

16 (c) The amount of insulation incorporated into the design of a
17 major facility;

18 (d) The variable occupancy and operating conditions of a major
19 facility; and

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

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

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

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

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) "Renewable energy systems" means methods of facility design
5 and construction and types of equipment for the utilization of
6 renewable energy sources including, but not limited to, 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) "Cogeneration" means the sequential generation of two or more
11 forms of energy from a common fuel or energy source. Where these forms
12 are electricity and thermal energy, then the operating and efficiency
13 standards established by 18 C.F.R. Sec. 292.205 and the definitions
14 established by 18 C.F.R. 292.202 (c) through (m) as of July 28, 1991,
15 shall apply.

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

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

24 **Sec. 403.** RCW 39.35.050 and 1994 c 242 s 3 are each amended to
25 read as follows:

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

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

34 (2) Identify energy components and system alternatives including
35 renewable energy systems and cogeneration applications prior to
36 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. 404.** RCW 39.35.060 and 1991 c 201 s 16 are each amended to
13 read as follows:

14 The ((energy office)) department may impose fees upon affected
15 public agencies for the review of life-cycle cost analyses. The fees
16 shall be deposited in the energy efficiency services account
17 established in RCW 39.35C.110. The purpose of the fees is to recover
18 the costs by the ((office)) department for review of the analyses. The
19 ((office)) department shall set fees at a level necessary to recover
20 all of its costs related to increasing the energy efficiency of state-
21 supported new construction. The fees shall not exceed one-tenth of one
22 percent of the total cost of any project or exceed two thousand dollars
23 for any project unless mutually agreed to. The ((office)) department
24 shall provide detailed calculation ensuring that the energy savings
25 resulting from its review of life-cycle cost analysis justify the costs
26 of performing that review.

27 **Sec. 405.** RCW 39.35C.010 and 1991 c 201 s 2 are each amended to
28 read as follows:

29 Unless the context clearly requires otherwise, the definitions in
30 this section apply throughout this chapter.

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

36 (2) "Conservation" means reduced energy consumption or energy cost,
37 or increased efficiency in the use of energy, and activities, measures,

1 or equipment designed to achieve such results, but does not include
2 thermal or electric energy production from cogeneration.

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

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

12 (5) "Energy efficiency project" means a conservation or
13 cogeneration project.

14 (6) "Energy efficiency services" means assistance furnished by the
15 ~~((energy office))~~ department to state agencies and school districts in
16 identifying, evaluating, and implementing energy efficiency projects.

17 (7) ~~(("Energy office" means the Washington state energy office.))~~
18 "Department" means the state department of general administration.

19 (8) "Performance-based contracting" means contracts for which
20 payment is conditional on achieving contractually specified energy
21 savings.

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

25 (10) "Public facility" means a building or structure, or a group of
26 buildings or structures at a single site, owned by a state agency or
27 school district.

28 ~~((10))~~ (11) "State agency" means every state office or
29 department, whether elective or appointive, state institutions of
30 higher education, and all boards, commissions, or divisions of state
31 government, however designated.

32 ~~((11))~~ (12) "State facility" means a building or structure, or a
33 group of buildings or structures at a single site, owned by a state
34 agency.

35 ~~((12))~~ (13) "Utility" means privately or publicly owned electric
36 and gas utilities, electric cooperatives and mutuals, whether located
37 within or without Washington state.

38 ~~((13))~~ (14) "Local utility" means the utility or utilities in
39 whose service territory a public facility is located.

1 **Sec. 406.** RCW 39.35C.020 and 1991 c 201 s 3 are each amended to
2 read as follows:

3 (1) Each state agency and school district shall implement cost-
4 effective conservation improvements and maintain efficient operation of
5 its facilities in order to minimize energy consumption and related
6 environmental impacts and reduce operating costs.

7 (2) The ((~~energy office~~)) department shall assist state agencies
8 and school districts in identifying, evaluating, and implementing cost-
9 effective conservation projects at their facilities. The assistance
10 shall include the following:

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

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

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

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

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

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

27 (4) The ((~~energy office~~)) department shall comply with the
28 requirements of chapter 39.80 RCW when contracting for architectural or
29 engineering services.

30 (5) The ((~~energy office~~)) department shall recover any costs and
31 expenses it incurs in providing assistance pursuant to this section,
32 including reimbursement from third parties participating in
33 conservation projects. The ((~~energy office~~)) department shall enter
34 into a written agreement with the ((~~state agency or school district~~))
35 public agency for the recovery of costs.

36 **Sec. 407.** RCW 39.35C.030 and 1991 c 201 s 4 are each amended to
37 read as follows:

1 (1) The ((~~energy office~~)) department shall consult with the local
2 utilities to develop priorities for energy conservation projects
3 pursuant to this chapter, cooperate where possible with existing
4 utility programs, and consult with the local utilities prior to
5 implementing projects in their service territory.

6 (2) A local utility shall be offered the initial opportunity to
7 participate in the development of conservation projects in the
8 following manner:

9 (a) Before initiating projects in a local utility service
10 territory, the ((~~energy office~~)) department shall notify the local
11 utility in writing, on an annual basis, of public facilities in the
12 local utility's service territory at which the ((~~energy office~~))
13 department anticipates cost-effective conservation projects will be
14 developed.

15 (b) Within sixty days of receipt of this notification, the local
16 utility may express interest in these projects by submitting to the
17 ((~~energy office~~)) department a written description of the role the
18 local utility is willing to perform in developing and acquiring the
19 conservation at these facilities. This role may include any local
20 utility conservation programs which would be available to the public
21 facility, any competitive bidding or solicitation process which the
22 local utility will be undertaking in accordance with the rules of the
23 utilities and transportation commission or the public utility district,
24 municipal utility, cooperative, or mutual governing body for which the
25 public facility would be eligible, or any other role the local utility
26 may be willing to perform.

27 (c) Upon receipt of the written description from the local utility,
28 the ((~~energy office~~)) department shall, through discussions with the
29 local utility, and with involvement from state agencies and school
30 districts responsible for the public facilities, develop a plan for
31 coordinated delivery of conservation services and financing or make a
32 determination of whether to participate in the local utility's
33 competitive bidding or solicitation process. The plan shall identify
34 the local utility in roles that the local utility is willing to perform
35 and that are consistent with the provisions of RCW 39.35C.040(2) (d)
36 and (e).

37 **Sec. 408.** RCW 39.35C.040 and 1991 c 201 s 5 are each amended to
38 read as follows:

1 (1) It is the intent of this chapter that the state, state
2 agencies, and school districts are compensated fairly for the energy
3 savings provided to utilities and be allowed to participate on an equal
4 basis in any utility conservation program, bidding, or solicitation
5 process. State agencies and school districts shall not receive
6 preferential treatment. For the purposes of this section, any type of
7 compensation from a utility or the Bonneville power administration
8 intended to achieve reductions or efficiencies in energy use which are
9 cost-effective to the utility or the Bonneville power administration
10 shall be regarded as a sale of energy savings. Such compensation may
11 include credits to the energy bill, low or no interest loans, rebates,
12 or payment per unit of energy saved. The ~~((energy office))~~ department
13 shall, in coordination with utilities, the Bonneville power
14 administration, state agencies, and school districts, facilitate the
15 sale of energy savings at public facilities including participation in
16 any competitive bidding or solicitation which has been agreed to by the
17 state agency or school district. Energy savings may only be sold to
18 local utilities or, under conditions specified in this section, to the
19 Bonneville power administration. The ~~((energy office))~~ department
20 shall not attempt to sell energy savings occurring in one utility
21 service territory to a different utility. Nothing in this chapter
22 mandates that utilities purchase the energy savings.

23 (2) To ensure an equitable allocation of benefits to the state,
24 state agencies, and school districts, the following conditions shall
25 apply to transactions between utilities or the Bonneville power
26 administration and state agencies or school districts for sales of
27 energy savings:

28 (a) A transaction shall be approved by both ~~((the energy office~~
29 ~~and))~~ the state agency or school district and the department.

30 (b) The ~~((energy office and the))~~ state agency or school district
31 and the department shall work together throughout the planning and
32 negotiation process for such transactions unless the ~~((energy office))~~
33 department determines that its participation will not further the
34 purposes of this section.

35 (c) Before making a decision under (d) of this subsection, the
36 ~~((energy office))~~ department shall review the proposed transaction for
37 its technical and economic feasibility, the adequacy and reasonableness
38 of procedures proposed for verification of project or program
39 performance, the degree of certainty of benefits to the state, state

1 agency, or school district, the degree of risk assumed by the state or
2 school district, the benefits offered to the state, state agency, or
3 school district and such other factors as the ((energy office))
4 department determines to be prudent.

5 (d) The ((energy office)) department shall approve a transaction
6 unless it finds, pursuant to the review in (c) of this subsection, that
7 the transaction would not result in an equitable allocation of costs
8 and benefits to the state, state agency, or school district, in which
9 case the transaction shall be disapproved.

10 (e) In addition to the requirements of (c) and (d) of this
11 subsection, in areas in which the Bonneville power administration has
12 a program for the purchase of energy savings at public facilities, the
13 ((energy office)) department shall approve the transaction unless the
14 local utility cannot offer a benefit substantially equivalent to that
15 offered by the Bonneville power administration, in which case the
16 transaction shall be disapproved. In determining whether the local
17 utility can offer a substantially equivalent benefit, the ((energy
18 office)) department shall consider the net present value of the payment
19 for energy savings; any goods, services, or financial assistance
20 provided by the local utility; and any risks borne by the local
21 utility. Any direct negative financial impact on a nongrowing, local
22 utility shall be considered.

23 (3) Any party to a potential transaction may, within thirty days of
24 any decision to disapprove a transaction made pursuant to subsection
25 (2) (c), (d), or (e) of this section, request an independent reviewer
26 who is mutually agreeable to all parties to the transaction to review
27 the decision. The parties shall within thirty days of selection submit
28 to the independent reviewer documentation supporting their positions.
29 The independent reviewer shall render advice regarding the validity of
30 the disapproval within an additional thirty days.

31 **Sec. 409.** RCW 39.35C.050 and 1991 c 201 s 6 are each amended to
32 read as follows:

33 In addition to any other authorities conferred by law:

34 (1) The ((energy office)) department, with the consent of the state
35 agency or school district responsible for a facility, a state or
36 regional university acting independently, and any other state agency
37 acting through the department of general administration or as otherwise
38 authorized by law, may:

1 (a) Develop and finance conservation at public facilities in
2 accordance with express provisions of this chapter;

3 (b) Contract for energy services, including performance-based
4 contracts;

5 (c) Contract to sell energy savings from a conservation project at
6 public facilities to local utilities or the Bonneville power
7 administration.

8 (2) A state or regional university acting independently, and any
9 other state agency acting through the department of general
10 administration or as otherwise authorized by law, may undertake
11 procurements for third-party development of conservation at its
12 facilities.

13 (3) A school district may:

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

15 (b) Contract for energy services, including performance-based
16 contracts at school district facilities; and

17 (c) Contract to sell energy savings from energy conservation
18 projects at school district facilities to local utilities or the
19 Bonneville power administration directly or to local utilities or the
20 Bonneville power administration through third parties.

21 (4) In exercising the authority granted by subsections (1), (2),
22 and (3) of this section, a school district or state agency must comply
23 with the provisions of RCW 39.35C.040.

24 **Sec. 410.** RCW 39.35C.060 and 1991 c 201 s 7 are each amended to
25 read as follows:

26 (1) ~~((The energy office, in accordance with RCW 43.21F.060(2) may~~
27 ~~use appropriated moneys to make loans to school districts to provide~~
28 ~~all or part of the financing for conservation projects. The energy~~
29 ~~office shall determine the eligibility of such projects for~~
30 ~~conservation loans and the terms of such loans. If loans are from~~
31 ~~moneys appropriated from bond proceeds, the repayments of the loans~~
32 ~~shall be sufficient to pay, when due, the principal and interest on the~~
33 ~~bonds and shall be paid to the energy efficiency construction account~~
34 ~~established in RCW 39.35C.100. To the extent that a school district~~
35 ~~applies the proceeds of such loans to a modernization or new~~
36 ~~construction project, such proceeds shall be considered a portion of~~
37 ~~the school district's share of the costs of such project.~~

1 (2)) State agencies may use financing contracts under chapter
2 39.94 RCW to provide all or part of the funding for conservation
3 projects. The ((energy office)) department shall determine the
4 eligibility of such projects for financing contracts. The repayments
5 of the financing contracts shall be sufficient to pay, when due, the
6 principal and interest on the contracts.

7 **Sec. 411.** RCW 39.35C.070 and 1991 c 201 s 8 are each amended to
8 read as follows:

9 (1) Consistent with the region's need to develop cost-effective,
10 high efficiency electric energy resources, the state shall investigate
11 and, if appropriate, pursue development of cost-effective opportunities
12 for cogeneration in existing or new state facilities.

13 (2) To assist state agencies in identifying, evaluating, and
14 developing potential cogeneration projects at their facilities, the
15 ((energy office)) department shall notify state agencies of their
16 responsibilities under this chapter; apprise them of opportunities to
17 develop and finance such projects; and provide technical and analytical
18 support. The ((energy office)) department shall recover costs for such
19 assistance through written agreements, including reimbursement from
20 third parties participating in such projects, for any costs and
21 expenses incurred in providing such assistance.

22 (3)(a) The ((energy office)) department shall identify priorities
23 for cogeneration projects at state facilities, and, where such projects
24 are initially deemed desirable by the ((energy office)) department and
25 the appropriate state agency, the ((energy office)) department shall
26 notify the local utility serving the state facility of its intent to
27 conduct a feasibility study at such facility. The ((energy office))
28 department shall consult with the local utility and provide the local
29 utility an opportunity to participate in the development of the
30 feasibility study for the state facility it serves.

31 (b) If the local utility has an interest in participating in the
32 feasibility study, it shall notify the ((energy office)) department and
33 the state agency whose facility or facilities it serves within sixty
34 days of receipt of notification pursuant to (a) of this subsection as
35 to the nature and scope of its desired participation. The ((energy
36 office)) department, state agency, and local utility shall negotiate
37 the responsibilities, if any, of each in conducting the feasibility

1 study, and these responsibilities shall be specified in a written
2 agreement.

3 (c) If a local utility identifies a potential cogeneration project
4 at a state facility for which it intends to conduct a feasibility
5 study, it shall notify the ((energy-office)) department and the
6 appropriate state agency. The ((energy-office)) department, state
7 agency, and local utility shall negotiate the responsibilities, if any,
8 of each in conducting the feasibility study, and these responsibilities
9 shall be specified in a written agreement. Nothing in this section
10 shall preclude a local utility from conducting an independent
11 assessment of a potential cogeneration project at a state facility.

12 (d) Agreements written pursuant to (a) and (b) of this subsection
13 shall include a provision for the recovery of costs incurred by a local
14 utility in performing a feasibility study in the event such utility
15 does not participate in the development of the cogeneration project.
16 If the local utility does participate in the cogeneration project
17 through energy purchase, project development or ownership, recovery of
18 the utility's costs may be deferred or provided for through negotiation
19 on agreements for energy purchase, project development or ownership.

20 (e) If the local utility declines participation in the feasibility
21 study, the ((energy-office)) department and the state agency may
22 receive and solicit proposals to conduct the feasibility study from
23 other parties. Participation of these other parties shall also be
24 secured and defined by a written agreement which may include the
25 provision for reimbursement of costs incurred in the formulation of the
26 feasibility study.

27 (4) The feasibility study shall include consideration of regional
28 and local utility needs for power, the consistency of the proposed
29 cogeneration project with the state energy strategy, the cost and
30 certainty of fuel supplies, the value of electricity produced, the
31 capability of the state agency to own and/or operate such facilities,
32 the capability of utilities or third parties to own and/or operate such
33 facilities, requirements for and costs of standby sources of power,
34 costs associated with interconnection with the local electric utility's
35 transmission system, the capability of the local electric utility to
36 wheel electricity generated by the facility, costs associated with
37 obtaining wheeling services, potential financial risks and losses to
38 the state and/or state agency, measures to mitigate the financial risk
39 to the state and/or state agency, and benefits to the state and to the

1 state agency from a range of design configurations, ownership, and
2 operation options.

3 (5) Based upon the findings of the feasibility study, the ((~~energy~~
4 ~~office~~)) department and the state agency shall determine whether a
5 cogeneration project will be cost-effective and whether development of
6 a cogeneration project should be pursued. This determination shall be
7 made in consultation with the local utility or, if the local utility
8 had not participated in the development of the feasibility study, with
9 any third party that may have participated in the development of the
10 feasibility study.

11 (a) Recognizing the local utility's expertise, knowledge, and
12 ownership and operation of the local utility systems, the ((~~energy~~
13 ~~office~~)) department and the state agency shall have the authority to
14 negotiate directly with the local utility for the purpose of entering
15 into a sole source contract to develop, own, and/or operate the
16 cogeneration facility. The contract may also include provisions for
17 the purchase of electricity or thermal energy from the cogeneration
18 facility, the acquisition of a fuel source, and any financial
19 considerations which may accrue to the state from ownership and/or
20 operation of the cogeneration facility by the local utility.

21 (b) The ((~~energy office~~)) department may enter into contracts
22 through competitive negotiation under this subsection for the
23 development, ownership, and/or operation of a cogeneration facility.
24 In determining an acceptable bid, the ((~~energy office~~)) department and
25 the state agency may consider such factors as technical knowledge,
26 experience, management, staff, or schedule, as may be necessary to
27 achieve economical construction or operation of the project. The
28 selection of a developer or operator of a cogeneration facility shall
29 be made in accordance with procedures for competitive bidding under
30 chapter 43.19 RCW.

31 (c) The ((~~energy office~~)) department shall comply with the
32 requirements of chapter 39.80 RCW when contracting for architectural or
33 engineering services.

34 (6)(a) The state may own and/or operate a cogeneration project at
35 a state facility. However, unless the cogeneration project is
36 determined to be cost-effective, based on the findings of the
37 feasibility study, the ((~~energy office~~)) department and state agency
38 shall not pursue development of the project as a state-owned facility.
39 If the project is found to be cost-effective, and the ((~~energy office~~))

1 department and the state agency agree development of the cogeneration
2 project should be pursued as a state-owned and/or operated facility,
3 the ((~~energy office~~)) department shall assist the state agency in the
4 preparation of a finance and development plan for the cogeneration
5 project. Any such plan shall fully account for and specify all costs
6 to the state for developing and/or operating the cogeneration facility.

7 (b) It is the general intent of this chapter that cogeneration
8 projects developed and owned by the state will be sized to the
9 projected thermal energy load of the state facility over the useful
10 life of the project. The principal purpose and use of such projects is
11 to supply thermal energy to a state facility and not primarily to
12 develop generating capacity for the sale of electricity. For state-
13 owned projects with electricity production in excess of projected
14 thermal requirements, the ((~~energy office~~)) department shall seek and
15 obtain legislative appropriation and approval for development. Nothing
16 in chapter 201, Laws of 1991 shall be construed to authorize any state
17 agency to sell electricity or thermal energy on a retail basis.

18 (7) When a cogeneration facility will be developed, owned, and/or
19 operated by a state agency or third party other than the local serving
20 utility, the ((~~energy office~~)) department and the state agency shall
21 negotiate a written agreement with the local utility. Elements of such
22 an agreement shall include provisions to ensure system safety,
23 provisions to ensure reliability of any interconnected operations
24 equipment necessary for parallel operation and switching equipment
25 capable of isolating the generation facility, the provision of and
26 reimbursement for standby services, if required, and the provision of
27 and reimbursement for wheeling electricity, if the provision of such
28 has been agreed to by the local utility.

29 (8) The state may develop and own a thermal energy distribution
30 system associated with a cogeneration project for the principal purpose
31 of distributing thermal energy at the state facility. If thermal
32 energy is to be sold outside the state facility, the state may only
33 sell the thermal energy to a utility.

34 **Sec. 412.** RCW 39.35C.080 and 1991 c 201 s 9 are each amended to
35 read as follows:

36 It is the intention of chapter 201, Laws of 1991 that the state and
37 its agencies are compensated fairly for the energy provided to
38 utilities from cogeneration at state facilities. Such compensation may

1 include revenues from sales of electricity or thermal energy to
2 utilities, lease of state properties, and value of thermal energy
3 provided to the facility. It is also the intent of chapter 201, Laws
4 of 1991 that the state and its agencies be accorded the opportunity to
5 compete on a fair and reasonable basis to fulfill a utility's new
6 resource acquisition needs when selling the energy produced from
7 cogeneration projects at state facilities through energy purchase
8 agreements.

9 (1)(a) The (~~energy office~~) department and state agencies may
10 participate in any utility request for resource proposal process, as
11 either established under the rules and regulations of the utilities and
12 transportation commission, or by the governing board of a public
13 utility district, municipal utility, cooperative, or mutual.

14 (b) If a local utility does not have a request for resource
15 proposal pending, the energy office or a state agency may negotiate an
16 equitable and mutually beneficial energy purchase agreement with that
17 utility.

18 (2) To ensure an equitable allocation of benefits to the state and
19 its agencies, the following conditions shall apply to energy purchase
20 agreements negotiated between utilities and state agencies:

21 (a) An energy purchase agreement shall be approved by both the
22 (~~energy office~~) department and the affected state agency.

23 (b) The (~~energy office~~) department and the state agency shall
24 work together throughout the planning and negotiation process for
25 energy purchase agreements, unless the (~~energy office~~) department
26 determines that its participation will not further the purposes of this
27 section.

28 (c) Before approving an energy purchase agreement, the (~~energy
29 office~~) department shall review the proposed agreement for its
30 technical and economic feasibility, the degree of certainty of
31 benefits, the degree of financial risk assumed by the state and/or the
32 state agency, the benefits offered to the state and/or state agency,
33 and other such factors as the (~~energy office~~) department deems
34 prudent. The (~~energy office~~) department shall approve an energy
35 purchase agreement unless it finds that such an agreement would not
36 result in an equitable allocation of costs and benefits, in which case
37 the transaction shall be disapproved.

38 (3)(a) The state or state agency shall comply with and shall be
39 bound by applicable avoided cost schedules, electric power wheeling

1 charges, interconnection requirements, utility tariffs, and regulatory
2 provisions to the same extent it would be required to comply and would
3 be bound if it were a private citizen. The state shall neither seek
4 regulatory advantage, nor change regulations, regulatory policy,
5 process, or decisions to its advantage as a seller of cogenerated
6 energy. Nothing contained in chapter 201, Laws of 1991 shall be
7 construed to mandate or require public or private utilities to wheel
8 electric energy resources within or beyond their service territories.
9 Nothing in chapter 201, Laws of 1991 authorizes any state agency or
10 school district to make any sale of energy or waste heat as defined by
11 RCW 80.62.020(9) beyond the explicit provisions of chapter 201, Laws of
12 1991. Nothing contained in chapter 201, Laws of 1991 requires a
13 utility to purchase energy from the state or a state agency or enter
14 into any agreement in connection with a cogeneration facility.

15 (b) The state shall neither construct, nor be party to an agreement
16 for developing a cogeneration project at a state facility for the
17 purpose of supplying its own electrical needs, unless it can show that
18 such an arrangement would be in the economic interest of the state
19 taking into account the cost of (i) interconnection requirements, as
20 specified by the local electric utility, (ii) standby charges, as may
21 be required by the local electric utility, and (iii) the current price
22 of electricity offered by the local electric utility. If the local
23 electric utility can demonstrate that the cogeneration project may
24 place an undue burden on the electric utility, the ((energy office))
25 department or the state agency shall attempt to negotiate a mutually
26 beneficial agreement that would minimize the burden upon the ratepayers
27 of the local electric utility.

28 (4) Any party to an energy purchase agreement may, within thirty
29 days of any decision made pursuant to subsection (2)(c) of this section
30 to disapprove the agreement made pursuant to this section, request an
31 independent reviewer who is mutually agreeable to all parties to review
32 the decision. The parties shall within thirty days of selection submit
33 to the independent reviewer documentation supporting their positions.
34 The independent reviewer shall render advice regarding the validity of
35 the disapproval within an additional thirty days.

36 **Sec. 413.** RCW 39.35C.090 and 1991 c 201 s 10 are each amended to
37 read as follows:

38 In addition to any other authorities conferred by law:

1 (1) The (~~energy office~~) department, with the consent of the state
2 agency responsible for a facility, a state or regional university
3 acting independently, and any other state agency acting through the
4 department of general administration or as otherwise authorized by law,
5 may:

6 (a) Contract to sell electric energy generated at state facilities
7 to a utility; and

8 (b) Contract to sell thermal energy produced at state facilities to
9 a utility.

10 (2) A state or regional university acting independently, and any
11 other state agency acting through the department of general
12 administration or as otherwise authorized by law, may:

13 (a) Acquire, install, permit, construct, own, operate, and maintain
14 cogeneration and facility heating and cooling measures or equipment, or
15 both, at its facilities;

16 (b) Lease state property for the installation and operation of
17 cogeneration and facility heating and cooling equipment at its
18 facilities;

19 (c) Contract to purchase all or part of the electric or thermal
20 output of cogeneration plants at its facilities;

21 (d) Contract to purchase or otherwise acquire fuel or other energy
22 sources needed to operate cogeneration plants at its facilities; and

23 (e) Undertake procurements for third-party development of
24 cogeneration projects at its facilities, with successful bidders to be
25 selected based on the responsible bid, including nonprice elements
26 listed in RCW 43.19.1911, that offers the greatest net achievable
27 benefits to the state and its agencies.

28 (3) After July 28, 1991, a state agency shall consult with the
29 (~~energy office~~) department prior to exercising any authority granted
30 by this section.

31 (4) In exercising the authority granted by subsections (1) and (2)
32 of this section, a state agency must comply with the provisions of RCW
33 39.35C.080.

34 **Sec. 414.** RCW 39.35C.100 and 1991 c 201 s 11 are each amended to
35 read as follows:

36 (1) The energy efficiency construction account is hereby created in
37 the state treasury. Moneys in the account may be spent only after
38 appropriation and only for the following purposes:

1 (a) Construction of energy efficiency projects, including project
2 evaluation and verification of benefits, project design, project
3 development, project construction, and project administration.

4 (b) Payment of principal and interest and other costs required
5 under bond covenant on bonds issued for the purpose of (a) of this
6 subsection.

7 (2) Sources for this account may include:

8 (a) General obligation and revenue bond proceeds appropriated by
9 the legislature;

10 (b) Loan repayments under RCW 39.35C.060 sufficient to pay
11 principal and interest obligations; and

12 (c) Funding from federal, state, and local agencies.

13 ~~((3) The energy office shall establish criteria for approving
14 energy efficiency projects to be financed from moneys disbursed from
15 this account. The criteria shall include cost effectiveness,
16 reliability of energy systems, and environmental costs or benefits.
17 The energy office shall ensure that the criteria are applied with
18 professional standards for engineering and review.))~~

19 **Sec. 415.** RCW 39.35C.110 and 1991 c 201 s 12 are each amended to
20 read as follows:

21 (1) The energy efficiency services account is created in the state
22 treasury. Moneys in the account may be spent only after appropriation.
23 Expenditures from the account may be used only ~~((a))~~ for the ~~((energy
24 office))~~ department to provide energy efficiency services to ~~((state
25 agencies and school districts))~~ public agencies including review of
26 life-cycle cost analyses ~~((and (b) for transfer by the legislature to
27 the state general fund))~~.

28 (2) All receipts from the following source~~((s))~~ shall be deposited
29 into the account:

30 ~~((a))~~ Project fees charged under this section and RCW 39.35C.020,
31 39.35C.070, and 39.35.060~~((;~~

32 ~~(b) After payment of any principal and interest obligations, moneys
33 from repayments of loans under RCW 39.35C.060;~~

34 ~~(c) Revenue from sales of energy generated or saved at public
35 facilities under this chapter, except those retained by state agencies
36 and school districts under RCW 39.35C.120; and~~

1 be controlled by a dehumidistat or clock timer to ensure that
2 sufficient whole house ventilation is regularly provided as needed.

3 (c)(i) For new single family residences with electric space heating
4 systems, zero lot line homes, each unit in a duplex, and each attached
5 housing unit in a planned unit development, the ventilation standards
6 shall include fifty cubic feet per minute of effective installed
7 ventilation capacity in each bathroom and one hundred cubic feet per
8 minute of effective installed ventilation capacity in each kitchen.

9 (ii) For other new residential units with electric space heating
10 systems the ventilation standards may be satisfied by the installation
11 of two exhaust fans with a combined effective installed ventilation
12 capacity of two hundred cubic feet per minute.

13 (iii) Effective installed ventilation capacity means the capability
14 to deliver the specified ventilation rates for the actual design of the
15 ventilation system. Natural ventilation and infiltration shall not be
16 considered acceptable substitutes for mechanical ventilation.

17 (d) For new residential buildings that are space heated with other
18 than electric space heating systems, the interim standards shall be
19 designed to result in indoor air quality equivalent to that achieved
20 with the interim ventilation standards for electric space heated homes.

21 (e) The interim requirements for all newly constructed residential
22 buildings shall include standards for indoor air quality pollutant
23 source control, including the following requirements: All structural
24 panel components of the residence shall comply with appropriate
25 standards for the emission of formaldehyde; the back-drafting of
26 combustion by-products from combustion appliances shall be minimized
27 through the use of dampers, vents, outside combustion air sources, or
28 other appropriate technologies; and, in areas of the state where
29 monitored data indicate action is necessary to inhibit indoor radon gas
30 concentrations from exceeding appropriate health standards, entry of
31 radon gas into homes shall be minimized through appropriate foundation
32 construction measures.

33 (2) No later than January 1, 1993, the state building code council,
34 in consultation with the (~~state energy office~~) department of
35 community, trade, and economic development, shall establish final
36 requirements for the maintenance of indoor air quality in newly
37 constructed residences to be in effect beginning July 1, 1993. For new
38 electrically space heated residential buildings, these requirements
39 shall maintain indoor air quality equivalent to that provided by the

1 mechanical ventilation and indoor air pollutant source control
2 requirements included in the February 7, 1989, Bonneville power
3 administration record of decision for the environmental impact
4 statement on new energy efficient homes programs (DOE/EIS-0127F) built
5 with electric space heating. In residential units other than single
6 family, zero lot line, duplexes, and attached housing units in planned
7 unit developments, ventilation requirements may be satisfied by the
8 installation of two exhaust fans with a combined effective installed
9 ventilation capacity of two hundred cubic feet per minute. For new
10 residential buildings that are space heated with other than electric
11 space heating systems, the standards shall be designed to result in
12 indoor air quality equivalent to that achieved with the ventilation and
13 source control standards for electric space heated homes. In
14 establishing the final requirements, the council shall take into
15 consideration differences in heating fuels and heating system types.

16 **Sec. 502.** RCW 19.27A.020 and 1994 c 226 s 1 are each amended to
17 read as follows:

18 (1) No later than January 1, 1991, the state building code council
19 shall promulgate rules to be known as the Washington state energy code
20 as part of the state building code.

21 (2) The council shall follow the legislature's standards set forth
22 in this section to promulgate rules to be known as the Washington state
23 energy code. The Washington state energy code shall be designed to
24 require new buildings to meet a certain level of energy efficiency, but
25 allow flexibility in building design, construction, and heating
26 equipment efficiencies within that framework. The Washington state
27 energy code shall be designed to allow space heating equipment
28 efficiency to offset or substitute for building envelope thermal
29 performance.

30 (3) The Washington state energy code shall take into account
31 regional climatic conditions. Climate zone 1 shall include all
32 counties not included in climate zone 2. Climate zone 2 includes:
33 Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend
34 Oreille, Spokane, Stevens, and Whitman counties.

35 (4) The Washington state energy code for residential buildings
36 shall require:

1 (a) New residential buildings that are space heated with electric
2 resistance heating systems to achieve energy use equivalent to that
3 used in typical buildings constructed with:

4 (i) Ceilings insulated to a level of R-38. The code shall contain
5 an exception which permits single rafter or joist vaulted ceilings
6 insulated to a level of R-30 (R value includes insulation only);

7 (ii) In zone 1, walls insulated to a level of R-19 (R value
8 includes insulation only), or constructed with two by four members,
9 R-13 insulation batts, R-3.2 insulated sheathing, and other normal
10 assembly components; in zone 2 walls insulated to a level of R-24 (R
11 value includes insulation only), or constructed with two by six
12 members, R-22 insulation batts, R-3.2 insulated sheathing, and other
13 normal construction assembly components; for the purpose of determining
14 equivalent thermal performance, the wall U-value shall be 0.058 in zone
15 1 and 0.044 in zone 2;

16 (iii) Below grade walls, insulated on the interior side, to a level
17 of R-19 or, if insulated on the exterior side, to a level of R-10 in
18 zone 1 and R-12 in zone 2 (R value includes insulation only);

19 (iv) Floors over unheated spaces insulated to a level of R-30 (R
20 value includes insulation only);

21 (v) Slab on grade floors insulated to a level of R-10 at the
22 perimeter;

23 (vi) Double glazed windows with values not more than U-0.4;

24 (vii) In zone 1 the glazing area may be up to twenty-one percent of
25 floor area and in zone 2 the glazing area may be up to seventeen
26 percent of floor area where consideration of the thermal resistance
27 values for other building components and solar heat gains through the
28 glazing result in thermal performance equivalent to that achieved with
29 thermal resistance values for other components determined in accordance
30 with the equivalent thermal performance criteria of (a) of this
31 subsection and glazing area equal to fifteen percent of the floor area.
32 Throughout the state for the purposes of determining equivalent thermal
33 performance, the maximum glazing area shall be fifteen percent of the
34 floor area; and

35 (viii) Exterior doors insulated to a level of R-5; or an exterior
36 wood door with a thermal resistance value of less than R-5 and values
37 for other components determined in accordance with the equivalent
38 thermal performance criteria of (a) of this subsection.

1 (b) New residential buildings which are space-heated with all other
2 forms of space heating to achieve energy use equivalent to that used in
3 typical buildings constructed with:

4 (i) Ceilings insulated to a level of R-30 in zone 1 and R-38 in
5 zone 2 the code shall contain an exception which permits single rafter
6 or joist vaulted ceilings insulated to a level of R-30 (R value
7 includes insulation only);

8 (ii) Walls insulated to a level of R-19 (R value includes
9 insulation only), or constructed with two by four members, R-13
10 insulation batts, R-3.2 insulated sheathing, and other normal assembly
11 components;

12 (iii) Below grade walls, insulated on the interior side, to a level
13 of R-19 or, if insulated on the exterior side, to a level of R-10 in
14 zone 1 and R-12 in zone 2 (R value includes insulation only);

15 (iv) Floors over unheated spaces insulated to a level of R-19 in
16 zone 1 and R-30 in zone 2 (R value includes insulation only);

17 (v) Slab on grade floors insulated to a level of R-10 at the
18 perimeter;

19 (vi) Heat pumps with a minimum heating season performance factor
20 (HSPF) of 6.8 or with all other energy sources with a minimum annual
21 fuel utilization efficiency (AFUE) of seventy-eight percent;

22 (vii) Double glazed windows with values not more than U-0.65 in
23 zone 1 and U-0.60 in zone 2. The state building code council, in
24 consultation with the (~~state energy office~~) department of community,
25 trade, and economic development, shall review these U-values, and, if
26 economically justified for consumers, shall amend the Washington state
27 energy code to improve the U-values by December 1, 1993. The amendment
28 shall not take effect until July 1, 1994; and

29 (viii) In zone 1, the maximum glazing area shall be twenty-one
30 percent of the floor area. In zone 2 the maximum glazing area shall be
31 seventeen percent of the floor area. Throughout the state for the
32 purposes of determining equivalent thermal performance, the maximum
33 glazing area shall be fifteen percent of the floor area.

34 (c) The requirements of (b)(ii) of this subsection do not apply to
35 residences with log or solid timber walls with a minimum average
36 thickness of three and one-half inches and with space heat other than
37 electric resistance.

38 (d) The state building code council may approve an energy code for
39 pilot projects of residential construction that use innovative energy

1 efficiency technologies intended to result in savings that are greater
2 than those realized in the levels specified in this section.

3 (5) U-values for glazing shall be determined using the area
4 weighted average of all glazing in the building. U-values for vertical
5 glazing shall be determined, certified, and labeled in accordance with
6 the appropriate national fenestration rating council (NFRC) standard,
7 as determined and adopted by the state building code council.
8 Certification of U-values shall be conducted by a certified,
9 independent agency licensed by the NFRC. The state building code
10 council may develop and adopt alternative methods of determining,
11 certifying, and labeling U-values for vertical glazing that may be used
12 by fenestration manufacturers if determined to be appropriate by the
13 council. The state building code council shall review and consider the
14 adoption of the NFRC standards for determining, certifying, and
15 labeling U-values for doors and skylights when developed and published
16 by the NFRC. The state building code council may develop and adopt
17 appropriate alternative methods for determining, certifying, and
18 labeling U-values for doors and skylights. U-values for doors and
19 skylights determined, certified, and labeled in accordance with the
20 appropriate NFRC standard shall be acceptable for compliance with the
21 state energy code. Sealed insulation glass, where used, shall conform
22 to, or be in the process of being tested for, ASTM E-774-81 class A or
23 better.

24 (6) The minimum state energy code for new nonresidential buildings
25 shall be the Washington state energy code, 1986 edition, as amended.

26 (7)(a) Except as provided in (b) of this subsection, the Washington
27 state energy code for residential structures shall preempt the
28 residential energy code of each city, town, and county in the state of
29 Washington.

30 (b) The state energy code for residential structures does not
31 preempt a city, town, or county's energy code for residential
32 structures which exceeds the requirements of the state energy code and
33 which was adopted by the city, town, or county prior to March 1, 1990.
34 Such cities, towns, or counties may not subsequently amend their energy
35 code for residential structures to exceed the requirements adopted
36 prior to March 1, 1990.

37 (8) The state building code council shall consult with the ((state
38 energy—office)) department of community, trade, and economic
39 development as provided in RCW 34.05.310 prior to publication of

1 proposed rules. The (~~state energy office~~) department of community,
2 trade, and economic development shall review the proposed rules for
3 consistency with the guidelines adopted in subsection (4) of this
4 section. The director of the (~~state energy office~~) department of
5 community, trade, and economic development shall recommend to the state
6 building code council any changes necessary to conform the proposed
7 rules to the requirements of this section.

8 (9) The state building code council shall conduct a study of county
9 and city enforcement of energy codes in the state. In conducting the
10 study, the council shall conduct public hearings at designated council
11 meetings to seek input from interested individuals and organizations,
12 and to the extent possible, hold these meetings in conjunction with
13 adopting rules under this section. The study shall include
14 recommendations as to how code enforcement may be improved. The
15 findings of the study shall be submitted in a report to the legislature
16 no later than January 1, 1991.

17 (10) If any electric utility providing electric service to
18 customers in the state of Washington purchases at least one percent of
19 its firm energy load from a federal agency, pursuant to section
20 5.(b)(1) of the Pacific Northwest electric power planning and
21 conservation act (P.L. 96-501), and such utility is unable to obtain
22 from that agency at least fifty percent of the funds for payments
23 required by RCW 19.27A.035, the amendments to this section by chapter
24 2, Laws of 1990 shall be null and void, and the 1986 state energy code
25 shall be in effect, except that a city, town, or county may enforce a
26 local energy code with more stringent energy requirements adopted prior
27 to March 1, 1990. This subsection shall expire June 30, 1995.

28 **Sec. 503.** RCW 28A.515.320 and 1991 sp.s. c 13 s 58 are each
29 amended to read as follows:

30 The common school construction fund is to be used exclusively for
31 the purpose of financing the construction of facilities for the common
32 schools. The sources of said fund shall be: (1) Those proceeds
33 derived from sale or appropriation of timber and other crops from
34 school and state land other than those granted for specific purposes;
35 (2) the interest accruing on the permanent common school fund less the
36 allocations to the state treasurer's service account [fund] pursuant to
37 RCW 43.08.190 and the state investment board expense account pursuant
38 to RCW 43.33A.160 together with all rentals and other revenue derived

1 therefrom and from land and other property devoted to the permanent
2 common school fund; (3) all moneys received by the state from the
3 United States under the provisions of section 191, Title 30, United
4 States Code, Annotated, and under section 810, chapter 12, Title 16,
5 (Conservation), United States Code, Annotated, except moneys received
6 before June 30, 2001, and when thirty megawatts of geothermal power is
7 certified as commercially available by the receiving utilities and the
8 (~~state energy office~~) department of community, trade, and economic
9 development, eighty percent of such moneys, under the Geothermal Steam
10 Act of 1970 pursuant to RCW 43.140.030; and (4) such other sources as
11 the legislature may direct. That portion of the common school
12 construction fund derived from interest on the permanent common school
13 fund may be used to retire such bonds as may be authorized by law for
14 the purpose of financing the construction of facilities for the common
15 schools.

16 The interest accruing on the permanent common school fund less the
17 allocations to the state treasurer's service (~~account-[fund]~~) fund
18 pursuant to RCW 43.08.190 and the state investment board expense
19 account pursuant to RCW 43.33A.160 together with all rentals and other
20 revenues accruing thereto pursuant to subsection (2) of this section
21 prior to July 1, 1967, shall be exclusively applied to the current use
22 of the common schools.

23 To the extent that the moneys in the common school construction
24 fund are in excess of the amount necessary to allow fulfillment of the
25 purpose of said fund, the excess shall be available for deposit to the
26 credit of the permanent common school fund or available for the current
27 use of the common schools, as the legislature may direct. Any money
28 from the common school construction fund which is made available for
29 the current use of the common schools shall be restored to the fund by
30 appropriation, including interest income foregone, before the end of
31 the next fiscal biennium following such use.

32 **Sec. 504.** RCW 42.17.2401 and 1995 c 399 s 60 and 1995 c 397 s 10
33 are each reenacted and amended to read as follows:

34 For the purposes of RCW 42.17.240, the term "executive state
35 officer" includes:

36 (1) The chief administrative law judge, the director of
37 agriculture, the administrator of the office of marine safety, the
38 administrator of the Washington basic health plan, the director of the

1 department of services for the blind, the director of the state system
2 of community and technical colleges, the director of community, trade,
3 and economic development, the secretary of corrections, the director of
4 ecology, the commissioner of employment security, the chairman of the
5 energy facility site evaluation council, (~~the director of the energy~~
6 ~~office,~~) the secretary of the state finance committee, the director of
7 financial management, the director of fish and wildlife, the executive
8 secretary of the forest practices appeals board, the director of the
9 gambling commission, the director of general administration, the
10 secretary of health, the administrator of the Washington state health
11 care authority, the executive secretary of the health care facilities
12 authority, the executive secretary of the higher education facilities
13 authority, the executive secretary of the horse racing commission, the
14 executive secretary of the human rights commission, the executive
15 secretary of the indeterminate sentence review board, the director of
16 the department of information services, the director of the interagency
17 committee for outdoor recreation, the executive director of the state
18 investment board, the director of labor and industries, the director of
19 licensing, the director of the lottery commission, the director of the
20 office of minority and women's business enterprises, the director of
21 parks and recreation, the director of personnel, the executive director
22 of the public disclosure commission, the director of retirement
23 systems, the director of revenue, the secretary of social and health
24 services, the chief of the Washington state patrol, the executive
25 secretary of the board of tax appeals, the secretary of transportation,
26 the secretary of the utilities and transportation commission, the
27 director of veterans affairs, the president of each of the regional and
28 state universities and the president of The Evergreen State College,
29 each district and each campus president of each state community
30 college;

31 (2) Each professional staff member of the office of the governor;

32 (3) Each professional staff member of the legislature; and

33 (4) Central Washington University board of trustees, board of
34 trustees of each community college, each member of the state board for
35 community and technical colleges, state convention and trade center
36 board of directors, committee for deferred compensation, Eastern
37 Washington University board of trustees, Washington economic
38 development finance authority, The Evergreen State College board of
39 trustees, executive ethics board, forest practices appeals board,

1 forest practices board, gambling commission, Washington health care
2 facilities authority, each member of the Washington health services
3 commission, higher education coordinating board, higher education
4 facilities authority, horse racing commission, state housing finance
5 commission, human rights commission, indeterminate sentence review
6 board, board of industrial insurance appeals, information services
7 board, interagency committee for outdoor recreation, state investment
8 board, commission on judicial conduct, legislative ethics board, liquor
9 control board, lottery commission, marine oversight board, Pacific
10 Northwest electric power and conservation planning council, parks and
11 recreation commission, personnel appeals board, board of pilotage
12 commissioners, pollution control hearings board, public disclosure
13 commission, public pension commission, shorelines hearing board, public
14 employees' benefits board, board of tax appeals, transportation
15 commission, University of Washington board of regents, utilities and
16 transportation commission, Washington state maritime commission,
17 Washington personnel resources board, Washington public power supply
18 system executive board, Washington State University board of regents,
19 Western Washington University board of trustees, and fish and wildlife
20 commission.

21 **Sec. 505.** RCW 43.06.115 and 1995 c 399 s 61 are each amended to
22 read as follows:

23 (1) The governor may, by executive order, after consultation with
24 or notification of the executive-legislative committee on economic
25 development created by chapter . . . (Senate Bill No. 5300), Laws of
26 1993, declare a community to be a "military impacted area." A
27 "military impacted area" means a community or communities, as
28 identified in the executive order, that experience serious social and
29 economic hardships because of a change in defense spending by the
30 federal government in that community or communities.

31 (2) If the governor executes an order under subsection (1) of this
32 section, the governor shall establish a response team to coordinate
33 state efforts to assist the military impacted community. The response
34 team may include, but not be limited to, one member from each of the
35 following agencies: (a) The department of community, trade, and
36 economic development; (b) the department of social and health services;
37 (c) the employment security department; (d) the state board for
38 community and technical colleges; (e) the higher education coordinating

1 board; and (f) the department of transportation(~~(; and (g) the~~
2 ~~Washington energy office~~)). The governor may appoint a response team
3 coordinator. The governor shall seek to actively involve the impacted
4 community or communities in planning and implementing a response to the
5 crisis. The governor may seek input or assistance from the community
6 diversification advisory committee, and the governor may establish task
7 forces in the community or communities to assist in the coordination
8 and delivery of services to the local community. The state and
9 community response shall consider economic development, human service,
10 and training needs of the community or communities impacted.

11 (3) The governor shall report at the beginning of the next
12 legislative session to the legislature and the executive-legislative
13 committee on economic development created by chapter . . . (Senate Bill
14 No. 5300), Laws of 1993, as to the designation of a military impacted
15 area. The report shall include recommendations regarding whether a
16 military impacted area should become eligible for (a) funding provided
17 by the community economic revitalization board, public facilities
18 construction loan revolving account, Washington state development loan
19 fund, basic health plan, the public works assistance account,
20 department of community, trade, and economic development, employment
21 security department, and department of transportation; (b) training for
22 dislocated defense workers; or (c) services for dislocated defense
23 workers.

24 **Sec. 506.** RCW 43.19.680 and 1986 c 325 s 2 are each amended to
25 read as follows:

26 (1) Upon completion of each walk-through survey required by RCW
27 43.19.675, the director of general administration or the agency
28 responsible for the facility if other than the department of general
29 administration shall implement energy conservation maintenance and
30 operation procedures that may be identified for any state-owned
31 facility. These procedures shall be implemented as soon as possible
32 but not later than twelve months after the walk-through survey.

33 (2) By December 31, 1981, for the capitol campus the director of
34 general administration(~~(, in cooperation with the director of the state~~
35 ~~energy office,~~)) shall prepare and transmit to the governor and the
36 legislature an implementation plan.

37 (3) By December 31, 1983, for all other state-owned facilities, the
38 director of general administration (~~(in cooperation with the director~~

1 of the state energy office)) shall prepare and transmit to the governor
2 and the legislature the results of the energy consumption and walk-
3 through surveys and a schedule for the conduct of technical assistance
4 studies. This submission shall contain the energy conservation
5 measures planned for installation during the ensuing biennium.
6 Priority considerations for scheduling technical assistance studies
7 shall include but not be limited to a facility's energy efficiency,
8 responsible agency participation, comparative cost and type of fuels,
9 possibility of outside funding, logistical considerations such as
10 possible need to vacate the facility for installation of energy
11 conservation measures, coordination with other planned facility
12 modifications, and the total cost of a facility modification, including
13 other work which would have to be done as a result of installing energy
14 conservation measures. Energy conservation measure acquisitions and
15 installations shall be scheduled to be twenty-five percent complete by
16 June 30, 1985, or at the end of the capital budget biennium which
17 includes that date, whichever is later, fifty-five percent complete by
18 June 30, 1989, or at the end of the capital budget biennium which
19 includes that date, whichever is later, eighty-five percent complete by
20 June 30, 1993, or at the end of the capital budget biennium which
21 includes that date, whichever is later, and fully complete by June 30,
22 1995, or at the end of the capital budget biennium which includes that
23 date, whichever is later. Each state agency shall implement energy
24 conservation measures with a payback period of twenty-four months or
25 less that have a positive cash flow in the same biennium.

26 For each biennium until all measures are installed, the director of
27 general administration shall report to the governor and legislature
28 installation progress, measures planned for installation during the
29 ensuing biennium, and changes, if any, to the technical assistance
30 study schedule. This report shall be submitted by December 31, 1984,
31 or at the end of the following year whichever immediately precedes the
32 capital budget adoption, and every two years thereafter until all
33 measures are installed.

34 (4) The director of general administration shall adopt rules to
35 facilitate private investment in energy conservation measures for
36 state-owned buildings consistent with state law.

37 **Sec. 507.** RCW 43.21G.010 and 1981 c 295 s 11 are each amended to
38 read as follows:

1 The legislature finds that energy in various forms is increasingly
2 subject to possible shortages and supply disruptions, to the point that
3 there may be foreseen an emergency situation, and that without the
4 ability to institute appropriate emergency measures to regulate the
5 production, distribution, and use of energy, a severe impact on the
6 public health, safety, and general welfare of our state's citizens may
7 occur. The prevention or mitigation of such energy shortages or
8 disruptions and their effects is necessary for preservation of the
9 public health, safety, and general welfare of the citizens of this
10 state.

11 It is the intent of this chapter to:

12 (1) Establish necessary emergency powers for the governor and
13 define the situations under which such powers are to be exercised;

14 (2) Provide penalties for violations of this chapter.

15 It is further the intent of the legislature that in developing
16 proposed orders under the powers granted in RCW 43.21G.040 as now or
17 hereafter amended the governor may utilize, on a temporary or ad hoc
18 basis, the knowledge and expertise of persons experienced in the
19 technical aspects of energy supply, distribution, or use. Such
20 utilization shall be in addition to support received by the governor
21 from the (~~state energy office~~) department of community, trade, and
22 economic development under RCW 43.21F.045 and 43.21F.065 and from other
23 state agencies.

24 **Sec. 508.** RCW 43.31.621 and 1995 c 226 s 3 are each amended to
25 read as follows:

26 (1) There is established the agency rural community assistance task
27 force. The task force shall be chaired by the rural community
28 assistance coordinator. It shall be the responsibility of the
29 coordinator that all directives of chapter 314, Laws of 1991 are
30 carried out expeditiously by the agencies represented in the task
31 force. The task force shall consist of the directors, or
32 representatives of the directors, of the following agencies: The
33 department of community, trade, and economic development, employment
34 security department, department of social and health services, state
35 board for community and technical colleges, work force training and
36 education coordinating board, department of natural resources,
37 department of transportation, (~~state energy office,~~) department of
38 fish and wildlife, University of Washington center for international

1 trade in forest products, department of agriculture, and department of
2 ecology. The task force shall solicit and consider input from the
3 rural development council in coordinating agency programs targeted to
4 rural natural resources impacted communities. The task force may
5 consult and enlist the assistance of the following: The higher
6 education coordinating board, University of Washington college of
7 forest resources, University of Washington school of fisheries,
8 Washington State University school of forestry, Northwest policy
9 center, state superintendent of public instruction, Washington state
10 labor council, the Evergreen partnership, Washington state association
11 of counties, and others as needed.

12 (2) The task force, in conjunction with the rural development
13 council, shall undertake a study to determine whether additional
14 communities and industries are impacted, or are likely to be impacted,
15 by salmon preservation and recovery efforts. The task force shall
16 consider possible impacts in the following industries and associated
17 communities: Barge transportation, irrigation dependent agriculture,
18 food processing, aluminum, charter recreational fishing, boatbuilding,
19 and other sectors suggested by the task force. The task force shall
20 report its findings and recommendations to the legislature by January
21 1996.

22 (3) This section shall expire June 30, 1997.

23 **Sec. 509.** RCW 43.88.195 and 1993 c 500 s 8 are each amended to
24 read as follows:

25 After August 11, 1969, no state agency, state institution, state
26 institution of higher education, which shall include all state
27 universities, regional universities, The Evergreen State College, and
28 community colleges, shall establish any new accounts or funds which are
29 to be located outside of the state treasury: PROVIDED, That the office
30 of financial management shall be authorized to grant permission for the
31 establishment of such an account or fund outside of the state treasury
32 only when the requesting agency presents compelling reasons of economy
33 and efficiency which could not be achieved by placing such funds in the
34 state treasury. When the director of financial management authorizes
35 the creation of such fund or account, the director shall forthwith give
36 written notice of the fact to the standing committees on ways and means
37 of the house and senate: PROVIDED FURTHER, That (~~the office of~~
38 ~~financial management may grant permission for the establishment of~~

1 ~~accounts outside of the state treasury for the purposes of RCW~~
2 ~~39.35C.120.)~~) agencies authorized to create local accounts will utilize
3 the services of the state treasurer's office to ensure that new or
4 ongoing relationships with financial institutions are in concert with
5 state-wide policies and procedures pursuant to RCW 43.88.160(1).

6 **Sec. 510.** RCW 43.140.040 and 1981 c 158 s 4 are each amended to
7 read as follows:

8 Distribution of funds from the geothermal account of the general
9 fund shall be subject to the following limitations:

10 (1) Thirty percent to the department of natural resources for
11 geothermal exploration and assessment;

12 (2) Thirty percent to ~~((the Washington state energy office))~~
13 Washington State University or its statutory successor for the purpose
14 of encouraging the development of geothermal energy; and

15 (3) Forty percent to the county of origin for mitigating impacts
16 caused by geothermal energy exploration, assessment, and development.

17 **Sec. 511.** RCW 43.140.050 and 1981 c 158 s 5 are each amended to
18 read as follows:

19 The state treasurer shall be responsible for distribution of funds
20 to the county of origin. Each county's share of rentals and royalties
21 from a lease including lands in more than one county shall be computed
22 on the basis of the ratio that the acreage within each county has to
23 the total acreage in the lease. ~~((The Washington state energy office))~~
24 Washington State University or its statutory successor shall obtain the
25 necessary information to make the distribution of funds on such a
26 basis.

27 **Sec. 512.** RCW 47.06.110 and 1995 c 399 s 120 are each amended to
28 read as follows:

29 The state-interest component of the state-wide multimodal
30 transportation plan shall include a state public transportation plan
31 that:

32 (1) Articulates the state vision of an interest in public
33 transportation and provides quantifiable objectives, including benefits
34 indicators;

35 (2) Identifies the goals for public transit and the roles of
36 federal, state, regional, and local entities in achieving those goals;

1 (3) Recommends mechanisms for coordinating state, regional, and
2 local planning for public transportation;

3 (4) Recommends mechanisms for coordinating public transportation
4 with other transportation services and modes;

5 (5) Recommends criteria, consistent with the goals identified in
6 subsection (2) of this section and with RCW 82.44.180 (2) and (3), for
7 existing federal authorizations administered by the department to
8 transit agencies; and

9 (6) Recommends a state-wide public transportation facilities and
10 equipment management system as required by federal law.

11 In developing the state public transportation plan, the department
12 shall involve local jurisdictions, public and private providers of
13 transportation services, nonmotorized interests, and state agencies
14 with an interest in public transportation, including but not limited to
15 the departments of community, trade, and economic development, social
16 and health services, and ecology, (~~the state energy office,~~) the
17 office of the superintendent of public instruction, the office of the
18 governor, and the office of financial management.

19 The department shall submit an initial report to the legislative
20 transportation committee by December 1, 1993, and shall provide annual
21 reports summarizing the plan's progress each year thereafter.

22 **Sec. 513.** RCW 70.94.527 and 1991 c 202 s 12 are each amended to
23 read as follows:

24 (1) Each county with a population over one hundred fifty thousand,
25 and each city or town within those counties containing a major employer
26 shall, by October 1, 1992, adopt by ordinance and implement a commute
27 trip reduction plan for all major employers. The plan shall be
28 developed in cooperation with local transit agencies, regional
29 transportation planning organizations as established in RCW 47.80.020,
30 major employers, and the owners of and employers at major worksites.
31 The plan shall be designed to achieve reductions in the proportion of
32 single-occupant vehicle commute trips and the commute trip vehicle
33 miles traveled per employee by employees of major public and private
34 sector employers in the jurisdiction.

35 (2) All other counties, and cities and towns in those counties, may
36 adopt and implement a commute trip reduction plan.

37 (3) The department of ecology may, after consultation with the
38 (~~state energy office~~) department of transportation, as part of the

1 state implementation plan for areas that do not attain the national
2 ambient air quality standards for carbon monoxide or ozone, require
3 municipalities other than those identified in subsection (1) of this
4 section to adopt and implement commute trip reduction plans if the
5 department determines that such plans are necessary for attainment of
6 said standards.

7 (4) A commute trip reduction plan shall be consistent with the
8 guidelines established under RCW 70.94.537 and shall include but is not
9 limited to (a) goals for reductions in the proportion of single-
10 occupant vehicle commute trips and the commute trip vehicle miles
11 traveled per employee; (b) designation of commute trip reduction zones;
12 (c) requirements for major public and private sector employers to
13 implement commute trip reduction programs; (d) a commute trip reduction
14 program for employees of the county, city, or town; (e) a review of
15 local parking policies and ordinances as they relate to employers and
16 major worksites and any revisions necessary to comply with commute trip
17 reduction goals and guidelines; (f) an appeals process by which major
18 employers, who as a result of special characteristics of their business
19 or its locations would be unable to meet the requirements of a commute
20 trip reduction plan, may obtain waiver or modification of those
21 requirements; and (g) means for determining base year values of the
22 proportion of single-occupant vehicle commute trips and the commute
23 trip vehicle miles traveled per employee and progress toward meeting
24 commute trip reduction plan goals on an annual basis. Goals which are
25 established shall take into account existing transportation demand
26 management efforts which are made by major employers. Each
27 jurisdiction shall ensure that employers shall receive full credit for
28 the results of transportation demand management efforts and commute
29 trip reduction programs which have been implemented by major employers
30 prior to the base year. The goals for miles traveled per employee for
31 all major employers shall not be less than a fifteen percent reduction
32 from the base year value of the commute trip reduction zone in which
33 their worksite is located by January 1, 1995, twenty-five percent
34 reduction from the base year values by January 1, 1997, and thirty-five
35 percent reduction from the base year values by January 1, 1999.

36 (5) A county, city, or town may, as part of its commute trip
37 reduction plan, require commute trip reduction programs for employers
38 with ten or more full time employees at major worksites in federally
39 designated nonattainment areas for carbon monoxide and ozone. The

1 county, city or town shall develop the programs in cooperation with
2 affected employers and provide technical assistance to the employers in
3 implementing such programs.

4 (6) The commute trip reduction plans adopted by counties, cities,
5 and towns under this chapter shall be consistent with and may be
6 incorporated in applicable state or regional transportation plans and
7 local comprehensive plans and shall be coordinated, and consistent
8 with, the commute trip reduction plans of counties, cities, or towns
9 with which the county, city, or town has, in part, common borders or
10 related regional issues. Such regional issues shall include assuring
11 consistency in the treatment of employers who have worksites subject to
12 the requirements of this chapter in more than one jurisdiction.
13 Counties, cities, or towns adopting commute trip reduction plans may
14 enter into agreements through the interlocal cooperation act or by
15 resolution or ordinance as appropriate with other jurisdictions, local
16 transit agencies, or regional transportation planning organizations to
17 coordinate the development and implementation of such plans. Counties,
18 cities, or towns adopting a commute trip reduction plan shall review it
19 annually and revise it as necessary to be consistent with applicable
20 plans developed under RCW 36.70A.070.

21 (7) Each county, city, or town implementing a commute trip
22 reduction program shall, within thirty days submit a summary of its
23 plan along with certification of adoption to the commute trip reduction
24 task force established under RCW 70.94.537.

25 (8) Each county, city, or town implementing a commute trip
26 reduction program shall submit an annual progress report to the commute
27 trip reduction task force established under RCW 70.94.537. The report
28 shall be due July 1, 1994, and each July 1 thereafter through July 1,
29 2000. The report shall describe progress in attaining the applicable
30 commute trip reduction goals for each commute trip reduction zone and
31 shall highlight any problems being encountered in achieving the goals.
32 The information shall be reported in a form established by the commute
33 trip reduction task force.

34 (9) Any waivers or modifications of the requirements of a commute
35 trip reduction plan granted by a jurisdiction shall be submitted for
36 review to the commute trip reduction task force established under RCW
37 70.94.537. The commute trip reduction task force may not deny the
38 granting of a waiver or modification of the requirements of a commute

1 trip reduction plan by a jurisdiction but they may notify the
2 jurisdiction of any comments or objections.

3 (10) Each county, city, or town implementing a commute trip
4 reduction program shall count commute trips eliminated through work-at-
5 home options or alternate work schedules as one and two-tenths vehicle
6 trips eliminated for the purpose of meeting trip reduction goals.

7 (11) Plans implemented under this section shall not apply to
8 commute trips for seasonal agricultural employees.

9 (12) Plans implemented under this section shall not apply to
10 construction worksites when the expected duration of the construction
11 project is less than two years.

12 **Sec. 514.** RCW 70.94.537 and 1995 c 399 s 188 are each amended to
13 read as follows:

14 (1) A ~~((twenty-three))~~ twenty-two member state commute trip
15 reduction task force shall be established as follows:

16 ~~((The director of the state energy office or the director's~~
17 ~~designee who shall serve as chair;~~

18 ~~(b) The~~) secretary of the department of transportation or the
19 secretary's designee who shall serve as chair;

20 ~~((c))~~ (b) The director of the department of ecology or the
21 director's designee;

22 ~~((d))~~ (c) The director of the department of community, trade, and
23 economic development or the director's designee;

24 ~~((e))~~ (d) The director of the department of general
25 administration or the director's designee;

26 ~~((f))~~ (e) Three representatives from counties appointed by the
27 governor from a list of at least six recommended by the Washington
28 state association of counties;

29 ~~((g))~~ (f) Three representatives from cities and towns appointed
30 by the governor from a list of at least six recommended by the
31 association of Washington cities;

32 ~~((h))~~ (g) Three representatives from transit agencies appointed
33 by the governor from a list of at least six recommended by the
34 Washington state transit association;

35 ~~((i))~~ (h) Six representatives of employers at or owners of major
36 worksites in Washington appointed by the governor from a list of at
37 least twelve recommended by the association of Washington business; and

38 ~~((j))~~ (i) Three citizens appointed by the governor.

1 Members of the commute trip reduction task force shall serve
2 without compensation but shall be reimbursed for travel expenses as
3 provided in RCW 43.03.050 and 43.03.060. Members appointed by the
4 governor shall be compensated in accordance with RCW 43.03.220. The
5 task force has all powers necessary to carry out its duties as
6 prescribed by this chapter. The task force shall be dissolved on July
7 1, 2000.

8 (2) By March 1, 1992, the commute trip reduction task force shall
9 establish guidelines for commute trip reduction plans. The guidelines
10 are intended to ensure consistency in commute trip reduction plans and
11 goals among jurisdictions while fairly taking into account differences
12 in employment and housing density, employer size, existing and
13 anticipated levels of transit service, special employer circumstances,
14 and other factors the task force determines to be relevant. The
15 guidelines shall include:

16 (a) Criteria for establishing commute trip reduction zones;

17 (b) Methods and information requirements for determining base year
18 values of the proportion of single-occupant vehicle commute trips and
19 the commute trip vehicle miles traveled per employee and progress
20 toward meeting commute trip reduction plan goals;

21 (c) Model commute trip reduction ordinances;

22 (d) Methods for assuring consistency in the treatment of employers
23 who have worksites subject to the requirements of this chapter in more
24 than one jurisdiction;

25 (e) An appeals process by which major employers, who as a result of
26 special characteristics of their business or its locations would be
27 unable to meet the requirements of a commute trip reduction plan, may
28 obtain a waiver or modification of those requirements and criteria for
29 determining eligibility for waiver or modification;

30 (f) Methods to ensure that employers shall receive full credit for
31 the results of transportation demand management efforts and commute
32 trip reduction programs which have been implemented by major employers
33 prior to the base year;

34 (g) Alternative commute trip reduction goals for major employers
35 which cannot meet the goals of this chapter because of the unique
36 nature of their business; and

37 (h) Alternative commute trip reduction goals for major employers
38 whose worksites change and who contribute substantially to traffic
39 congestion in a trip reduction zone.

1 (3) The task force shall assess the commute trip reduction options
2 available to employers other than major employers and make
3 recommendations to the legislature by October 1, 1992. The
4 recommendations shall include the minimum size of employer who shall be
5 required to implement trip reduction programs and the appropriate
6 methods those employers can use to accomplish trip reduction goals.

7 (4) The task force shall review progress toward implementing
8 commute trip reduction plans and programs and the costs and benefits of
9 commute trip reduction plans and programs and shall make
10 recommendations to the legislature by December 1, 1995, and December 1,
11 1999. In assessing the costs and benefits, the task force shall
12 consider the costs of not having implemented commute trip reduction
13 plans and programs. The task force shall examine other transportation
14 demand management programs nationally and incorporate its findings into
15 its recommendations to the legislature. The recommendations shall
16 address the need for continuation, modification, or termination or any
17 or all requirements of this chapter. The recommendations made December
18 1, 1995, shall include recommendations regarding extension of the
19 requirements of this chapter to employers with fifty or more full-time
20 employees at a single worksite who begin their regular work day between
21 6:00 a.m. and 9:00 a.m. on weekdays for more than twelve continuous
22 months.

23 **Sec. 515.** RCW 70.94.541 and 1991 c 202 s 16 are each amended to
24 read as follows:

25 (1) A technical assistance team shall be established under the
26 direction of the (~~state energy office~~) department of transportation
27 and include representatives of the department(~~s~~) of (~~transportation~~
28 ~~and~~) ecology. The team shall provide staff support to the commute
29 trip reduction task force in carrying out the requirements of RCW
30 70.94.537 and to the department of general administration in carrying
31 out the requirements of RCW 70.94.551.

32 (2) The team shall provide technical assistance to counties,
33 cities, and towns, the department of general administration, other
34 state agencies, and other employers in developing and implementing
35 commute trip reduction plans and programs. The technical assistance
36 shall include: (a) Guidance in determining base and subsequent year
37 values of single-occupant vehicle commuting proportion and commute trip
38 reduction vehicle miles traveled to be used in determining progress in

1 attaining plan goals; (b) developing model plans and programs
2 appropriate to different situations; and (c) providing consistent
3 training and informational materials for the implementation of commute
4 trip reduction programs. Model plans and programs, training and
5 informational materials shall be developed in cooperation with
6 representatives of local governments, transit agencies, and employers.

7 (3) In carrying out this section the (~~state energy office and~~)
8 department of transportation may contract with state-wide associations
9 representing cities, towns, and counties to assist cities, towns, and
10 counties in implementing commute trip reduction plans and programs.

11 **Sec. 516.** RCW 70.94.551 and 1991 c 202 s 19 are each amended to
12 read as follows:

13 (1) The director of general administration, with the concurrence of
14 an interagency task force established for the purposes of this section,
15 shall coordinate a commute trip reduction plan for state agencies which
16 are phase 1 major employers by January 1, 1993. The task force shall
17 include representatives of the (~~state energy office, the~~) departments
18 of transportation and ecology and such other departments as the
19 director of general administration determines to be necessary to be
20 generally representative of state agencies. The state agency plan
21 shall be consistent with the requirements of RCW 70.94.527 and
22 70.94.531 and shall be developed in consultation with state employees,
23 local and regional governments, local transit agencies, the business
24 community, and other interested groups. The plan shall consider and
25 recommend policies applicable to all state agencies including but not
26 limited to policies regarding parking and parking charges, employee
27 incentives for commuting by other than single-occupant automobiles,
28 flexible and alternative work schedules, alternative worksites, and the
29 use of state-owned vehicles for car and van pools. The plan shall also
30 consider the costs and benefits to state agencies of achieving commute
31 trip reductions and consider mechanisms for funding state agency
32 commute trip reduction programs. The department shall, within thirty
33 days, submit a summary of its plan along with certification of adoption
34 to the commute trip reduction task force established under RCW
35 70.94.537.

36 (2) Not more than three months after the adoption of the commute
37 trip reduction plan, each state agency shall, for each facility which
38 is a major employer, develop a commute trip reduction program. The

1 program shall be designed to meet the goals of the commute trip
2 reduction plan of the county, city, or town or, if there is no local
3 commute trip reduction plan, the state. The program shall be
4 consistent with the policies of the state commute trip reduction plan
5 and RCW 70.94.531. The agency shall submit a description of that
6 program to the local jurisdiction implementing a commute trip reduction
7 plan or, if there is no local commute trip reduction plan, to the
8 department of general administration. The program shall be implemented
9 not more than three months after submission to the department. Annual
10 reports required in RCW 70.94.531(2)(c) shall be submitted to the local
11 jurisdiction implementing a commute trip reduction plan and to the
12 department of general administration. An agency which is not meeting
13 the applicable commute trip reduction goals shall, to the extent
14 possible, modify its program to comply with the recommendations of the
15 local jurisdiction or the department of general administration.

16 (3) State agencies sharing a common location may develop and
17 implement a joint commute trip reduction program or may delegate the
18 development and implementation of the commute trip reduction program to
19 the department of general administration.

20 (4) The department of general administration in consultation with
21 the state technical assistance team shall review the initial commute
22 trip reduction program of each state agency subject to the commute trip
23 reduction plan for state agencies to determine if the program is likely
24 to meet the applicable commute trip reduction goals and notify the
25 agency of any deficiencies. If it is found that the program is not
26 likely to meet the applicable commute trip reduction goals, the team
27 will work with the agency to modify the program as necessary.

28 (5) For each agency subject to the state agency commute trip
29 reduction plan, the department of general administration in
30 consultation with the technical assistance team shall annually review
31 progress toward meeting the applicable commute trip reduction goals.
32 If it appears an agency is not meeting or is not likely to meet the
33 applicable commute trip reduction goals, the team shall work with the
34 agency to make modifications to the commute trip reduction program.

35 (6) The department of general administration shall submit an annual
36 progress report for state agencies subject to the state agency commute
37 trip reduction plan to the commute trip reduction task force
38 established under RCW 70.94.537. The report shall be due April 1,
39 1993, and each April 1 through 2000. The report shall report progress

1 in attaining the applicable commute trip reduction goals for each
2 commute trip reduction zone and shall highlight any problems being
3 encountered in achieving the goals. The information shall be reported
4 in a form established by the commute trip reduction task force.

5 **Sec. 517.** RCW 70.94.960 and 1991 c 199 s 218 are each amended to
6 read as follows:

7 The department may disburse matching grants from funds provided by
8 the legislature from the air pollution control account, created in RCW
9 70.94.015, to units of local government to partially offset the
10 additional cost of purchasing "clean fuel" and/or operating "clean-fuel
11 vehicles" provided that such vehicles are used for public transit.
12 Publicly owned school buses are considered public transit for the
13 purposes of this section. The department may also disburse grants to
14 vocational-technical institutes for the purpose of establishing
15 programs to certify clean-fuel vehicle mechanics. The department may
16 also distribute grants to (~~the state energy office~~) Washington State
17 University for the purpose of furthering the establishment of clean
18 fuel refueling infrastructure.

19 **Sec. 518.** RCW 70.120.210 and 1991 c 199 s 212 are each amended to
20 read as follows:

21 By July 1, 1992, the department shall develop, in cooperation with
22 the departments of general administration and transportation, and (~~the~~
23 ~~state energy office~~) Washington State University, aggressive clean-
24 fuel performance and clean-fuel vehicle emissions specifications
25 including clean-fuel vehicle conversion equipment. To the extent
26 possible, such specifications shall be equivalent for all fuel types.
27 In developing such specifications the department shall consider the
28 requirements of the clean air act and the findings of the environmental
29 protection agency, other states, the American petroleum institute, the
30 gas research institute, and the motor vehicles manufacturers
31 association.

32 **Sec. 519.** RCW 70.120.220 and 1991 c 199 s 215 are each amended to
33 read as follows:

34 The department, in cooperation with the departments of general
35 administration and transportation, the utilities and transportation
36 commission, and (~~the state energy office~~) Washington State

1 University, shall biennially prepare a report to the legislature
2 starting July 1, 1992, on:

3 (1) Progress of clean fuel and clean-fuel vehicle programs in
4 reducing automotive emissions;

5 (2) Recommendations for enhancing clean-fuel distribution systems;

6 (3) Efforts of the state, units of local government, and the
7 private sector to evaluate and utilize "clean fuel" or "clean-fuel
8 vehicles"; and

9 (4) Recommendations for changes in the existing program to make it
10 more effective and, if warranted, for expansion of the program.

11 **Sec. 520.** RCW 80.28.260 and 1990 c 2 s 9 are each amended to read
12 as follows:

13 (1) The commission shall adopt a policy allowing an incentive rate
14 of return on investment (a) for payments made under RCW 19.27A.035 and
15 (b) for programs that improve the efficiency of energy end use if
16 priority is given to senior citizens and low-income citizens in the
17 course of carrying out such programs. The incentive rate of return on
18 investments set forth in this subsection is established by adding an
19 increment of two percent to the rate of return on common equity
20 permitted on the company's other investments.

21 (2) The commission shall consider and may adopt a policy allowing
22 an incentive rate of return on investment in additional programs to
23 improve the efficiency of energy end use or other incentive policies to
24 encourage utility investment in such programs.

25 (3) The commission shall consider and may adopt other policies to
26 protect a company from a reduction of short-term earnings that may be
27 a direct result of utility programs to increase the efficiency of
28 energy use. These policies may include allowing a periodic rate
29 adjustment for investments in end use efficiency or allowing changes in
30 price structure designed to produce additional new revenue.

31 ~~((4) The commission may adopt a policy allowing the recovery of a
32 utility's expenses incurred under RCW 19.27A.055.))~~

33 **Sec. 521.** RCW 82.35.020 and 1979 ex.s. c 191 s 2 are each amended
34 to read as follows:

35 As used in this chapter, the following terms have the meanings
36 indicated unless the context clearly requires otherwise.

1 (1) "Cogeneration" means the sequential generation of electrical or
2 mechanical power and useful heat from the same primary energy source or
3 fuel.

4 (2) "Cogeneration facility" means any machinery, equipment,
5 structure, process, or property, or any part thereof, installed or
6 acquired for the primary purpose of cogeneration by a person or
7 corporation other than an electric utility.

8 (3) "Certificate" means a cogeneration tax credit certificate
9 granted by the department.

10 (4) "Cost" means only the cost of a cogeneration facility which is
11 in addition to the cost that the applicant otherwise would incur to
12 meet the applicant's demands for useful heat. "Cost" does not include
13 expenditures which are offset by cost savings, including but not
14 limited to savings resulting from early retirement of existing
15 equipment.

16 (5) "Department" means the department of revenue.

17 (6) "Electric utility" means any person, corporation, or
18 governmental subdivision authorized and operating under the
19 Constitution and laws of the state of Washington which is primarily
20 engaged in the generation or sale of electric energy.

21 (~~(7) "Office" means the state energy office.~~)

22 **Sec. 522.** RCW 82.35.080 and 1979 ex.s. c 191 s 8 are each amended
23 to read as follows:

24 (1) Except as provided in subsection (2) of this section, the
25 department shall revoke any certificate issued under this chapter if it
26 finds that any of the following have occurred with respect to the
27 certificate:

28 (a) The certificate was obtained by fraud or deliberate
29 misrepresentation;

30 (b) The certificate was obtained through the use of inaccurate data
31 but without any intention to commit fraud or misrepresentation;

32 (c) The facility was constructed or operated in violation of any
33 provision of this chapter or provision imposed by the department as a
34 condition of certification; or

35 (d) The cogeneration facility is no longer capable of being
36 operated for the primary purpose of cogeneration.

37 (2) If the department finds that there are few inaccuracies under
38 subsection (1)(b) of this section and that cumulatively they are

1 insignificant in terms of the cost or operation of the facility or that
2 the inaccurate data is not attributable to carelessness or negligence
3 and its inclusion was reasonable under the circumstances, then the
4 department may provide for the continuance of the certificate and
5 whatever modification it considers in the public interest.

6 (3) Any person, firm, corporation, or organization that obtains a
7 certificate revoked under this section shall be liable for the total
8 amount of money saved by claiming the credits and exemptions provided
9 under this chapter and RCW 84.36.485. The total amount of the credits
10 shall be collected as delinquent business and occupation taxes, and the
11 total of the exemptions shall be collected and distributed as
12 delinquent property taxes. Interest shall accrue on the amounts of the
13 credits and exemptions from the date the taxes were otherwise due.

14 (4) The ((office)) department of community, trade, and economic
15 development shall provide technical assistance to the department in
16 carrying out its responsibilities under this section.

17 **Sec. 523.** RCW 90.03.247 and 1994 c 264 s 82 are each amended to
18 read as follows:

19 Whenever an application for a permit to make beneficial use of
20 public waters is approved relating to a stream or other water body for
21 which minimum flows or levels have been adopted and are in effect at
22 the time of approval, the permit shall be conditioned to protect the
23 levels or flows. No agency may establish minimum flows and levels or
24 similar water flow or level restrictions for any stream or lake of the
25 state other than the department of ecology whose authority to establish
26 is exclusive, as provided in chapter 90.03 RCW and RCW 90.22.010 and
27 90.54.040. The provisions of other statutes, including but not limited
28 to RCW 75.20.100 and chapter 43.21C RCW, may not be interpreted in a
29 manner that is inconsistent with this section. In establishing such
30 minimum flows, levels, or similar restrictions, the department shall,
31 during all stages of development by the department of ecology of
32 minimum flow proposals, consult with, and carefully consider the
33 recommendations of, the department of fish and wildlife, the ((state
34 energy—office)) department of community, trade, and economic
35 development, the department of agriculture, and representatives of the
36 affected Indian tribes. Nothing herein shall preclude the department
37 of fish and wildlife, the ((energy—office)) department of community,
38 trade, and economic development, or the department of agriculture from

1 presenting its views on minimum flow needs at any public hearing or to
2 any person or agency, and the department of fish and wildlife, the
3 (~~energy office~~) department of community, trade, and economic
4 development, and the department of agriculture are each empowered to
5 participate in proceedings of the federal energy regulatory commission
6 and other agencies to present its views on minimum flow needs.

7 NEW SECTION. **Sec. 524.** The following acts or parts of acts are
8 each repealed:

- 9 (1) RCW 43.21F.035 and 1990 c 12 s 1 & 1981 c 295 s 3;
- 10 (2) RCW 43.21F.065 and 1987 c 330 s 502 & 1981 c 295 s 8;
- 11 (3) RCW 39.35C.120 and 1991 c 201 s 13;
- 12 (4) RCW 41.06.081 and 1981 c 295 s 10;
- 13 (5) RCW 43.41.175 and 1986 c 325 s 4; and
- 14 (6) RCW 19.27A.055 and 1990 c 2 s 6.

15 **PART VI**
16 **MISCELLANEOUS**

17 NEW SECTION. **Sec. 601.** The state shall offer the following
18 services to state employees affected by the elimination of the
19 Washington state energy office:

- 20 (1) Placement in the reduction in force transition pool;
- 21 (2) Payment of one hundred fifty dollars per month per employee for
22 health benefits purchased under the federal consolidated omnibus budget
23 reconciliation act (COBRA) for a period not to exceed one year;
- 24 (3) Placement in the Washington management services clearinghouse
25 register for employees in the Washington management service;
- 26 (4) Career transition services through the department of personnel;
- 27 (5) Up to thirty weeks of unemployment benefits for qualifying
28 employees; and
- 29 (6) Dislocated worker training for employees in positions unique to
30 the energy industry.

31 NEW SECTION. **Sec. 602.** Part headings used in this act do not
32 constitute part of the law.

1 NEW SECTION. **Sec. 603.** This act shall take effect July 1, 1996.

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