
THIRD SUBSTITUTE HOUSE BILL 2009

State of Washington

54th Legislature

1996 Regular Session

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

Read first time 01/25/96.

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.0, 39.35C.070, 39.35C.080, 39.35C.090, 39.35C.100,
5 39.35C.110, 39.35C.130, 19.27.190, 19.27A.020, 28A.515.320, 43.06.115,
6 43.19.680, 43.21G.010, 43.31.621, 43.88.195, 43.140.040, 43.140.050,
7 47.06.110, 70.94.527, 70.94.537, 70.94.541, 70.94.551, 70.94.960,
8 70.120.210, 70.120.220, 80.28.260, 82.35.020, 82.35.080, and 90.03.247;
9 reenacting and amending RCW 80.50.030 and 42.17.2401; adding a new
10 section to chapter 43.330 RCW; adding new sections to chapter 28B.30
11 RCW; adding a new section to chapter 47.01 RCW; adding a new section to
12 chapter 43.19 RCW; creating new sections; repealing RCW 43.21F.035,
13 43.21F.065, 39.35C.060, 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~~
16 ~~or its statutory successor~~) department of community, trade, and
17 economic development shall obtain the necessary information to make the
18 distribution of funds on such a 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 (2) The following classifications, positions, and employees of
14 institutions of higher education and related boards are hereby exempted
15 from coverage of this chapter:

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

34 (b) Student, part-time, or temporary employees, and part-time
35 professional consultants, as defined by the Washington personnel
36 resources board, employed by institutions of higher education and
37 related boards;

38 (c) The governing board of each institution, and related boards,
39 may also exempt from this chapter classifications involving research

1 activities, counseling of students, extension or continuing education
2 activities, graphic arts or publications activities requiring
3 prescribed academic preparation or special training as determined by
4 the board: PROVIDED, That no nonacademic employee engaged in office,
5 clerical, maintenance, or food and trade services may be exempted by
6 the board under this provision;

7 (d) Printing craft employees in the department of printing at the
8 University of Washington.

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

34 The salary and fringe benefits of all positions presently or
35 hereafter exempted except for the chief executive officer of each
36 agency, full-time members of boards and commissions, administrative
37 assistants and confidential secretaries in the immediate office of an
38 elected state official, and the personnel listed in subsections (1) (j)

1 through (v) and (2) of this section, shall be determined by the
2 Washington personnel resources board.

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

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

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

17 PART II

18 FUNCTIONS OF WASHINGTON STATE UNIVERSITY

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

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

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

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

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

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

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

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

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

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

38 (5) Washington State University shall appoint existing state energy
39 office employees to positions to perform the duties and functions

1 transferred. Any future vacant or new positions will be filled using
2 Washington State University's standard hiring procedures.

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

5 In addition to the powers and duties transferred, Washington State
6 University shall have the authority to establish administrative units
7 as may be necessary to coordinate either energy education or energy
8 program delivery programs, or both, and to revise, restructure,
9 redirect, or eliminate programs transferred to Washington State
10 University based on available funding or to better serve the people and
11 businesses of Washington state.

12 **PART III**

13 **FUNCTIONS OF THE DEPARTMENT OF TRANSPORTATION**

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

16 (1) All powers, duties, and functions of the state energy office
17 pertaining to the commute trip reduction program are transferred to the
18 department of transportation. All references to the director or the
19 state energy office in the Revised Code of Washington shall be
20 construed to mean the secretary or the department of transportation
21 when referring to the functions transferred in this section.

22 (2)(a) All reports, documents, surveys, books, records, files,
23 papers, or written material in the possession of the state energy
24 office pertaining to the powers, functions, and duties transferred
25 shall be delivered to the custody of the department of transportation.
26 All cabinets, furniture, office equipment, software, data base, motor
27 vehicles, and other tangible property employed by the state energy
28 office in carrying out the powers, functions, and duties transferred
29 shall be made available to the department of transportation. All
30 funds, credits, or other assets held in connection with the powers,
31 functions, and duties transferred shall be assigned to the department
32 of transportation.

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

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

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

15 (4) All rules and all pending business before the state energy
16 office pertaining to the powers, functions, and duties transferred
17 shall be continued and acted upon by the department of transportation.
18 All existing contracts and obligations, excluding personnel contracts
19 and obligations, shall remain in full force and shall be performed by
20 the department of transportation.

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

24 (6) If apportionments of budgeted funds are required because of the
25 transfers directed by this section, the director of financial
26 management shall certify the apportionments to the agencies affected,
27 the state auditor, and the state treasurer. Each of these shall make
28 the appropriate transfer and adjustments in funds and appropriation
29 accounts and equipment records in accordance with the certification.

30 **PART IV**

31 **FUNCTIONS OF THE DEPARTMENT OF GENERAL ADMINISTRATION**

32 NEW SECTION. **Sec. 401.** A new section is added to chapter 43.19
33 RCW to read as follows:

34 (1) All powers, duties, and functions of the state energy office
35 pertaining to energy efficiency in public buildings are transferred to
36 the department of general administration. All references to the
37 director or the state energy office in the Revised Code of Washington

1 shall be construed to mean the director or the department of general
2 administration when referring to the functions transferred in this
3 section.

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

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

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

25 (3) Within funds available, employees of the state energy office
26 whose primary responsibility is performing the powers, functions, and
27 duties pertaining to energy efficiency in public buildings are
28 transferred to the jurisdiction of the department of general
29 administration. All employees classified under chapter 41.06 RCW, the
30 state civil service law, are assigned to the department of general
31 administration to perform their usual duties upon the same terms as
32 formerly, without any loss of rights, subject to any action that may be
33 appropriate thereafter in accordance with the laws and rules governing
34 state civil service.

35 (4) All rules and all pending business before the state energy
36 office pertaining to the powers, functions, and duties transferred
37 shall be continued and acted upon by the department of general
38 administration. All existing contracts and obligations, excluding

1 personnel contracts and obligations, shall remain in full force and
2 shall be performed by the department of general administration.

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

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

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

14 For the purposes of this chapter the following words and phrases
15 shall have the following meanings unless the context clearly requires
16 otherwise:

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

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

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

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

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

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

31 (7) "Life-cycle cost" means the initial cost and cost of operation
32 of a major facility over its economic life. This shall be calculated
33 as the initial cost plus the operation, maintenance, and energy costs
34 over its economic life, reflecting anticipated increases in these costs
35 discounted to present value at the current rate for borrowing public
36 funds, as determined by the office of financial management. The energy
37 cost projections used shall be those provided by the (~~state energy~~

1 office)) department. The ((office)) department shall update these
2 projections at least every two years.

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

5 (a) The coordination and positioning of a major facility on its
6 physical site;

7 (b) The amount and type of fenestration employed in a major
8 facility;

9 (c) The amount of insulation incorporated into the design of a
10 major facility;

11 (d) The variable occupancy and operating conditions of a major
12 facility; and

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

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

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

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

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

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

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

34 (11) "Renewable energy systems" means methods of facility design
35 and construction and types of equipment for the utilization of
36 renewable energy sources including, but not limited to, hydroelectric
37 power, active or passive solar space heating or cooling, domestic solar
38 water heating, windmills, waste heat, biomass and/or refuse-derived
39 fuels, photovoltaic devices, and geothermal energy.

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

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

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

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

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

23 (1) Address energy considerations during the planning phase of the
24 project;

25 (2) Identify energy components and system alternatives including
26 renewable energy systems and cogeneration applications prior to
27 commencing the energy consumption analysis;

28 (3) Identify simplified methods to assure the lowest life-cycle
29 cost alternatives for selected buildings with between twenty-five
30 thousand and one hundred thousand square feet of usable floor area;

31 (4) Establish times during the design process for preparation,
32 review, and approval or disapproval of the life-cycle cost analysis;

33 (5) Specify the assumptions to be used for escalation and inflation
34 rates, equipment service lives, economic building lives, and
35 maintenance costs;

36 (6) Determine life-cycle cost analysis format and submittal
37 requirements to meet the provisions of chapter 201, Laws of 1991;

38 (7) Provide for review and approval of life-cycle cost analysis.

1 **Sec. 404.** RCW 39.35.060 and 1991 c 201 s 16 are each amended to
2 read as follows:

3 The (~~energy office~~) department may impose fees upon affected
4 public agencies for the review of life-cycle cost analyses. The fees
5 shall be deposited in the energy efficiency services account
6 established in RCW 39.35C.110. The purpose of the fees is to recover
7 the costs by the (~~office~~) department for review of the analyses. The
8 (~~office~~) department shall set fees at a level necessary to recover
9 all of its costs related to increasing the energy efficiency of state-
10 supported new construction. The fees shall not exceed one-tenth of one
11 percent of the total cost of any project or exceed two thousand dollars
12 for any project unless mutually agreed to. The (~~office~~) department
13 shall provide detailed calculation ensuring that the energy savings
14 resulting from its review of life-cycle cost analysis justify the costs
15 of performing that review.

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

18 Unless the context clearly requires otherwise, the definitions in
19 this section apply throughout this chapter.

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

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

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

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

1 (5) "Energy efficiency project" means a conservation or
2 cogeneration project.

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

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

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

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

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

17 (~~(10)~~) (11) "State agency" means every state office or
18 department, whether elective or appointive, state institutions of
19 higher education, and all boards, commissions, or divisions of state
20 government, however designated.

21 (~~(11)~~) (12) "State facility" means a building or structure, or a
22 group of buildings or structures at a single site, owned by a state
23 agency.

24 (~~(12)~~) (13) "Utility" means privately or publicly owned electric
25 and gas utilities, electric cooperatives and mutuals, whether located
26 within or without Washington state.

27 (~~(13)~~) (14) "Local utility" means the utility or utilities in
28 whose service territory a public facility is located.

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

31 (1) Each (~~state agency and school district~~) public agency shall
32 implement cost-effective conservation improvements and maintain
33 efficient operation of its facilities in order to minimize energy
34 consumption and related environmental impacts and reduce operating
35 costs.

36 (2) The (~~energy office~~) department shall assist (~~state agencies~~
37 ~~and school districts~~) public agencies in identifying, evaluating, and

1 implementing cost-effective conservation projects at their facilities.

2 The assistance shall include the following:

3 (a) Notifying ~~((state agencies and school districts))~~ public
4 agencies of their responsibilities under this chapter;

5 (b) Apprising ~~((state agencies and school districts))~~ public
6 agencies of opportunities to develop and finance such projects;

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

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

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

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

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

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

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

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

35 (2) A local utility shall be offered the initial opportunity to
36 participate in the development of conservation projects in the
37 following manner:

1 (a) Before initiating projects in a local utility service
2 territory, the (~~energy office~~) department shall notify the local
3 utility in writing, on an annual basis, of public facilities in the
4 local utility's service territory at which the (~~energy office~~)
5 department anticipates cost-effective conservation projects will be
6 developed.

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

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

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

31 (1) It is the intent of this chapter that the state(~~, state~~
32 ~~agencies, and school districts~~) and public agencies are compensated
33 fairly for the energy savings provided to utilities and be allowed to
34 participate on an equal basis in any utility conservation program,
35 bidding, or solicitation process. (~~State agencies and school~~
36 ~~districts~~) public agencies shall not receive preferential treatment.
37 For the purposes of this section, any type of compensation from a
38 utility or the Bonneville power administration intended to achieve

1 reductions or efficiencies in energy use which are cost-effective to
2 the utility or the Bonneville power administration shall be regarded as
3 a sale of energy savings. Such compensation may include credits to the
4 energy bill, low or no interest loans, rebates, or payment per unit of
5 energy saved. The ~~((energy office))~~ department shall, in coordination
6 with utilities, the Bonneville power administration, ~~((state agencies,~~
7 ~~and school districts))~~ and public agencies, facilitate the sale of
8 energy savings at public facilities including participation in any
9 competitive bidding or solicitation which has been agreed to by the
10 ~~((state agency or school district))~~ public agency. Energy savings may
11 only be sold to local utilities or, under conditions specified in this
12 section, to the Bonneville power administration. The ~~((energy office))~~
13 department shall not attempt to sell energy savings occurring in one
14 utility service territory to a different utility. Nothing in this
15 chapter mandates that utilities purchase the energy savings.

16 (2) To ensure an equitable allocation of benefits to the state~~((,~~
17 ~~state agencies, and school districts))~~ and to public agencies, the
18 following conditions shall apply to transactions between utilities or
19 the Bonneville power administration and ~~((state agencies or school~~
20 ~~districts))~~ public agencies for sales of energy savings:

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

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

28 (c) Before making a decision under (d) of this subsection, the
29 ~~((energy office))~~ department shall review the proposed transaction for
30 its technical and economic feasibility, the adequacy and reasonableness
31 of procedures proposed for verification of project or program
32 performance, the degree of certainty of benefits to the state~~((,~~
33 ~~agency, or school district))~~ or to the public agency, the degree of
34 risk assumed by the state or ~~((school district))~~ by the public agency,
35 the benefits offered to the state~~((,~~
36 ~~state agency, or school district))~~ or to the public agency and such other factors as the ~~((energy office))~~
37 department determines to be prudent.

38 (d) The ~~((energy office))~~ department shall approve a transaction
39 unless it finds, pursuant to the review in (c) of this subsection, that

1 the transaction would not result in an equitable allocation of costs
2 and benefits to the state(~~(, state agency, or school district))~~ or to
3 the public agency, in which case the transaction shall be disapproved.

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

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

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

27 In addition to any other authorities conferred by law:

28 (1) The (~~energy office~~) department, with the consent of the
29 (~~state agency or school district~~) public agency responsible for a
30 facility, a state or regional university acting independently, and any
31 other state agency acting through the department of general
32 administration or as otherwise authorized by law, may:

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

35 (b) Contract for energy services, including performance-based
36 contracts;

1 (c) Contract to sell energy savings from a conservation project at
2 public facilities to local utilities or the Bonneville power
3 administration.

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

9 (3) A school district may:

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

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

13 (c) Contract to sell energy savings from energy conservation
14 projects at school district facilities to local utilities or the
15 Bonneville power administration directly or to local utilities or the
16 Bonneville power administration through third parties.

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

20 **Sec. 410.** RCW 39.35C.070 and 1991 c 201 s 8 are each amended to
21 read as follows:

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

26 (2) To assist state agencies in identifying, evaluating, and
27 developing potential cogeneration projects at their facilities, the
28 ((energy office)) department shall notify state agencies of their
29 responsibilities under this chapter; apprise them of opportunities to
30 develop and finance such projects; and provide technical and analytical
31 support. The ((energy office)) department shall recover costs for such
32 assistance through written agreements, including reimbursement from
33 third parties participating in such projects, for any costs and
34 expenses incurred in providing such assistance.

35 (3)(a) The ((energy office)) department shall identify priorities
36 for cogeneration projects at state facilities, and, where such projects
37 are initially deemed desirable by the ((energy office)) department and
38 the appropriate state agency, the ((energy office)) department shall

1 notify the local utility serving the state facility of its intent to
2 conduct a feasibility study at such facility. The ((energy office))
3 department shall consult with the local utility and provide the local
4 utility an opportunity to participate in the development of the
5 feasibility study for the state facility it serves.

6 (b) If the local utility has an interest in participating in the
7 feasibility study, it shall notify the ((energy office)) department and
8 the state agency whose facility or facilities it serves within sixty
9 days of receipt of notification pursuant to (a) of this subsection as
10 to the nature and scope of its desired participation. The ((energy
11 office)) department, state agency, and local utility shall negotiate
12 the responsibilities, if any, of each in conducting the feasibility
13 study, and these responsibilities shall be specified in a written
14 agreement.

15 (c) If a local utility identifies a potential cogeneration project
16 at a state facility for which it intends to conduct a feasibility
17 study, it shall notify the ((energy office)) department and the
18 appropriate state agency. The ((energy office)) department, state
19 agency, and local utility shall negotiate the responsibilities, if any,
20 of each in conducting the feasibility study, and these responsibilities
21 shall be specified in a written agreement. Nothing in this section
22 shall preclude a local utility from conducting an independent
23 assessment of a potential cogeneration project at a state facility.

24 (d) Agreements written pursuant to (a) and (b) of this subsection
25 shall include a provision for the recovery of costs incurred by a local
26 utility in performing a feasibility study in the event such utility
27 does not participate in the development of the cogeneration project.
28 If the local utility does participate in the cogeneration project
29 through energy purchase, project development or ownership, recovery of
30 the utility's costs may be deferred or provided for through negotiation
31 on agreements for energy purchase, project development or ownership.

32 (e) If the local utility declines participation in the feasibility
33 study, the ((energy office)) department and the state agency may
34 receive and solicit proposals to conduct the feasibility study from
35 other parties. Participation of these other parties shall also be
36 secured and defined by a written agreement which may include the
37 provision for reimbursement of costs incurred in the formulation of the
38 feasibility study.

1 (4) The feasibility study shall include consideration of regional
2 and local utility needs for power, the consistency of the proposed
3 cogeneration project with the state energy strategy, the cost and
4 certainty of fuel supplies, the value of electricity produced, the
5 capability of the state agency to own and/or operate such facilities,
6 the capability of utilities or third parties to own and/or operate such
7 facilities, requirements for and costs of standby sources of power,
8 costs associated with interconnection with the local electric utility's
9 transmission system, the capability of the local electric utility to
10 wheel electricity generated by the facility, costs associated with
11 obtaining wheeling services, potential financial risks and losses to
12 the state and/or state agency, measures to mitigate the financial risk
13 to the state and/or state agency, and benefits to the state and to the
14 state agency from a range of design configurations, ownership, and
15 operation options.

16 (5) Based upon the findings of the feasibility study, the ((energy
17 office)) department and the state agency shall determine whether a
18 cogeneration project will be cost-effective and whether development of
19 a cogeneration project should be pursued. This determination shall be
20 made in consultation with the local utility or, if the local utility
21 had not participated in the development of the feasibility study, with
22 any third party that may have participated in the development of the
23 feasibility study.

24 (a) Recognizing the local utility's expertise, knowledge, and
25 ownership and operation of the local utility systems, the ((energy
26 office)) department and the state agency shall have the authority to
27 negotiate directly with the local utility for the purpose of entering
28 into a sole source contract to develop, own, and/or operate the
29 cogeneration facility. The contract may also include provisions for
30 the purchase of electricity or thermal energy from the cogeneration
31 facility, the acquisition of a fuel source, and any financial
32 considerations which may accrue to the state from ownership and/or
33 operation of the cogeneration facility by the local utility.

34 (b) The ((energy office)) department may enter into contracts
35 through competitive negotiation under this subsection for the
36 development, ownership, and/or operation of a cogeneration facility.
37 In determining an acceptable bid, the ((energy office)) department and
38 the state agency may consider such factors as technical knowledge,
39 experience, management, staff, or schedule, as may be necessary to

1 achieve economical construction or operation of the project. The
2 selection of a developer or operator of a cogeneration facility shall
3 be made in accordance with procedures for competitive bidding under
4 chapter 43.19 RCW.

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

8 (6)(a) The state may own and/or operate a cogeneration project at
9 a state facility. However, unless the cogeneration project is
10 determined to be cost-effective, based on the findings of the
11 feasibility study, the ((~~energy office~~)) department and state agency
12 shall not pursue development of the project as a state-owned facility.
13 If the project is found to be cost-effective, and the ((~~energy office~~))
14 department and the state agency agree development of the cogeneration
15 project should be pursued as a state-owned and/or operated facility,
16 the ((~~energy office~~)) department shall assist the state agency in the
17 preparation of a finance and development plan for the cogeneration
18 project. Any such plan shall fully account for and specify all costs
19 to the state for developing and/or operating the cogeneration facility.

20 (b) It is the general intent of this chapter that cogeneration
21 projects developed and owned by the state will be sized to the
22 projected thermal energy load of the state facility over the useful
23 life of the project. The principal purpose and use of such projects is
24 to supply thermal energy to a state facility and not primarily to
25 develop generating capacity for the sale of electricity. For state-
26 owned projects with electricity production in excess of projected
27 thermal requirements, the ((~~energy office~~)) department shall seek and
28 obtain legislative appropriation and approval for development. Nothing
29 in chapter 201, Laws of 1991 shall be construed to authorize any state
30 agency to sell electricity or thermal energy on a retail basis.

31 (7) When a cogeneration facility will be developed, owned, and/or
32 operated by a state agency or third party other than the local serving
33 utility, the ((~~energy office~~)) department and the state agency shall
34 negotiate a written agreement with the local utility. Elements of such
35 an agreement shall include provisions to ensure system safety,
36 provisions to ensure reliability of any interconnected operations
37 equipment necessary for parallel operation and switching equipment
38 capable of isolating the generation facility, the provision of and
39 reimbursement for standby services, if required, and the provision of

1 and reimbursement for wheeling electricity, if the provision of such
2 has been agreed to by the local utility.

3 (8) The state may develop and own a thermal energy distribution
4 system associated with a cogeneration project for the principal purpose
5 of distributing thermal energy at the state facility. If thermal
6 energy is to be sold outside the state facility, the state may only
7 sell the thermal energy to a utility.

8 **Sec. 411.** RCW 39.35C.080 and 1991 c 201 s 9 are each amended to
9 read as follows:

10 It is the intention of chapter 201, Laws of 1991 that the state and
11 its agencies are compensated fairly for the energy provided to
12 utilities from cogeneration at state facilities. Such compensation may
13 include revenues from sales of electricity or thermal energy to
14 utilities, lease of state properties, and value of thermal energy
15 provided to the facility. It is also the intent of chapter 201, Laws
16 of 1991 that the state and its agencies be accorded the opportunity to
17 compete on a fair and reasonable basis to fulfill a utility's new
18 resource acquisition needs when selling the energy produced from
19 cogeneration projects at state facilities through energy purchase
20 agreements.

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

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

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

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

35 (b) The (~~energy office~~) department and the state agency shall
36 work together throughout the planning and negotiation process for
37 energy purchase agreements, unless the (~~energy office~~) department

1 determines that its participation will not further the purposes of this
2 section.

3 (c) Before approving an energy purchase agreement, the ((energy
4 office)) department shall review the proposed agreement for its
5 technical and economic feasibility, the degree of certainty of
6 benefits, the degree of financial risk assumed by the state and/or the
7 state agency, the benefits offered to the state and/or state agency,
8 and other such factors as the ((energy-office)) department deems
9 prudent. The ((energy-office)) department shall approve an energy
10 purchase agreement unless it finds that such an agreement would not
11 result in an equitable allocation of costs and benefits, in which case
12 the transaction shall be disapproved.

13 (3)(a) The state or state agency shall comply with and shall be
14 bound by applicable avoided cost schedules, electric power wheeling
15 charges, interconnection requirements, utility tariffs, and regulatory
16 provisions to the same extent it would be required to comply and would
17 be bound if it were a private citizen. The state shall neither seek
18 regulatory advantage, nor change regulations, regulatory policy,
19 process, or decisions to its advantage as a seller of cogenerated
20 energy. Nothing contained in chapter 201, Laws of 1991 shall be
21 construed to mandate or require public or private utilities to wheel
22 electric energy resources within or beyond their service territories.
23 Nothing in chapter 201, Laws of 1991 authorizes any state agency or
24 school district to make any sale of energy or waste heat as defined by
25 RCW 80.62.020(9) beyond the explicit provisions of chapter 201, Laws of
26 1991. Nothing contained in chapter 201, Laws of 1991 requires a
27 utility to purchase energy from the state or a state agency or enter
28 into any agreement in connection with a cogeneration facility.

29 (b) The state shall neither construct, nor be party to an agreement
30 for developing a cogeneration project at a state facility for the
31 purpose of supplying its own electrical needs, unless it can show that
32 such an arrangement would be in the economic interest of the state
33 taking into account the cost of (i) interconnection requirements, as
34 specified by the local electric utility, (ii) standby charges, as may
35 be required by the local electric utility, and (iii) the current price
36 of electricity offered by the local electric utility. If the local
37 electric utility can demonstrate that the cogeneration project may
38 place an undue burden on the electric utility, the ((energy-office))
39 department or the state agency shall attempt to negotiate a mutually

1 beneficial agreement that would minimize the burden upon the ratepayers
2 of the local electric utility.

3 (4) Any party to an energy purchase agreement may, within thirty
4 days of any decision made pursuant to subsection (2)(c) of this section
5 to disapprove the agreement made pursuant to this section, request an
6 independent reviewer who is mutually agreeable to all parties to review
7 the decision. The parties shall within thirty days of selection submit
8 to the independent reviewer documentation supporting their positions.
9 The independent reviewer shall render advice regarding the validity of
10 the disapproval within an additional thirty days.

11 **Sec. 412.** RCW 39.35C.090 and 1991 c 201 s 10 are each amended to
12 read as follows:

13 In addition to any other authorities conferred by law:

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

19 (a) Contract to sell electric energy generated at state facilities
20 to a utility; and

21 (b) Contract to sell thermal energy produced at state facilities to
22 a utility.

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

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

29 (b) Lease state property for the installation and operation of
30 cogeneration and facility heating and cooling equipment at its
31 facilities;

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

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

36 (e) Undertake procurements for third-party development of
37 cogeneration projects at its facilities, with successful bidders to be
38 selected based on the responsible bid, including nonprice elements

1 listed in RCW 43.19.1911, that offers the greatest net achievable
2 benefits to the state and its agencies.

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

6 (4) In exercising the authority granted by subsections (1) and (2)
7 of this section, a state agency must comply with the provisions of RCW
8 39.35C.080.

9 **Sec. 413.** RCW 39.35C.100 and 1991 c 201 s 11 are each amended to
10 read as follows:

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

14 (a) Construction of energy efficiency projects, including project
15 evaluation and verification of benefits, project design, project
16 development, project construction, and project administration.

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

20 (2) Sources for this account may include:

21 (a) General obligation and revenue bond proceeds appropriated by
22 the legislature; and

23 ~~(b) ((Loan repayments under RCW 39.35C.060 sufficient to pay
24 principal and interest obligations; and~~

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

26 ~~((3) The energy office shall establish criteria for approving
27 energy efficiency projects to be financed from moneys disbursed from
28 this account. The criteria shall include cost effectiveness,
29 reliability of energy systems, and environmental costs or benefits.
30 The energy office shall ensure that the criteria are applied with
31 professional standards for engineering and review.))~~

32 **Sec. 414.** RCW 39.35C.110 and 1991 c 201 s 12 are each amended to
33 read as follows:

34 (1) The energy efficiency services account is created in the state
35 treasury. Moneys in the account may be spent only after appropriation.
36 Expenditures from the account may be used only ~~((a))~~ for the ~~((energy
37 office))~~ department to provide energy efficiency services to ~~((state~~

1 ~~agencies and school districts))~~ public agencies including review of
2 life-cycle cost analyses (~~(and (b) for transfer by the legislature to~~
3 ~~the state general fund))~~).

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

6 (~~((a))~~) Project fees charged under this section and RCW 39.35C.020,
7 39.35C.070, and 39.35.060(~~(;~~

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

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

13 ~~(d) Payments by utilities and federal power marketing agencies~~
14 ~~under this chapter, except those retained by state agencies and school~~
15 ~~districts under RCW 39.35C.120)).~~

16 (3) The (~~(energy office))~~ department may accept moneys and make
17 deposits to the account from federal, state, or local government
18 agencies.

19 (~~((4) Within one hundred eighty days after July 28, 1991, the~~
20 ~~energy office shall adopt rules establishing criteria and procedures~~
21 ~~for setting a fee schedule, establishing working capital requirements,~~
22 ~~and receiving deposits for this account.))~~

23 **Sec. 415.** RCW 39.35C.130 and 1991 c 201 s 17 are each amended to
24 read as follows:

25 The (~~(energy office))~~ department may adopt rules to implement RCW
26 39.35C.020 through 39.35C.040, 39.35C.070, 39.35C.080, (~~(39.35C.120,)~~)
27 and 39.35.050.

28 **PART V**
29 **TECHNICAL CORRECTIONS**

30 **Sec. 501.** RCW 19.27.190 and 1990 c 2 s 7 are each amended to read
31 as follows:

32 (1)(a) Not later than January 1, 1991, the state building code
33 council, in consultation with the (~~(state energy office))~~ department of
34 community, trade, and economic development, shall establish interim
35 requirements for the maintenance of indoor air quality in newly
36 constructed residential buildings. In establishing the interim

1 requirements, the council shall take into consideration differences in
2 heating fuels and heating system types. These requirements shall be in
3 effect July 1, 1991, through June 30, 1993.

4 (b) The interim requirements for new electrically space heated
5 residential buildings shall include ventilation standards which provide
6 for mechanical ventilation in areas of the residence where water vapor
7 or cooking odors are produced. The ventilation shall be exhausted to
8 the outside of the structure. The ventilation standards shall further
9 provide for the capacity to supply outside air to each bedroom and the
10 main living area through dedicated supply air inlet locations in walls,
11 or in an equivalent manner. At least one exhaust fan in the home shall
12 be controlled by a dehumidistat or clock timer to ensure that
13 sufficient whole house ventilation is regularly provided as needed.

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

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

24 (iii) Effective installed ventilation capacity means the capability
25 to deliver the specified ventilation rates for the actual design of the
26 ventilation system. Natural ventilation and infiltration shall not be
27 considered acceptable substitutes for mechanical ventilation.

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

32 (e) The interim requirements for all newly constructed residential
33 buildings shall include standards for indoor air quality pollutant
34 source control, including the following requirements: All structural
35 panel components of the residence shall comply with appropriate
36 standards for the emission of formaldehyde; the back-drafting of
37 combustion by-products from combustion appliances shall be minimized
38 through the use of dampers, vents, outside combustion air sources, or
39 other appropriate technologies; and, in areas of the state where

1 monitored data indicate action is necessary to inhibit indoor radon gas
2 concentrations from exceeding appropriate health standards, entry of
3 radon gas into homes shall be minimized through appropriate foundation
4 construction measures.

5 (2) No later than January 1, 1993, the state building code council,
6 in consultation with the ((state energy office)) department of
7 community, trade, and economic development, shall establish final
8 requirements for the maintenance of indoor air quality in newly
9 constructed residences to be in effect beginning July 1, 1993. For new
10 electrically space heated residential buildings, these requirements
11 shall maintain indoor air quality equivalent to that provided by the
12 mechanical ventilation and indoor air pollutant source control
13 requirements included in the February 7, 1989, Bonneville power
14 administration record of decision for the environmental impact
15 statement on new energy efficient homes programs (DOE/EIS-0127F) built
16 with electric space heating. In residential units other than single
17 family, zero lot line, duplexes, and attached housing units in planned
18 unit developments, ventilation requirements may be satisfied by the
19 installation of two exhaust fans with a combined effective installed
20 ventilation capacity of two hundred cubic feet per minute. For new
21 residential buildings that are space heated with other than electric
22 space heating systems, the standards shall be designed to result in
23 indoor air quality equivalent to that achieved with the ventilation and
24 source control standards for electric space heated homes. In
25 establishing the final requirements, the council shall take into
26 consideration differences in heating fuels and heating system types.

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

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

32 (2) The council shall follow the legislature's standards set forth
33 in this section to promulgate rules to be known as the Washington state
34 energy code. The Washington state energy code shall be designed to
35 require new buildings to meet a certain level of energy efficiency, but
36 allow flexibility in building design, construction, and heating
37 equipment efficiencies within that framework. The Washington state
38 energy code shall be designed to allow space heating equipment

1 efficiency to offset or substitute for building envelope thermal
2 performance.

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

8 (4) The Washington state energy code for residential buildings
9 shall require:

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

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

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

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

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

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

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

33 (vii) In zone 1 the glazing area may be up to twenty-one percent of
34 floor area and in zone 2 the glazing area may be up to seventeen
35 percent of floor area where consideration of the thermal resistance
36 values for other building components and solar heat gains through the
37 glazing result in thermal performance equivalent to that achieved with
38 thermal resistance values for other components determined in accordance
39 with the equivalent thermal performance criteria of (a) of this

1 subsection and glazing area equal to fifteen percent of the floor area.
2 Throughout the state for the purposes of determining equivalent thermal
3 performance, the maximum glazing area shall be fifteen percent of the
4 floor area; and

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

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

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

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

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

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

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

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

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

37 (viii) In zone 1, the maximum glazing area shall be twenty-one
38 percent of the floor area. In zone 2 the maximum glazing area shall be
39 seventeen percent of the floor area. Throughout the state for the

1 purposes of determining equivalent thermal performance, the maximum
2 glazing area shall be fifteen percent of the floor area.

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

7 (d) The state building code council may approve an energy code for
8 pilot projects of residential construction that use innovative energy
9 efficiency technologies intended to result in savings that are greater
10 than those realized in the levels specified in this section.

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

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

34 (7)(a) Except as provided in (b) of this subsection, the Washington
35 state energy code for residential structures shall preempt the
36 residential energy code of each city, town, and county in the state of
37 Washington.

38 (b) The state energy code for residential structures does not
39 preempt a city, town, or county's energy code for residential

1 structures which exceeds the requirements of the state energy code and
2 which was adopted by the city, town, or county prior to March 1, 1990.
3 Such cities, towns, or counties may not subsequently amend their energy
4 code for residential structures to exceed the requirements adopted
5 prior to March 1, 1990.

6 (8) The state building code council shall consult with the ((state
7 energy office)) department of community, trade, and economic
8 development as provided in RCW 34.05.310 prior to publication of
9 proposed rules. The ((state energy office)) department of community,
10 trade, and economic development shall review the proposed rules for
11 consistency with the guidelines adopted in subsection (4) of this
12 section. The director of the ((state energy office)) department of
13 community, trade, and economic development shall recommend to the state
14 building code council any changes necessary to conform the proposed
15 rules to the requirements of this section.

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

25 (10) If any electric utility providing electric service to
26 customers in the state of Washington purchases at least one percent of
27 its firm energy load from a federal agency, pursuant to section
28 5.(b)(1) of the Pacific Northwest electric power planning and
29 conservation act (P.L. 96-501), and such utility is unable to obtain
30 from that agency at least fifty percent of the funds for payments
31 required by RCW 19.27A.035, the amendments to this section by chapter
32 2, Laws of 1990 shall be null and void, and the 1986 state energy code
33 shall be in effect, except that a city, town, or county may enforce a
34 local energy code with more stringent energy requirements adopted prior
35 to March 1, 1990. This subsection shall expire June 30, 1995.

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

1 The common school construction fund is to be used exclusively for
2 the purpose of financing the construction of facilities for the common
3 schools. The sources of said fund shall be: (1) Those proceeds
4 derived from sale or appropriation of timber and other crops from
5 school and state land other than those granted for specific purposes;
6 (2) the interest accruing on the permanent common school fund less the
7 allocations to the state treasurer's service account [fund] pursuant to
8 RCW 43.08.190 and the state investment board expense account pursuant
9 to RCW 43.33A.160 together with all rentals and other revenue derived
10 therefrom and from land and other property devoted to the permanent
11 common school fund; (3) all moneys received by the state from the
12 United States under the provisions of section 191, Title 30, United
13 States Code, Annotated, and under section 810, chapter 12, Title 16,
14 (Conservation), United States Code, Annotated, except moneys received
15 before June 30, 2001, and when thirty megawatts of geothermal power is
16 certified as commercially available by the receiving utilities and the
17 (~~state energy office~~) department of community, trade, and economic
18 development, eighty percent of such moneys, under the Geothermal Steam
19 Act of 1970 pursuant to RCW 43.140.030; and (4) such other sources as
20 the legislature may direct. That portion of the common school
21 construction fund derived from interest on the permanent common school
22 fund may be used to retire such bonds as may be authorized by law for
23 the purpose of financing the construction of facilities for the common
24 schools.

25 The interest accruing on the permanent common school fund less the
26 allocations to the state treasurer's service account [fund] pursuant to
27 RCW 43.08.190 and the state investment board expense account pursuant
28 to RCW 43.33A.160 together with all rentals and other revenues accruing
29 thereto pursuant to subsection (2) of this section prior to July 1,
30 1967, shall be exclusively applied to the current use of the common
31 schools.

32 To the extent that the moneys in the common school construction
33 fund are in excess of the amount necessary to allow fulfillment of the
34 purpose of said fund, the excess shall be available for deposit to the
35 credit of the permanent common school fund or available for the current
36 use of the common schools, as the legislature may direct. Any money
37 from the common school construction fund which is made available for
38 the current use of the common schools shall be restored to the fund by

1 appropriation, including interest income foregone, before the end of
2 the next fiscal biennium following such use.

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

5 For the purposes of RCW 42.17.240, the term "executive state
6 officer" includes:

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

1 each district and each campus president of each state community
2 college;

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

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

5 (4) Central Washington University board of trustees, board of
6 trustees of each community college, each member of the state board for
7 community and technical colleges, state convention and trade center
8 board of directors, committee for deferred compensation, Eastern
9 Washington University board of trustees, Washington economic
10 development finance authority, The Evergreen State College board of
11 trustees, executive ethics board, forest practices appeals board,
12 forest practices board, gambling commission, Washington health care
13 facilities authority, each member of the Washington health services
14 commission, higher education coordinating board, higher education
15 facilities authority, horse racing commission, state housing finance
16 commission, human rights commission, indeterminate sentence review
17 board, board of industrial insurance appeals, information services
18 board, interagency committee for outdoor recreation, state investment
19 board, commission on judicial conduct, legislative ethics board, liquor
20 control board, lottery commission, marine oversight board, Pacific
21 Northwest electric power and conservation planning council, parks and
22 recreation commission, personnel appeals board, board of pilotage
23 commissioners, pollution control hearings board, public disclosure
24 commission, public pension commission, shorelines hearing board, public
25 employees' benefits board, board of tax appeals, transportation
26 commission, University of Washington board of regents, utilities and
27 transportation commission, Washington state maritime commission,
28 Washington personnel resources board, Washington public power supply
29 system executive board, Washington State University board of regents,
30 Western Washington University board of trustees, and fish and wildlife
31 commission.

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

34 (1) The governor may, by executive order, after consultation with
35 or notification of the executive-legislative committee on economic
36 development created by chapter . . . (Senate Bill No. 5300), Laws of
37 1993, declare a community to be a "military impacted area." A
38 "military impacted area" means a community or communities, as

1 identified in the executive order, that experience serious social and
2 economic hardships because of a change in defense spending by the
3 federal government in that community or communities.

4 (2) If the governor executes an order under subsection (1) of this
5 section, the governor shall establish a response team to coordinate
6 state efforts to assist the military impacted community. The response
7 team may include, but not be limited to, one member from each of the
8 following agencies: (a) The department of community, trade, and
9 economic development; (b) the department of social and health services;
10 (c) the employment security department; (d) the state board for
11 community and technical colleges; (e) the higher education coordinating
12 board; and (f) the department of transportation(~~(; and (g) the~~
13 ~~Washington energy office)~~). The governor may appoint a response team
14 coordinator. The governor shall seek to actively involve the impacted
15 community or communities in planning and implementing a response to the
16 crisis. The governor may seek input or assistance from the community
17 diversification advisory committee, and the governor may establish task
18 forces in the community or communities to assist in the coordination
19 and delivery of services to the local community. The state and
20 community response shall consider economic development, human service,
21 and training needs of the community or communities impacted.

22 (3) The governor shall report at the beginning of the next
23 legislative session to the legislature and the executive-legislative
24 committee on economic development created by chapter . . . (Senate Bill
25 No. 5300), Laws of 1993, as to the designation of a military impacted
26 area. The report shall include recommendations regarding whether a
27 military impacted area should become eligible for (a) funding provided
28 by the community economic revitalization board, public facilities
29 construction loan revolving account, Washington state development loan
30 fund, basic health plan, the public works assistance account,
31 department of community, trade, and economic development, employment
32 security department, and department of transportation; (b) training for
33 dislocated defense workers; or (c) services for dislocated defense
34 workers.

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

37 (1) Upon completion of each walk-through survey required by RCW
38 43.19.675, the director of general administration or the agency

1 responsible for the facility if other than the department of general
2 administration shall implement energy conservation maintenance and
3 operation procedures that may be identified for any state-owned
4 facility. These procedures shall be implemented as soon as possible
5 but not later than twelve months after the walk-through survey.

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

10 (3) By December 31, 1983, for all other state-owned facilities, the
11 director of general administration (~~(in cooperation with the director
12 of the state energy office)~~) shall prepare and transmit to the governor
13 and the legislature the results of the energy consumption and walk-
14 through surveys and a schedule for the conduct of technical assistance
15 studies. This submission shall contain the energy conservation
16 measures planned for installation during the ensuing biennium.
17 Priority considerations for scheduling technical assistance studies
18 shall include but not be limited to a facility's energy efficiency,
19 responsible agency participation, comparative cost and type of fuels,
20 possibility of outside funding, logistical considerations such as
21 possible need to vacate the facility for installation of energy
22 conservation measures, coordination with other planned facility
23 modifications, and the total cost of a facility modification, including
24 other work which would have to be done as a result of installing energy
25 conservation measures. Energy conservation measure acquisitions and
26 installations shall be scheduled to be twenty-five percent complete by
27 June 30, 1985, or at the end of the capital budget biennium which
28 includes that date, whichever is later, fifty-five percent complete by
29 June 30, 1989, or at the end of the capital budget biennium which
30 includes that date, whichever is later, eighty-five percent complete by
31 June 30, 1993, or at the end of the capital budget biennium which
32 includes that date, whichever is later, and fully complete by June 30,
33 1995, or at the end of the capital budget biennium which includes that
34 date, whichever is later. Each state agency shall implement energy
35 conservation measures with a payback period of twenty-four months or
36 less that have a positive cash flow in the same biennium.

37 For each biennium until all measures are installed, the director of
38 general administration shall report to the governor and legislature
39 installation progress, measures planned for installation during the

1 ensuing biennium, and changes, if any, to the technical assistance
2 study schedule. This report shall be submitted by December 31, 1984,
3 or at the end of the following year whichever immediately precedes the
4 capital budget adoption, and every two years thereafter until all
5 measures are installed.

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

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

11 The legislature finds that energy in various forms is increasingly
12 subject to possible shortages and supply disruptions, to the point that
13 there may be foreseen an emergency situation, and that without the
14 ability to institute appropriate emergency measures to regulate the
15 production, distribution, and use of energy, a severe impact on the
16 public health, safety, and general welfare of our state's citizens may
17 occur. The prevention or mitigation of such energy shortages or
18 disruptions and their effects is necessary for preservation of the
19 public health, safety, and general welfare of the citizens of this
20 state.

21 It is the intent of this chapter to:

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

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

25 It is further the intent of the legislature that in developing
26 proposed orders under the powers granted in RCW 43.21G.040 as now or
27 hereafter amended the governor may utilize, on a temporary or ad hoc
28 basis, the knowledge and expertise of persons experienced in the
29 technical aspects of energy supply, distribution, or use. Such
30 utilization shall be in addition to support received by the governor
31 from the ((state energy office)) department of community, trade, and
32 economic development under RCW 43.21F.045 and 43.21F.065 and from other
33 state agencies.

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

36 (1) There is established the agency rural community assistance task
37 force. The task force shall be chaired by the rural community

1 assistance coordinator. It shall be the responsibility of the
2 coordinator that all directives of chapter 314, Laws of 1991 are
3 carried out expeditiously by the agencies represented in the task
4 force. The task force shall consist of the directors, or
5 representatives of the directors, of the following agencies: The
6 department of community, trade, and economic development, employment
7 security department, department of social and health services, state
8 board for community and technical colleges, work force training and
9 education coordinating board, department of natural resources,
10 department of transportation, (~~state energy office,~~) department of
11 fish and wildlife, University of Washington center for international
12 trade in forest products, department of agriculture, and department of
13 ecology. The task force shall solicit and consider input from the
14 rural development council in coordinating agency programs targeted to
15 rural natural resources impacted communities. The task force may
16 consult and enlist the assistance of the following: The higher
17 education coordinating board, University of Washington college of
18 forest resources, University of Washington school of fisheries,
19 Washington State University school of forestry, Northwest policy
20 center, state superintendent of public instruction, Washington state
21 labor council, the Evergreen partnership, Washington state association
22 of counties, and others as needed.

23 (2) The task force, in conjunction with the rural development
24 council, shall undertake a study to determine whether additional
25 communities and industries are impacted, or are likely to be impacted,
26 by salmon preservation and recovery efforts. The task force shall
27 consider possible impacts in the following industries and associated
28 communities: Barge transportation, irrigation dependent agriculture,
29 food processing, aluminum, charter recreational fishing, boatbuilding,
30 and other sectors suggested by the task force. The task force shall
31 report its findings and recommendations to the legislature by January
32 1996.

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

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

36 After August 11, 1969, no state agency, state institution, state
37 institution of higher education, which shall include all state
38 universities, regional universities, The Evergreen State College, and

1 community colleges, shall establish any new accounts or funds which are
2 to be located outside of the state treasury: PROVIDED, That the office
3 of financial management shall be authorized to grant permission for the
4 establishment of such an account or fund outside of the state treasury
5 only when the requesting agency presents compelling reasons of economy
6 and efficiency which could not be achieved by placing such funds in the
7 state treasury. When the director of financial management authorizes
8 the creation of such fund or account, the director shall forthwith give
9 written notice of the fact to the standing committees on ways and means
10 of the house and senate: PROVIDED FURTHER, That (~~the office of~~
11 ~~financial management may grant permission for the establishment of~~
12 ~~accounts outside of the state treasury for the purposes of RCW~~
13 ~~39.35C.120.~~) agencies authorized to create local accounts will utilize
14 the services of the state treasurer's office to ensure that new or
15 ongoing relationships with financial institutions are in concert with
16 state-wide policies and procedures pursuant to RCW 43.88.160(1).

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

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

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

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

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

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

30 The state treasurer shall be responsible for distribution of funds
31 to the county of origin. Each county's share of rentals and royalties
32 from a lease including lands in more than one county shall be computed
33 on the basis of the ratio that the acreage within each county has to
34 the total acreage in the lease. (~~The Washington state energy office~~)
35 Washington State University or its statutory successor shall obtain the
36 necessary information to make the distribution of funds on such a
37 basis.

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

3 The state-interest component of the state-wide multimodal
4 transportation plan shall include a state public transportation plan
5 that:

6 (1) Articulates the state vision of an interest in public
7 transportation and provides quantifiable objectives, including benefits
8 indicators;

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

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

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

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

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

21 In developing the state public transportation plan, the department
22 shall involve local jurisdictions, public and private providers of
23 transportation services, nonmotorized interests, and state agencies
24 with an interest in public transportation, including but not limited to
25 the departments of community, trade, and economic development, social
26 and health services, and ecology, (~~the state energy office,~~) the
27 office of the superintendent of public instruction, the office of the
28 governor, and the office of financial management.

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

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

34 (1) Each county with a population over one hundred fifty thousand,
35 and each city or town within those counties containing a major employer
36 shall, by October 1, 1992, adopt by ordinance and implement a commute
37 trip reduction plan for all major employers. The plan shall be
38 developed in cooperation with local transit agencies, regional

1 transportation planning organizations as established in RCW 47.80.020,
2 major employers, and the owners of and employers at major worksites.
3 The plan shall be designed to achieve reductions in the proportion of
4 single-occupant vehicle commute trips and the commute trip vehicle
5 miles traveled per employee by employees of major public and private
6 sector employers in the jurisdiction.

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

9 (3) The department of ecology may, after consultation with the
10 (~~state energy office~~) department of transportation, as part of the
11 state implementation plan for areas that do not attain the national
12 ambient air quality standards for carbon monoxide or ozone, require
13 municipalities other than those identified in subsection (1) of this
14 section to adopt and implement commute trip reduction plans if the
15 department determines that such plans are necessary for attainment of
16 said standards.

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

1 prior to the base year. The goals for miles traveled per employee for
2 all major employers shall not be less than a fifteen percent reduction
3 from the base year value of the commute trip reduction zone in which
4 their worksite is located by January 1, 1995, twenty-five percent
5 reduction from the base year values by January 1, 1997, and thirty-five
6 percent reduction from the base year values by January 1, 1999.

7 (5) A county, city, or town may, as part of its commute trip
8 reduction plan, require commute trip reduction programs for employers
9 with ten or more full time employees at major worksites in federally
10 designated nonattainment areas for carbon monoxide and ozone. The
11 county, city or town shall develop the programs in cooperation with
12 affected employers and provide technical assistance to the employers in
13 implementing such programs.

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

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

35 (8) Each county, city, or town implementing a commute trip
36 reduction program shall submit an annual progress report to the commute
37 trip reduction task force established under RCW 70.94.537. The report
38 shall be due July 1, 1994, and each July 1 thereafter through July 1,
39 2000. The report shall describe progress in attaining the applicable

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

5 (9) Any waivers or modifications of the requirements of a commute
6 trip reduction plan granted by a jurisdiction shall be submitted for
7 review to the commute trip reduction task force established under RCW
8 70.94.537. The commute trip reduction task force may not deny the
9 granting of a waiver or modification of the requirements of a commute
10 trip reduction plan by a jurisdiction but they may notify the
11 jurisdiction of any comments or objections.

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

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

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

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

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

25 ~~(a) The ((director of the state energy office or the director's~~
26 ~~designee who shall serve as chair;~~

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

29 ~~((+e))~~ (b) The director of the department of ecology or the
30 director's designee;

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

33 ~~((+e))~~ (d) The director of the department of general
34 administration or the director's designee;

35 ~~((+f))~~ (e) Three representatives from counties appointed by the
36 governor from a list of at least six recommended by the Washington
37 state association of counties;

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

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

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

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

11 Members of the commute trip reduction task force shall serve
12 without compensation but shall be reimbursed for travel expenses as
13 provided in RCW 43.03.050 and 43.03.060. Members appointed by the
14 governor shall be compensated in accordance with RCW 43.03.220. The
15 task force has all powers necessary to carry out its duties as
16 prescribed by this chapter. The task force shall be dissolved on July
17 1, 2000.

18 (2) By March 1, 1992, the commute trip reduction task force shall
19 establish guidelines for commute trip reduction plans. The guidelines
20 are intended to ensure consistency in commute trip reduction plans and
21 goals among jurisdictions while fairly taking into account differences
22 in employment and housing density, employer size, existing and
23 anticipated levels of transit service, special employer circumstances,
24 and other factors the task force determines to be relevant. The
25 guidelines shall include:

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

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

31 (c) Model commute trip reduction ordinances;

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

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

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

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

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

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

17 (4) The task force shall review progress toward implementing
18 commute trip reduction plans and programs and the costs and benefits of
19 commute trip reduction plans and programs and shall make
20 recommendations to the legislature by December 1, 1995, and December 1,
21 1999. In assessing the costs and benefits, the task force shall
22 consider the costs of not having implemented commute trip reduction
23 plans and programs. The task force shall examine other transportation
24 demand management programs nationally and incorporate its findings into
25 its recommendations to the legislature. The recommendations shall
26 address the need for continuation, modification, or termination or any
27 or all requirements of this chapter. The recommendations made December
28 1, 1995, shall include recommendations regarding extension of the
29 requirements of this chapter to employers with fifty or more full-time
30 employees at a single worksite who begin their regular work day between
31 6:00 a.m. and 9:00 a.m. on weekdays for more than twelve continuous
32 months.

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

35 (1) A technical assistance team shall be established under the
36 direction of the ((state energy office)) department of transportation
37 and include representatives of the department((s)) of ((transportation
38 and)) ecology. The team shall provide staff support to the commute

1 trip reduction task force in carrying out the requirements of RCW
2 70.94.537 and to the department of general administration in carrying
3 out the requirements of RCW 70.94.551.

4 (2) The team shall provide technical assistance to counties,
5 cities, and towns, the department of general administration, other
6 state agencies, and other employers in developing and implementing
7 commute trip reduction plans and programs. The technical assistance
8 shall include: (a) Guidance in determining base and subsequent year
9 values of single-occupant vehicle commuting proportion and commute trip
10 reduction vehicle miles traveled to be used in determining progress in
11 attaining plan goals; (b) developing model plans and programs
12 appropriate to different situations; and (c) providing consistent
13 training and informational materials for the implementation of commute
14 trip reduction programs. Model plans and programs, training and
15 informational materials shall be developed in cooperation with
16 representatives of local governments, transit agencies, and employers.

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

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

23 (1) The director of general administration, with the concurrence of
24 an interagency task force established for the purposes of this section,
25 shall coordinate a commute trip reduction plan for state agencies which
26 are phase 1 major employers by January 1, 1993. The task force shall
27 include representatives of the (~~state energy office, the~~) departments
28 of transportation and ecology and such other departments as the
29 director of general administration determines to be necessary to be
30 generally representative of state agencies. The state agency plan
31 shall be consistent with the requirements of RCW 70.94.527 and
32 70.94.531 and shall be developed in consultation with state employees,
33 local and regional governments, local transit agencies, the business
34 community, and other interested groups. The plan shall consider and
35 recommend policies applicable to all state agencies including but not
36 limited to policies regarding parking and parking charges, employee
37 incentives for commuting by other than single-occupant automobiles,
38 flexible and alternative work schedules, alternative worksites, and the

1 use of state-owned vehicles for car and van pools. The plan shall also
2 consider the costs and benefits to state agencies of achieving commute
3 trip reductions and consider mechanisms for funding state agency
4 commute trip reduction programs. The department shall, within thirty
5 days, submit a summary of its plan along with certification of adoption
6 to the commute trip reduction task force established under RCW
7 70.94.537.

8 (2) Not more than three months after the adoption of the commute
9 trip reduction plan, each state agency shall, for each facility which
10 is a major employer, develop a commute trip reduction program. The
11 program shall be designed to meet the goals of the commute trip
12 reduction plan of the county, city, or town or, if there is no local
13 commute trip reduction plan, the state. The program shall be
14 consistent with the policies of the state commute trip reduction plan
15 and RCW 70.94.531. The agency shall submit a description of that
16 program to the local jurisdiction implementing a commute trip reduction
17 plan or, if there is no local commute trip reduction plan, to the
18 department of general administration. The program shall be implemented
19 not more than three months after submission to the department. Annual
20 reports required in RCW 70.94.531(2)(c) shall be submitted to the local
21 jurisdiction implementing a commute trip reduction plan and to the
22 department of general administration. An agency which is not meeting
23 the applicable commute trip reduction goals shall, to the extent
24 possible, modify its program to comply with the recommendations of the
25 local jurisdiction or the department of general administration.

26 (3) State agencies sharing a common location may develop and
27 implement a joint commute trip reduction program or may delegate the
28 development and implementation of the commute trip reduction program to
29 the department of general administration.

30 (4) The department of general administration in consultation with
31 the state technical assistance team shall review the initial commute
32 trip reduction program of each state agency subject to the commute trip
33 reduction plan for state agencies to determine if the program is likely
34 to meet the applicable commute trip reduction goals and notify the
35 agency of any deficiencies. If it is found that the program is not
36 likely to meet the applicable commute trip reduction goals, the team
37 will work with the agency to modify the program as necessary.

38 (5) For each agency subject to the state agency commute trip
39 reduction plan, the department of general administration in

1 consultation with the technical assistance team shall annually review
2 progress toward meeting the applicable commute trip reduction goals.
3 If it appears an agency is not meeting or is not likely to meet the
4 applicable commute trip reduction goals, the team shall work with the
5 agency to make modifications to the commute trip reduction program.

6 (6) The department of general administration shall submit an annual
7 progress report for state agencies subject to the state agency commute
8 trip reduction plan to the commute trip reduction task force
9 established under RCW 70.94.537. The report shall be due April 1,
10 1993, and each April 1 through 2000. The report shall report progress
11 in attaining the applicable commute trip reduction goals for each
12 commute trip reduction zone and shall highlight any problems being
13 encountered in achieving the goals. The information shall be reported
14 in a form established by the commute trip reduction task force.

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

17 The department may disburse matching grants from funds provided by
18 the legislature from the air pollution control account, created in RCW
19 70.94.015, to units of local government to partially offset the
20 additional cost of purchasing "clean fuel" and/or operating "clean-fuel
21 vehicles" provided that such vehicles are used for public transit.
22 Publicly owned school buses are considered public transit for the
23 purposes of this section. The department may also disburse grants to
24 vocational-technical institutes for the purpose of establishing
25 programs to certify clean-fuel vehicle mechanics. The department may
26 also distribute grants to (~~the state energy office~~) Washington State
27 University for the purpose of furthering the establishment of clean
28 fuel refueling infrastructure.

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

31 By July 1, 1992, the department shall develop, in cooperation with
32 the departments of general administration and transportation, and (~~the~~
33 ~~state energy office~~) Washington State University, aggressive clean-
34 fuel performance and clean-fuel vehicle emissions specifications
35 including clean-fuel vehicle conversion equipment. To the extent
36 possible, such specifications shall be equivalent for all fuel types.
37 In developing such specifications the department shall consider the

1 requirements of the clean air act and the findings of the environmental
2 protection agency, other states, the American petroleum institute, the
3 gas research institute, and the motor vehicles manufacturers
4 association.

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

7 The department, in cooperation with the departments of general
8 administration and transportation, the utilities and transportation
9 commission, and (~~the state energy office~~) Washington State
10 University, shall biennially prepare a report to the legislature
11 starting July 1, 1992, on:

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

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

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

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

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

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

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

34 (3) The commission shall consider and may adopt other policies to
35 protect a company from a reduction of short-term earnings that may be
36 a direct result of utility programs to increase the efficiency of
37 energy use. These policies may include allowing a periodic rate

1 adjustment for investments in end use efficiency or allowing changes in
2 price structure designed to produce additional new revenue.

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

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

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

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

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

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

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

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

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

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

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

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

36 (a) The certificate was obtained by fraud or deliberate
37 misrepresentation;

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

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

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

8 (2) If the department finds that there are few inaccuracies under
9 subsection (1)(b) of this section and that cumulatively they are
10 insignificant in terms of the cost or operation of the facility or that
11 the inaccurate data is not attributable to carelessness or negligence
12 and its inclusion was reasonable under the circumstances, then the
13 department may provide for the continuance of the certificate and
14 whatever modification it considers in the public interest.

15 (3) Any person, firm, corporation, or organization that obtains a
16 certificate revoked under this section shall be liable for the total
17 amount of money saved by claiming the credits and exemptions provided
18 under this chapter and RCW 84.36.485. The total amount of the credits
19 shall be collected as delinquent business and occupation taxes, and the
20 total of the exemptions shall be collected and distributed as
21 delinquent property taxes. Interest shall accrue on the amounts of the
22 credits and exemptions from the date the taxes were otherwise due.

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

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

28 Whenever an application for a permit to make beneficial use of
29 public waters is approved relating to a stream or other water body for
30 which minimum flows or levels have been adopted and are in effect at
31 the time of approval, the permit shall be conditioned to protect the
32 levels or flows. No agency may establish minimum flows and levels or
33 similar water flow or level restrictions for any stream or lake of the
34 state other than the department of ecology whose authority to establish
35 is exclusive, as provided in chapter 90.03 RCW and RCW 90.22.010 and
36 90.54.040. The provisions of other statutes, including but not limited
37 to RCW 75.20.100 and chapter 43.21C RCW, may not be interpreted in a
38 manner that is inconsistent with this section. In establishing such

1 minimum flows, levels, or similar restrictions, the department shall,
2 during all stages of development by the department of ecology of
3 minimum flow proposals, consult with, and carefully consider the
4 recommendations of, the department of fish and wildlife, the ((state
5 energy office)) department of community, trade, and economic
6 development, the department of agriculture, and representatives of the
7 affected Indian tribes. Nothing herein shall preclude the department
8 of fish and wildlife, the ((energy office)) department of community,
9 trade, and economic development, or the department of agriculture from
10 presenting its views on minimum flow needs at any public hearing or to
11 any person or agency, and the department of fish and wildlife, the
12 ((energy office)) department of community, trade, and economic
13 development, and the department of agriculture are each empowered to
14 participate in proceedings of the federal energy regulatory commission
15 and other agencies to present its views on minimum flow needs.

16 NEW SECTION. Sec. 524. The following acts or parts of acts are
17 each repealed:

- 18 (1) RCW 43.21F.035 and 1990 c 12 s 1 & 1981 c 295 s 3;
- 19 (2) RCW 43.21F.065 and 1987 c 330 s 502 & 1981 c 295 s 8;
- 20 (3) RCW 39.35C.060 and 1991 c 201 s 7;
- 21 (4) RCW 39.35C.120 and 1991 c 201 s 13;
- 22 (5) RCW 41.06.081 and 1981 c 295 s 10;
- 23 (6) RCW 43.41.175 and 1986 c 325 s 4; and
- 24 (7) RCW 19.27A.055 and 1990 c 2 s 6.

25 NEW SECTION. Sec. 525. Part headings used in this act do not
26 constitute part of the law.

27 NEW SECTION. Sec. 526. This act shall take effect July 1, 1996.

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