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By Representatives Casada, Huff, Campbell, Clements, Goldsmith, Elliot, Pelesky, Backlund, Reams, Smith, Delvin, Blanton and Beeksma

Read first time 02/21/95. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to the energy office; amending RCW 43.140.040,
2 43.140.050, 39.35.030, 39.35.050, 39.35.060, 39.35C.010, 39.35C.020,
3 39.35C.030, 39.35C.040, 39.35C.050, 39.35C.060, 39.35C.090, 39.35C.100,
4 39.35C.110, 39.35C.120, 39.35C.130, 43.41.175, 43.99I.050, 70.94.544,
5 70.94.960, 70.120.210, 70.120.220, 19.27.190, 19.27A.020, 19.27A.055,
6 28A.515.320, 43.06.115, 43.19.675, 43.19.680, 43.31.621, 47.06.110,
7 82.35.020, 82.35.080, and 90.03.247; reenacting and amending RCW
8 42.17.2401; adding new sections to chapter 43.330 RCW; adding a new
9 section to chapter 43.19 RCW; adding a new section to chapter 47.01
10 RCW; adding a new section to chapter 38.52 RCW; creating new sections;
11 repealing RCW 43.21F.010, 43.21F.015, 43.21F.025, 43.21F.035,
12 43.21F.045, 43.21F.055, 43.21F.060, 43.21F.065, 43.21F.090, 70.94.537,
13 70.94.541, 41.06.081, 39.35C.070, and 39.35C.080; providing an
14 effective date; and declaring an emergency.

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

16 NEW SECTION. **Sec. 1.** Responsibilities of state government need to
17 be limited to core services in support of the public safety and
18 welfare. Services of the state energy office are primarily advisory
19 and can be eliminated. Essential regulatory functions can be performed

1 by other state agencies and energy-related information services can be
2 provided through a private nonprofit organization. This simplifies
3 state government yet continues to maintain core services. It is the
4 intent of the legislature that the state continue to receive oil
5 overcharge restitution funds for our citizens and that every effort be
6 made to maximize federal funds available for energy conservation
7 purposes.

8 NEW SECTION. **Sec. 2.** The following acts or parts of acts are each
9 repealed:

- 10 (1) RCW 43.21F.010 and 1975-'76 2nd ex.s. c 108 s 1;
- 11 (2) RCW 43.21F.015 and 1994 c 207 s 3 & 1981 c 295 s 1;
- 12 (3) RCW 43.21F.025 and 1994 c 207 s 2, 1987 c 330 s 501, & 1981 c
13 295 s 2;
- 14 (4) RCW 43.21F.035 and 1990 c 12 s 1 & 1981 c 295 s 3;
- 15 (5) RCW 43.21F.045 and 1994 c 207 s 4, 1990 c 12 s 2, 1987 c 505 s
16 29, & 1981 c 295 s 4;
- 17 (6) RCW 43.21F.055 and 1981 c 295 s 5;
- 18 (7) RCW 43.21F.060 and 1981 c 295 s 6 & 1975-'76 2nd ex.s. c 108 s
19 6;
- 20 (8) RCW 43.21F.065 and 1987 c 330 s 502 & 1981 c 295 s 8; and
- 21 (9) RCW 43.21F.090 and 1994 c 207 s 5.

22 **PART I**

23 **TRANSFERS TO DEPARTMENT OF COMMUNITY, TRADE, AND**
24 **ECONOMIC DEVELOPMENT FOR USE BY PRIVATE NONPROFIT CORPORATION**

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

27 (1) All powers, duties, and functions of the state energy office
28 relating to the following functions are transferred to the department
29 of community, trade, and economic development:

30 (a) Providing support for increasing cost-effective energy
31 conservation, including assisting in the removal of impediments to
32 timely implementation;

33 (b) Providing support for the development of cost-effective energy
34 resources including assisting in the removal of impediments to timely
35 construction;

1 (c) Establishing and maintaining a central repository in the state
2 for collection of existing data on energy resources, including:

3 (i) Supply, demand, costs, use technology, projections, and
4 forecasts;

5 (ii) Comparative costs of alternative energy sources, uses, and
6 applications;

7 (iii) Inventory data on energy research projects in the state
8 conducted in the public and private sectors, and the results thereof;

9 (d) Encouraging energy conservation and elimination of wasteful and
10 uneconomic use of energy and materials.

11 (2) The department may cooperate with other agencies,
12 organizations, and businesses within and without the state of
13 Washington to establish a private nonprofit corporation for purposes of
14 providing the services performed by the department under subsection (1)
15 of this section.

16 (3) The department may cease providing the services it performs
17 under subsection (1) of this section before June 30, 1996, if a
18 successor organization agrees to assume full responsibility for
19 providing services that are equivalent to the services performed by the
20 department under subsection (1) of this section.

21 (4) For purposes of this section, "department" means the department
22 of community, trade, and economic development.

23 (5) For purposes of this section, "successor organization" means a
24 private, nonprofit corporation created specifically to assume
25 responsibility for providing the services assigned to the department
26 under this section. Any such private, nonprofit corporation shall
27 qualify as a tax-exempt, nonprofit corporation under section 501(c) of
28 the federal internal revenue code. If no such corporation exists, that
29 is capable, in the department's opinion, of adequately assuming the
30 department's operations under subsection (1) of this section, then
31 another governmental entity may be the successor organization.

32 NEW SECTION. **Sec. 102.** A new section is added to chapter 43.330
33 RCW to read as follows:

34 To accomplish the establishment of a successor organization, the
35 department may take all necessary and proper steps, including:

36 (1) Transfer any equipment, software, data base, other assets, or
37 contracts for services to the successor organization under appropriate
38 terms and conditions, including reasonable compensation deemed

1 appropriate by the department. However, the department shall retain
2 the right to repossess any such property transferred for a period of up
3 to five years, in the event that the successor organization becomes
4 bankrupt, insolvent, or is otherwise unable to provide services that
5 are satisfactory to a majority of users. In the event that the
6 department exercises its right to repossess under this section, any
7 such property returned to the department shall become the property of
8 the state of Washington and shall be administered by the department;

9 (2) Unless otherwise provided by agreement, assign any duties and
10 responsibilities to the successor organization that are related to the
11 department's responsibilities under subsection (1) of this section and
12 not otherwise assigned by statute;

13 (3) Provide for personnel services by department employees, or
14 other necessary support services to the successor organization under
15 contract for up to a two-year period after the effective date of a
16 contract between a successor organization and the department for
17 delivery of services. The successor organization shall provide full
18 reimbursement for all costs of services contracted for under this
19 provision; and

20 (4) Designate one or more persons to serve in the capacity of a
21 member of the board of directors of a successor organization. The
22 state shall not be liable for either the actions of the director in
23 that capacity, nor for the actions of the successor organization.

24 NEW SECTION. **Sec. 103.** At the time certain department of
25 community, trade, and economic development services are transferred to
26 the successor corporation pursuant to section 101 of this act:

27 (1) Any supplies, equipment, or other property, whether tangible or
28 intangible, not transferred to the successor organization shall remain
29 the property of the state of Washington and shall be administered by
30 the department;

31 (2) Any contracts or other obligations of the department not
32 transferred to the successor organization shall be the obligation of
33 the department.

34 **Sec. 104.** RCW 43.140.040 and 1981 c 158 s 4 are each amended to
35 read as follows:

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

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

3 (2) Thirty percent to the (~~Washington state energy office or its~~
4 ~~statutory successor~~) department of community, trade, and economic
5 development for the purpose of encouraging the development of
6 geothermal energy; and

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

9 **Sec. 105.** 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 **PART II**

20 **TRANSFERS TO DEPARTMENT OF GENERAL ADMINISTRATION**

21 NEW SECTION. **Sec. 201.** A new section is added to chapter 43.19
22 RCW to read as follows:

23 (1) All powers, duties, and functions of the state energy office
24 pertaining to advising public agencies on energy use in public
25 buildings to reduce energy use and costs are transferred to the
26 department of general administration. All references to the director
27 or the state energy office in the Revised Code of Washington shall be
28 construed to mean the director or the department of general
29 administration when referring to the functions transferred in this
30 section.

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

1 office in carrying out the powers, functions, and duties transferred
2 shall be made available to the department of general administration.
3 All funds, credits, or other assets held in connection with the powers,
4 functions, and duties transferred shall be assigned to the department
5 of general administration.

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

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

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

25 (4) All rules and all pending business before the state energy
26 office pertaining to the powers, functions, and duties transferred
27 shall be continued and acted upon by the department of general
28 administration. All existing contracts and obligations shall remain in
29 full force and shall be performed by the department of general
30 administration.

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

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

1 (7) Nothing contained in this section may be construed to alter any
2 existing collective bargaining unit or the provisions of any existing
3 collective bargaining agreement until the agreement has expired or
4 until the bargaining unit has been modified by action of the personnel
5 board as provided by law.

6 **Sec. 202.** RCW 39.35.030 and 1994 c 242 s 1 are each amended to
7 read as follows:

8 For the purposes of this chapter the following words and phrases
9 shall have the following meanings unless the context clearly requires
10 otherwise:

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

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

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

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

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

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

25 (7) "Life-cycle cost" means the initial cost and cost of operation
26 of a major facility over its economic life. This shall be calculated
27 as the initial cost plus the operation, maintenance, and energy costs
28 over its economic life, reflecting anticipated increases in these costs
29 discounted to present value at the current rate for borrowing public
30 funds, as determined by the office of financial management. The energy
31 cost projections used shall be those provided by the (~~state energy~~
32 ~~office~~) department. The (~~office~~) department shall update these
33 projections at least every two years.

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

36 (a) The coordination and positioning of a major facility on its
37 physical site;

1 (b) The amount and type of fenestration employed in a major
2 facility;

3 (c) The amount of insulation incorporated into the design of a
4 major facility;

5 (d) The variable occupancy and operating conditions of a major
6 facility; and

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

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

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

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

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

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

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

28 (11) "Renewable energy systems" means methods of facility design
29 and construction and types of equipment for the utilization of
30 renewable energy sources including, but not limited to, active or
31 passive solar space heating or cooling, domestic solar water heating,
32 windmills, waste heat, biomass and/or refuse-derived fuels,
33 photovoltaic devices, and geothermal energy.

34 ~~(12) ("Cogeneration" means the sequential generation of two or
35 more forms of energy from a common fuel or energy source. Where these
36 forms are electricity and thermal energy, then the operating and
37 efficiency standards established by 18 C.F.R. Sec. 292.205 and the
38 definitions established by 18 C.F.R. 292.202 (c) through (m) as of July
39 28, 1991, shall apply.~~

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

4 ~~((14))~~ (13) "Design standards" means the heating, air-
5 conditioning, ventilating, and renewable resource systems identified,
6 analyzed, and recommended by the ~~((office))~~ department as providing an
7 efficient energy system or systems based on the economic life of the
8 selected buildings.

9 **Sec. 203.** RCW 39.35.050 and 1994 c 242 s 3 are each amended to
10 read as follows:

11 The ~~((office))~~ department, in consultation with affected public
12 agencies, shall develop and issue guidelines for administering this
13 chapter. The purpose of the guidelines is to define a procedure and
14 method for performance of life-cycle cost analysis to promote the
15 selection of low-life-cycle cost alternatives. At a minimum, the
16 guidelines must contain provisions that:

17 (1) Address energy considerations during the planning phase of the
18 project;

19 (2) Identify energy components and system alternatives including
20 renewable energy systems ~~((and cogeneration applications))~~ prior to
21 commencing the energy consumption analysis;

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

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

27 (5) Specify the assumptions to be used for escalation and inflation
28 rates, equipment service lives, economic building lives, and
29 maintenance costs;

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

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

33 **Sec. 204.** RCW 39.35.060 and 1991 c 201 s 16 are each amended to
34 read as follows:

35 The ~~((energy office))~~ department may impose fees upon affected
36 public agencies for the review of life-cycle cost analyses. The fees
37 shall be deposited in the energy efficiency services account

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

11 **Sec. 205.** RCW 39.35C.010 and 1991 c 201 s 2 are each amended to
12 read as follows:

13 Unless the context clearly requires otherwise, the definitions in
14 this section apply throughout this chapter.

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

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

24 ~~((3))~~ (2) "Cost-effective" means that the present value to a
25 state agency or school district of the energy reasonably expected to be
26 saved or produced by a facility, activity, measure, or piece of
27 equipment over its useful life, including any compensation received
28 from a utility or the Bonneville power administration, is greater than
29 the net present value of the costs of implementing, maintaining, and
30 operating such facility, activity, measure, or piece of equipment over
31 its useful life, when discounted at the cost of public borrowing.

32 ~~((4))~~ (3) "Energy" means ~~((energy as defined in RCW~~
33 ~~43.21F.025(1))~~ petroleum or other liquid fuels; natural or synthetic
34 fuel gas; solid carbonaceous fuels; fissionable nuclear material;
35 electricity; solar radiation; geothermal resources; hydropower; organic
36 waste products; wind; tidal activity; any other substance or process
37 used to produce heat, light, or motion; or the savings from
38 nongeneration technologies, including conservation or improved

1 efficiency in the usage of any of the sources described in this
2 subsection.

3 ~~((5))~~ (4) "Energy efficiency project" means a conservation or
4 cogeneration project.

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

9 ~~((7) "Energy office" means the Washington state energy office.~~

10 ~~(8))~~ (6) "Department" means the state department of general
11 administration.

12 (7) "Performance-based contracting" means contracts for which
13 payment is conditional on achieving contractually specified energy
14 savings.

15 ~~((9))~~ (8) "Public facility" means a building or structure, or a
16 group of buildings or structures at a single site, owned by a state
17 agency or school district.

18 ~~((10))~~ (9) "State agency" means every state office or department,
19 whether elective or appointive, state institutions of higher education,
20 and all boards, commissions, or divisions of state government, however
21 designated.

22 ~~((11))~~ (10) "State facility" means a building or structure, or a
23 group of buildings or structures at a single site, owned by a state
24 agency.

25 ~~((12))~~ (11) "Utility" means privately or publicly owned electric
26 and gas utilities, electric cooperatives and mutuals, whether located
27 within or without Washington state.

28 ~~((13))~~ (12) "Local utility" means the utility or utilities in
29 whose service territory a public facility is located.

30 **Sec. 206.** RCW 39.35C.020 and 1991 c 201 s 3 are each amended to
31 read as follows:

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

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

1 effective conservation projects at their facilities. The assistance
2 shall include the following:

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

5 (b) Apprising state agencies and school districts of opportunities
6 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 for
27 the recovery of costs.

28 **Sec. 207.** 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 responsible for the public facilities, develop a plan for
23 coordinated delivery of conservation services and financing or make a
24 determination of whether to participate in the local utility's
25 competitive bidding or solicitation process. The plan shall identify
26 the local utility in roles that the local utility is willing to perform
27 and that are consistent with the provisions of RCW 39.35C.040(2) (d)
28 and (e).

29 **Sec. 208.** 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 are compensated fairly for the energy
33 savings provided to utilities and be allowed to participate on an equal
34 basis in any utility conservation program, bidding, or solicitation
35 process. State agencies and school districts shall not receive
36 preferential treatment. For the purposes of this section, any type of
37 compensation from a utility or the Bonneville power administration
38 intended to achieve reductions or efficiencies in energy use which are

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

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

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

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

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

36 (d) The ((energy-office)) department shall approve a transaction
37 unless it finds, pursuant to the review in (c) of this subsection, that
38 the transaction would not result in an equitable allocation of costs

1 and benefits to the state, state agency, or school district, in which
2 case the transaction shall be disapproved.

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

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

24 **Sec. 209.** RCW 39.35C.050 and 1991 c 201 s 6 are each amended to
25 read as follows:

26 In addition to any other authorities conferred by law:

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

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

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

36 (c) Contract to sell energy savings from a conservation project at
37 public facilities to local utilities or the Bonneville power
38 administration.

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

6 (3) A school district may:

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

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

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

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

17 **Sec. 210.** RCW 39.35C.060 and 1991 c 201 s 7 are each amended to
18 read as follows:

19 (1) The (~~(energy office))~~ department, in accordance with RCW
20 43.21F.060(2) may use appropriated moneys to make loans to school
21 districts to provide all or part of the financing for conservation
22 projects. The (~~(energy office))~~ department shall determine the
23 eligibility of such projects for conservation loans and the terms of
24 such loans. If loans are from moneys appropriated from bond proceeds,
25 the repayments of the loans shall be sufficient to pay, when due, the
26 principal and interest on the bonds and shall be paid to the energy
27 efficiency construction account established in RCW 39.35C.100. To the
28 extent that a school district applies the proceeds of such loans to a
29 modernization or new construction project, such proceeds shall be
30 considered a portion of the school district's share of the costs of
31 such project.

32 (2) State agencies may use financing contracts under chapter 39.94
33 RCW to provide all or part of the funding for conservation projects.
34 The (~~(energy office))~~ department shall determine the eligibility of
35 such projects for financing contracts. The repayments of the financing
36 contracts shall be sufficient to pay, when due, the principal and
37 interest on the contracts.

1 **Sec. 211.** RCW 39.35C.090 and 1991 c 201 s 10 are each amended to
2 read as follows:

3 In addition to any other authorities conferred by law:

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

9 (a) Contract to sell electric energy generated at state facilities
10 to a utility; and

11 (b) Contract to sell thermal energy produced at state facilities to
12 a utility.

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

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

19 (b) Lease state property for the installation and operation of
20 cogeneration and facility heating and cooling equipment at its
21 facilities;

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

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

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

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

34 (4) In exercising the authority granted by subsections (1) and (2)
35 of this section, a state agency must comply with the provisions of RCW
36 39.35C.080.

37 **Sec. 212.** RCW 39.35C.100 and 1991 c 201 s 11 are each amended to
38 read as follows:

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

4 (a) Construction of energy efficiency projects, including project
5 evaluation and verification of benefits, project design, project
6 development, project construction, and project administration.

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

10 (2) Sources for this account may include:

11 (a) General obligation and revenue bond proceeds appropriated by
12 the legislature;

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

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

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

23 **Sec. 213.** RCW 39.35C.110 and 1991 c 201 s 12 are each amended to
24 read as follows:

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

32 (2) All receipts from the following sources shall be deposited into
33 the account:

34 (a) Project fees charged under this section and RCW 39.35C.020,
35 39.35C.070, and 39.35.060;

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

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

4 (d) Payments by utilities and federal power marketing agencies
5 under this chapter, except those retained by state agencies and school
6 districts under RCW 39.35C.120.

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

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

14 **Sec. 214.** RCW 39.35C.120 and 1991 c 201 s 13 are each amended to
15 read as follows:

16 (1) Potential benefits from energy efficiency projects at public
17 facilities include savings in the form of reduced energy costs;
18 revenues from lease payments, sales of energy or energy savings, or
19 other sources; avoided capital costs; site enhancements; and additional
20 operating and maintenance resources.

21 (2) To encourage these projects at state facilities, and
22 notwithstanding any other provision of law, the following benefits from
23 energy efficiency projects completed after July 28, 1991, shall be
24 apportioned as specified:

25 (a) As to conservation, state agencies may retain all net savings
26 in the form of reduced energy costs, and one-half of all net revenues
27 from any transaction with a utility, the Bonneville power
28 administration, or other entity. The net savings shall be retained by
29 the local administrative body responsible for the public facility; and

30 (b) ~~((As to cogeneration projects, state agencies may retain one-
31 half of all net savings in the form of reduced energy costs and twenty
32 percent of all net revenues generated by the project from any source
33 except that state institutions of higher education may retain one-half
34 of all net revenues generated by the project; and~~

35 ~~(c))~~ The remaining net revenues from conservation projects ~~((, and
36 remaining net savings and revenues from cogeneration projects,))~~ shall
37 be remitted to the state for the disposition and uses specified in
38 subsection (4) of this section.

1 (3) Each state agency's share of net savings from ((cogeneration))
2 projects and of all net revenues shall be credited to a special local
3 account created under RCW 28A.300.210, the use of which shall be
4 limited, in priority order, to ongoing operation, maintenance, and
5 improvements of energy systems and energy efficiency measures, to other
6 ongoing and deferred maintenance, and to other infrastructure
7 improvements at the facility that was the site of the energy efficiency
8 project.

9 (4) The state's share of net savings from ((cogeneration)) projects
10 and of all net revenues, and any portion of the state agency's share
11 which exceeds its needs for the purposes specified in subsection (3) of
12 this section, shall be deposited in the energy efficiency services
13 account established by RCW 39.35C.110.

14 (5) The use by state agencies of net savings and net revenues from
15 energy efficiency projects shall be in addition to, and shall not
16 supplant or replace, funding from traditional sources for their normal
17 operations and maintenance or capital budgets. It is the intent of
18 this subsection to ensure that such institutions receive the full
19 benefit intended by this section, and that such effect will not be
20 diminished by budget adjustments inconsistent with this intent.

21 (6) Energy efficiency projects in school districts, funded in whole
22 or in part with state assistance provided under chapter 28A.525 RCW, or
23 with the financing mechanisms authorized by this chapter, shall be
24 subject to the provisions of this section governing the apportionment
25 and use of savings and revenues from energy efficiency projects.

26 (7) For purposes of this section, "net" savings and revenues shall
27 mean savings and revenues remaining after payment of project capital
28 costs, including debt service, and other payments and reserves as
29 required by a bond resolution or loan agreement under this chapter, and
30 payment of project operating and maintenance expenses. The ((energy
31 office)) department shall develop guidelines and procedures for
32 determining net savings and net revenues for energy efficiency projects
33 at public facilities by April 1, 1992.

34 (8) The ((energy office)) department shall report annually until
35 the year 2006 to the director of the office of financial management and
36 the chairs of the senate ways and means committee and the appropriate
37 house of representatives fiscal committees a full and complete
38 financial accounting for energy efficiency projects undertaken pursuant
39 to chapter 201, Laws of 1991, including but not limited to a

1 description of the project, its location and sponsoring agency or
2 school district, date of completion or, if not completed, status of
3 construction, the amount of investment in and expenditures on the
4 project, the amount of revenues received from the project and estimated
5 savings, if any, during the past year, estimated revenues,
6 expenditures, and investments for the ensuing five years, the useful
7 life originally estimated for the project, and the useful life of the
8 project estimated to remain as of the date of the report, and the
9 amount of savings and revenues from energy conservation and
10 cogeneration retained by individual state agencies.

11 **Sec. 215.** RCW 39.35C.130 and 1991 c 201 s 17 are each amended to
12 read as follows:

13 The ((~~energy office~~)) department may adopt rules to implement RCW
14 39.35C.020 through 39.35C.040, 39.35C.070, 39.35C.080, 39.35C.120, and
15 39.35.050.

16 **Sec. 216.** RCW 43.41.175 and 1986 c 325 s 4 are each amended to
17 read as follows:

18 The ((~~state energy office~~)) department of general administration
19 shall provide the office of financial management with energy
20 consumption data necessary to implement RCW 43.41.170. Facilities or
21 the agencies responsible for them shall report accurate monthly energy
22 consumption and cost figures for all fuels to the ((~~state energy~~
23 ~~office~~)) department of general administration quarterly, including any
24 changes in total space served or facility operations.

25 **Sec. 217.** RCW 43.99I.050 and 1991 sp.s. c 31 s 5 are each amended
26 to read as follows:

27 In addition to any other charges authorized by law and to assist in
28 the reimbursement of principal and interest payments on bonds issued
29 for the purposes of RCW 43.99I.020 (3) and (4), the director of the
30 ((~~energy office~~)) department of general administration shall cause to
31 be accumulated in the energy efficiency construction account, from
32 project revenues, loan repayments, and other moneys legally available
33 for such purposes, amounts adequate to make payments of principal of
34 and interest coming due on general obligation bonds issued for the
35 purposes of RCW 43.99I.020 (3) and (4). As needed during each fiscal
36 year, the director shall cause amounts so accumulated to be deposited

1 into the general fund of the state treasury. If the director is unable
2 to accumulate and transfer the full amount necessary for such payments
3 of principal of and interest coming due on the bonds, any shortfall
4 shall be credited to an account receivable from the ((energy office))
5 department of general administration to the state treasury.

6 **PART III**

7 **TRANSFERS TO THE DEPARTMENT OF TRANSPORTATION**

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

10 (1) All powers, duties, and functions of the state energy office
11 pertaining to programs providing technical assistance for energy
12 efficient transportation are transferred to the department of
13 transportation. All references to the director or the state energy
14 office in the Revised Code of Washington shall be construed to mean the
15 secretary or the department of transportation when referring to the
16 functions transferred in this section.

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

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

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

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

9 (4) All rules and all pending business before the state energy
10 office pertaining to the powers, functions, and duties transferred
11 shall be continued and acted upon by the department of transportation.
12 All existing contracts and obligations shall remain in full force and
13 shall be performed by the department of transportation.

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

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

23 (7) Nothing contained in this section may be construed to alter any
24 existing collective bargaining unit or the provisions of any existing
25 collective bargaining agreement until the agreement has expired or
26 until the bargaining unit has been modified by action of the personnel
27 board as provided by law.

28 **Sec. 302.** RCW 70.94.544 and 1991 c 202 s 17 are each amended to
29 read as follows:

30 A portion of the funds made available for the purposes of this
31 chapter shall be used to (~~fund the commute trip reduction task force~~
32 ~~in carrying out the responsibilities of RCW 70.94.541, and the~~
33 ~~interagency technical assistance team, including the activities~~
34 ~~authorized under RCW 70.94.541(2), and to)) assist counties, cities,
35 and towns implementing commute trip reduction plans. Funds shall be
36 provided to the counties in proportion to the number of major employers
37 and major worksites in each county. The counties shall provide funds
38 to cities and towns within the county which are implementing commute~~

1 trip reduction plans in proportion to the number of major employers and
2 major worksites within the city or town.

3 **Sec. 303.** RCW 70.94.960 and 1991 c 199 s 218 are each amended to
4 read as follows:

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

17 **Sec. 304.** RCW 70.120.210 and 1991 c 199 s 212 are each amended to
18 read as follows:

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

29 **Sec. 305.** RCW 70.120.220 and 1991 c 199 s 215 are each amended to
30 read as follows:

31 The department, in cooperation with the departments of general
32 administration and transportation(~~)~~ and the utilities and
33 transportation commission(~~, and the state energy office,~~) shall
34 biennially prepare a report to the legislature starting July 1, 1992,
35 on:

- 1 (1) Progress of clean fuel and clean-fuel vehicle programs in
2 reducing automotive emissions;
- 3 (2) Recommendations for enhancing clean-fuel distribution systems;
- 4 (3) Efforts of the state, units of local government, and the
5 private sector to evaluate and utilize "clean fuel" or "clean-fuel
6 vehicles"; and
- 7 (4) Recommendations for changes in the existing program to make it
8 more effective and, if warranted, for expansion of the program.

9 NEW SECTION. **Sec. 306.** The following acts or parts of acts are
10 each repealed:

- 11 (1) RCW 70.94.537 and 1991 c 202 s 15; and
12 (2) RCW 70.94.541 and 1991 c 202 s 16.

13 **PART IV**
14 **TRANSFERS TO THE MILITARY DEPARTMENT**

15 NEW SECTION. **Sec. 401.** A new section is added to chapter 38.52
16 RCW to read as follows:

17 (1) All powers, duties, and functions of the state energy office
18 pertaining to state coordination and regulation of energy emergencies
19 are transferred to the military department. All references to the
20 director or the state energy office in the Revised Code of Washington
21 shall be construed to mean the adjutant general or the military
22 department when referring to the functions transferred in this section.

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

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 military department.

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 military department. All employees classified
10 under chapter 41.06 RCW, the state civil service law, are assigned to
11 the military department to perform their usual duties upon the same
12 terms as formerly, without any loss of rights, subject to any action
13 that may be appropriate thereafter in accordance with the laws and
14 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 military department. All
18 existing contracts and obligations shall remain in full force and shall
19 be performed by the military department.

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

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

29 (7) Nothing contained in this section may be construed to alter any
30 existing collective bargaining unit or the provisions of any existing
31 collective bargaining agreement until the agreement has expired or
32 until the bargaining unit has been modified by action of the personnel
33 board as provided by law.

34 **PART V**

35 **TECHNICAL CORRECTIONS**

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

1 (1)(a) Not later than January 1, 1991, the state building code
2 council(~~(, in consultation with the state energy office,)~~) shall
3 establish interim requirements for the maintenance of indoor air
4 quality in newly constructed residential buildings. In establishing
5 the interim requirements, the council shall take into consideration
6 differences in heating fuels and heating system types. These
7 requirements shall be in effect July 1, 1991, through June 30, 1993.

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

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

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

28 (iii) Effective installed ventilation capacity means the capability
29 to deliver the specified ventilation rates for the actual design of the
30 ventilation system. Natural ventilation and infiltration shall not be
31 considered acceptable substitutes for mechanical ventilation.

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

36 (e) The interim requirements for all newly constructed residential
37 buildings shall include standards for indoor air quality pollutant
38 source control, including the following requirements: All structural
39 panel components of the residence shall comply with appropriate

1 standards for the emission of formaldehyde; the back-drafting of
2 combustion by-products from combustion appliances shall be minimized
3 through the use of dampers, vents, outside combustion air sources, or
4 other appropriate technologies; and, in areas of the state where
5 monitored data indicate action is necessary to inhibit indoor radon gas
6 concentrations from exceeding appropriate health standards, entry of
7 radon gas into homes shall be minimized through appropriate foundation
8 construction measures.

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

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

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

35 (2) The council shall follow the legislature's standards set forth
36 in this section to promulgate rules to be known as the Washington state
37 energy code. The Washington state energy code shall be designed to
38 require new buildings to meet a certain level of energy efficiency, but

1 allow flexibility in building design, construction, and heating
2 equipment efficiencies within that framework. The Washington state
3 energy code shall be designed to allow space heating equipment
4 efficiency to offset or substitute for building envelope thermal
5 performance.

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

11 (4) The Washington state energy code for residential buildings
12 shall require:

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

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

19 (ii) In zone 1, walls insulated to a level of R-19 (R value
20 includes insulation only), or constructed with two by four members,
21 R-13 insulation batts, R-3.2 insulated sheathing, and other normal
22 assembly components; in zone 2 walls insulated to a level of R-24 (R
23 value includes insulation only), or constructed with two by six
24 members, R-22 insulation batts, R-3.2 insulated sheathing, and other
25 normal construction assembly components; for the purpose of determining
26 equivalent thermal performance, the wall U-value shall be 0.058 in zone
27 1 and 0.044 in zone 2;

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

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

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

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

36 (vii) In zone 1 the glazing area may be up to twenty-one percent of
37 floor area and in zone 2 the glazing area may be up to seventeen
38 percent of floor area where consideration of the thermal resistance
39 values for other building components and solar heat gains through the

1 glazing result in thermal performance equivalent to that achieved with
2 thermal resistance values for other components determined in accordance
3 with the equivalent thermal performance criteria of (a) of this
4 subsection and glazing area equal to fifteen percent of the floor area.
5 Throughout the state for the purposes of determining equivalent thermal
6 performance, the maximum glazing area shall be fifteen percent of the
7 floor area; and

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

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

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

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

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

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

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

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

33 (vii) Double glazed windows with values not more than U-0.65 in
34 zone 1 and U-0.60 in zone 2. The state building code council(~~(in~~
35 ~~consultation with the state energy office,~~) shall review these U-
36 values, and, if economically justified for consumers, shall amend the
37 Washington state energy code to improve the U-values by December 1,
38 1993. The amendment shall not take effect until July 1, 1994; and

1 (viii) In zone 1, the maximum glazing area shall be twenty-one
2 percent of the floor area. In zone 2 the maximum glazing area shall be
3 seventeen percent of the floor area. Throughout the state for the
4 purposes of determining equivalent thermal performance, the maximum
5 glazing area shall be fifteen percent of the floor area.

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

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

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

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

37 (7)(a) Except as provided in (b) of this subsection, the Washington
38 state energy code for residential structures shall preempt the

1 residential energy code of each city, town, and county in the state of
2 Washington.

3 (b) The state energy code for residential structures does not
4 preempt a city, town, or county's energy code for residential
5 structures which exceeds the requirements of the state energy code and
6 which was adopted by the city, town, or county prior to March 1, 1990.
7 Such cities, towns, or counties may not subsequently amend their energy
8 code for residential structures to exceed the requirements adopted
9 prior to March 1, 1990.

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

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

26 (~~(10))~~) (9) If any electric utility providing electric service to
27 customers in the state of Washington purchases at least one percent of
28 its firm energy load from a federal agency, pursuant to section
29 5.(b)(1) of the Pacific Northwest electric power planning and
30 conservation act (P.L. 96-501), and such utility is unable to obtain
31 from that agency at least fifty percent of the funds for payments
32 required by RCW 19.27A.035, the amendments to this section by chapter
33 2, Laws of 1990 shall be null and void, and the 1986 state energy code
34 shall be in effect, except that a city, town, or county may enforce a
35 local energy code with more stringent energy requirements adopted prior
36 to March 1, 1990. This subsection shall expire June 30, 1995.

37 **Sec. 503.** RCW 19.27A.055 and 1990 c 2 s 6 are each amended to read
38 as follows:

1 There is hereby created in the state treasury the energy code
2 training account. The (~~Washington state energy office~~) department of
3 community, trade, and economic development shall administer
4 expenditures from this account for the purpose of providing training
5 for the inspection and training for the enforcement by local
6 governments of the Washington state energy code in effect pursuant to
7 RCW 19.27A.020. The revenues into this account shall derive from
8 assessments by the (~~state energy office~~) department of community,
9 trade, and economic development on all investor-owned and publicly
10 owned gas and electric utilities in the state of Washington in
11 proportion to the number of housing starts served by a utility in 1989,
12 based on an amount of one hundred fifty dollars per energy code
13 inspection or enforcement official that is within the service area of
14 the utility. Assessments may be made between January 1, 1991, and July
15 1, 1991. Federal funds available to qualifying utilities for code
16 inspection retraining shall be used before obtaining funds from
17 utilities under this section. Additional funds may be deposited in the
18 account from federal agencies or other sources. All or a portion of
19 the funds for the cost of local government inspection and enforcement
20 may be accepted from federal agencies or other sources.

21 **Sec. 504.** RCW 28A.515.320 and 1991 sp.s. c 13 s 58 are each
22 amended to read as follows:

23 The common school construction fund is to be used exclusively for
24 the purpose of financing the construction of facilities for the common
25 schools. The sources of said fund shall be: (1) Those proceeds
26 derived from sale or appropriation of timber and other crops from
27 school and state land other than those granted for specific purposes;
28 (2) the interest accruing on the permanent common school fund less the
29 allocations to the state treasurer's service (~~account-[fund]~~) fund
30 pursuant to RCW 43.08.190 and the state investment board expense
31 account pursuant to RCW 43.33A.160 together with all rentals and other
32 revenue derived therefrom and from land and other property devoted to
33 the permanent common school fund; (3) all moneys received by the state
34 from the United States under the provisions of section 191, Title 30,
35 United States Code, Annotated, and under section 810, chapter 12, Title
36 16, (Conservation), United States Code, Annotated, except moneys
37 received before June 30, 2001, and when thirty megawatts of geothermal
38 power is certified as commercially available by the receiving utilities

1 ((and the state energy office)), eighty percent of such moneys, under
2 the Geothermal Steam Act of 1970 pursuant to RCW 43.140.030; and (4)
3 such other sources as the legislature may direct. That portion of the
4 common school construction fund derived from interest on the permanent
5 common school fund may be used to retire such bonds as may be
6 authorized by law for the purpose of financing the construction of
7 facilities for the common schools.

8 The interest accruing on the permanent common school fund less the
9 allocations to the state treasurer's service ((~~account~~ {~~fund~~}) fund
10 pursuant to RCW 43.08.190 and the state investment board expense
11 account pursuant to RCW 43.33A.160 together with all rentals and other
12 revenues accruing thereto pursuant to subsection (2) of this section
13 prior to July 1, 1967, shall be exclusively applied to the current use
14 of the common schools.

15 To the extent that the moneys in the common school construction
16 fund are in excess of the amount necessary to allow fulfillment of the
17 purpose of said fund, the excess shall be available for deposit to the
18 credit of the permanent common school fund or available for the current
19 use of the common schools, as the legislature may direct. Any money
20 from the common school construction fund which is made available for
21 the current use of the common schools shall be restored to the fund by
22 appropriation, including interest income foregone, before the end of
23 the next fiscal biennium following such use.

24 **Sec. 505.** RCW 42.17.2401 and 1993 sp.s. c 2 s 18, 1993 c 492 s
25 488, and 1993 c 281 s 43 are each reenacted and amended to read as
26 follows:

27 For the purposes of RCW 42.17.240, the term "executive state
28 officer" includes:

29 (1) The chief administrative law judge, the director of
30 agriculture, the administrator of the office of marine safety, the
31 administrator of the Washington basic health plan, the director of the
32 department of services for the blind, the director of the state system
33 of community and technical colleges, the director of community, trade,
34 and economic development, the secretary of corrections, the director of
35 ecology, the commissioner of employment security, the chairman of the
36 energy facility site evaluation council, ((~~the director of the energy~~
37 ~~office,~~) the secretary of the state finance committee, the director of
38 financial management, the director of fish and wildlife, the executive

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

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

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

26 (4) Central Washington University board of trustees, board of
27 trustees of each community college, each member of the state board for
28 community and technical colleges, state convention and trade center
29 board of directors, committee for deferred compensation, Eastern
30 Washington University board of trustees, Washington economic
31 development finance authority, The Evergreen State College board of
32 trustees, forest practices appeals board, forest practices board,
33 gambling commission, Washington health care facilities authority, each
34 member of the Washington health services commission, higher education
35 coordinating board, higher education facilities authority, horse racing
36 commission, state housing finance commission, human rights commission,
37 indeterminate sentence review board, board of industrial insurance
38 appeals, information services board, interagency committee for outdoor
39 recreation, state investment board, liquor control board, lottery

1 commission, marine oversight board, (~~oil and gas conservation~~
2 ~~committee,~~) Pacific Northwest electric power and conservation planning
3 council, parks and recreation commission, personnel appeals board,
4 board of pilotage commissioners, pollution control hearings board,
5 public disclosure commission, public pension commission, shorelines
6 hearing board, public employees' benefits board, board of tax appeals,
7 transportation commission, University of Washington board of regents,
8 utilities and transportation commission, Washington state maritime
9 commission, Washington personnel resources board, Washington public
10 power supply system executive board, Washington State University board
11 of regents, Western Washington University board of trustees, and fish
12 and wildlife commission.

13 **Sec. 506.** RCW 43.06.115 and 1993 c 421 s 2 are each amended to
14 read as follows:

15 (1) The governor may, by executive order, after consultation with
16 or notification of the executive-legislative committee on economic
17 development created by chapter . . . (Senate Bill No. 5300), Laws of
18 1993, declare a community to be a "military impacted area." A
19 "military impacted area" means a community or communities, as
20 identified in the executive order, that experience serious social and
21 economic hardships because of a change in defense spending by the
22 federal government in that community or communities.

23 (2) If the governor executes an order under subsection (1) of this
24 section, the governor shall establish a response team to coordinate
25 state efforts to assist the military impacted community. The response
26 team may include, but not be limited to, one member from each of the
27 following agencies: (a) The department of community, trade, and
28 economic development; (b) (~~the department of trade and economic~~
29 ~~development;~~~~(c)~~) the department of social and health services;
30 (~~(d)~~) (c) the employment security department; (~~(e)~~) (d) the state
31 board for community and technical colleges; (~~(f)~~) (e) the higher
32 education coordinating board; (~~(g)~~) and (f) the department of
33 transportation(~~(i) and (h) the Washington energy office~~). The governor
34 may appoint a response team coordinator. The governor shall seek to
35 actively involve the impacted community or communities in planning and
36 implementing a response to the crisis. The governor may seek input or
37 assistance from the community diversification advisory committee, and
38 the governor may establish task forces in the community or communities

1 to assist in the coordination and delivery of services to the local
2 community. The state and community response shall consider economic
3 development, human service, and training needs of the community or
4 communities impacted.

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

18 **Sec. 507.** RCW 43.19.675 and 1982 c 48 s 2 are each amended to read
19 as follows:

20 The director of general administration(~~(, in cooperation with the~~
21 ~~director of the state energy office,~~)) shall conduct, by contract or
22 other arrangement, an energy audit for each state-owned facility. All
23 energy audits shall be coordinated with and complement other
24 governmental energy audit programs. The energy audit for each state-
25 owned facility located on the capitol campus shall be completed no
26 later than July 1, 1981, and the results and findings of each energy
27 audit shall be compiled and transmitted to the governor and the
28 legislature no later than October 1, 1981. For every other state-owned
29 facility, the energy consumption surveys shall be completed no later
30 than October 1, 1982, and the walk-through surveys shall be completed
31 no later than July 1, 1983.

32 **Sec. 508.** RCW 43.19.680 and 1986 c 325 s 2 are each amended to
33 read as follows:

34 (1) Upon completion of each walk-through survey required by RCW
35 43.19.675, the director of general administration or the agency
36 responsible for the facility if other than the department of general
37 administration shall implement energy conservation maintenance and

1 operation procedures that may be identified for any state-owned
2 facility. These procedures shall be implemented as soon as possible
3 but not later than twelve months after the walk-through survey.

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

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

35 For each biennium until all measures are installed, the director of
36 general administration shall report to the governor and legislature
37 installation progress, measures planned for installation during the
38 ensuing biennium, and changes, if any, to the technical assistance
39 study schedule. This report shall be submitted by December 31, 1984,

1 or at the end of the following year whichever immediately precedes the
2 capital budget adoption, and every two years thereafter until all
3 measures are installed.

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

7 **Sec. 509.** RCW 43.31.621 and 1994 c 264 s 18 are each amended to
8 read as follows:

9 (1) There is established the agency timber task force. The task
10 force shall be chaired by the timber recovery coordinator. It shall be
11 the responsibility of the coordinator that all directives of chapter
12 314, Laws of 1991 are carried out expeditiously by the agencies
13 represented in the task force. The task force shall consist of the
14 directors, or representatives of the directors, of the following
15 agencies: The department of community, trade, and economic
16 development, employment security department, department of social and
17 health services, state board for community and technical colleges,
18 state work force training and education coordinating board, or its
19 replacement entity, department of natural resources, department of
20 transportation, (~~state energy office,~~) department of fish and
21 wildlife, University of Washington center for international trade in
22 forest products, and department of ecology. The task force may consult
23 and enlist the assistance of the following: The higher education
24 coordinating board, University of Washington college of forest
25 resources, Washington State University school of forestry, Northwest
26 policy center, state superintendent of public instruction, the
27 Evergreen partnership, Washington association of counties, and rural
28 development council.

29 (2) This section shall expire June 30, 1995.

30 **Sec. 510.** RCW 47.06.110 and 1993 c 446 s 11 are each amended to
31 read as follows:

32 The state-interest component of the state-wide multimodal
33 transportation plan shall include a state public transportation plan
34 that:

35 (1) Articulates the state vision of an interest in public
36 transportation and provides quantifiable objectives, including benefits
37 indicators;

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

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

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

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

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

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

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

24 **Sec. 511.** RCW 82.35.020 and 1979 ex.s. c 191 s 2 are each amended
25 to read as follows:

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

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

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

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

37 (4) "Cost" means only the cost of a cogeneration facility which is
38 in addition to the cost that the applicant otherwise would incur to

1 meet the applicant's demands for useful heat. "Cost" does not include
2 expenditures which are offset by cost savings, including but not
3 limited to savings resulting from early retirement of existing
4 equipment.

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

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

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

11 **Sec. 512.** RCW 82.35.080 and 1979 ex.s. c 191 s 8 are each amended
12 to read as follows:

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

17 (a) The certificate was obtained by fraud or deliberate
18 misrepresentation;

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

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

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

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

33 (3) Any person, firm, corporation, or organization that obtains a
34 certificate revoked under this section shall be liable for the total
35 amount of money saved by claiming the credits and exemptions provided
36 under this chapter and RCW 84.36.485. The total amount of the credits
37 shall be collected as delinquent business and occupation taxes, and the

1 total of the exemptions shall be collected and distributed as
2 delinquent property taxes. Interest shall accrue on the amounts of the
3 credits and exemptions from the date the taxes were otherwise due.

4 ~~((4) The office shall provide technical assistance to the
5 department in carrying out its responsibilities under this section.))~~

6 **Sec. 513.** RCW 90.03.247 and 1994 c 264 s 82 are each amended to
7 read as follows:

8 Whenever an application for a permit to make beneficial use of
9 public waters is approved relating to a stream or other water body for
10 which minimum flows or levels have been adopted and are in effect at
11 the time of approval, the permit shall be conditioned to protect the
12 levels or flows. No agency may establish minimum flows and levels or
13 similar water flow or level restrictions for any stream or lake of the
14 state other than the department of ecology whose authority to establish
15 is exclusive, as provided in chapter 90.03 RCW and RCW 90.22.010 and
16 90.54.040. The provisions of other statutes, including but not limited
17 to RCW 75.20.100 and chapter 43.21C RCW, may not be interpreted in a
18 manner that is inconsistent with this section. In establishing such
19 minimum flows, levels, or similar restrictions, the department shall,
20 during all stages of development by the department of ecology of
21 minimum flow proposals, consult with, and carefully consider the
22 recommendations of, the department of fish and wildlife, ~~((the state
23 energy office,))~~ the department of agriculture, and representatives of
24 the affected Indian tribes. Nothing herein shall preclude the
25 department of fish and wildlife ~~((, the energy office,))~~ or the
26 department of agriculture from presenting its views on minimum flow
27 needs at any public hearing or to any person or agency, and the
28 department of fish and wildlife ~~((, the energy office,))~~ and the
29 department of agriculture are each empowered to participate in
30 proceedings of the federal energy regulatory commission and other
31 agencies to present its views on minimum flow needs.

32 NEW SECTION. **Sec. 514.** RCW 41.06.081 and 1981 c 295 s 10 are each
33 repealed.

34 **PART VI**

35 **ELIMINATION OF COGENERATION PROJECTS**

1 NEW SECTION. **Sec. 601.** The following acts or parts of acts are
2 each repealed:

3 (1) RCW 39.35C.070 and 1991 c 201 s 8; and

4 (2) RCW 39.35C.080 and 1991 c 201 s 9.

5 **PART VII**
6 **MISCELLANEOUS**

7 NEW SECTION. **Sec. 701.** Part headings used in this act do not
8 constitute any part of the law.

9 NEW SECTION. **Sec. 702.** This act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of the
11 state government and its existing public institutions, and shall take
12 effect July 1, 1995.

13 NEW SECTION. **Sec. 703.** If any provision of this act or its
14 application to any person or circumstance is held invalid, the
15 remainder of the act or the application of the provision to other
16 persons or circumstances is not affected.

--- END ---