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HOUSE BILL 2606

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State of Washington

54th Legislature

1996 Regular Session

By Representatives Patterson, Kessler, Poulsen and Conway; by request of Governor Lowry

Read first time 01/15/96. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to the state energy office; amending RCW  
2 43.21F.025, 43.21F.045, 43.21F.060, 43.21F.090, 41.06.070, 39.35.030,  
3 39.35.050, 39.35.060, 39.35C.010, 39.35C.020, 39.35C.050, 39.35C.060,  
4 39.35C.100, 39.35C.110, 39.35C.130, 43.19.675, 19.27.190, 19.27A.020,  
5 28A.515.320, 43.06.115, 43.19.680, 43.21G.010, 43.31.621, 43.140.040,  
6 43.140.050, 47.06.110, 70.94.527, 70.94.537, 70.94.541, 70.94.551,  
7 70.94.960, 70.120.210, 70.120.220, 82.35.020, 82.35.080, and 90.03.247;  
8 reenacting and amending RCW 80.50.030 and 42.17.2401; adding a new  
9 section to chapter 43.330 RCW; adding new sections to chapter 28B.30  
10 RCW; adding a new section to chapter 47.01 RCW; adding a new section to  
11 chapter 43.19 RCW; creating new sections; repealing RCW 43.21F.035,  
12 43.21F.055, 43.21F.065, 39.35C.030, 39.35C.040, 39.35C.070, 39.35C.080,  
13 39.35C.090, 39.35C.120, 41.06.081, 43.41.175, and 19.27A.055; and  
14 providing an effective date.

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

16 NEW SECTION. **Sec. 1.** The legislature finds that affordable and  
17 reliable energy supplies are critical to the health and vitality of the  
18 state's economic well-being. It further finds a need to redefine the  
19 state's role in energy issues to determine key energy functions that

1 need to be performed by state agencies and other functions that might  
2 be better provided by others. It is the intent of the legislature to  
3 eliminate the state energy office, ensure that essential state energy  
4 programs are distributed to other state agencies, and provide a new,  
5 market-driven model for the delivery of important energy programs and  
6 services.

7  
8 **PART I**  
9 **FUNCTIONS OF THE DEPARTMENT OF COMMUNITY, TRADE,  
AND ECONOMIC DEVELOPMENT**

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.330 RCW  
11 to read as follows:

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

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

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

33 (c) Whenever any question arises as to the transfer of any funds,  
34 books, documents, records, papers, files, software, data base,  
35 equipment, or other tangible property used or held in the exercise of  
36 the powers and the performance of the duties and functions transferred,  
37 the director of financial management shall make a determination as to

1 the proper allocation and certify the same to the state agencies  
2 concerned.

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

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

20 (5) The transfer of the powers, duties, and functions of the state  
21 energy office does not affect the validity of any act performed before  
22 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 (7) The department of community, trade, and economic development  
29 shall direct the closure of the financial records of the state energy  
30 office.

31 (8) Responsibility for implementing energy education, applied  
32 research, and technology transfer programs rests with Washington State  
33 University. The department of community, trade, and economic  
34 development shall provide Washington State University available  
35 existing and future oil overcharge restitution and federal energy block  
36 funding for a minimum period of five years to carry out energy programs  
37 under an interagency agreement with the department of community, trade,  
38 and economic development. The interagency agreement shall also outline  
39 the working relationship between the department of community, trade,

1 and economic development and Washington State University as it pertains  
2 to the relationship between energy policy development and public  
3 outreach. Nothing in chapter . . . ., Laws of 1996 (this act)  
4 prohibits Washington State University from seeking grant, contract, or  
5 fee-for-service funding for energy or related programs directly from  
6 other entities.

7 **Sec. 3.** RCW 43.21F.025 and 1994 c 207 s 2 are each amended to read  
8 as follows:

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

17 (2) "Person" means an individual, partnership, joint venture,  
18 private or public corporation, association, firm, public service  
19 company, political subdivision, municipal corporation, government  
20 agency, public utility district, joint operating agency, or any other  
21 entity, public or private, however organized;

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

24 (4) (~~"Office" means the Washington state energy office~~)  
25 "Department" means the department of community, trade, and economic  
26 development;

27 (5) "Distributor" means any person, private corporation,  
28 partnership, individual proprietorship, utility, including investor-  
29 owned utilities, municipal utility, public utility district, joint  
30 operating agency, or cooperative, which engages in or is authorized to  
31 engage in the activity of generating, transmitting, or distributing  
32 energy in this state; and

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

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

1       ~~((The energy office shall have the following duties:~~  
2       ~~(1) The office shall))~~ (1) The director shall supervise and  
3 administer energy-related activities as specified in section 2 of this  
4 act and shall advise the governor and the legislature with respect to  
5 energy matters affecting the state.  
6       (2) In addition to other powers and duties granted to the director,  
7 the director shall have the following powers and duties:  
8       (a) Prepare and update contingency plans for implementation in the  
9 event of energy shortages or emergencies. The plans shall conform to  
10 chapter 43.21G RCW and shall include procedures for determining when  
11 these shortages or emergencies exist, the state officers and agencies  
12 to participate in the determination, and actions to be taken by various  
13 agencies and officers of state government in order to reduce hardship  
14 and maintain the general welfare during these emergencies. The  
15 ~~((office))~~ department shall coordinate the activities undertaken  
16 pursuant to this subsection with other persons. The components of  
17 plans that require legislation for their implementation shall be  
18 presented to the legislature in the form of proposed legislation at the  
19 earliest practicable date. The ~~((office)) department shall report to  
20 the governor and the legislature on probable, imminent, and existing  
21 energy shortages, and shall administer energy allocation and  
22 curtailment programs in accordance with chapter 43.21G RCW.  
23       ~~((2) The office shall))~~ (b) Establish and maintain a central  
24 repository in state government for collection of existing data on  
25 energy resources, including:  
26       ~~((a))~~ (i) Supply, demand, costs, utilization technology,  
27 projections, and forecasts;  
28       ~~((b))~~ (ii) Comparative costs of alternative energy sources, uses,  
29 and applications; and  
30       ~~((c))~~ (iii) Inventory data on energy research projects in the  
31 state conducted under public and/or private auspices, and the results  
32 thereof.  
33       ~~((3) The office shall))~~ (c) Coordinate federal energy programs  
34 appropriate for state-level implementation, carry out such energy  
35 programs as are assigned to it by the governor or the legislature, and  
36 monitor federally funded local energy programs as required by federal  
37 or state regulations.  
38       ~~((4) The office shall))~~ (d) Develop energy policy recommendations  
39 for consideration by the governor and the legislature.~~

1       ~~((5) The office shall)~~ (e) Provide assistance, space, and other  
2 support as may be necessary for the activities of the state's two  
3 representatives to the Pacific northwest electric power and  
4 conservation planning council. To the extent consistent with federal  
5 law, the ~~((office))~~ director shall request that Washington's council  
6 members request the administrator of the Bonneville power  
7 administration to reimburse the state for the expenses associated with  
8 the support as provided in the Pacific Northwest Electric Power  
9 Planning and Conservation Act (P.L. 96-501).

10       ~~((6) The office shall)~~ (f) Cooperate with state agencies, other  
11 governmental units, and private interests in the prioritization and  
12 implementation of the state energy strategy elements and on other  
13 energy matters.

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

17       ~~(8) The office shall)~~ (g) Serve as the official state agency  
18 responsible for coordinating implementation of the state energy  
19 strategy.

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

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

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

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

34       ~~((13) The office shall)~~ (l) Provide administrative assistance,  
35 space, and other support as may be necessary for the activities of the  
36 energy facility site evaluation council, as provided for in RCW  
37 80.50.030.

38       (m) Appoint staff as may be needed to administer energy policy  
39 functions and manage energy facility site evaluation council

1 activities. These employees are exempt from the provisions of chapter  
2 41.06 RCW.

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

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

9 **Sec. 5.** RCW 43.21F.060 and 1981 c 295 s 6 are each amended to read  
10 as follows:

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

13 (1) Obtain all necessary and existing information from energy  
14 producers, suppliers, and consumers, doing business within the state of  
15 Washington, from political subdivisions in this state, or any person as  
16 may be necessary to carry out the provisions of this chapter:  
17 PROVIDED, That if the information is available in reports made to  
18 another state agency, the (~~office~~) department shall obtain it from  
19 that agency: PROVIDED FURTHER, That, to the maximum extent  
20 practicable, informational requests to energy companies regulated by  
21 the utilities and transportation commission shall be channeled through  
22 the commission and shall be accepted in the format normally used by the  
23 companies. Such information may include but not be limited to:

- 24 (a) Sales volume;
- 25 (b) Forecasts of energy requirements; and
- 26 (c) Energy costs.

27 Notwithstanding any other provision of law to the contrary,  
28 information furnished under this subsection shall be confidential and  
29 maintained as such, if so requested by the person providing the  
30 information, if the information is proprietary.

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

1 Nothing in this subsection prohibits the use of confidential  
2 information to prepare statistics or other general data for publication  
3 when it is so presented as to prevent identification of particular  
4 persons or sources of confidential information.

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

9 **Sec. 6.** RCW 43.21F.090 and 1994 c 207 s 5 are each amended to read  
10 as follows:

11 The ((office)) department shall review the state energy strategy as  
12 developed under section 1, chapter 201, Laws of 1991, periodically with  
13 the guidance of an advisory committee. For each review, an advisory  
14 committee shall be established with a membership resembling as closely  
15 as possible the original energy strategy advisory committee specified  
16 under section 1, chapter 201, Laws of 1991. Upon completion of a  
17 public hearing regarding the advisory committee's advice and  
18 recommendations for revisions to the energy strategy, a written report  
19 shall be conveyed by the ((office)) department to the governor and the  
20 appropriate legislative committees. Any advisory committee established  
21 under this section shall be dissolved within three months after their  
22 written report is conveyed.

23 **Sec. 7.** RCW 80.50.030 and 1994 c 264 s 75 and 1994 c 154 s 315 are  
24 each reenacted and amended to read as follows:

25 (1) There is created and established the energy facility site  
26 evaluation council.

27 (2)(a) The chairman of the council shall be appointed by the  
28 governor with the advice and consent of the senate, shall have a vote  
29 on matters before the council, shall serve for a term coextensive with  
30 the term of the governor, and is removable for cause. The chairman may  
31 designate a member of the council to serve as acting chairman in the  
32 event of the chairman's absence. The chairman is a "state employee"  
33 for the purposes of chapter 42.52 RCW. As applicable, when attending  
34 meetings of the council, members may receive reimbursement for travel  
35 expenses in accordance with RCW 43.03.050 and 43.03.060, and are  
36 eligible for compensation under RCW ((43-03-240)) 43.03.250.



1 (b) The chairman or a designee shall execute all official  
2 documents, contracts, and other materials on behalf of the council.  
3 The Washington state (~~(energy office)~~) department of community, trade,  
4 and economic development shall provide all administrative and staff  
5 support for the council. The director of the (~~(energy office)~~)  
6 department of community, trade, and economic development has  
7 supervisory authority over the staff of the council and shall employ  
8 such personnel as are necessary to implement this chapter. Not more  
9 than three such employees may be exempt from chapter 41.06 RCW.

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

13 (a) Department of ecology;

14 (b) Department of fish and wildlife;

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

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

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

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

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

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

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

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

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

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

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

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

1 (6) For any port district wherein an application for a proposed  
2 port facility is filed subject to this chapter, the port district shall  
3 appoint a member or designee as a nonvoting member to the council. The  
4 member or designee so appointed shall sit with the council only at such  
5 times as the council considers the proposed site for the port district  
6 which he or she represents, and such member or designee shall serve  
7 until there has been a final acceptance or rejection of the proposed  
8 site. The provisions of this subsection shall not apply if the port  
9 district is the applicant, either singly or in partnership or  
10 association with any other person.

11 **Sec. 8.** RCW 41.06.070 and 1995 c 163 s 1 are each amended to read  
12 as follows:

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

14 (a) The members of the legislature or to any employee of, or  
15 position in, the legislative branch of the state government including  
16 members, officers, and employees of the legislative council,  
17 legislative budget committee, statute law committee, and any interim  
18 committee of the legislature;

19 (b) The justices of the supreme court, judges of the court of  
20 appeals, judges of the superior courts or of the inferior courts, or to  
21 any employee of, or position in the judicial branch of state  
22 government;

23 (c) Officers, academic personnel, and employees of technical  
24 colleges;

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

26 (e) Elective officers of the state;

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

28 (g) In the departments of employment security and social and health  
29 services, the director and the director's confidential secretary; in  
30 all other departments, the executive head of which is an individual  
31 appointed by the governor, the director, his or her confidential  
32 secretary, and his or her statutory assistant directors;

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

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

37 (ii) If the members of the board, commission, or committee serve on  
38 a part-time basis and there is a statutory executive officer: The

1 secretary of the board, commission, or committee; the chief executive  
2 officer of the board, commission, or committee; and the confidential  
3 secretary of the chief executive officer of the board, commission, or  
4 committee;

5 (iii) If the members of the board, commission, or committee serve  
6 on a full-time basis: The chief executive officer or administrative  
7 officer as designated by the board, commission, or committee; and a  
8 confidential secretary to the chair of the board, commission, or  
9 committee;

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

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

15 (j) Assistant attorneys general;

16 (k) Commissioned and enlisted personnel in the military service of  
17 the state;

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

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

23 (n) Officers and employees of the Washington state fruit  
24 commission;

25 (o) Officers and employees of the Washington state apple  
26 advertising commission;

27 (p) Officers and employees of the Washington state dairy products  
28 commission;

29 (q) Officers and employees of the Washington tree fruit research  
30 commission;

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

32 (s) Officers and employees of any commission formed under chapter  
33 15.66 RCW;

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

36 (u) Officers and employees of agricultural commissions formed under  
37 chapter 15.65 RCW;

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

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

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

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

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

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

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

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

1 (b) Student, part-time, or temporary employees, and part-time  
2 professional consultants, as defined by the Washington personnel  
3 resources board, employed by institutions of higher education and  
4 related boards;

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

13 (d) Printing craft employees in the department of printing at the  
14 University of Washington.

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

1 The salary and fringe benefits of all positions presently or  
2 hereafter exempted except for the chief executive officer of each  
3 agency, full-time members of boards and commissions, administrative  
4 assistants and confidential secretaries in the immediate office of an  
5 elected state official, and the personnel listed in subsections (1) (j)  
6 through (v) and (2) of this section, shall be determined by the  
7 Washington personnel resources board.

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

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

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

## 22 PART II

### 23 FUNCTIONS OF WASHINGTON STATE UNIVERSITY

24 NEW SECTION. **Sec. 9.** A new section is added to chapter 28B.30 RCW  
25 to read as follows:

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

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

35 (3)(a) All reports, documents, surveys, books, records, files,  
36 papers, or written material in the possession of the state energy  
37 office pertaining to the powers, functions, and duties transferred

1 shall be delivered to the custody of Washington State University. All  
2 cabinets, furniture, office equipment, software, data base, motor  
3 vehicles, and other tangible property employed by the state energy  
4 office in carrying out the powers, functions, and duties transferred  
5 shall be made available to Washington State University.

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

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

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

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

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

32 (g) All state grants related to energy education, applied research,  
33 and technology transfer programs for which the state energy office is  
34 the grantee agency shall be assigned to Washington State University.

35 (4) Washington State University shall enter into an interagency  
36 agreement with the department of community, trade, and economic  
37 development regarding the relationship between policy development and  
38 public outreach. The department of community, trade, and economic  
39 development shall provide Washington State University available

1 existing and future oil overcharge restitution and federal energy block  
2 funding for a minimum period of five years to carry out energy  
3 programs. Nothing in chapter . . . , Laws of 1996 (this act) prohibits  
4 Washington State University from seeking grant funding for energy-  
5 related programs directly from other entities.

6 (5) Washington State University shall appoint existing state energy  
7 office employees to positions to perform the duties and functions  
8 transferred. Any future vacant or new positions will be filled using  
9 Washington State University's standard hiring procedures.

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

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

19 **PART III**

20 **FUNCTIONS OF THE DEPARTMENT OF TRANSPORTATION**

21 NEW SECTION. **Sec. 11.** A new section is added to chapter 47.01 RCW  
22 to read as follows:

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

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



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

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

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

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

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

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

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

37 **PART IV**  
38 **FUNCTIONS OF THE DEPARTMENT OF GENERAL ADMINISTRATION**

1        NEW SECTION.    **Sec. 12.**    A new section is added to chapter 43.19 RCW  
2 to read as follows:

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

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

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

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

31       (3) Within funds available, employees of the state energy office  
32 whose primary responsibility is performing the powers, functions, and  
33 duties pertaining to energy efficiency in public buildings are  
34 transferred to the jurisdiction of the department of general  
35 administration. All employees classified under chapter 41.06 RCW, the  
36 state civil service law, are assigned to the department of general  
37 administration to perform their usual duties upon the same terms as  
38 formerly, without any loss of rights, subject to any action that may be

1 appropriate thereafter in accordance with the laws and rules governing  
2 state civil service.

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

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

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

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

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

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

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

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

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

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

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

37 (7) "Life-cycle cost" means the initial cost and cost of operation  
38 of a major facility over its economic life. This shall be calculated

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

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

10 (a) The coordination and positioning of a major facility on its  
11 physical site;

12 (b) The amount and type of fenestration employed in a major  
13 facility;

14 (c) The amount of insulation incorporated into the design of a  
15 major facility;

16 (d) The variable occupancy and operating conditions of a major  
17 facility; and

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

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

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

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

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

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

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

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

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

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

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

21 **Sec. 14.** RCW 39.35.050 and 1994 c 242 s 3 are each amended to read  
22 as follows:

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

29 (1) Address energy considerations during the planning phase of the  
30 project;

31 (2) Identify energy components and system alternatives including  
32 renewable energy systems and cogeneration applications prior to  
33 commencing the energy consumption analysis;

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

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

1 (5) Specify the assumptions to be used for escalation and inflation  
2 rates, equipment service lives, economic building lives, and  
3 maintenance costs;

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

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

7 **Sec. 15.** RCW 39.35.060 and 1991 c 201 s 16 are each amended to  
8 read as follows:

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

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

24 Unless the context clearly requires otherwise, the definitions in  
25 this section apply throughout this chapter.

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

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

35 (3) "Cost-effective" means that the present value to a state agency  
36 or school district of the energy reasonably expected to be saved or  
37 produced by a facility, activity, measure, or piece of equipment over

1 its useful life, including any compensation received from a utility or  
2 the Bonneville power administration, is greater than the net present  
3 value of the costs of implementing, maintaining, and operating such  
4 facility, activity, measure, or piece of equipment over its useful  
5 life, when discounted at the cost of public borrowing.

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

7 (5) "Energy efficiency project" means a conservation or  
8 cogeneration project.

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

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

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

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

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

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

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

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

31 **Sec. 17.** RCW 39.35C.020 and 1991 c 201 s 3 are each amended to  
32 read as follows:

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

37 (2) The (~~energy office~~) department shall assist state agencies  
38 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  
13 have appropriate levels of monitoring to verify the performance and  
14 measure the energy savings over the life of the project. The energy  
15 office shall solicit involvement in program planning and implementation  
16 from utilities and other energy conservation suppliers, especially  
17 those that have demonstrated experience in performance-based energy  
18 programs.~~

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

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

27 **Sec. 18.** RCW 39.35C.050 and 1991 c 201 s 6 are each amended to  
28 read as follows:

29 In addition to any other authorities conferred by law:

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

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



1 (b) Contract for energy services, including performance-based  
2 ~~contracts((?))~~, and undertake third-party development of conservation  
3 at its facilities; and

4 (c) Contract to sell energy savings from ((a)) energy conservation  
5 projects ((at public facilities)) to local utilities or the Bonneville  
6 power administration directly or to local utilities or the Bonneville  
7 power administration through third parties.

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

13 (3) ~~A school district may:~~

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

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

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

21 ~~(4) In exercising the authority granted by subsections (1), (2),~~  
22 ~~and (3) of this section, a school district or state agency must comply~~  
23 ~~with the provisions of RCW 39.35C.040.)~~ The department, with the  
24 consent of a state agency or school district responsible for a  
25 facility, or a state agency as authorized by law, or a state or  
26 regional university acting independently may:

27 (a) Contract to sell electric energy generated at state facilities  
28 to a utility; and

29 (b) Contract to sell thermal energy produced at state facilities to  
30 a utility.

31 (3) A state or regional university acting independently, and any  
32 other state agency acting through the department or as otherwise  
33 authorized by law, may:

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

37 (b) Lease state property for the installation and operation of  
38 cogeneration and facility heating and cooling equipment at its  
39 facilities;

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

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

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

10 **Sec. 19.** RCW 39.35C.060 and 1991 c 201 s 7 are each amended to  
11 read as follows:

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

24 ~~(2))~~ State agencies may use financing contracts under chapter  
25 39.94 RCW to provide all or part of the funding for conservation  
26 projects. The ~~((energy office))~~ department shall determine the  
27 eligibility of such projects for financing contracts. The repayments  
28 of the financing contracts shall be sufficient to pay, when due, the  
29 principal and interest on the contracts.

30 **Sec. 20.** RCW 39.35C.100 and 1991 c 201 s 11 are each amended to  
31 read as follows:

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

35 (a) Construction of energy efficiency projects, including project  
36 evaluation and verification of benefits, project design, project  
37 development, project construction, and project administration.

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

4 (2) Sources for this account may include:

5 (a) General obligation and revenue bond proceeds appropriated by  
6 the legislature;

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

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

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

16 **Sec. 21.** RCW 39.35C.110 and 1991 c 201 s 12 are each amended to  
17 read as follows:

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

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

27 ~~((a))~~ Project fees charged under this section and RCW  
28 39.35C.020~~((, 39.35C.070))~~ and 39.35.060~~((;~~

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

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

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



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

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

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

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

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

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

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

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

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

27 **Sec. 25.** RCW 19.27A.020 and 1994 c 226 s 1 are each amended to  
28 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

36 **Sec. 26.** RCW 28A.515.320 and 1991 sp.s. c 13 s 58 are each amended  
37 to read as follows:

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

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

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

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

3 **Sec. 27.** RCW 42.17.2401 and 1995 c 399 s 60 and 1995 c 397 s 10  
4 are each reenacted and amended to read as follows:

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

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

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

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

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

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

32 **Sec. 28.** RCW 43.06.115 and 1995 c 399 s 61 are each amended to  
33 read as follows:

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

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

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

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

35 **Sec. 29.** RCW 43.19.680 and 1986 c 325 s 2 are each amended to read  
36 as follows:

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

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

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

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

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

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

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

9 **Sec. 30.** RCW 43.21G.010 and 1981 c 295 s 11 are each amended to  
10 read as follows:

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

21 It is the intent of this chapter to:

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

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

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

34 **Sec. 31.** RCW 43.31.621 and 1995 c 226 s 3 are each amended to read  
35 as follows:

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



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

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

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

34 **Sec. 32.** 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))~~  
4 Washington State University or its statutory successor for the purpose  
5 of encouraging the development of geothermal energy; and

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

8 **Sec. 33.** RCW 43.140.050 and 1981 c 158 s 5 are each amended to  
9 read as follows:

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

18 **Sec. 34.** RCW 47.06.110 and 1995 c 399 s 120 are each amended to  
19 read as follows:

20 The state-interest component of the state-wide multimodal  
21 transportation plan shall include a state public transportation plan  
22 that:

23 (1) Articulates the state vision of an interest in public  
24 transportation and provides quantifiable objectives, including benefits  
25 indicators;

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

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

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

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

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

1 In developing the state public transportation plan, the department  
2 shall involve local jurisdictions, public and private providers of  
3 transportation services, nonmotorized interests, and state agencies  
4 with an interest in public transportation, including but not limited to  
5 the departments of community, trade, and economic development, social  
6 and health services, and ecology, (~~the state energy office,~~) the  
7 office of the superintendent of public instruction, the office of the  
8 governor, and the office of financial management.

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

12 **Sec. 35.** RCW 70.94.527 and 1991 c 202 s 12 are each amended to  
13 read as follows:

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

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

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

35 (4) A commute trip reduction plan shall be consistent with the  
36 guidelines established under RCW 70.94.537 and shall include but is not  
37 limited to (a) goals for reductions in the proportion of single-  
38 occupant vehicle commute trips and the commute trip vehicle miles

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

26 (5) A county, city, or town may, as part of its commute trip  
27 reduction plan, require commute trip reduction programs for employers  
28 with ten or more full time employees at major worksites in federally  
29 designated nonattainment areas for carbon monoxide and ozone. The  
30 county, city or town shall develop the programs in cooperation with  
31 affected employers and provide technical assistance to the employers in  
32 implementing such programs.

33 (6) The commute trip reduction plans adopted by counties, cities,  
34 and towns under this chapter shall be consistent with and may be  
35 incorporated in applicable state or regional transportation plans and  
36 local comprehensive plans and shall be coordinated, and consistent  
37 with, the commute trip reduction plans of counties, cities, or towns  
38 with which the county, city, or town has, in part, common borders or  
39 related regional issues. Such regional issues shall include assuring

1 consistency in the treatment of employers who have worksites subject to  
2 the requirements of this chapter in more than one jurisdiction.  
3 Counties, cities, or towns adopting commute trip reduction plans may  
4 enter into agreements through the interlocal cooperation act or by  
5 resolution or ordinance as appropriate with other jurisdictions, local  
6 transit agencies, or regional transportation planning organizations to  
7 coordinate the development and implementation of such plans. Counties,  
8 cities, or towns adopting a commute trip reduction plan shall review it  
9 annually and revise it as necessary to be consistent with applicable  
10 plans developed under RCW 36.70A.070.

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

15 (8) Each county, city, or town implementing a commute trip  
16 reduction program shall submit an annual progress report to the commute  
17 trip reduction task force established under RCW 70.94.537. The report  
18 shall be due July 1, 1994, and each July 1 thereafter through July 1,  
19 2000. The report shall describe progress in attaining the applicable  
20 commute trip reduction goals for each commute trip reduction zone and  
21 shall highlight any problems being encountered in achieving the goals.  
22 The information shall be reported in a form established by the commute  
23 trip reduction task force.

24 (9) Any waivers or modifications of the requirements of a commute  
25 trip reduction plan granted by a jurisdiction shall be submitted for  
26 review to the commute trip reduction task force established under RCW  
27 70.94.537. The commute trip reduction task force may not deny the  
28 granting of a waiver or modification of the requirements of a commute  
29 trip reduction plan by a jurisdiction but they may notify the  
30 jurisdiction of any comments or objections.

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

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

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

1       **Sec. 36.** RCW 70.94.537 and 1995 c 399 s 188 are each amended to  
2 read as follows:

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

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

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

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

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

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

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

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

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

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

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

28       Members of the commute trip reduction task force shall serve  
29 without compensation but shall be reimbursed for travel expenses as  
30 provided in RCW 43.03.050 and 43.03.060. Members appointed by the  
31 governor shall be compensated in accordance with RCW 43.03.220. The  
32 task force has all powers necessary to carry out its duties as  
33 prescribed by this chapter. The task force shall be dissolved on July  
34 1, 2000.

35       (2) By March 1, 1992, the commute trip reduction task force shall  
36 establish guidelines for commute trip reduction plans. The guidelines  
37 are intended to ensure consistency in commute trip reduction plans and  
38 goals among jurisdictions while fairly taking into account differences  
39 in employment and housing density, employer size, existing and

1 anticipated levels of transit service, special employer circumstances,  
2 and other factors the task force determines to be relevant. The  
3 guidelines shall include:

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

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

9 (c) Model commute trip reduction ordinances;

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

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

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

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

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

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

34 (4) The task force shall review progress toward implementing  
35 commute trip reduction plans and programs and the costs and benefits of  
36 commute trip reduction plans and programs and shall make  
37 recommendations to the legislature by December 1, 1995, and December 1,  
38 1999. In assessing the costs and benefits, the task force shall  
39 consider the costs of not having implemented commute trip reduction

1 plans and programs. The task force shall examine other transportation  
2 demand management programs nationally and incorporate its findings into  
3 its recommendations to the legislature. The recommendations shall  
4 address the need for continuation, modification, or termination or any  
5 or all requirements of this chapter. The recommendations made December  
6 1, 1995, shall include recommendations regarding extension of the  
7 requirements of this chapter to employers with fifty or more full-time  
8 employees at a single worksite who begin their regular work day between  
9 6:00 a.m. and 9:00 a.m. on weekdays for more than twelve continuous  
10 months.

11 **Sec. 37.** RCW 70.94.541 and 1991 c 202 s 16 are each amended to  
12 read as follows:

13 (1) A technical assistance team shall be established under the  
14 direction of the (~~state energy office~~) department of transportation  
15 and include representatives of the department(~~s~~) of (~~transportation~~  
16 ~~and~~) ecology. The team shall provide staff support to the commute  
17 trip reduction task force in carrying out the requirements of RCW  
18 70.94.537 and to the department of general administration in carrying  
19 out the requirements of RCW 70.94.551.

20 (2) The team shall provide technical assistance to counties,  
21 cities, and towns, the department of general administration, other  
22 state agencies, and other employers in developing and implementing  
23 commute trip reduction plans and programs. The technical assistance  
24 shall include: (a) Guidance in determining base and subsequent year  
25 values of single-occupant vehicle commuting proportion and commute trip  
26 reduction vehicle miles traveled to be used in determining progress in  
27 attaining plan goals; (b) developing model plans and programs  
28 appropriate to different situations; and (c) providing consistent  
29 training and informational materials for the implementation of commute  
30 trip reduction programs. Model plans and programs, training and  
31 informational materials shall be developed in cooperation with  
32 representatives of local governments, transit agencies, and employers.

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



1       **Sec. 38.** RCW 70.94.551 and 1991 c 202 s 19 are each amended to  
2 read as follows:

3       (1) The director of general administration, with the concurrence of  
4 an interagency task force established for the purposes of this section,  
5 shall coordinate a commute trip reduction plan for state agencies which  
6 are phase 1 major employers by January 1, 1993. The task force shall  
7 include representatives of the ((state energy office, the)) departments  
8 of transportation and ecology and such other departments as the  
9 director of general administration determines to be necessary to be  
10 generally representative of state agencies. The state agency plan  
11 shall be consistent with the requirements of RCW 70.94.527 and  
12 70.94.531 and shall be developed in consultation with state employees,  
13 local and regional governments, local transit agencies, the business  
14 community, and other interested groups. The plan shall consider and  
15 recommend policies applicable to all state agencies including but not  
16 limited to policies regarding parking and parking charges, employee  
17 incentives for commuting by other than single-occupant automobiles,  
18 flexible and alternative work schedules, alternative worksites, and the  
19 use of state-owned vehicles for car and van pools. The plan shall also  
20 consider the costs and benefits to state agencies of achieving commute  
21 trip reductions and consider mechanisms for funding state agency  
22 commute trip reduction programs. The department shall, within thirty  
23 days, submit a summary of its plan along with certification of adoption  
24 to the commute trip reduction task force established under RCW  
25 70.94.537.

26       (2) Not more than three months after the adoption of the commute  
27 trip reduction plan, each state agency shall, for each facility which  
28 is a major employer, develop a commute trip reduction program. The  
29 program shall be designed to meet the goals of the commute trip  
30 reduction plan of the county, city, or town or, if there is no local  
31 commute trip reduction plan, the state. The program shall be  
32 consistent with the policies of the state commute trip reduction plan  
33 and RCW 70.94.531. The agency shall submit a description of that  
34 program to the local jurisdiction implementing a commute trip reduction  
35 plan or, if there is no local commute trip reduction plan, to the  
36 department of general administration. The program shall be implemented  
37 not more than three months after submission to the department. Annual  
38 reports required in RCW 70.94.531(2)(c) shall be submitted to the local  
39 jurisdiction implementing a commute trip reduction plan and to the

1 department of general administration. An agency which is not meeting  
2 the applicable commute trip reduction goals shall, to the extent  
3 possible, modify its program to comply with the recommendations of the  
4 local jurisdiction or the department of general administration.

5 (3) State agencies sharing a common location may develop and  
6 implement a joint commute trip reduction program or may delegate the  
7 development and implementation of the commute trip reduction program to  
8 the department of general administration.

9 (4) The department of general administration in consultation with  
10 the state technical assistance team shall review the initial commute  
11 trip reduction program of each state agency subject to the commute trip  
12 reduction plan for state agencies to determine if the program is likely  
13 to meet the applicable commute trip reduction goals and notify the  
14 agency of any deficiencies. If it is found that the program is not  
15 likely to meet the applicable commute trip reduction goals, the team  
16 will work with the agency to modify the program as necessary.

17 (5) For each agency subject to the state agency commute trip  
18 reduction plan, the department of general administration in  
19 consultation with the technical assistance team shall annually review  
20 progress toward meeting the applicable commute trip reduction goals.  
21 If it appears an agency is not meeting or is not likely to meet the  
22 applicable commute trip reduction goals, the team shall work with the  
23 agency to make modifications to the commute trip reduction program.

24 (6) The department of general administration shall submit an annual  
25 progress report for state agencies subject to the state agency commute  
26 trip reduction plan to the commute trip reduction task force  
27 established under RCW 70.94.537. The report shall be due April 1,  
28 1993, and each April 1 through 2000. The report shall report progress  
29 in attaining the applicable commute trip reduction goals for each  
30 commute trip reduction zone and shall highlight any problems being  
31 encountered in achieving the goals. The information shall be reported  
32 in a form established by the commute trip reduction task force.

33 **Sec. 39.** RCW 70.94.960 and 1991 c 199 s 218 are each amended to  
34 read as follows:

35 The department may disburse matching grants from funds provided by  
36 the legislature from the air pollution control account, created in RCW  
37 70.94.015, to units of local government to partially offset the  
38 additional cost of purchasing "clean fuel" and/or operating "clean-fuel

1 vehicles" provided that such vehicles are used for public transit.  
2 Publicly owned school buses are considered public transit for the  
3 purposes of this section. The department may also disburse grants to  
4 vocational-technical institutes for the purpose of establishing  
5 programs to certify clean-fuel vehicle mechanics. The department may  
6 also distribute grants to (~~the state energy office~~) Washington State  
7 University for the purpose of furthering the establishment of clean  
8 fuel refueling infrastructure.

9 **Sec. 40.** RCW 70.120.210 and 1991 c 199 s 212 are each amended to  
10 read as follows:

11 By July 1, 1992, the department shall develop, in cooperation with  
12 the departments of general administration and transportation, and (~~the~~  
13 ~~state energy office~~) Washington State University, aggressive clean-  
14 fuel performance and clean-fuel vehicle emissions specifications  
15 including clean-fuel vehicle conversion equipment. To the extent  
16 possible, such specifications shall be equivalent for all fuel types.  
17 In developing such specifications the department shall consider the  
18 requirements of the clean air act and the findings of the environmental  
19 protection agency, other states, the American petroleum institute, the  
20 gas research institute, and the motor vehicles manufacturers  
21 association.

22 **Sec. 41.** RCW 70.120.220 and 1991 c 199 s 215 are each amended to  
23 read as follows:

24 The department, in cooperation with the departments of general  
25 administration and transportation, the utilities and transportation  
26 commission, and (~~the state energy office~~) Washington State  
27 University, shall biennially prepare a report to the legislature  
28 starting July 1, 1992, on:

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

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

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

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

1       **Sec. 42.** RCW 82.35.020 and 1979 ex.s. c 191 s 2 are each amended  
2 to read as follows:

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

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

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

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

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

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

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

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

26       **Sec. 43.** RCW 82.35.080 and 1979 ex.s. c 191 s 8 are each amended  
27 to read as follows:

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

32       (a) The certificate was obtained by fraud or deliberate  
33 misrepresentation;

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

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

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

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

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

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

21 **Sec. 44.** RCW 90.03.247 and 1994 c 264 s 82 are each amended to  
22 read as follows:

23 Whenever an application for a permit to make beneficial use of  
24 public waters is approved relating to a stream or other water body for  
25 which minimum flows or levels have been adopted and are in effect at  
26 the time of approval, the permit shall be conditioned to protect the  
27 levels or flows. No agency may establish minimum flows and levels or  
28 similar water flow or level restrictions for any stream or lake of the  
29 state other than the department of ecology whose authority to establish  
30 is exclusive, as provided in chapter 90.03 RCW and RCW 90.22.010 and  
31 90.54.040. The provisions of other statutes, including but not limited  
32 to RCW 75.20.100 and chapter 43.21C RCW, may not be interpreted in a  
33 manner that is inconsistent with this section. In establishing such  
34 minimum flows, levels, or similar restrictions, the department shall,  
35 during all stages of development by the department of ecology of  
36 minimum flow proposals, consult with, and carefully consider the  
37 recommendations of, the department of fish and wildlife, the ((state  
38 energy—office)) department of community, trade, and economic

1 development, the department of agriculture, and representatives of the  
2 affected Indian tribes. Nothing herein shall preclude the department  
3 of fish and wildlife, the (~~energy office~~) department of community,  
4 trade, and economic development, or the department of agriculture from  
5 presenting its views on minimum flow needs at any public hearing or to  
6 any person or agency, and the department of fish and wildlife, the  
7 (~~energy office~~) department of community, trade, and economic  
8 development, and the department of agriculture are each empowered to  
9 participate in proceedings of the federal energy regulatory commission  
10 and other agencies to present its views on minimum flow needs.

11 NEW SECTION. **Sec. 45.** The following acts or parts of acts are  
12 each repealed:

- 13 (1) RCW 43.21F.035 and 1990 c 12 s 1 & 1981 c 295 s 3;
- 14 (2) RCW 43.21F.055 and 1981 c 295 s 5;
- 15 (3) RCW 43.21F.065 and 1987 c 330 s 502 & 1981 c 295 s 8;
- 16 (4) RCW 39.35C.030 and 1991 c 201 s 4;
- 17 (5) RCW 39.35C.040 and 1991 c 201 s 5;
- 18 (6) RCW 39.35C.070 and 1991 c 201 s 8;
- 19 (7) RCW 39.35C.080 and 1991 c 201 s 9;
- 20 (8) RCW 39.35C.090 and 1991 c 201 s 10;
- 21 (9) RCW 39.35C.120 and 1991 c 201 s 13;
- 22 (10) RCW 41.06.081 and 1981 c 295 s 10;
- 23 (11) RCW 43.41.175 and 1986 c 325 s 4; and
- 24 (12) RCW 19.27A.055 and 1990 c 2 s 6.

25 NEW SECTION. **Sec. 46.** Part headings used in this act do not  
26 constitute part of the law.

27 NEW SECTION. **Sec. 47.** This act shall take effect July 1, 1996.

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