
SENATE BILL 5966

State of Washington

57th Legislature

2001 Regular Session

By Senators Jacobsen, Morton, Fraser, Eide and Regala

Read first time 02/09/2001. Referred to Committee on Environment, Energy & Water.

1 AN ACT Relating to transferring energy-related activities to the
2 state energy office; amending RCW 43.21F.025, 43.21F.045, 43.21F.055,
3 43.21F.060, 43.21F.090, 28B.30.900, 39.35.030, 39.35.050, 39.35C.010,
4 39.35C.020, 39.35C.030, 39.35C.040, 39.35C.050, 39.35C.060, 39.35C.070,
5 39.35C.090, 39.35C.100, 39.35C.110, 39.35C.130, 19.27A.020, 42.17.2401,
6 43.06.115, 43.21G.010, 47.06.110, 70.94.527, 70.94.537, 70.94.541,
7 70.94.960, 82.35.080, 90.03.247, 80.50.030, 41.06.070, 43.19.123, and
8 43.330.904; reenacting and amending RCW 39.35C.080; adding new sections
9 to chapter 43.21F RCW; adding a new section to chapter 41.06 RCW;
10 creating new sections; recodifying RCW 43.19.123 and 43.330.904;
11 providing an effective date; and declaring an emergency.

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

13 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.21F RCW
14 to read as follows:

15 The Washington state energy office is hereby created as an agency
16 of state government, responsible to the governor and the legislature
17 for carrying out the purposes of this chapter. The director shall be
18 appointed by the governor, subject to confirmation by the senate, and
19 shall serve at the pleasure of the governor. The salary of the

1 director shall be determined pursuant to RCW 43.03.040. The director
2 shall employ such personnel as are necessary to implement this chapter.
3 The employment of personnel shall be in accordance with chapter 41.06
4 RCW.

5 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.06 RCW
6 to read as follows:

7 In addition to the exemptions under RCW 41.06.070, the provisions
8 of this chapter shall not apply in the state energy office to the
9 director and the director's personal secretary.

10 **Sec. 3.** RCW 43.21F.025 and 1996 c 186 s 102 are each amended to
11 read as follows:

12 The definitions in this section apply throughout this chapter,
13 unless the context clearly requires otherwise.

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

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

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

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

32 (5) "Department" means the department of community, trade, and
33 economic development((~~+~~)).

34 (6) "Distributor" means any person, private corporation,
35 partnership, individual proprietorship, utility, including investor-
36 owned utilities, municipal utility, public utility district, joint
37 operating agency, or cooperative, which engages in or is authorized to

1 engage in the activity of generating, transmitting, or distributing
2 energy in this state(~~(and)~~).

3 (7) "State energy strategy" means the document and energy policy
4 direction developed under (~~section 1, chapter 201, Laws of 1991~~
5 ~~including any related appendices~~) RCW 43.21F.090.

6 **Sec. 4.** RCW 43.21F.045 and 1996 c 186 s 103 are each amended to
7 read as follows:

8 (1) The (~~department~~) office shall supervise and administer
9 energy-related activities as specified in RCW 43.330.904 (as recodified
10 by this act) and shall advise the governor and the legislature with
11 respect to energy matters affecting the state.

12 (2) In addition to other powers and duties granted to the
13 (~~department~~) office, the (~~department~~) office shall have the
14 following powers and duties:

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

30 (b) Establish and maintain a central repository in state government
31 for collection of existing data on energy resources, including:

32 (i) Supply, demand, costs, utilization technology, projections, and
33 forecasts;

34 (ii) Comparative costs of alternative energy sources, uses, and
35 applications; and

36 (iii) Inventory data on energy research projects in the state
37 conducted under public and/or private auspices, and the results
38 thereof.

1 (c) Coordinate federal energy programs appropriate for state-level
2 implementation, carry out such energy programs as are assigned to it by
3 the governor or the legislature, and monitor federally funded local
4 energy programs as required by federal or state regulations.

5 (d) Develop energy policy recommendations for consideration by the
6 governor and the legislature.

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

15 (f) Cooperate with state agencies, other governmental units, and
16 private interests in the prioritization ~~((and))~~, implementation, and
17 review of the state energy strategy elements and on other energy
18 matters.

19 (g) Serve as the official state agency responsible for coordinating
20 implementation of the state energy strategy.

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

26 (i) Provide support for increasing cost-effective energy efficiency
27 and conservation, including assisting in the removal of impediments to
28 timely implementation.

29 (j) Provide support for the development of cost-effective energy
30 resources including assisting in the removal of impediments to timely
31 construction.

32 (k) Promote the use and development of: (i) Affordable, reliable,
33 clean energy; (ii) energy efficiency and conservation; (iii) voluntary
34 actions to promote energy efficiency and environmental health; (iv)
35 scientific and technical information that promotes energy efficiency
36 and reduced energy use; (v) sustainable and renewable energy sources;
37 (vi) energy technologies for industry that result in energy saving
38 investments that lower energy production costs; and (vii) technologies
39 that will lower consumption.

1 (1) Adopt rules, under chapter 34.05 RCW, necessary to carry out
2 the powers and duties enumerated in this chapter.

3 (~~(l)~~) (m) Provide administrative assistance, space, and other
4 support as may be necessary for the activities of the energy facility
5 site evaluation council, as provided for in RCW 80.50.030.

6 (~~(m)~~) (n) Appoint staff as may be needed to administer energy
7 policy functions and manage energy facility site evaluation council
8 activities. These employees are exempt from the provisions of chapter
9 41.06 RCW.

10 (3) (~~(To the extent the powers and duties set out under this~~
11 ~~section relate to)~~) The office shall coordinate the following programs
12 with Washington State University: Energy education, applied research,
13 and the technology transfer programs (~~(they are transferred to~~
14 ~~Washington State University)~~).

15 (4) (~~(To the extent the)~~) The office shall exercise all powers and
16 duties set out under this section (~~(relate)~~) related to energy
17 efficiency in public buildings (~~(they are transferred to the department~~
18 ~~of general administration)~~).

19 **Sec. 5.** RCW 43.21F.055 and 1996 c 186 s 104 are each amended to
20 read as follows:

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

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

30 **Sec. 6.** RCW 43.21F.060 and 1996 c 186 s 105 are each amended to
31 read as follows:

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

34 (1) Obtain all necessary and existing information from energy
35 producers, suppliers, and consumers, doing business within the state of
36 Washington, from political subdivisions in this state, or any person as
37 may be necessary to carry out the provisions of chapter 43.21G RCW:

1 PROVIDED, That if the information is available in reports made to
2 another state agency, the ((department)) office shall obtain it from
3 that agency: PROVIDED FURTHER, That, to the maximum extent
4 practicable, informational requests to energy companies regulated by
5 the utilities and transportation commission shall be channeled through
6 the commission and shall be accepted in the format normally used by the
7 companies. Such information may include but not be limited to:

8 (a) Sales volume;

9 (b) Forecasts of energy requirements; and

10 (c) Energy costs.

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

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

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

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

31 **Sec. 7.** RCW 43.21F.090 and 1996 c 186 s 106 are each amended to
32 read as follows:

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

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

7 **Sec. 8.** RCW 28B.30.900 and 1996 c 186 s 201 are each amended to
8 read as follows:

9 (1) ~~((All powers, duties, and functions of))~~ The state energy
10 office ~~((under RCW 43.21F.045))~~ shall coordinate all powers, duties,
11 and functions relating to implementing energy education, applied
12 research, and technology transfer programs ~~((shall be transferred to))~~
13 with Washington State University.

14 (2) The specific programs ~~((transferred to Washington State~~
15 ~~University))~~ coordinated under subsection (1) of this section shall
16 include but not be limited to the following: Renewable energy, energy
17 software, industrial energy efficiency, education and information,
18 energy ideas clearinghouse, and telecommunications.

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

28 (b) Any appropriations made to, any other funds provided to, or any
29 grants made to or contracts with the state energy office for carrying
30 out the powers, functions, and duties transferred shall, on July 1,
31 1996, be transferred and credited to Washington State University.

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

1 ~~((d))~~ (b) All rules and all pending business before ~~((the state~~
2 ~~energy office))~~ Washington State University pertaining to ~~((the))~~ its
3 powers, functions, and duties ~~((transferred))~~ shall be continued and
4 acted upon by Washington State University. All existing contracts,
5 grants, and obligations, excluding personnel contracts and obligations,
6 shall remain in full force and shall be ~~((assigned to and))~~ performed
7 by Washington State University.

8 ~~((e))~~ (c) The ~~((transfer))~~ coordination of the powers, duties,
9 and functions ~~((of))~~ by the state energy office does not affect the
10 validity of any act performed before July 1, ~~((1996))~~ 2001.

11 ~~((f))~~ (d) If apportionments of budgeted funds are required
12 because of the ~~((transfers))~~ coordination directed by this section, the
13 director of the office of financial management shall certify the
14 apportionments to the agencies affected, the state auditor, and the
15 state treasurer. Each of these shall make the appropriate transfer and
16 adjustments in funds and appropriation.

17 (4) Washington State University shall enter into an interagency
18 agreement with the ~~((department of community, trade, and economic~~
19 ~~development))~~ state energy office regarding the relationship between
20 policy development and public outreach. ~~((The department of community,~~
21 ~~trade, and economic development shall provide Washington State~~
22 ~~University available existing and future oil overcharge restitution and~~
23 ~~federal energy block funding for a minimum period of five years to~~
24 ~~carry out energy programs.))~~ Nothing in ~~((chapter 186, Laws of 1996))~~
25 chapter . . . , Laws of 2001 (this act) prohibits Washington State
26 University or the state energy office from seeking grant funding for
27 energy-related programs directly from other entities.

28 ~~((5) Washington State University shall select and appoint existing~~
29 ~~state energy office employees to positions to perform the duties and~~
30 ~~functions transferred. Employees appointed by Washington State~~
31 ~~University are exempt from the provisions of chapter 41.06 RCW unless~~
32 ~~otherwise designated by the institution. Any future vacant or new~~
33 ~~positions will be filled using Washington State University's standard~~
34 ~~hiring procedures.))~~

35 **Sec. 9.** RCW 39.35.030 and 1996 c 186 s 402 are each amended to
36 read as follows:

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

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

7 (2) (~~"Department" means the state department of general~~
8 ~~administration~~) "Office" means the state energy office.

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

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

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

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

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

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

29 (a) The coordination and positioning of a major facility on its
30 physical site;

31 (b) The amount and type of fenestration employed in a major
32 facility;

33 (c) The amount of insulation incorporated into the design of a
34 major facility;

35 (d) The variable occupancy and operating conditions of a major
36 facility; and

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

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

4 (10) "Energy-consumption analysis" means the evaluation of all
5 energy systems and components by demand and type of energy including
6 the internal energy load imposed on a major facility by its occupants,
7 equipment, and components, and the external energy load imposed on a
8 major facility by the climatic conditions of its location. An energy-
9 consumption analysis of the operation of energy systems of a major
10 facility shall include, but not be limited to, the following elements:

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

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

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

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

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

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

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

36 (14) "Design standards" means the heating, air-conditioning,
37 ventilating, and renewable resource systems identified, analyzed, and
38 recommended by the ((department)) office as providing an efficient

1 energy system or systems based on the economic life of the selected
2 buildings.

3 **Sec. 10.** RCW 39.35.050 and 1996 c 186 s 403 are each amended to
4 read as follows:

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

11 (1) Address energy considerations during the planning phase of the
12 project;

13 (2) Identify energy components and system alternatives including
14 renewable energy systems and cogeneration applications prior to
15 commencing the energy consumption analysis;

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

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

21 (5) Specify the assumptions to be used for escalation and inflation
22 rates, equipment service lives, economic building lives, and
23 maintenance costs;

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

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

27 **Sec. 11.** RCW 39.35C.010 and 1996 c 186 s 405 are each amended to
28 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 **Sec. 12.** RCW 39.35C.020 and 1996 c 186 s 406 are each amended to
2 read as follows:

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

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

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

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

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

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

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

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

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

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

35 **Sec. 13.** RCW 39.35C.030 and 1996 c 186 s 407 are each amended to
36 read as follows:

37 (1) The ((department)) office shall consult with the local
38 utilities to develop priorities for energy conservation projects

1 pursuant to this chapter, cooperate where possible with existing
2 utility programs, and consult with the local utilities prior to
3 implementing projects in their service territory.

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

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

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

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

33 **Sec. 14.** RCW 39.35C.040 and 1996 c 186 s 408 are each amended to
34 read as follows:

35 (1) It is the intent of this chapter that the state, state
36 agencies, and school districts are compensated fairly for the energy
37 savings provided to utilities and be allowed to participate on an equal
38 basis in any utility conservation program, bidding, or solicitation

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

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

24 (a) A transaction shall be approved by both the state agency or
25 school district and the ((department)) office.

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

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

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

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

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

26 **Sec. 15.** RCW 39.35C.050 and 1996 c 186 s 409 are each amended to
27 read as follows:

28 In addition to any other authorities conferred by law:

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

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

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

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

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

9 (3) A school district may:

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

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

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

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

20 **Sec. 16.** RCW 39.35C.060 and 1996 c 186 s 410 are each amended to
21 read as follows:

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

28 **Sec. 17.** RCW 39.35C.070 and 1996 c 186 s 411 are each amended to
29 read as follows:

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

34 (2) To assist state agencies in identifying, evaluating, and
35 developing potential cogeneration projects at their facilities, the
36 ((department)) office shall notify state agencies of their
37 responsibilities under this chapter; apprise them of opportunities to

1 develop and finance such projects; and provide technical and analytical
2 support. The ((department)) office shall recover costs for such
3 assistance through written agreements, including reimbursement from
4 third parties participating in such projects, for any costs and
5 expenses incurred in providing such assistance.

6 (3)(a) The ((department)) office shall identify priorities for
7 cogeneration projects at state facilities, and, where such projects are
8 initially deemed desirable by the ((department)) office and the
9 appropriate state agency, the ((department)) office shall notify the
10 local utility serving the state facility of its intent to conduct a
11 feasibility study at such facility. The ((department)) office shall
12 consult with the local utility and provide the local utility an
13 opportunity to participate in the development of the feasibility study
14 for the state facility it serves.

15 (b) If the local utility has an interest in participating in the
16 feasibility study, it shall notify the ((department)) office and the
17 state agency whose facility or facilities it serves within sixty days
18 of receipt of notification pursuant to (a) of this subsection as to the
19 nature and scope of its desired participation. The ((department))
20 office, state agency, and local utility shall negotiate the
21 responsibilities, if any, of each in conducting the feasibility study,
22 and these responsibilities shall be specified in a written agreement.

23 (c) If a local utility identifies a potential cogeneration project
24 at a state facility for which it intends to conduct a feasibility
25 study, it shall notify the ((department)) office and the appropriate
26 state agency. The ((department)) office, state agency, and local
27 utility shall negotiate the responsibilities, if any, of each in
28 conducting the feasibility study, and these responsibilities shall be
29 specified in a written agreement. Nothing in this section shall
30 preclude a local utility from conducting an independent assessment of
31 a potential cogeneration project at a state facility.

32 (d) Agreements written pursuant to (a) and (b) of this subsection
33 shall include a provision for the recovery of costs incurred by a local
34 utility in performing a feasibility study in the event such utility
35 does not participate in the development of the cogeneration project.
36 If the local utility does participate in the cogeneration project
37 through energy purchase, project development or ownership, recovery of
38 the utility's costs may be deferred or provided for through negotiation
39 on agreements for energy purchase, project development or ownership.

1 (e) If the local utility declines participation in the feasibility
2 study, the ((department)) office and the state agency may receive and
3 solicit proposals to conduct the feasibility study from other parties.
4 Participation of these other parties shall also be secured and defined
5 by a written agreement which may include the provision for
6 reimbursement of costs incurred in the formulation of the feasibility
7 study.

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

23 (5) Based upon the findings of the feasibility study, the
24 ((department)) office and the state agency shall determine whether a
25 cogeneration project will be cost-effective and whether development of
26 a cogeneration project should be pursued. This determination shall be
27 made in consultation with the local utility or, if the local utility
28 had not participated in the development of the feasibility study, with
29 any third party that may have participated in the development of the
30 feasibility study.

31 (a) Recognizing the local utility's expertise, knowledge, and
32 ownership and operation of the local utility systems, the
33 ((department)) office and the state agency shall have the authority to
34 negotiate directly with the local utility for the purpose of entering
35 into a sole source contract to develop, own, and/or operate the
36 cogeneration facility. The contract may also include provisions for
37 the purchase of electricity or thermal energy from the cogeneration
38 facility, the acquisition of a fuel source, and any financial

1 considerations which may accrue to the state from ownership and/or
2 operation of the cogeneration facility by the local utility.

3 (b) The ((department)) office may enter into contracts through
4 competitive negotiation under this subsection for the development,
5 ownership, and/or operation of a cogeneration facility. In determining
6 an acceptable bid, the ((department)) office and the state agency may
7 consider such factors as technical knowledge, experience, management,
8 staff, or schedule, as may be necessary to achieve economical
9 construction or operation of the project. The selection of a developer
10 or operator of a cogeneration facility shall be made in accordance with
11 procedures for competitive bidding under chapter 43.19 RCW.

12 (c) The ((department)) office shall comply with the requirements of
13 chapter 39.80 RCW when contracting for architectural or engineering
14 services.

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

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

38 (7) When a cogeneration facility will be developed, owned, and/or
39 operated by a state agency or third party other than the local serving

1 utility, the ((department)) office and the state agency shall negotiate
2 a written agreement with the local utility. Elements of such an
3 agreement shall include provisions to ensure system safety, provisions
4 to ensure reliability of any interconnected operations equipment
5 necessary for parallel operation and switching equipment capable of
6 isolating the generation facility, the provision of and reimbursement
7 for standby services, if required, and the provision of and
8 reimbursement for wheeling electricity, if the provision of such has
9 been agreed to by the local utility.

10 (8) The state may develop and own a thermal energy distribution
11 system associated with a cogeneration project for the principal purpose
12 of distributing thermal energy at the state facility. If thermal
13 energy is to be sold outside the state facility, the state may only
14 sell the thermal energy to a utility.

15 **Sec. 18.** RCW 39.35C.080 and 1996 c 186 s 412 and 1996 c 33 s 4 are
16 each reenacted and amended to read as follows:

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

28 (1)(a) The ((department)) office and state agencies may participate
29 in any utility request for resource proposal process, as either
30 established under the rules ((and regulations)) of the utilities and
31 transportation commission, or by the governing board of a public
32 utility district, municipal utility, cooperative, or mutual.

33 (b) If a local utility does not have a request for resource
34 proposal pending, the ((energy)) office (([department])) or a state
35 agency may negotiate an equitable and mutually beneficial energy
36 purchase agreement with that utility.

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

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

6 (b) The ((department)) office and the state agency shall work
7 together throughout the planning and negotiation process for energy
8 purchase agreements, unless the ((department)) office determines that
9 its participation will not further the purposes of this section.

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

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

36 (b) The state shall neither construct, nor be party to an agreement
37 for developing a cogeneration project at a state facility for the
38 purpose of supplying its own electrical needs, unless it can show that
39 such an arrangement would be in the economic interest of the state

1 taking into account the cost of (i) interconnection requirements, as
2 specified by the local electric utility, (ii) standby charges, as may
3 be required by the local electric utility, and (iii) the current price
4 of electricity offered by the local electric utility. If the local
5 electric utility can demonstrate that the cogeneration project may
6 place an undue burden on the electric utility, the ((department))
7 office or the state agency shall attempt to negotiate a mutually
8 beneficial agreement that would minimize the burden upon the ratepayers
9 of the local electric utility.

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

18 (5) For the purposes of this section, "waste heat" means the
19 thermal energy that otherwise would be released to the environment from
20 an industrial process, electric generation, or other process.

21 **Sec. 19.** RCW 39.35C.090 and 1996 c 186 s 413 are each amended to
22 read as follows:

23 In addition to any other authorities conferred by law:

24 (1) The ((department)) office, with the consent of the state agency
25 responsible for a facility, a state or regional university acting
26 independently, and any other state agency acting through the department
27 of general administration or as otherwise authorized by law, may:

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

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

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

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

1 (b) Lease state property for the installation and operation of
2 cogeneration and facility heating and cooling equipment at its
3 facilities;

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

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

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

13 (3) (~~(After July 28, 1991,)~~) A state agency shall consult with the
14 (~~(department)~~) office prior to exercising any authority granted by this
15 section.

16 (4) In exercising the authority granted by subsections (1) and (2)
17 of this section, a state agency must comply with the provisions of RCW
18 39.35C.080.

19 **Sec. 20.** RCW 39.35C.100 and 1996 c 186 s 414 are each amended to
20 read as follows:

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

24 (a) Construction of energy efficiency projects, including project
25 evaluation and verification of benefits, project design, project
26 development, project construction, and project administration.

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

30 (2) Sources for this account may include:

31 (a) General obligation and revenue bond proceeds appropriated by
32 the legislature;

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

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

36 (3) The office shall establish criteria for approving energy
37 efficiency projects to be financed from moneys disbursed from this
38 account. The criteria shall include cost-effectiveness, reliability of

1 energy systems, and environmental costs or benefits. The office shall
2 ensure that the criteria are applied with professional standards for
3 engineering and review.

4 **Sec. 21.** RCW 39.35C.110 and 1996 c 186 s 415 are each amended to
5 read as follows:

6 (1) The energy efficiency services account is created in the state
7 treasury. Moneys in the account may be spent only after appropriation.
8 Expenditures from the account may be used only for the ((department))
9 office to provide energy efficiency services to public agencies
10 including review of life-cycle cost analyses.

11 (2) All receipts from the following source shall be deposited into
12 the account: Project fees charged under this section and RCW
13 39.35C.020, 39.35C.070, and 39.35.060.

14 (3) The ((department)) office may accept moneys and make deposits
15 to the account from federal, state, or local government agencies.

16 **Sec. 22.** RCW 39.35C.130 and 1996 c 186 s 416 are each amended to
17 read as follows:

18 The ((department)) office may adopt rules to implement RCW
19 39.35C.020 through 39.35C.040, 39.35C.070, 39.35C.080, and 39.35.050.

20 **Sec. 23.** RCW 19.27A.020 and 1998 c 245 s 8 are each amended to
21 read as follows:

22 (1) No later than January 1, 1991, the state building code council
23 shall adopt rules to be known as the Washington state energy code as
24 part of the state building code.

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

34 (3) The Washington state energy code shall take into account
35 regional climatic conditions. Climate zone 1 shall include all
36 counties not included in climate zone 2. Climate zone 2 includes:

1 Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend
2 Oreille, Spokane, Stevens, and Whitman counties.

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

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

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

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

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-30 (R
24 value includes insulation only);

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (c) The requirements of (b)(ii) of this subsection do not apply to
39 residences with log or solid timber walls with a minimum average

1 thickness of three and one-half inches and with space heat other than
2 electric resistance.

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

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

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

30 (7)(a) Except as provided in (b) of this subsection, the Washington
31 state energy code for residential structures shall preempt the
32 residential energy code of each city, town, and county in the state of
33 Washington.

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

1 code for residential structures to exceed the requirements adopted
2 prior to March 1, 1990.

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

13 **Sec. 24.** RCW 42.17.2401 and 1996 c 186 s 504 are each amended to
14 read as follows:

15 For the purposes of RCW 42.17.240, the term "executive state
16 officer" includes:

17 (1) The chief administrative law judge, the director of
18 agriculture, (~~the administrator of the office of marine safety,~~) the
19 administrator of the Washington basic health plan, the director of the
20 department of services for the blind, the director of the state system
21 of community and technical colleges, the director of community, trade,
22 and economic development, the secretary of corrections, the director of
23 ecology, the commissioner of employment security, the chairman of the
24 energy facility site evaluation council, the director of the state
25 energy office, the secretary of the state finance committee, the
26 director of financial management, the director of fish and wildlife,
27 the executive secretary of the forest practices appeals board, the
28 director of the gambling commission, the director of general
29 administration, the secretary of health, the administrator of the
30 Washington state health care authority, the executive secretary of the
31 health care facilities authority, the executive secretary of the higher
32 education facilities authority, the executive secretary of the horse
33 racing commission, the executive secretary of the human rights
34 commission, the executive secretary of the indeterminate sentence
35 review board, the director of the department of information services,
36 the director of the interagency committee for outdoor recreation, the
37 executive director of the state investment board, the director of labor
38 and industries, the director of licensing, the director of the lottery

1 commission, the director of the office of minority and women's business
2 enterprises, the director of parks and recreation, the director of
3 personnel, the executive director of the public disclosure commission,
4 the director of retirement systems, the director of revenue, the
5 secretary of social and health services, the chief of the Washington
6 state patrol, the executive secretary of the board of tax appeals, the
7 secretary of transportation, the secretary of the utilities and
8 transportation commission, the director of veterans affairs, the
9 president of each of the regional and state universities and the
10 president of The Evergreen State College, each district and each campus
11 president of each state community college;

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

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

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

1 Western Washington University board of trustees, and fish and wildlife
2 commission.

3 **Sec. 25.** RCW 43.06.115 and 1998 c 245 s 47 are each amended to
4 read as follows:

5 (1) The governor may, by executive order, (~~after consultation with~~
6 ~~or notification of the executive legislative committee on economic~~
7 ~~development created by chapter . . . (Senate Bill No. 5300), Laws of~~
8 ~~1993,~~) declare a community to be a "military impacted area." A
9 "military impacted area" means a community or communities, as
10 identified in the executive order, that experience serious social and
11 economic hardships because of a change in defense spending by the
12 federal government in that community or communities.

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

31 **Sec. 26.** RCW 43.21G.010 and 1996 c 186 s 507 are each amended to
32 read as follows:

33 The legislature finds that energy in various forms is increasingly
34 subject to possible shortages and supply disruptions, to the point that
35 there may be foreseen an emergency situation, and that without the
36 ability to institute appropriate emergency measures to regulate the
37 production, distribution, and use of energy, a severe impact on the

1 public health, safety, and general welfare of our state's citizens may
2 occur. The prevention or mitigation of such energy shortages or
3 disruptions and their effects is necessary for preservation of the
4 public health, safety, and general welfare of the citizens of this
5 state.

6 It is the intent of this chapter to:

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

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

10 It is further the intent of the legislature that in developing
11 proposed orders under the powers granted in RCW 43.21G.040 as now or
12 hereafter amended the governor may utilize, on a temporary or ad hoc
13 basis, the knowledge and expertise of persons experienced in the
14 technical aspects of energy supply, distribution, or use. Such
15 utilization shall be in addition to support received by the governor
16 from the (~~department of community, trade, and economic development~~)
17 state energy office under RCW 43.21F.045 and (~~(43.21F.065)~~) 43.21F.060
18 and from other state agencies.

19 **Sec. 27.** RCW 47.06.110 and 1996 c 186 s 512 are each amended to
20 read as follows:

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

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

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

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

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

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

37 (6) Recommends a statewide public transportation facilities and
38 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 office
7 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. 28.** RCW 70.94.527 and 1997 c 250 s 2 are each amended to read
13 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 department of transportation and the state energy office, as part of
29 the 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 worksite base year value or the base year value for the
23 commute trip reduction zone in which their worksite is located by
24 January 1, 1995, twenty percent reduction from the base year values by
25 January 1, 1997, twenty-five percent reduction from the base year
26 values by January 1, 1999, and a thirty-five percent reduction from the
27 base year values by January 1, 2005.

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

35 (6) The commute trip reduction plans adopted by counties, cities,
36 and towns under this chapter shall be consistent with and may be
37 incorporated in applicable state or regional transportation plans and
38 local comprehensive plans and shall be coordinated, and consistent
39 with, the commute trip reduction plans of counties, cities, or towns

1 with which the county, city, or town has, in part, common borders or
2 related regional issues. Such regional issues shall include assuring
3 consistency in the treatment of employers who have worksites subject to
4 the requirements of this chapter in more than one jurisdiction.
5 Counties, cities, or towns adopting commute trip reduction plans may
6 enter into agreements through the interlocal cooperation act or by
7 resolution or ordinance as appropriate with other jurisdictions, local
8 transit agencies, or regional transportation planning organizations to
9 coordinate the development and implementation of such plans. Transit
10 agencies shall work with counties, cities, and towns to take into
11 account the location of major employer worksites when planning transit
12 service changes or the expansion of public transportation services.
13 Counties, cities, or towns adopting a commute trip reduction plan shall
14 review it annually and revise it as necessary to be consistent with
15 applicable plans developed under RCW 36.70A.070.

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

20 (8) Each county, city, or town implementing a commute trip
21 reduction program shall submit an annual progress report to the commute
22 trip reduction task force established under RCW 70.94.537. The report
23 shall be due July 1, 1994, and each July 1st thereafter through July 1,
24 2006. The report shall describe progress in attaining the applicable
25 commute trip reduction goals for each commute trip reduction zone and
26 shall highlight any problems being encountered in achieving the goals.
27 The information shall be reported in a form established by the commute
28 trip reduction task force.

29 (9) Any waivers or modifications of the requirements of a commute
30 trip reduction plan granted by a jurisdiction shall be submitted for
31 review to the commute trip reduction task force established under RCW
32 70.94.537. The commute trip reduction task force may not deny the
33 granting of a waiver or modification of the requirements of a commute
34 trip reduction plan by a jurisdiction but they may notify the
35 jurisdiction of any comments or objections.

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

1 (11) Each county, city, or town implementing a commute trip
2 reduction program shall ensure that employers that have modified their
3 employees' work schedules so that some or all employees are not
4 scheduled to arrive at work between 6:00 a.m. and 9:00 a.m. are
5 provided credit when calculating single-occupancy vehicle use and
6 vehicle miles traveled at that worksite. This credit shall be awarded
7 if implementation of the schedule change was an identified element in
8 that worksite's approved commute trip reduction program or if the
9 schedule change occurred because of impacts associated with chapter
10 36.70A RCW, the growth management act.

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

13 (13) Plans implemented under this section shall not apply to
14 construction worksites when the expected duration of the construction
15 project is less than two years.

16 **Sec. 29.** RCW 70.94.537 and 1997 c 250 s 5 are each amended to read
17 as follows:

18 (1) A (~~twenty-eight~~) twenty-nine member state commute trip
19 reduction task force is established as follows:

20 (a) The secretary of the department of transportation or the
21 secretary's designee who shall serve as chair;

22 (b) The director of the department of ecology or the director's
23 designee;

24 (c) The director of the department of community, trade, and
25 economic development or the director's designee;

26 (d) The director of the department of general administration or the
27 director's designee;

28 (e) The director of the state energy office or the director's
29 designee;

30 (f) Three representatives from counties appointed by the governor
31 from a list of at least six recommended by the Washington state
32 association of counties;

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

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

1 (~~(h)~~) (i) Twelve representatives of employers at or owners of
2 major worksites in Washington appointed by the governor from a list
3 recommended by the association of Washington business or other
4 statewide business associations representing major employers, provided
5 that every affected county shall have at least one representative; and

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

7 Members of the commute trip reduction task force shall serve
8 without compensation but shall be reimbursed for travel expenses as
9 provided in RCW 43.03.050 and 43.03.060. Members appointed by the
10 governor shall be compensated in accordance with RCW 43.03.220. The
11 task force has all powers necessary to carry out its duties as
12 prescribed by this chapter. The task force shall be dissolved on July
13 1, 2006.

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

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

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

27 (c) Model commute trip reduction ordinances;

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

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

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

1 (g) Alternative commute trip reduction goals for major employers
2 which cannot meet the goals of this chapter because of the unique
3 nature of their business;

4 (h) Alternative commute trip reduction goals for major employers
5 whose worksites change and who contribute substantially to traffic
6 congestion in a trip reduction zone; and

7 (i) Methods to insure that employers receive credit for scheduling
8 changes enacted pursuant to the criteria identified in RCW
9 70.94.527(11).

10 (3) The task force shall work with jurisdictions, major employers,
11 and other parties to develop and implement a public awareness campaign
12 designed to increase the effectiveness of local commute trip reduction
13 programs and support achievement of the objectives identified in this
14 chapter.

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

21 (5) The task force shall review progress toward implementing
22 commute trip reduction plans and programs and the costs and benefits of
23 commute trip reduction plans and programs and shall make
24 recommendations to the legislature by December 1, 1995, December 1,
25 1999, December 1, 2001, December 1, 2003, and December 1, 2005. In
26 assessing the costs and benefits, the task force shall consider the
27 costs of not having implemented commute trip reduction plans and
28 programs. The task force shall examine other transportation demand
29 management programs nationally and incorporate its findings into its
30 recommendations to the legislature. The recommendations shall address
31 the need for continuation, modification, or termination or any or all
32 requirements of this chapter. The recommendations made December 1,
33 1995, shall include recommendations regarding extension of the
34 requirements of this chapter to employers with fifty or more full-time
35 employees at a single worksite who begin their regular work day between
36 6:00 a.m. and 9:00 a.m. on weekdays for more than twelve continuous
37 months.

1 **Sec. 30.** RCW 70.94.541 and 1996 c 186 s 515 are each amended to
2 read as follows:

3 (1) A technical assistance team shall be established under the
4 direction of the department of transportation and include
5 representatives of the department of ecology and the state energy
6 office. The team shall provide staff support to the commute trip
7 reduction task force in carrying out the requirements of RCW 70.94.537
8 and to the department of general administration in carrying out the
9 requirements of RCW 70.94.551.

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

23 (3) In carrying out this section the department of transportation
24 may contract with statewide associations representing cities, towns,
25 and counties to assist cities, towns, and counties in implementing
26 commute trip reduction plans and programs.

27 **Sec. 31.** RCW 70.94.960 and 1996 c 186 s 517 are each amended to
28 read as follows:

29 The department may disburse matching grants from funds provided by
30 the legislature from the air pollution control account, created in RCW
31 70.94.015, to units of local government to partially offset the
32 additional cost of purchasing "clean fuel" and/or operating "clean-fuel
33 vehicles" provided that such vehicles are used for public transit.
34 Publicly owned school buses are considered public transit for the
35 purposes of this section. The department may also disburse grants to
36 vocational-technical institutes for the purpose of establishing
37 programs to certify clean-fuel vehicle mechanics. The department may
38 also distribute grants to the state energy office and Washington State

1 University for the purpose of furthering the establishment of clean
2 fuel refueling infrastructure.

3 **Sec. 32.** RCW 82.35.080 and 1999 c 358 s 15 are each amended to
4 read as follows:

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

9 (a) The certificate was obtained by fraud or deliberate
10 misrepresentation;

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

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

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

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

25 (3) Any person, firm, corporation, or organization that obtains a
26 certificate revoked under this section shall be liable for the total
27 amount of money saved by claiming the credits and exemptions provided
28 under this chapter. The total amount of the credits shall be collected
29 as delinquent business and occupation taxes, and the total of the
30 exemptions shall be collected and distributed as delinquent property
31 taxes. Interest shall accrue on the amounts of the credits and
32 exemptions from the date the taxes were otherwise due.

33 (4) The ((~~department of community, trade, and economic~~
34 ~~development~~)) state energy office shall provide technical assistance to
35 the department in carrying out its responsibilities under this section.

36 **Sec. 33.** RCW 90.03.247 and 1996 c 186 s 523 are each amended to
37 read as follows:

1 Whenever an application for a permit to make beneficial use of
2 public waters is approved relating to a stream or other water body for
3 which minimum flows or levels have been adopted and are in effect at
4 the time of approval, the permit shall be conditioned to protect the
5 levels or flows. No agency may establish minimum flows and levels or
6 similar water flow or level restrictions for any stream or lake of the
7 state other than the department of ecology whose authority to establish
8 is exclusive, as provided in chapter 90.03 RCW and RCW 90.22.010 and
9 90.54.040. The provisions of other statutes, including but not limited
10 to RCW (~~(75.20.100)~~) 77.55.100 and chapter 43.21C RCW, may not be
11 interpreted in a manner that is inconsistent with this section. In
12 establishing such minimum flows, levels, or similar restrictions, the
13 department shall, during all stages of development by the department of
14 ecology of minimum flow proposals, consult with, and carefully consider
15 the recommendations of, the department of fish and wildlife, the
16 (~~department of community, trade, and economic development~~) state
17 energy office, the department of agriculture, and representatives of
18 the affected Indian tribes. Nothing herein shall preclude the
19 department of fish and wildlife, the (~~department of community, trade,~~
20 ~~and economic development~~) state energy office, or the department of
21 agriculture from presenting its views on minimum flow needs at any
22 public hearing or to any person or agency, and the department of fish
23 and wildlife, the (~~department of community, trade, and economic~~
24 ~~development~~) state energy office, and the department of agriculture
25 are each empowered to participate in proceedings of the federal energy
26 regulatory commission and other agencies to present its views on
27 minimum flow needs.

28 **Sec. 34.** RCW 80.50.030 and 1996 c 186 s 108 are each amended to
29 read as follows:

30 (1) There is created and established the energy facility site
31 evaluation council.

32 (2)(a) The chairman of the council shall be appointed by the
33 governor with the advice and consent of the senate, shall have a vote
34 on matters before the council, shall serve for a term coextensive with
35 the term of the governor, and is removable for cause. The chairman may
36 designate a member of the council to serve as acting chairman in the
37 event of the chairman's absence. The chairman is a "state employee"
38 for the purposes of chapter 42.52 RCW. As applicable, when attending

1 meetings of the council, members may receive reimbursement for travel
2 expenses in accordance with RCW 43.03.050 and 43.03.060, and are
3 eligible for compensation under RCW 43.03.250.

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

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

- 16 (a) Department of ecology;
- 17 (b) Department of fish and wildlife;
- 18 (c) Department of health;
- 19 (d) Military department;
- 20 (e) Department of community, trade, and economic development;
- 21 (f) Utilities and transportation commission;
- 22 (g) Department of natural resources;
- 23 (h) Department of agriculture;
- 24 (i) Department of transportation; and
- 25 (j) The state energy office.

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

33 (5) The city legislative authority of every city within whose
34 corporate limits an energy plant is proposed to be located shall
35 appoint a member or designee as a voting member to the council. The
36 member or designee so appointed shall sit with the council only at such
37 times as the council considers the proposed site for the city which he
38 or she represents, and such member or designee shall serve until there
39 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. 35.** RCW 41.06.070 and 1998 c 245 s 40 are each amended to
12 read 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, joint
17 legislative audit and review committee, statute law committee, and any
18 interim 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
37 under chapter 15.65 RCW;

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

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

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

12 (~~(y)~~) (x) All employees of the marine employees' commission;

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

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

21 (~~(bb)~~) (z) Staff employed by Washington State University to
22 administer energy education, applied research, and technology transfer
23 programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

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

27 (a) Members of the governing board of each institution of higher
28 education and related boards, all presidents, vice-presidents, and
29 their confidential secretaries, administrative, and personal
30 assistants; deans, directors, and chairs; academic personnel; and
31 executive heads of major administrative or academic divisions employed
32 by institutions of higher education; principal assistants to executive
33 heads of major administrative or academic divisions; other managerial
34 or professional employees in an institution or related board having
35 substantial responsibility for directing or controlling program
36 operations and accountable for allocation of resources and program
37 results, or for the formulation of institutional policy, or for
38 carrying out personnel administration or labor relations functions,
39 legislative relations, public information, development, senior computer

1 systems and network programming, or internal audits and investigations;
2 and any employee of a community college district whose place of work is
3 one which is physically located outside the state of Washington and who
4 is employed pursuant to RCW 28B.50.092 and assigned to an educational
5 program operating outside of the state of Washington;

6 (b) Student, part-time, or temporary employees, and part-time
7 professional consultants, as defined by the Washington personnel
8 resources board, employed by institutions of higher education and
9 related boards;

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

18 (d) Printing craft employees in the department of printing at the
19 University of Washington.

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

1 under the authority of elected public officials other than the
2 governor.

3 The salary and fringe benefits of all positions presently or
4 hereafter exempted except for the chief executive officer of each
5 agency, full-time members of boards and commissions, administrative
6 assistants and confidential secretaries in the immediate office of an
7 elected state official, and the personnel listed in subsections (1)(j)
8 through ~~((v), (y), (z))~~ (u) and (x), and (2) of this section, shall
9 be determined by the Washington personnel resources board. However,
10 beginning with changes proposed for the 1997-99 fiscal biennium,
11 changes to the classification plan affecting exempt salaries must meet
12 the same provisions for classified salary increases resulting from
13 adjustments to the classification plan as outlined in RCW 41.06.152.

14 Any person holding a classified position subject to the provisions
15 of this chapter shall, when and if such position is subsequently
16 exempted from the application of this chapter, be afforded the
17 following rights: If such person previously held permanent status in
18 another classified position, such person shall have a right of
19 reversion to the highest class of position previously held, or to a
20 position of similar nature and salary.

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

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

28 **Sec. 36.** RCW 43.19.123 and 1996 c 186 s 401 are each amended to
29 read as follows:

30 (1) All powers, duties, and functions of the ~~((state energy
31 office))~~ department of general administration pertaining to energy
32 efficiency in public buildings are transferred to the ~~((department of
33 general administration))~~ state energy office. All references to the
34 director or the ~~((state energy office))~~ department of general
35 administration in the Revised Code of Washington shall be construed to
36 mean the director or the ~~((department of general administration))~~ state
37 energy office when referring to the functions transferred in this
38 section.

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

14 (b) Any appropriations made to the (~~state energy office~~)
15 department of general administration for carrying out the powers,
16 functions, and duties transferred shall, on July 1, (~~1996~~) 2001, be
17 transferred and credited to the (~~department of general~~
18 ~~administration~~) state energy office.

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

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

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

1 existing contracts and obligations, excluding personnel contracts and
2 obligations, shall remain in full force and shall be performed by the
3 (~~department of general administration~~) state energy office.

4 (5) The transfer of the powers, duties, functions, and personnel
5 (~~of the state energy office~~) under this section shall not affect the
6 validity of any act performed before July 1, (~~1996~~) 2001.

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

13 **Sec. 37.** RCW 43.330.904 and 1996 c 186 s 101 are each amended to
14 read as follows:

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

25 (~~The director shall appoint an assistant director for energy~~
26 ~~policy, and energy policy staff shall have no additional~~
27 ~~responsibilities beyond activities concerning energy policy.~~)

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

1 (~~department of community, trade, and economic development~~) state
2 energy office.

3 (b) Any appropriations made to the state energy office for carrying
4 out the powers, functions, and duties transferred shall, on July 1,
5 (~~1996~~) 2001, be transferred and credited to the (~~department of~~
6 ~~community, trade, and economic development~~) state energy office.

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

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

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

33 (5) The transfer of the powers, duties, and functions (~~of the~~
34 ~~state energy office~~) under this section does not affect the validity
35 of any act performed before July 1, (~~1996~~) 2001.

36 (6) If apportionments of budgeted funds are required because of the
37 transfers directed by this section, the director of the office of
38 financial management shall certify the apportionments to the agencies
39 affected, the state auditor, and the state treasurer. Each of these

1 shall make the appropriate transfer and adjustments in funds and
2 appropriation.

3 ~~(7) ((The department of community, trade, and economic development
4 shall direct the closure of the financial records of the state energy
5 office.~~

6 ~~(8)) Responsibility for implementing energy education, applied
7 research, and technology transfer programs ((rests with)) shall be
8 coordinated between the state energy office and Washington State
9 University. ~~((The department of community, trade, and economic
10 development shall provide Washington State University available
11 existing and future oil overcharge restitution and federal energy block
12 funding for a minimum period of five years to carry out energy programs
13 under an interagency agreement with the department of community, trade,
14 and economic development. The interagency agreement shall also outline
15 the working relationship between the department of community, trade,
16 and economic development and Washington State University as it pertains
17 to the relationship between energy policy development and public
18 outreach. Nothing in chapter 186, Laws of 1996 prohibits Washington
19 State University from seeking grant, contract, or fee for service
20 funding for energy or related programs directly from other entities.))~~~~

21 NEW SECTION. **Sec. 38.** RCW 43.19.123 and 43.330.904 are each
22 recodified as sections in chapter 43.21F RCW.

23 NEW SECTION. **Sec. 39.** The code reviser shall alphabetize the
24 definitions in RCW 43.21F.025 and correct any references.

25 NEW SECTION. **Sec. 40.** The code reviser shall alphabetize the
26 definitions in RCW 39.35.030 and correct any references.

27 NEW SECTION. **Sec. 41.** This act is necessary for the immediate
28 preservation of the public peace, health, or safety, or support of the
29 state government and its existing public institutions, and takes effect
30 July 1, 2001.

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