

**E2SHB 2658** - S AMD 411

By Senators Kastama, Kilmer, Zarelli

ADOPTED 03/11/2010

1       Strike everything after the enacting clause and insert the  
2 following:

3       "NEW SECTION.   **Sec. 1.** In 2009, the legislature changed the name  
4 of the department of community, trade, and economic development to the  
5 department of commerce and directed the agency to, among other things,  
6 develop a report with recommendations on statutory changes to ensure  
7 that the department's efforts: Are organized around a concise core  
8 mission and aligned with the state's comprehensive plan for economic  
9 development; generate greater local capacity; maximize results through  
10 partnerships and the use of intermediaries; and provide transparency  
11 and increased accountability. Recommendations for creating or  
12 consolidating programs deemed important to meeting the department's  
13 core mission and recommendations for terminating or transferring  
14 specific programs if they are not consistent with the department's core  
15 mission were to be included in the report.

16       In accordance with that legislation, chapter 565, Laws of 2009, in  
17 November 2009 the department of commerce submitted a plan that  
18 establishes a mission of growing and improving jobs in the state and  
19 recognizes the need for an innovation-driven economy. The plan also  
20 outlines agency priorities, efficiencies, and program transfers that  
21 will help to advance the new mission.

22       The primary purpose of this act is to implement portions of the  
23 department of commerce plan by transferring certain programs from the  
24 department of commerce to other state agencies whose missions are more  
25 closely aligned with the core functions of those programs. This act  
26 also directs additional efficiencies in state government and directs  
27 development of a statewide clean energy strategy, which will better  
28 enable the department of commerce to focus on its new mission.

1       **Sec. 2.** RCW 43.330.005 and 1993 c 280 s 1 are each amended to read  
2 as follows:

3       The legislature finds that the long-term economic health of the  
4 state and its citizens depends upon the strength and vitality of its  
5 communities and businesses. It is the intent of this chapter to create  
6 a ~~((merged))~~ department of ~~((community, trade, and economic  
7 development))~~ commerce that fosters new partnerships for strong and  
8 sustainable communities. ~~((The consolidation of the department of  
9 trade and economic development and the department of community  
10 development into one department will))~~ The mission of the department is  
11 to grow and improve jobs in Washington and facilitate innovation. To  
12 carry out its mission, the department will bring together focused  
13 efforts to: Streamline access to business assistance and economic  
14 development services by providing ~~((a simpler point of entry for state  
15 programs))~~ them through sector-based, cluster-based, and regional  
16 partners; provide focused and flexible responses to changing economic  
17 conditions; generate greater local capacity to respond to both economic  
18 growth and environmental challenges; ~~((and))~~ increase accountability to  
19 the public, the executive branch, and the legislature(~~(-~~

20 ~~A new department can bring together a focused effort to:))~~ manage  
21 growth and achieve sustainable development; diversify the state's  
22 economy and export goods and services; provide greater access to  
23 economic opportunity; stimulate private sector investment and  
24 entrepreneurship; provide stable family-wage jobs and meet the diverse  
25 needs of families; provide affordable housing and housing services; and  
26 construct public infrastructure(~~(; protect our cultural heritage; and  
27 promote the health and safety of the state's citizens))~~.

28       The legislature further finds that as a result of the rapid pace of  
29 global social and economic change, the state and local communities will  
30 require coordinated and creative responses by every segment of the  
31 community. The state can play a role in assisting such local efforts  
32 by reorganizing state assistance efforts to promote such partnerships.  
33 The department has a primary responsibility to provide financial and  
34 technical assistance to the communities of the state, to assist in  
35 improving the delivery of federal, state, and local programs, and to  
36 provide communities with opportunities for productive and coordinated  
37 development beneficial to the well-being of communities and their  
38 residents. It is the intent of the legislature in ~~((this~~

1 consolidation)) creating the department to maximize the use of local  
2 expertise and resources in the delivery of community and economic  
3 development services.

4 **Sec. 3.** RCW 43.330.007 and 2009 c 565 s 1 are each amended to read  
5 as follows:

6 (1) The purpose of this chapter is to establish the broad outline  
7 of the structure of the department of commerce, leaving specific  
8 details of its internal organization and management to those charged  
9 with its administration. This chapter identifies the broad functions  
10 and responsibilities of the department and is intended to provide  
11 flexibility to the director to reorganize these functions to more  
12 closely reflect its customers, its mission, and its priorities, and to  
13 make recommendations for changes.

14 (2) In order to generate greater local capacity, maximize results  
15 through partnerships and the use of intermediaries, and leverage the  
16 use of state resources, the department shall, in carrying out its  
17 business assistance and economic development functions, provide  
18 business and economic development services primarily through sector-  
19 based, cluster-based, and regionally based organizations rather than  
20 providing assistance directly to individual firms.

21 NEW SECTION. **Sec. 4.** The department shall examine the functions  
22 and operations of agricultural commodity commissions in the state and  
23 collaborate with industry sector and cluster associations on  
24 legislation that would enable industries to develop self-financing  
25 systems for addressing industry-identified issues such as workforce  
26 training, international marketing, quality improvement, and technology  
27 deployment. By December 1, 2010, the department shall report to the  
28 governor and the legislature on its findings and proposed legislation.

29 NEW SECTION. **Sec. 5.** (1) The legislature recognizes that there  
30 are many strong community services and housing programs currently  
31 operating within the department and serving our most vulnerable  
32 individuals, families, and communities. The legislature finds that  
33 some of these programs can readily be transferred beginning on July 1,  
34 2010, to other mission-aligned agencies in state government. However,  
35 the legislature finds that to maintain the strength and credibility of

1 the majority of the department's community services and housing  
2 programs, it is necessary to create a separate division for them within  
3 the department.

4 (2)(a) The legislature directs the department to establish the  
5 community services and housing division to deliver essential services  
6 to individuals, families, and communities.

7 (b) Services provided by the division shall include, but are not  
8 limited to: (i) Homeless housing and assistance programs including  
9 transitional housing, emergency shelter grants, independent youth  
10 housing, housing assistance for persons with mental illness, and  
11 housing opportunities for people with AIDS; (ii) affordable housing  
12 development programs including the housing trust fund and low-income  
13 home energy assistance; (iii) farm worker housing; (iv) crime victims'  
14 advocacy and sexual assault services; (v) community mobilization  
15 against substance abuse and violence; (vi) asset building for working  
16 families; (vii) local and community projects including the building  
17 communities fund, building for the arts, and youth recreational  
18 facilities grants; (viii) dispute resolution centers; (ix) the  
19 Washington families fund; (x) community services block grants; (xi)  
20 child care facility fund; (xii) WorkFirst community jobs; (xiii) long-  
21 term care ombudsman; (xiv) state drug task forces; (xv) justice  
22 assistance grants; (xvi) children and families of incarcerated parents;  
23 and (xvii) the Washington new Americans program.

24 (3) This section expires July 1, 2012.

25 **PART I**  
26 **DEPARTMENT OF HEALTH--PUBLIC HEALTH**

27 **Sec. 101.** RCW 70.05.125 and 2009 c 479 s 48 are each amended to  
28 read as follows:

29 (1) The county public health account is created in the state  
30 treasury. Funds deposited in the county public health account shall be  
31 distributed by the state treasurer to each local public health  
32 jurisdiction based upon amounts certified to it by the department of  
33 (~~community, trade, and economic development~~) health in consultation  
34 with the Washington state association of counties. The account shall  
35 include funds distributed under RCW 82.14.200(8) and such funds as are

1 appropriated to the account from the state general fund, the public  
2 health services account under RCW 43.72.902, and such other funds as  
3 the legislature may appropriate to it.

4 (2)(a) The (~~director~~) secretary of the department of (~~community,~~  
5 ~~trade, and economic development~~) health shall certify the amounts to  
6 be distributed to each local public health jurisdiction using 1995 as  
7 the base year of actual city contributions to local public health.

8 (b) Only if funds are available and in an amount no greater than  
9 available funds under RCW 82.14.200(8), the department of community,  
10 trade, and economic development shall adjust the amount certified under  
11 (a) of this subsection to compensate for any annexation of an area with  
12 fifty thousand residents or more to any city as a result of a petition  
13 during calendar year 1996 or 1997, or for any city that became newly  
14 incorporated as a result of an election during calendar year 1994 or  
15 1995. The amount to be adjusted shall be equal to the amount which  
16 otherwise would have been lost to the health jurisdiction due to the  
17 annexation or incorporation as calculated using the jurisdiction's 1995  
18 funding formula.

19 (c) The county treasurer shall certify the actual 1995 city  
20 contribution to the department. Funds in excess of the base shall be  
21 distributed proportionately among the health jurisdictions based on  
22 incorporated population figures as last determined by the office of  
23 financial management.

24 (3) Moneys distributed under this section shall be expended  
25 exclusively for local public health purposes.

26 NEW SECTION. Sec. 102. (1) All powers, duties, and functions of  
27 the department of commerce pertaining to county public health  
28 assistance are transferred to the department of health. All references  
29 to the director or the department of commerce in the Revised Code of  
30 Washington shall be construed to mean the secretary or the department  
31 of health when referring to the functions transferred in this section.

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

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

5 (b) Any appropriations made to the department of commerce for  
6 carrying out the powers, functions, and duties transferred shall, on  
7 the effective date of this section, be transferred and credited to the  
8 department of health.

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

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

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

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

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

37 (7) All classified employees of the department of commerce assigned  
38 to the department of health under this section whose positions are

1 within an existing bargaining unit description at the department of  
2 health shall become a part of the existing bargaining unit at the  
3 department of health and shall be considered an appropriate inclusion  
4 or modification of the existing bargaining unit under the provisions of  
5 chapter 41.80 RCW.

6 **PART II**

7 **DEPARTMENT OF HEALTH--DEVELOPMENTAL DISABILITIES**

8 **Sec. 201.** RCW 43.330.210 and 2009 c 565 s 11 are each amended to  
9 read as follows:

10 The developmental disabilities endowment governing board is  
11 established to design and administer the developmental disabilities  
12 endowment. To the extent funds are appropriated for this purpose, the  
13 (~~director~~) secretary of the department (~~of commerce~~) shall provide  
14 staff and administrative support to the governing board.

15 (1) The governing board shall consist of seven members as follows:

16 (a) Three of the members, who shall be appointed by the governor,  
17 shall be persons who have demonstrated expertise and leadership in  
18 areas such as finance, actuarial science, management, business, or  
19 public policy.

20 (b) Three members of the board, who shall be appointed by the  
21 governor, shall be persons who have demonstrated expertise and  
22 leadership in areas such as business, developmental disabilities  
23 service design, management, or public policy, and shall be family  
24 members of persons with developmental disabilities.

25 (c) The seventh member of the board, who shall serve as chair of  
26 the board, shall be appointed by the remaining six members of the  
27 board.

28 (2) Members of the board shall serve terms of four years and may be  
29 appointed for successive terms of four years at the discretion of the  
30 appointing authority. However, the governor may stagger the terms of  
31 the initial six members of the board so that approximately one-fourth  
32 of the members' terms expire each year.

33 (3) Members of the board shall be compensated for their service  
34 under RCW 43.03.240 and shall be reimbursed for travel expenses as  
35 provided in RCW 43.03.050 and 43.03.060.

1 (4) The board shall meet periodically as specified by the call of  
2 the chair, or a majority of the board.

3 (5) Members of the governing board and the state investment board  
4 shall not be considered an insurer of the funds or assets of the  
5 endowment trust fund or the individual trust accounts. Neither of  
6 these two boards or their members shall be liable for the action or  
7 inaction of the other.

8 (6) Members of the governing board and the state investment board  
9 are not liable to the state, to the fund, or to any other person as a  
10 result of their activities as members, whether ministerial or  
11 discretionary, except for willful dishonesty or intentional violations  
12 of law. The department and the state investment board, respectively,  
13 may purchase liability insurance for members.

14 **Sec. 202.** RCW 43.330.240 and 2009 c 565 s 12 are each amended to  
15 read as follows:

16 The department (~~(of commerce)~~) shall adopt rules for the  
17 implementation of policies established by the governing board in RCW  
18 43.330.200 through 43.330.230 (as recodified by this act). Such rules  
19 will be consistent with those statutes and chapter 34.05 RCW.

20 NEW SECTION. **Sec. 203.** The following sections are each recodified  
21 as sections in chapter 43.70 RCW:

22 RCW 43.330.195

23 RCW 43.330.200

24 RCW 43.330.205

25 RCW 43.330.210

26 RCW 43.330.220

27 RCW 43.330.225

28 RCW 43.330.230

29 RCW 43.330.240

30 NEW SECTION. **Sec. 204.** (1) All powers, duties, and functions of  
31 the department of commerce pertaining to the developmental disabilities  
32 endowment are transferred to the department of health. All references  
33 to the director or the department of commerce in the Revised Code of  
34 Washington shall be construed to mean the secretary or the department  
35 of health when referring to the functions transferred in this section.

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

11 (b) Any appropriations made to the department of commerce for  
12 carrying out the powers, functions, and duties transferred shall, on  
13 the effective date of this section, be transferred and credited to the  
14 department of health.

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

21 (3) All employees of the department of commerce engaged in  
22 performing the powers, functions, and duties transferred are  
23 transferred to the jurisdiction of the department of health. All  
24 employees classified under chapter 41.06 RCW, the state civil service  
25 law, are assigned to the department of health to perform their usual  
26 duties upon the same terms as formerly, without any loss of rights,  
27 subject to any action that may be appropriate thereafter in accordance  
28 with the laws and rules governing state civil service.

29 (4) All rules and all pending business before the department of  
30 commerce pertaining to the powers, functions, and duties transferred  
31 shall be continued and acted upon by the department of health. All  
32 existing contracts and obligations shall remain in full force and shall  
33 be performed by the department of health.

34 (5) The transfer of the powers, duties, functions, and personnel of  
35 the department of commerce shall not affect the validity of any act  
36 performed before the effective date of this section.

37 (6) If apportionments of budgeted funds are required because of the  
38 transfers directed by this section, the director of financial

1 management shall certify the apportionments to the agencies affected,  
2 the state auditor, and the state treasurer. Each of these shall make  
3 the appropriate transfer and adjustments in funds and appropriation  
4 accounts and equipment records in accordance with the certification.

5 (7) All classified employees of the department of commerce assigned  
6 to the department of health under this section whose positions are  
7 within an existing bargaining unit description at the department of  
8 health shall become a part of the existing bargaining unit at the  
9 department of health and shall be considered an appropriate inclusion  
10 or modification of the existing bargaining unit under the provisions of  
11 chapter 41.80 RCW.

### 12 PART III

### 13 BUILDING CODE COUNCIL

14 **Sec. 301.** RCW 19.27.070 and 1995 c 399 s 8 are each amended to  
15 read as follows:

16 There is hereby established a state building code council to be  
17 appointed by the governor.

18 (1) The state building code council shall consist of fifteen  
19 members, two of whom shall be county elected legislative body members  
20 or elected executives and two of whom shall be city elected legislative  
21 body members or mayors. One of the members shall be a local government  
22 building code enforcement official and one of the members shall be a  
23 local government fire service official. Of the remaining nine members,  
24 one member shall represent general construction, specializing in  
25 commercial and industrial building construction; one member shall  
26 represent general construction, specializing in residential and  
27 multifamily building construction; one member shall represent the  
28 architectural design profession; one member shall represent the  
29 structural engineering profession; one member shall represent the  
30 mechanical engineering profession; one member shall represent the  
31 construction building trades; one member shall represent manufacturers,  
32 installers, or suppliers of building materials and components; one  
33 member shall be a person with a physical disability and shall represent  
34 the disability community; and one member shall represent the general  
35 public. At least six of these fifteen members shall reside east of the  
36 crest of the Cascade mountains. The council shall include: Two

1 members of the house of representatives appointed by the speaker of the  
2 house, one from each caucus; two members of the senate appointed by the  
3 president of the senate, one from each caucus; and an employee of the  
4 electrical division of the department of labor and industries, as ex  
5 officio, nonvoting members with all other privileges and rights of  
6 membership. Terms of office shall be for three years. The council  
7 shall elect a member to serve as chair of the council for one-year  
8 terms of office. Any member who is appointed by virtue of being an  
9 elected official or holding public employment shall be removed from the  
10 council if he or she ceases being such an elected official or holding  
11 such public employment. Before making any appointments to the building  
12 code council, the governor shall seek nominations from recognized  
13 organizations which represent the entities or interests listed in this  
14 subsection. Members serving on the council on July 28, 1985, may  
15 complete their terms of office. Any vacancy shall be filled by  
16 alternating appointments from governmental and nongovernmental entities  
17 or interests until the council is constituted as required by this  
18 subsection.

19 (2) Members shall not be compensated but shall receive  
20 reimbursement for travel expenses in accordance with RCW 43.03.050 and  
21 43.03.060.

22 (3) The department of ((community, trade, and economic  
23 development)) general administration shall provide administrative and  
24 clerical assistance to the building code council.

25 **Sec. 302.** RCW 19.27.097 and 1995 c 399 s 9 are each amended to  
26 read as follows:

27 (1) Each applicant for a building permit of a building  
28 necessitating potable water shall provide evidence of an adequate water  
29 supply for the intended use of the building. Evidence may be in the  
30 form of a water right permit from the department of ecology, a letter  
31 from an approved water purveyor stating the ability to provide water,  
32 or another form sufficient to verify the existence of an adequate water  
33 supply. In addition to other authorities, the county or city may  
34 impose conditions on building permits requiring connection to an  
35 existing public water system where the existing system is willing and  
36 able to provide safe and reliable potable water to the applicant with

1 reasonable economy and efficiency. An application for a water right  
2 shall not be sufficient proof of an adequate water supply.

3 (2) Within counties not required or not choosing to plan pursuant  
4 to RCW 36.70A.040, the county and the state may mutually determine  
5 those areas in the county in which the requirements of subsection (1)  
6 of this section shall not apply. The departments of health and ecology  
7 shall coordinate on the implementation of this section. Should the  
8 county and the state fail to mutually determine those areas to be  
9 designated pursuant to this subsection, the county may petition the  
10 department of (~~community, trade, and economic development~~) general  
11 administration to mediate or, if necessary, make the determination.

12 (3) Buildings that do not need potable water facilities are exempt  
13 from the provisions of this section. The department of ecology, after  
14 consultation with local governments, may adopt rules to implement this  
15 section, which may recognize differences between high-growth and low-  
16 growth counties.

17 **Sec. 303.** RCW 19.27.150 and 1995 c 399 s 10 are each amended to  
18 read as follows:

19 Every month a copy of the United States department of commerce,  
20 bureau of the census' "report of building or zoning permits issued and  
21 local public construction" or equivalent report shall be transmitted by  
22 the governing bodies of counties and cities to the department of  
23 (~~community, trade, and economic development~~) general administration.

24 **Sec. 304.** RCW 19.27A.020 and 2009 c 423 s 4 are each amended to  
25 read as follows:

26 (1) The state building code council shall adopt rules to be known  
27 as the Washington state energy code as part of the state building code.

28 (2) The council shall follow the legislature's standards set forth  
29 in this section to adopt rules to be known as the Washington state  
30 energy code. The Washington state energy code shall be designed to:

31 (a) Construct increasingly energy efficient homes and buildings  
32 that help achieve the broader goal of building zero fossil-fuel  
33 greenhouse gas emission homes and buildings by the year 2031;

34 (b) Require new buildings to meet a certain level of energy  
35 efficiency, but allow flexibility in building design, construction, and  
36 heating equipment efficiencies within that framework; and

1 (c) Allow space heating equipment efficiency to offset or  
2 substitute for building envelope thermal performance.

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

8 (4) The Washington state energy code for residential buildings  
9 shall be the 2006 edition of the Washington state energy code, or as  
10 amended by rule by the council.

11 (5) The minimum state energy code for new nonresidential buildings  
12 shall be the Washington state energy code, 2006 edition, or as amended  
13 by the council by rule.

14 (6)(a) Except as provided in (b) of this subsection, the Washington  
15 state energy code for residential structures shall preempt the  
16 residential energy code of each city, town, and county in the state of  
17 Washington.

18 (b) The state energy code for residential structures does not  
19 preempt a city, town, or county's energy code for residential  
20 structures which exceeds the requirements of the state energy code and  
21 which was adopted by the city, town, or county prior to March 1, 1990.  
22 Such cities, towns, or counties may not subsequently amend their energy  
23 code for residential structures to exceed the requirements adopted  
24 prior to March 1, 1990.

25 (7) The state building code council shall consult with the  
26 department of (~~community, trade, and economic development~~) general  
27 administration as provided in RCW 34.05.310 prior to publication of  
28 proposed rules. The director of the department of (~~community, trade,~~  
29 ~~and economic development~~) general administration shall recommend to  
30 the state building code council any changes necessary to conform the  
31 proposed rules to the requirements of this section.

32 (8) The state building code council shall evaluate and consider  
33 adoption of the international energy conservation code in Washington  
34 state in place of the existing state energy code.

35 (9) The definitions in RCW 19.27A.140 apply throughout this  
36 section.

1       **Sec. 305.** RCW 19.27A.140 and 2009 c 423 s 2 are each amended to  
2 read as follows:

3       The definitions in this section apply to RCW 19.27A.130 through  
4 19.27A.190 and 19.27A.020 unless the context clearly requires  
5 otherwise.

6       (1) "Benchmark" means the energy used by a facility as recorded  
7 monthly for at least one year and the facility characteristics  
8 information inputs required for a portfolio manager.

9       (2) "Conditioned space" means conditioned space, as defined in the  
10 Washington state energy code.

11       (3) "Consumer-owned utility" includes a municipal electric utility  
12 formed under Title 35 RCW, a public utility district formed under Title  
13 54 RCW, an irrigation district formed under chapter 87.03 RCW, a  
14 cooperative formed under chapter 23.86 RCW, a mutual corporation or  
15 association formed under chapter 24.06 RCW, a port district formed  
16 under Title 53 RCW, or a water-sewer district formed under Title 57  
17 RCW, that is engaged in the business of distributing electricity to one  
18 or more retail electric customers in the state.

19       (4) "Cost-effectiveness" means that a project or resource is  
20 forecast:

21       (a) To be reliable and available within the time it is needed; and

22       (b) To meet or reduce the power demand of the intended consumers at  
23 an estimated incremental system cost no greater than that of the least-  
24 cost similarly reliable and available alternative project or resource,  
25 or any combination thereof.

26       (5) "Council" means the state building code council.

27       (6) (~~"Department" means the department of community, trade, and~~  
28 ~~economic development.~~

29       ~~(7))~~ "Embodied energy" means the total amount of fossil fuel  
30 energy consumed to extract raw materials and to manufacture, assemble,  
31 transport, and install the materials in a building and the life-cycle  
32 cost benefits including the recyclability and energy efficiencies with  
33 respect to building materials, taking into account the total sum of  
34 current values for the costs of investment, capital, installation,  
35 operating, maintenance, and replacement as estimated for the lifetime  
36 of the product or project.

37       ~~((8))~~ (7) "Energy consumption data" means the monthly amount of

1 energy consumed by a customer as recorded by the applicable energy  
2 meter for the most recent twelve-month period.

3 ~~((+9))~~ (8) "Energy service company" has the same meaning as in RCW  
4 43.19.670.

5 ~~((+10))~~ (9) "General administration" means the department of  
6 general administration.

7 ~~((+11))~~ (10) "Greenhouse gas" and "greenhouse gases" includes  
8 carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,  
9 perfluorocarbons, and sulfur hexafluoride.

10 ~~((+12))~~ (11) "Investment grade energy audit" means an intensive  
11 engineering analysis of energy efficiency and management measures for  
12 the facility, net energy savings, and a cost-effectiveness  
13 determination.

14 ~~((+13))~~ (12) "Investor-owned utility" means a corporation owned by  
15 investors that meets the definition of "corporation" as defined in RCW  
16 80.04.010 and is engaged in distributing either electricity or natural  
17 gas, or both, to more than one retail electric customer in the state.

18 ~~((+14))~~ (13) "Major facility" means any publicly owned or leased  
19 building, or a group of such buildings at a single site, having ten  
20 thousand square feet or more of conditioned floor space.

21 ~~((+15))~~ (14) "National energy performance rating" means the score  
22 provided by the energy star program, to indicate the energy efficiency  
23 performance of the building compared to similar buildings in that  
24 climate as defined in the United States environmental protection agency  
25 "ENERGY STAR® Performance Ratings Technical Methodology."

26 ~~((+16))~~ (15) "Net zero energy use" means a building with net  
27 energy consumption of zero over a typical year.

28 ~~((+17))~~ (16) "Portfolio manager" means the United States  
29 environmental protection agency's energy star portfolio manager or an  
30 equivalent tool adopted by the department of general administration.

31 ~~((+18))~~ (17) "Preliminary energy audit" means a quick evaluation  
32 by an energy service company of the energy savings potential of a  
33 building.

34 ~~((+19))~~ (18) "Qualifying public agency" includes all state  
35 agencies, colleges, and universities.

36 ~~((+20))~~ (19) "Qualifying utility" means a consumer-owned or  
37 investor-owned gas or electric utility that serves more than twenty-  
38 five thousand customers in the state of Washington.

1       (~~(21)~~) (20) "Reporting public facility" means any of the  
2 following:

3       (a) A building or structure, or a group of buildings or structures  
4 at a single site, owned by a qualifying public agency, that exceed ten  
5 thousand square feet of conditioned space;

6       (b) Buildings, structures, or spaces leased by a qualifying public  
7 agency that exceeds ten thousand square feet of conditioned space,  
8 where the qualifying public agency purchases energy directly from the  
9 investor-owned or consumer-owned utility;

10       (c) A wastewater treatment facility owned by a qualifying public  
11 agency; or

12       (d) Other facilities selected by the qualifying public agency.

13       (~~(22)~~) (21) "State portfolio manager master account" means a  
14 portfolio manager account established to provide a single shared  
15 portfolio that includes reports for all the reporting public  
16 facilities.

17       **Sec. 306.** RCW 19.27A.150 and 2009 c 423 s 3 are each amended to  
18 read as follows:

19       (1) To the extent that funding is appropriated specifically for the  
20 purposes of this section, the department of commerce shall develop and  
21 implement a strategic plan for enhancing energy efficiency in and  
22 reducing greenhouse gas emissions from homes, buildings, districts, and  
23 neighborhoods. The strategic plan must be used to help direct the  
24 future code increases in RCW 19.27A.020, with targets for new buildings  
25 consistent with RCW 19.27A.160. The strategic plan will identify  
26 barriers to achieving net zero energy use in homes and buildings and  
27 identify how to overcome these barriers in future energy code updates  
28 and through complementary policies.

29       (2) The department of commerce must complete and release the  
30 strategic plan to the legislature and the council by December 31, 2010,  
31 and update the plan every three years.

32       (3) The strategic plan must include recommendations to the council  
33 on energy code upgrades. At a minimum, the strategic plan must:

34       (a) Consider development of aspirational codes separate from the  
35 state energy code that contain economically and technically feasible  
36 optional standards that could achieve higher energy efficiency for

1 those builders that elected to follow the aspirational codes in lieu of  
2 or in addition to complying with the standards set forth in the state  
3 energy code;

4 (b) Determine the appropriate methodology to measure achievement of  
5 state energy code targets using the United States environmental  
6 protection agency's target finder program or equivalent methodology;

7 (c) Address the need for enhanced code training and enforcement;

8 (d) Include state strategies to support research, demonstration,  
9 and education programs designed to achieve a seventy percent reduction  
10 in annual net energy consumption as specified in RCW 19.27A.160 and  
11 enhance energy efficiency and on-site renewable energy production in  
12 buildings;

13 (e) Recommend incentives, education, training programs and  
14 certifications, particularly state-approved training or certification  
15 programs, joint apprenticeship programs, or labor-management  
16 partnership programs that train workers for energy-efficiency projects  
17 to ensure proposed programs are designed to increase building  
18 professionals' ability to design, construct, and operate buildings that  
19 will meet the seventy percent reduction in annual net energy  
20 consumption as specified in RCW 19.27A.160;

21 (f) Address barriers for utilities to serve net zero energy homes  
22 and buildings and policies to overcome those barriers;

23 (g) Address the limits of a prescriptive code in achieving net zero  
24 energy use homes and buildings and propose a transition to performance-  
25 based codes;

26 (h) Identify financial mechanisms such as tax incentives, rebates,  
27 and innovative financing to motivate energy consumers to take action to  
28 increase energy efficiency and their use of on-site renewable energy.  
29 Such incentives, rebates, or financing options may consider the role of  
30 government programs as well as utility-sponsored programs;

31 (i) Address the adequacy of education and technical assistance,  
32 including school curricula, technical training, and peer-to-peer  
33 exchanges for professional and trade audiences;

34 (j) Develop strategies to develop and install district and  
35 neighborhood-wide energy systems that help meet net zero energy use in  
36 homes and buildings;

37 (k) Identify costs and benefits of energy efficiency measures on  
38 residential and nonresidential construction; and

1 (1) Investigate methodologies and standards for the measurement of  
2 the amount of embodied energy used in building materials.

3 (4) The department of commerce and the council shall convene a work  
4 group with the affected parties to inform the initial development of  
5 the strategic plan.

6 **Sec. 307.** RCW 19.27A.180 and 2009 c 423 s 7 are each amended to  
7 read as follows:

8 By December 31, 2009, to the extent that funding is appropriated  
9 specifically for the purposes of this section, the department of  
10 commerce shall develop and recommend to the legislature a methodology  
11 to determine an energy performance score for residential buildings and  
12 an implementation strategy to use such information to improve the  
13 energy efficiency of the state's existing housing supply. In  
14 developing its strategy, the department of commerce shall seek input  
15 from providers of residential energy audits, utilities, building  
16 contractors, mixed use developers, the residential real estate  
17 industry, and real estate listing and form providers.

18 NEW SECTION. **Sec. 308.** (1) All powers, duties, and functions of  
19 the department of commerce pertaining to administrative and support  
20 services for the state building code council are transferred to the  
21 department of general administration. All references to the director  
22 or the department of commerce in the Revised Code of Washington shall  
23 be construed to mean the director or the department of general  
24 administration when referring to the functions transferred in this  
25 section. Policy and planning assistance functions performed by the  
26 department of commerce remain with the department of commerce.

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

1 functions, and duties transferred shall be assigned to the department  
2 of general administration.

3 (b) Any appropriations made to the department of commerce for  
4 carrying out the powers, functions, and duties transferred shall, on  
5 the effective date of this section, be transferred and credited to the  
6 department of general administration.

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

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

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

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

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

37 (7) All classified employees of the department of commerce assigned  
38 to the department of general administration under this section whose

1 positions are within an existing bargaining unit description at the  
2 department of general administration shall become a part of the  
3 existing bargaining unit at the department of general administration  
4 and shall be considered an appropriate inclusion or modification of the  
5 existing bargaining unit under the provisions of chapter 41.80 RCW.

6 **PART IV**

7 **DEPARTMENT OF COMMERCE--ENERGY POLICY**

8 **Sec. 401.** RCW 43.21F.010 and 1975-'76 2nd ex.s. c 108 s 1 are each  
9 amended to read as follows:

10 (1) The legislature finds that the state needs to implement a  
11 comprehensive energy planning process that:

12 (a) Is based on high quality, unbiased analysis;

13 (b) Engages public agencies and stakeholders in a thoughtful,  
14 deliberative process that creates a cohesive plan that earns sustained  
15 support of the public and organizations and institutions that will  
16 ultimately be responsible for implementation and execution of the plan;  
17 and

18 (c) Establishes policies and practices needed to ensure the  
19 effective implementation of the strategy.

20 (2) The legislature further finds that energy drives the entire  
21 modern economy from petroleum for vehicles to electricity to light  
22 homes and power businesses. The legislature further finds that the  
23 nation and the world have started the transition to a clean energy  
24 economy, with significant improvements in energy efficiency and  
25 investments in new clean and renewable energy resources and  
26 technologies. The legislature further finds this transition may  
27 increase or decrease energy costs and efforts should be made to  
28 mitigate cost increases.

29 (3) The legislature finds and declares that it is the continuing  
30 purpose of state government, consistent with other essential  
31 considerations of state policy, to foster wise and efficient energy use  
32 and to promote energy self-sufficiency through the use of indigenous  
33 and renewable energy sources, consistent with the promotion of reliable  
34 energy sources, the general welfare, and the protection of  
35 environmental quality.

1       (4) The legislature further declares that a successful state energy  
2 strategy must balance three goals to:

3       (a) Maintain competitive energy prices that are fair and reasonable  
4 for consumers and businesses and support our state's continued economic  
5 success;

6       (b) Increase competitiveness by fostering a clean energy economy  
7 and jobs through business and workforce development; and

8       (c) Meet the state's obligations to reduce greenhouse gas  
9 emissions.

10       **Sec. 402.** RCW 43.21F.025 and 2009 c 565 s 27 are each reenacted  
11 and amended to read as follows:

12       (1) "Assistant director" means the assistant director of the  
13 department of commerce responsible for energy policy activities;

14       (2) "Department" means the department of commerce;

15       (3) "Director" means the director of the department of commerce;

16       (4) "Distributor" means any person, private corporation,  
17 partnership, individual proprietorship, utility, including investor-  
18 owned utilities, municipal utility, public utility district, joint  
19 operating agency, or cooperative, which engages in or is authorized to  
20 engage in the activity of generating, transmitting, or distributing  
21 energy in this state;

22       (5) "Energy" means petroleum or other liquid fuels; natural or  
23 synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear  
24 material; electricity; solar radiation; geothermal resources;  
25 hydropower; organic waste products; wind; tidal activity; any other  
26 substance or process used to produce heat, light, or motion; or the  
27 savings from nongeneration technologies, including conservation or  
28 improved efficiency in the usage of any of the sources described in  
29 this subsection;

30       (6) "Person" means an individual, partnership, joint venture,  
31 private or public corporation, association, firm, public service  
32 company, political subdivision, municipal corporation, government  
33 agency, public utility district, joint operating agency, or any other  
34 entity, public or private, however organized; and

35       (7) "State energy strategy" means the document (~~and energy policy~~  
36 ~~direction~~) developed (~~under section 1, chapter 201, Laws of 1991~~

1 ~~including any related appendices))~~ and updated by the department as  
2 allowed in RCW 43.21F.090.

3 NEW SECTION. **Sec. 403.** A new section is added to chapter 43.21F  
4 RCW to read as follows:

5 (1) The state shall use the following principles to guide  
6 development and implementation of the state's energy strategy and to  
7 meet the goals of RCW 43.21F.010:

8 (a) Pursue all cost-effective energy efficiency and conservation as  
9 the state's preferred energy resource, consistent with state law;

10 (b) Ensure that the state's energy system meets the health,  
11 welfare, and economic needs of its citizens with particular emphasis on  
12 meeting the needs of low-income and vulnerable populations;

13 (c) Maintain and enhance economic competitiveness by ensuring an  
14 affordable and reliable supply of energy resources and by supporting  
15 clean energy technology innovation, access to clean energy markets  
16 worldwide, and clean energy business and workforce development;

17 (d) Reduce dependence on fossil fuel energy sources through  
18 improved efficiency and development of cleaner energy sources, such as  
19 bioenergy, low-carbon energy sources, and natural gas, and leveraging  
20 the indigenous resources of the state for the production of clean  
21 energy;

22 (e) Improve efficiency of transportation energy use through  
23 advances in vehicle technology, increased system efficiencies,  
24 development of electricity, biofuels, and other clean fuels, and  
25 regional transportation planning to improve transportation choices;

26 (f) Meet the state's statutory greenhouse gas limits and  
27 environmental requirements as the state develops and uses energy  
28 resources;

29 (g) Build on the advantage provided by the state's clean regional  
30 electrical grid by expanding and integrating additional carbon-free and  
31 carbon-neutral generation, and improving the transmission capacity  
32 serving the state;

33 (h) Make state government a model for energy efficiency, use of  
34 clean and renewable energy, and greenhouse gas-neutral operations; and

35 (i) Maintain and enhance our state's existing energy  
36 infrastructure.

37 (2) The department shall:

1 (a) During energy shortage emergencies, give priority in the  
2 allocation of energy resources to maintaining the public health,  
3 safety, and welfare of the state's citizens and industry in order to  
4 minimize adverse impacts on their physical, social, and economic well-  
5 being;

6 (b) Develop and disseminate impartial and objective energy  
7 information and analysis, while taking full advantage of the  
8 capabilities of the state's institutions of higher education, national  
9 laboratory, and other organizations with relevant expertise and  
10 analytical capabilities;

11 (c) Actively seek to maximize federal and other nonstate funding  
12 and support to the state for energy efficiency, renewable energy,  
13 emerging energy technologies, and other activities of benefit to the  
14 state's overall energy future; and

15 (d) Monitor the actions of all agencies of the state for consistent  
16 implementation of the state's energy policy including applicable  
17 statutory policies and goals relating to energy supply and use.

18 **Sec. 404.** RCW 43.21F.090 and 1996 c 186 s 106 are each amended to  
19 read as follows:

20 (1) By December 1, 2010, the department ((shall review the state  
21 energy strategy as developed under section 1, chapter 201, Laws of  
22 1991, periodically with the guidance of an advisory committee. For  
23 each review, an advisory committee shall be established with a  
24 membership resembling as closely as possible the original energy  
25 strategy advisory committee specified under section 1, chapter 201,  
26 Laws of 1991. Upon completion of a public hearing regarding the  
27 advisory committee's advice and recommendations for revisions to the  
28 energy strategy, a written report shall be conveyed by the department  
29 to the governor and the appropriate legislative committees. Any  
30 advisory committee established under this section shall be dissolved  
31 within three months after their written report is conveyed.)) of  
32 commerce shall update and revise the state energy strategy and  
33 implementation report with the guidance of an advisory committee formed  
34 under subsection (4) of this section. By December 1, 2011, and at  
35 least every five years thereafter, the department shall produce a fully  
36 updated state energy strategy and implementation report with the

1 guidance of an advisory committee formed under subsection (4) of this  
2 section.

3 (2)(a) The strategy shall, to the maximum extent feasible, examine  
4 the state's entire energy system.

5 (b) In producing and updating the energy strategy, the department  
6 and advisory committee shall review related processes and documents  
7 relevant to a state energy strategy including, but not limited to,  
8 prior state energy strategies, the work of the clean energy leadership  
9 council, the climate advisory and action teams, the evergreen jobs  
10 committee, and reports of the state transportation planning commission,  
11 the economic development commission, and the Northwest power and  
12 conservation council.

13 (c) The strategy must build upon and be consistent with all  
14 relevant and applicable statutorily authorized energy, environmental,  
15 and other policies, goals, and programs.

16 (d) The strategy must identify administrative actions, regulatory  
17 coordination, and legislative recommendations that need to be  
18 undertaken to ensure that the energy strategy is implemented and  
19 operationally supported by all state agencies and regulatory bodies  
20 responsible for implementation of energy policy in the state.

21 (3) In order to facilitate high quality decision making, the  
22 director of the department shall engage a group of scientific,  
23 engineering, economic, and other experts in energy analysis.

24 (a) This group shall be comprised of representatives from the  
25 following institutions:

26 (i) Research institutions of higher education;

27 (ii) The Pacific Northwest national laboratory;

28 (iii) The Northwest power planning and conservation council;

29 and

30 (iv) Other private, public, and nonprofit organizations that have  
31 a recognized expertise in engineering or economic analysis.

32 (b) This group will:

33 (i) Identify near and long-term analytical needs and capabilities  
34 necessary to develop a state energy strategy;

35 (ii) Provide unbiased information about the state and region's  
36 energy portfolio, future energy needs, scenarios for growth, and  
37 improved productivity.

1 (c) The department and advisory committee shall use this  
2 information in updating the state energy strategy.

3 (4)(a) In order to update the state strategy, the department shall  
4 form an advisory committee.

5 (b) The director shall appoint the advisory committee with a  
6 membership reflecting a balance of the interests in:

7 (i) Energy generation, distribution, and consumption;

8 (ii) Economic development; and

9 (iii) Environmental protection, including:

10 (A) Residential, commercial, industrial, and agricultural users;

11 (B) Electric and natural gas utilities or organizations, both  
12 consumer-owned and investor-owned;

13 (C) Liquid fuel and natural gas industries;

14 (D) Local governments;

15 (E) Civic and environmental organizations;

16 (F) Clean energy companies;

17 (G) Energy research and development organizations, economic  
18 development organizations, and key public agencies; and

19 (H) Other interested stakeholders.

20 (c) Any advisory committee established under this section must be  
21 dissolved within three months after the written report is conveyed.

22 (d) The department and advisory committee shall work with  
23 stakeholders and other state agencies to develop the strategy.

24 (5) Upon completion of a public hearing regarding the advisory  
25 committee's advice and recommendations for revisions to the energy  
26 strategy, the department shall present a written report to the governor  
27 and legislature which may include specific actions that will be needed  
28 to implement the strategy. The legislature shall, by concurrent  
29 resolution, approve or recommend changes to the strategy and updates.

30 (6) The department may periodically review and update the state  
31 energy strategy as necessary. The department shall engage an advisory  
32 committee as required in this section when updating the strategy and  
33 present any updates to the legislature for its approval.

34 (7) To assist in updates of the state energy strategy, the  
35 department shall actively seek both in-kind and financial support for  
36 this process from other nonstate sources. In order to avoid  
37 competition among Washington state agencies, the department shall  
38 coordinate the search for such external support. The department shall

1 develop a work plan for updating the energy strategy that reflects the  
2 levels of activities and deliverables commensurate with the level of  
3 funding and in-kind support available from state and nonstate sources.

4 NEW SECTION. Sec. 405. RCW 43.21F.015 (State policy) and 1994 c  
5 207 s 3 & 1981 c 295 s 1 are each repealed.

6 **PART V**  
7 **CRIMINAL JUSTICE TRAINING COMMISSION--DRUG**  
8 **PROSECUTION ASSISTANCE PROGRAM**

9 **Sec. 501.** RCW 36.27.100 and 1995 c 399 s 41 are each amended to  
10 read as follows:

11 The legislature recognizes that, due to the magnitude or volume of  
12 offenses in a given area of the state, there is a recurring need for  
13 supplemental assistance in the prosecuting of drug and drug-related  
14 offenses that can be directed to the area of the state with the  
15 greatest need for short-term assistance. A statewide drug prosecution  
16 assistance program is created within the (~~department of community,~~  
17 ~~trade, and economic development~~) criminal justice training commission  
18 to assist county prosecuting attorneys in the prosecution of drug and  
19 drug-related offenses.

20 NEW SECTION. Sec. 502. (1) All powers, duties, and functions of  
21 the department of commerce pertaining to the drug prosecution  
22 assistance program are transferred to the criminal justice training  
23 commission. All references to the director or the department of  
24 commerce in the Revised Code of Washington shall be construed to mean  
25 the director or the criminal justice training commission when referring  
26 to the functions transferred in this section.

27 (2)(a) All reports, documents, surveys, books, records, files,  
28 papers, or written material in the possession of the department of  
29 commerce pertaining to the powers, functions, and duties transferred  
30 shall be delivered to the custody of the criminal justice training  
31 commission. All cabinets, furniture, office equipment, motor vehicles,  
32 and other tangible property employed by the department of commerce in  
33 carrying out the powers, functions, and duties transferred shall be  
34 made available to the criminal justice training commission. All funds,

1 credits, or other assets held in connection with the powers, functions,  
2 and duties transferred shall be assigned to the criminal justice  
3 training commission.

4 (b) Any appropriations made to the department of commerce for  
5 carrying out the powers, functions, and duties transferred shall, on  
6 the effective date of this section, be transferred and credited to the  
7 criminal justice training commission.

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

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

23 (4) All rules and all pending business before the department of  
24 commerce pertaining to the powers, functions, and duties transferred  
25 shall be continued and acted upon by the criminal justice training  
26 commission. All existing contracts and obligations shall remain in  
27 full force and shall be performed by the criminal justice training  
28 commission.

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

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

1 (7) All classified employees of the department of commerce assigned  
2 to the criminal justice training commission under this section whose  
3 positions are within an existing bargaining unit description at the  
4 criminal justice training commission shall become a part of the  
5 existing bargaining unit at the criminal justice training commission  
6 and shall be considered an appropriate inclusion or modification of the  
7 existing bargaining unit under the provisions of chapter 41.80 RCW.

8 **PART VI**

9 **WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION--ENERGY**

10 **Sec. 601.** RCW 80.50.030 and 2001 c 214 s 4 are each amended to  
11 read as follows:

12 (1) There is created and established the energy facility site  
13 evaluation council.

14 (2)(a) The chair of the council shall be appointed by the governor  
15 with the advice and consent of the senate, shall have a vote on matters  
16 before the council, shall serve for a term coextensive with the term of  
17 the governor, and is removable for cause. The chair may designate a  
18 member of the council to serve as acting chair in the event of the  
19 chair's absence. The salary of the chair shall be determined under RCW  
20 43.03.040. The chair is a "state employee" for the purposes of chapter  
21 42.52 RCW. As applicable, when attending meetings of the council,  
22 members may receive reimbursement for travel expenses in accordance  
23 with RCW 43.03.050 and 43.03.060, and are eligible for compensation  
24 under RCW 43.03.250.

25 (b) The chair or a designee shall execute all official documents,  
26 contracts, and other materials on behalf of the council. The  
27 Washington (~~state department of community, trade, and economic~~  
28 ~~development~~) utilities and transportation commission shall provide all  
29 administrative and staff support for the council. The (~~director of~~  
30 ~~the department of community, trade, and economic development~~)  
31 commission has supervisory authority over the staff of the council and  
32 shall employ such personnel as are necessary to implement this chapter.  
33 Not more than three such employees may be exempt from chapter 41.06  
34 RCW. The council shall otherwise retain its independence in exercising  
35 its powers, functions, and duties and its supervisory control over

1 nonadministrative staff support. Membership, powers, functions, and  
2 duties of the Washington state utilities and transportation commission  
3 and the council shall otherwise remain as provided by law.

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

7 (i) Department of ecology;

8 (ii) Department of fish and wildlife;

9 (iii) Department of (~~community, trade, and economic development~~)  
10 commerce;

11 (iv) Utilities and transportation commission; and

12 (v) Department of natural resources.

13 (b) The directors, administrators, or their designees, of the  
14 following departments, agencies, and commissions, or their statutory  
15 successors, may participate as councilmembers at their own discretion  
16 provided they elect to participate no later than sixty days after an  
17 application is filed:

18 (i) Department of agriculture;

19 (ii) Department of health;

20 (iii) Military department; and

21 (iv) Department of transportation.

22 (c) Council membership is discretionary for agencies that choose to  
23 participate under (b) of this subsection only for applications that are  
24 filed with the council on or after May 8, 2001. For applications filed  
25 before May 8, 2001, council membership is mandatory for those agencies  
26 listed in (b) of this subsection.

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

34 (5) The city legislative authority of every city within whose  
35 corporate limits an energy plant is proposed to be located shall  
36 appoint a member or designee as a voting member to the council. The  
37 member or designee so appointed shall sit with the council only at such

1 times as the council considers the proposed site for the city which he  
2 or she represents, and such member or designee shall serve until there  
3 has been a final acceptance or rejection of the proposed site.

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

14 NEW SECTION. **Sec. 602.** (1) All administrative powers, duties, and  
15 functions of the department of commerce pertaining to the energy  
16 facility site evaluation council are transferred to the Washington  
17 utilities and transportation commission. All references to the  
18 director or the department of commerce in the Revised Code of  
19 Washington shall be construed to mean the Washington utilities and  
20 transportation commission when referring to the functions transferred  
21 in this section.

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

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

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

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

16 (4) All rules and all pending business before the department of  
17 commerce pertaining to the powers, functions, and duties transferred  
18 shall be continued and acted upon by the Washington utilities and  
19 transportation commission. All existing contracts and obligations  
20 shall remain in full force and shall be performed by the Washington  
21 utilities and transportation commission.

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

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

31 (7) All classified employees of the department of commerce assigned  
32 to the Washington utilities and transportation commission under this  
33 section whose positions are within an existing bargaining unit  
34 description at the Washington utilities and transportation commission  
35 shall become a part of the existing bargaining unit at the Washington  
36 utilities and transportation commission and shall be considered an  
37 appropriate inclusion or modification of the existing bargaining unit  
38 under the provisions of chapter 41.80 RCW.

1 PART VII

2 MUNICIPAL RESEARCH COUNCIL

3 Sec. 701. RCW 43.110.030 and 2000 c 227 s 3 are each amended to  
4 read as follows:

5 (1) The (~~municipal research council~~) department of commerce shall  
6 contract for the provision of municipal research and services to  
7 cities, towns, and counties. Contracts for municipal research and  
8 services shall be made with state agencies, educational institutions,  
9 or private consulting firms, that in the judgment of (~~council~~  
10 ~~members~~) the department are qualified to provide such research and  
11 services. Contracts for staff support may be made with state agencies,  
12 educational institutions, or private consulting firms that in the  
13 judgment of the (~~council members~~) department are qualified to provide  
14 such support.

15 (2) Municipal research and services shall consist of:

16 ((+1)) (a) Studying and researching city, town, and county  
17 government and issues relating to city, town, and county government;

18 ((+2)) (b) Acquiring, preparing, and distributing publications  
19 related to city, town, and county government and issues relating to  
20 city, town, and county government;

21 ((+3)) (c) Providing educational conferences relating to city,  
22 town, and county government and issues relating to city, town, and  
23 county government; and

24 ((+4)) (d) Furnishing legal, technical, consultative, and field  
25 services to cities, towns, and counties concerning planning, public  
26 health, utility services, fire protection, law enforcement, public  
27 works, and other issues relating to city, town, and county government.

28 (3) Requests for legal services by county officials shall be sent  
29 to the office of the county prosecuting attorney. Responses by the  
30 (~~municipal research council~~) department of commerce to county  
31 requests for legal services shall be provided to the requesting  
32 official and the county prosecuting attorney.

33 (4) The (~~activities, programs, and services of the municipal~~  
34 ~~research council shall be carried on in cooperation~~) department of  
35 commerce shall coordinate with the association of Washington cities and  
36 the Washington state association of counties in carrying out the  
37 activities in this section. Services to cities and towns shall be

1 based upon the moneys appropriated to the (~~municipal research~~  
2 ~~council~~) department from the city and town research services account  
3 under RCW 43.110.060. Services to counties shall be based upon the  
4 moneys appropriated to the (~~municipal research council~~) department  
5 from the county research services account under RCW 43.110.050.

6 **Sec. 702.** RCW 43.110.060 and 2002 c 38 s 4 are each amended to  
7 read as follows:

8 The city and town research services account is created in the state  
9 treasury. Moneys in the account shall consist of amounts transferred  
10 under RCW 66.08.190(2) and any other transfers or appropriations to the  
11 account. Moneys in the account may be spent only after an  
12 appropriation. Expenditures from the account may be used only for city  
13 and town research.

14 All unobligated moneys remaining in the account at the end of the  
15 fiscal biennium shall be distributed by the treasurer to the  
16 incorporated cities and towns of the state in the same manner as the  
17 distribution under RCW 66.08.190(1)(b)(iii).

18 (~~The treasurer may disburse amounts appropriated to the municipal~~  
19 ~~research council from the city and town research services account by~~  
20 ~~warrant or check to the contracting parties on invoices or vouchers~~  
21 ~~certified by the chair of the municipal research council or his or her~~  
22 ~~designee.)) Payments to public agencies may be made in advance of  
23 actual work contracted for, at the discretion of the (~~council~~)  
24 department of commerce.~~

25 **Sec. 703.** RCW 43.110.080 and 2006 c 328 s 1 are each amended to  
26 read as follows:

27 (1) The (~~municipal research council~~) department of commerce shall  
28 contract for the provision of research and services to special purpose  
29 districts. A contract shall be made with a state agency, educational  
30 institution, or private consulting firm, that in the judgment of  
31 (~~council members~~) the department is qualified to provide such  
32 research and services.

33 (2) Research and services to special purpose districts shall  
34 consist of:

35 (a) Studying and researching issues relating to special purpose  
36 district government;

1 (b) Acquiring, preparing, and distributing publications related to  
2 special purpose districts; and

3 (c) Furnishing legal, technical, consultative, and field services  
4 to special purpose districts concerning issues relating to special  
5 purpose district government.

6 (3) The (~~activities, programs, and services of the municipal~~  
7 ~~research council to special purpose districts shall be carried on in~~  
8 ~~cooperation~~)) department of commerce shall coordinate with the  
9 associations representing the various special purpose districts with  
10 respect to carrying out the activities in this section. Services to  
11 special purpose districts shall be based upon the moneys appropriated  
12 to the (~~municipal research council~~) department of commerce from the  
13 special purpose district research services account under RCW  
14 43.110.090.

15 **Sec. 704.** RCW 43.15.020 and 2009 c 560 s 27 are each amended to  
16 read as follows:

17 The lieutenant governor serves as president of the senate and is  
18 responsible for making appointments to, and serving on, the committees  
19 and boards as set forth in this section.

20 (1) The lieutenant governor serves on the following boards and  
21 committees:

22 (a) Capitol furnishings preservation committee, RCW 27.48.040;

23 (b) Washington higher education facilities authority, RCW  
24 28B.07.030;

25 (c) Productivity board, also known as the employee involvement and  
26 recognition board, RCW 41.60.015;

27 (d) State finance committee, RCW 43.33.010;

28 (e) State capitol committee, RCW 43.34.010;

29 (f) Washington health care facilities authority, RCW 70.37.030;

30 (g) State medal of merit nominating committee, RCW 1.40.020;

31 (h) Medal of valor committee, RCW 1.60.020; and

32 (i) Association of Washington generals, RCW 43.15.030.

33 (2) The lieutenant governor, and when serving as president of the  
34 senate, appoints members to the following boards and committees:

35 (a) Civil legal aid oversight committee, RCW 2.53.010;

36 (b) Office of public defense advisory committee, RCW 2.70.030;

37 (c) Washington state gambling commission, RCW 9.46.040;

1 (d) Sentencing guidelines commission, RCW 9.94A.860;  
2 (e) State building code council, RCW 19.27.070;  
3 (f) Women's history consortium board of advisors, RCW 27.34.365;  
4 (g) Financial (~~(literacy)~~) education public-private partnership,  
5 RCW 28A.300.450;  
6 (h) Joint administrative rules review committee, RCW 34.05.610;  
7 (i) Capital projects advisory review board, RCW 39.10.220;  
8 (j) Select committee on pension policy, RCW 41.04.276;  
9 (k) Legislative ethics board, RCW 42.52.310;  
10 (l) Washington citizens' commission on salaries, RCW 43.03.305;  
11 (m) Legislative oral history committee, RCW 44.04.325;  
12 (n) State council on aging, RCW 43.20A.685;  
13 (o) State investment board, RCW 43.33A.020;  
14 (p) Capitol campus design advisory committee, RCW 43.34.080;  
15 (q) Washington state arts commission, RCW 43.46.015;  
16 (r) Information services board, RCW 43.105.032;  
17 (s) K-20 educational network board, RCW 43.105.800;  
18 (~~(t) ((Municipal research council, RCW 43.110.010;~~  
19 ~~(+u))~~) Council for children and families, RCW 43.121.020;  
20 (~~(+v))~~) (u) PNWER-Net working subgroup under chapter 43.147 RCW;  
21 (~~(+w))~~) (v) Community economic revitalization board, RCW  
22 43.160.030;  
23 (~~(+x))~~) (w) Washington economic development finance authority, RCW  
24 43.163.020;  
25 (~~(+y))~~) (x) Life sciences discovery fund authority, RCW 43.350.020;  
26 (~~(+z))~~) (y) Legislative children's oversight committee, RCW  
27 44.04.220;  
28 (~~(+aa))~~) (z) Joint legislative audit and review committee, RCW  
29 44.28.010;  
30 (~~(+bb))~~) (aa) Joint committee on energy supply and energy  
31 conservation, RCW 44.39.015;  
32 (~~(+cc))~~) (bb) Legislative evaluation and accountability program  
33 committee, RCW 44.48.010;  
34 (~~(+dd))~~) (cc) Agency council on coordinated transportation, RCW  
35 47.06B.020;  
36 (~~(+ee))~~) (dd) Manufactured housing task force, RCW 59.22.090;  
37 (~~(+ff))~~) (ee) Washington horse racing commission, RCW 67.16.014;

1       (~~(gg)~~) (ff) Correctional industries board of directors, RCW  
2 72.09.080;  
3       (~~(hh)~~) (gg) Joint committee on veterans' and military affairs,  
4 RCW 73.04.150;  
5       (~~(ii)~~) (hh) Joint legislative committee on water supply during  
6 drought, RCW 90.86.020;  
7       (~~(jj)~~) (ii) Statute law committee, RCW 1.08.001; and  
8       (~~(kk)~~) (jj) Joint legislative oversight committee on trade  
9 policy, RCW 44.55.020.

10       **Sec. 705.** RCW 35.21.185 and 1995 c 21 s 1 are each amended to read  
11 as follows:

12       (1) It is the purpose of this section to provide a means whereby  
13 all cities and towns may obtain, through a single source, information  
14 regarding ordinances of other cities and towns that may be of  
15 assistance to them in enacting appropriate local legislation.

16       (2) For the purposes of this section, (a) "clerk" means the city or  
17 town clerk or other person who is lawfully designated to perform the  
18 recordkeeping function of that office, and (b) "~~((municipal research  
19 council))~~ department" means the ~~((municipal research council created by  
20 chapter 43.110 RCW))~~ department of commerce.

21       (3) The clerk of every city and town is directed to provide to the  
22 ~~((municipal research council))~~ department or its designee, promptly  
23 after adoption, a copy of each of its regulatory ordinances and such  
24 other ordinances or kinds of ordinances as may be described in a list  
25 or lists promulgated by the ~~((municipal research council))~~ department  
26 or its designee from time to time, and may provide such copies without  
27 charge. The ~~((municipal research council))~~ department may provide that  
28 information to the entity with which it contracts for the provision of  
29 municipal research and services, in order to provide a pool of  
30 information for all cities and towns in the state of Washington.

31       (4) This section is intended to be directory and not mandatory.

32       **Sec. 706.** RCW 35.102.040 and 2006 c 301 s 7 are each amended to  
33 read as follows:

34       (1)(a) The cities, working through the association of Washington  
35 cities, shall form a model ordinance development committee made up of  
36 a representative sampling of cities that as of July 27, 2003, impose a

1 business and occupation tax. This committee shall work through the  
2 association of Washington cities to adopt a model ordinance on  
3 municipal gross receipts business and occupation tax. The model  
4 ordinance and subsequent amendments shall be adopted using a process  
5 that includes opportunity for substantial input from business  
6 stakeholders and other members of the public. Input shall be solicited  
7 from statewide business associations and from local chambers of  
8 commerce and downtown business associations in cities that levy a  
9 business and occupation tax.

10 (b) The (~~municipal research council~~) department of commerce shall  
11 contract to post the model ordinance on an internet web site and to  
12 make paper copies available for inspection upon request. The  
13 department of revenue and the department of licensing shall post copies  
14 of or links to the model ordinance on their internet web sites.  
15 Additionally, a city that imposes a business and occupation tax must  
16 make copies of its ordinance available for inspection and copying as  
17 provided in chapter 42.56 RCW.

18 (c) The definitions and tax classifications in the model ordinance  
19 may not be amended more frequently than once every four years, however  
20 the model ordinance may be amended at any time to comply with changes  
21 in state law. Any amendment to a mandatory provision of the model  
22 ordinance must be adopted with the same effective date by all cities.

23 (2) A city that imposes a business and occupation tax must adopt  
24 the mandatory provisions of the model ordinance. The following  
25 provisions are mandatory:

26 (a) A system of credits that meets the requirements of RCW  
27 35.102.060 and a form for such use;

28 (b) A uniform, minimum small business tax threshold of at least the  
29 equivalent of twenty thousand dollars in gross income annually. A city  
30 may elect to deviate from this requirement by creating a higher  
31 threshold or exemption but it shall not deviate lower than the level  
32 required in this subsection. If a city has a small business threshold  
33 or exemption in excess of that provided in this subsection as of  
34 January 1, 2003, and chooses to deviate below the threshold or  
35 exemption level that was in place as of January 1, 2003, the city must  
36 notify all businesses licensed to do business within the city at least  
37 one hundred twenty days prior to the potential implementation of a  
38 lower threshold or exemption amount;

1 (c) Tax reporting frequencies that meet the requirements of RCW  
2 35.102.070;

3 (d) Penalty and interest provisions that meet the requirements of  
4 RCW 35.102.080 and 35.102.090;

5 (e) Claim periods that meet the requirements of RCW 35.102.100;

6 (f) Refund provisions that meet the requirements of RCW 35.102.110;  
7 and

8 (g) Definitions, which at a minimum, must include the definitions  
9 enumerated in RCW 35.102.030 and 35.102.120. The definitions in  
10 chapter 82.04 RCW shall be used as the baseline for all definitions in  
11 the model ordinance, and any deviation in the model ordinance from  
12 these definitions must be described by a comment in the model  
13 ordinance.

14 (3) Except for the deduction required by RCW 35.102.160 and the  
15 system of credits developed to address multiple taxation under  
16 subsection (2)(a) of this section, a city may adopt its own provisions  
17 for tax exemptions, tax credits, and tax deductions.

18 (4) Any city that adopts an ordinance that deviates from the  
19 nonmandatory provisions of the model ordinance shall make a description  
20 of such differences available to the public, in written and electronic  
21 form.

22 **Sec. 707.** RCW 36.70B.220 and 2005 c 274 s 272 are each amended to  
23 read as follows:

24 (1) Each county and city having populations of ten thousand or more  
25 that plan under RCW 36.70A.040 shall designate permit assistance staff  
26 whose function it is to assist permit applicants. An existing employee  
27 may be designated as the permit assistance staff.

28 (2) Permit assistance staff designated under this section shall:

29 (a) Make available to permit applicants all current local  
30 government regulations and adopted policies that apply to the subject  
31 application. The local government shall provide counter copies thereof  
32 and, upon request, provide copies according to chapter 42.56 RCW. The  
33 staff shall also publish and keep current one or more handouts  
34 containing lists and explanations of all local government regulations  
35 and adopted policies;

36 (b) Establish and make known to the public the means of obtaining  
37 the handouts and related information; and

1 (c) Provide assistance regarding the application of the local  
2 government's regulations in particular cases.

3 (3) Permit assistance staff designated under this section may  
4 obtain technical assistance and support in the compilation and  
5 production of the handouts under subsection (2) of this section from  
6 the ((~~municipal research council and the department of community,  
7 trade, and economic development~~)) department of commerce.

8 NEW SECTION. Sec. 708. The following acts or parts of acts are  
9 each repealed:

10 (1) RCW 43.110.010 (Council created--Membership--Terms--Travel  
11 expenses) and 2001 c 290 s 1, 1997 c 437 s 1, 1990 c 104 s 1, 1983 c 22  
12 s 1, 1975-'76 2nd ex.s. c 34 s 129, 1975 1st ex.s. c 218 s 1, & 1969 c  
13 108 s 2;

14 (2) RCW 43.110.040 (Local government regulation and policy  
15 handouts--Technical assistance) and 1996 c 206 s 10; and

16 (3) RCW 43.110.070 (Hazardous liquid and gas pipeline--Model  
17 ordinance and franchise agreement) and 2000 c 191 s 8.

18 NEW SECTION. Sec. 709. (1) The municipal research council is  
19 hereby abolished and its powers, duties, and functions are hereby  
20 transferred to the department of commerce. All references to the  
21 municipal research council in the Revised Code of Washington shall be  
22 construed to mean the department of commerce.

23 (2)(a) All reports, documents, surveys, books, records, files,  
24 papers, or written material in the possession of the municipal research  
25 council shall be delivered to the custody of the department of  
26 commerce. All cabinets, furniture, office equipment, motor vehicles,  
27 and other tangible property employed by the municipal research council  
28 shall be made available to the department of commerce. All funds,  
29 credits, or other assets held by the municipal research council shall  
30 be assigned to the department of commerce.

31 (b) Any appropriations made to the municipal research council  
32 shall, on the effective date of this section, be transferred and  
33 credited to the department of commerce.

34 (c) If any question arises as to the transfer of any funds, books,  
35 documents, records, papers, files, equipment, or other tangible  
36 property used or held in the exercise of the powers and the performance

1 of the duties and functions transferred, the director of financial  
2 management shall make a determination as to the proper allocation and  
3 certify the same to the state agencies concerned.

4 (3) All rules and all pending business before the municipal  
5 research council shall be continued and acted upon by the department of  
6 commerce. All existing contracts and obligations shall remain in full  
7 force and shall be performed by the department of commerce.

8 (4) The transfer of the powers, duties, and functions of the  
9 municipal research council shall not affect the validity of any act  
10 performed before the effective date of this section.

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

17 **PART VIII**

18 **MISCELLANEOUS PROVISIONS**

19 **Sec. 801.** RCW 41.06.070 and 2009 c 33 s 36 and 2009 c 5 s 1 are  
20 each reenacted and amended to read as follows:

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

22 (a) The members of the legislature or to any employee of, or  
23 position in, the legislative branch of the state government including  
24 members, officers, and employees of the legislative council, joint  
25 legislative audit and review committee, statute law committee, and any  
26 interim committee of the legislature;

27 (b) The justices of the supreme court, judges of the court of  
28 appeals, judges of the superior courts or of the inferior courts, or to  
29 any employee of, or position in the judicial branch of state  
30 government;

31 (c) Officers, academic personnel, and employees of technical  
32 colleges;

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

34 (e) Elective officers of the state;

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

1 (g) In the departments of employment security and social and health  
2 services, the director and the director's confidential secretary; in  
3 all other departments, the executive head of which is an individual  
4 appointed by the governor, the director, his or her confidential  
5 secretary, and his or her statutory assistant directors;

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

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

10 (ii) If the members of the board, commission, or committee serve on  
11 a part-time basis and there is a statutory executive officer: The  
12 secretary of the board, commission, or committee; the chief executive  
13 officer of the board, commission, or committee; and the confidential  
14 secretary of the chief executive officer of the board, commission, or  
15 committee;

16 (iii) If the members of the board, commission, or committee serve  
17 on a full-time basis: The chief executive officer or administrative  
18 officer as designated by the board, commission, or committee; and a  
19 confidential secretary to the chair of the board, commission, or  
20 committee;

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

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

26 (j) Assistant attorneys general;

27 (k) Commissioned and enlisted personnel in the military service of  
28 the state;

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

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

34 (n) Officers and employees of the Washington state fruit  
35 commission;

36 (o) Officers and employees of the Washington apple commission;

37 (p) Officers and employees of the Washington state dairy products  
38 commission;

- 1 (q) Officers and employees of the Washington tree fruit research  
2 commission;
- 3 (r) Officers and employees of the Washington state beef commission;
- 4 (s) Officers and employees of the Washington grain commission;
- 5 (t) Officers and employees of any commission formed under chapter  
6 15.66 RCW;
- 7 (u) Officers and employees of agricultural commissions formed under  
8 chapter 15.65 RCW;
- 9 (v) Officers and employees of the nonprofit corporation formed  
10 under chapter 67.40 RCW;
- 11 (w) Executive assistants for personnel administration and labor  
12 relations in all state agencies employing such executive assistants  
13 including but not limited to all departments, offices, commissions,  
14 committees, boards, or other bodies subject to the provisions of this  
15 chapter and this subsection shall prevail over any provision of law  
16 inconsistent herewith unless specific exception is made in such law;
- 17 (x) In each agency with fifty or more employees: Deputy agency  
18 heads, assistant directors or division directors, and not more than  
19 three principal policy assistants who report directly to the agency  
20 head or deputy agency heads;
- 21 (y) All employees of the marine employees' commission;
- 22 (z) Staff employed by the department of ~~((community, trade, and  
23 economic development))~~ commerce to administer energy policy functions  
24 ~~((and manage))~~;
- 25 (aa) The manager of the energy facility site evaluation council  
26 ~~((activities under RCW 43.21F.045(2)(m)))~~;
- 27 ~~((+aa))~~ (bb) A maximum of ten staff employed by the department of  
28 commerce to administer innovation and policy functions, including the  
29 three principal policy assistants exempted under (x) of this  
30 subsection;
- 31 (cc) Staff employed by Washington State University to administer  
32 energy education, applied research, and technology transfer programs  
33 under RCW 43.21F.045 as provided in RCW 28B.30.900(5).
- 34 (2) The following classifications, positions, and employees of  
35 institutions of higher education and related boards are hereby exempted  
36 from coverage of this chapter:
- 37 (a) Members of the governing board of each institution of higher  
38 education and related boards, all presidents, vice presidents, and

1 their confidential secretaries, administrative, and personal  
2 assistants; deans, directors, and chairs; academic personnel; and  
3 executive heads of major administrative or academic divisions employed  
4 by institutions of higher education; principal assistants to executive  
5 heads of major administrative or academic divisions; other managerial  
6 or professional employees in an institution or related board having  
7 substantial responsibility for directing or controlling program  
8 operations and accountable for allocation of resources and program  
9 results, or for the formulation of institutional policy, or for  
10 carrying out personnel administration or labor relations functions,  
11 legislative relations, public information, development, senior computer  
12 systems and network programming, or internal audits and investigations;  
13 and any employee of a community college district whose place of work is  
14 one which is physically located outside the state of Washington and who  
15 is employed pursuant to RCW 28B.50.092 and assigned to an educational  
16 program operating outside of the state of Washington;

17 (b) The governing board of each institution, and related boards,  
18 may also exempt from this chapter classifications involving research  
19 activities, counseling of students, extension or continuing education  
20 activities, graphic arts or publications activities requiring  
21 prescribed academic preparation or special training as determined by  
22 the board: PROVIDED, That no nonacademic employee engaged in office,  
23 clerical, maintenance, or food and trade services may be exempted by  
24 the board under this provision;

25 (c) Printing craft employees in the department of printing at the  
26 University of Washington.

27 (3) In addition to the exemptions specifically provided by this  
28 chapter, the director of personnel may provide for further exemptions  
29 pursuant to the following procedures. The governor or other  
30 appropriate elected official may submit requests for exemption to the  
31 director of personnel stating the reasons for requesting such  
32 exemptions. The director of personnel shall hold a public hearing,  
33 after proper notice, on requests submitted pursuant to this subsection.  
34 If the director determines that the position for which exemption is  
35 requested is one involving substantial responsibility for the  
36 formulation of basic agency or executive policy or one involving  
37 directing and controlling program operations of an agency or a major  
38 administrative division thereof, the director of personnel shall grant

1 the request and such determination shall be final as to any decision  
2 made before July 1, 1993. The total number of additional exemptions  
3 permitted under this subsection shall not exceed one percent of the  
4 number of employees in the classified service not including employees  
5 of institutions of higher education and related boards for those  
6 agencies not directly under the authority of any elected public  
7 official other than the governor, and shall not exceed a total of  
8 twenty-five for all agencies under the authority of elected public  
9 officials other than the governor.

10 The salary and fringe benefits of all positions presently or  
11 hereafter exempted except for the chief executive officer of each  
12 agency, full-time members of boards and commissions, administrative  
13 assistants and confidential secretaries in the immediate office of an  
14 elected state official, and the personnel listed in subsections (1)(j)  
15 through (v) and (y) and (2) of this section, shall be determined by the  
16 director of personnel. Changes to the classification plan affecting  
17 exempt salaries must meet the same provisions for classified salary  
18 increases resulting from adjustments to the classification plan as  
19 outlined in RCW 41.06.152.

20 For the twelve months following February 18, 2009, a salary or wage  
21 increase shall not be granted to any position exempt from  
22 classification under this chapter.

23 Any person holding a classified position subject to the provisions  
24 of this chapter shall, when and if such position is subsequently  
25 exempted from the application of this chapter, be afforded the  
26 following rights: If such person previously held permanent status in  
27 another classified position, such person shall have a right of  
28 reversion to the highest class of position previously held, or to a  
29 position of similar nature and salary.

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

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

37 NEW SECTION. **Sec. 802.** RCW 43.63A.150 is decodified.

1           NEW SECTION.   **Sec. 803.**   This act takes effect July 1, 2010."

**E2SHB 2658** - S AMD

By Senators Kastama, Kilmer, Zarelli

**ADOPTED 03/11/2010**

2           On page 1, line 2 of the title, after "programs;" strike the  
3 remainder of the title and insert "amending RCW 43.330.005, 43.330.007,  
4 70.05.125, 43.330.210, 43.330.240, 19.27.070, 19.27.097, 19.27.150,  
5 19.27A.020, 19.27A.140, 19.27A.150, 19.27A.180, 43.21F.010, 43.21F.090,  
6 36.27.100, 80.50.030, 43.110.030, 43.110.060, 43.110.080, 43.15.020,  
7 35.21.185, 35.102.040, and 36.70B.220; reenacting and amending RCW  
8 43.21F.025 and 41.06.070; adding new sections to chapter 43.70 RCW;  
9 adding a new section to chapter 43.21F RCW; creating new sections;  
10 recodifying RCW 43.330.195, 43.330.200, 43.330.205, 43.330.210,  
11 43.330.220, 43.330.225, 43.330.230, and 43.330.240; decodifying RCW  
12 43.63A.150; repealing RCW 43.21F.015, 43.110.010, 43.110.040, and  
13 43.110.070; providing an effective date; and providing an expiration  
14 date."

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