

2SSB 6515 - H COMM AMD  
By Committee on Ways & Means

NOT CONSIDERED 03/11/2010

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

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter 43.330  
4 RCW to read as follows:

5 (1) In 2009, the legislature changed the name of the department of  
6 community, trade, and economic development to the department of  
7 commerce and directed the agency to organize around a concise core  
8 mission aligned with the state's economic development plan and around  
9 jobs. In accordance with that legislation, chapter 565, Laws of 2009,  
10 in November 2009 the department of commerce submitted a plan that  
11 establishes a mission of growing and improving jobs in the state. The  
12 plan also outlines agency priorities, efficiencies, and program  
13 transfers that will help to advance the new mission.

14 (2) The purposes of this act are: (a) To implement portions of the  
15 department of commerce plan by transferring certain programs from the  
16 department of commerce to other state agencies whose missions are more  
17 closely aligned with the core functions of those programs; (b) to  
18 direct strategic initiatives and targeted actions focused on the  
19 mission of growing and improving jobs; (c) to direct the department to  
20 establish a separate division to contain community services and housing  
21 programs, and to work with the legislature on future plans for these  
22 programs; (d) to direct creation of a central point of access within  
23 the department for small business and entrepreneurial assistance; and  
24 (e) to direct development of a statewide clean energy strategy. This  
25 act also directs additional efficiencies in state government, which  
26 will better enable the department of commerce to focus on its new  
27 mission.

28 (3) The legislature finds that the department of commerce has  
29 conducted a credible process to identify the most critical economic  
30 needs of our state. The legislature recognizes that to sustain a

1 world-class innovation economy on a foundation of strong communities  
2 requires continuous improvement and focus on the fundamentals. The  
3 legislature finds that the state's reputation as a center of  
4 innovative, cutting edge research and development will form the  
5 foundation of whole new markets, product categories, and industry  
6 clusters. The legislature therefore affirms the department's mission,  
7 to focus on growing and improving jobs, and supports the eight  
8 priorities identified by the department in its 2009 report to the  
9 legislature: (a) Improving the state's competitiveness; (b)  
10 strengthening education and workforce training; (c) investing in  
11 infrastructure; (d) increasing regulatory efficiency; (e) building  
12 community capacity; (f) focusing on rural economic development; (g)  
13 engaging with key industry sectors; and (h) helping small businesses  
14 succeed.

15 (4)(a) The legislature recognizes that small businesses and  
16 entrepreneurs are a foundation of the state's economy yet they  
17 encounter many barriers to achieving long-term stability and growth.  
18 Gaining access to capital, complying with complex government  
19 regulations, and competing successfully for market opportunities are  
20 among the challenges they face. The legislature finds that state  
21 government must enhance its commitment to helping small businesses and  
22 entrepreneurs thrive, including finding ways to integrate and  
23 coordinate existing programs to make them more accessible and  
24 effective. The legislature further finds that the mission of the  
25 department of commerce to growing and improving jobs in Washington  
26 makes it particularly well-suited to take a leadership role in these  
27 efforts.

28 (b) The legislature therefore directs the department of commerce,  
29 beginning in fiscal year 2011, to create a central point of access  
30 within the department for small business and entrepreneurial  
31 assistance, and in collaboration with other agencies and partners over  
32 time, to (i) consolidate and expand small business financing services;  
33 (ii) develop and implement regulatory assistance initiatives; and (iii)  
34 institute innovative systems to connect small businesses and  
35 entrepreneurs to a broad array of technical assistance resources at the  
36 local, state, and federal levels.

37 (c) The department shall report to appropriate legislative

1 committees by December 1, 2010, on the milestones achieved and the  
2 future actions planned to meet the priorities described in subsections  
3 (3) and (4) of this section.

4 (5)(a) The legislature recognizes that there are many strong  
5 community services and housing programs currently operating within the  
6 department and serving our most vulnerable individuals, families, and  
7 communities. The legislature finds that some of these programs can  
8 readily be transferred beginning on July 1, 2010, to other mission-  
9 aligned agencies in state government. However, the legislature finds  
10 that to maintain the strength and credibility of the majority of the  
11 department's community services and housing programs, it is necessary  
12 to create a separate division for them within the department and to  
13 develop a plan to establish a separate state government agency for them  
14 in the future.

15 (b) The legislature directs the department of commerce to establish  
16 a single division to contain community services and housing programs  
17 that deliver essential services to individuals, families, and  
18 communities. Services provided by the division shall include, but are  
19 not limited to: (i) Homeless housing and assistance programs including  
20 transitional housing, emergency shelter grants, independent youth  
21 housing, housing assistance for persons with mental illness, and  
22 housing opportunities for people with AIDS; (ii) affordable housing  
23 development programs including the housing trust fund and low-income  
24 home energy assistance; (iii) farm worker housing; (iv) crime victims'  
25 advocacy and sexual assault services; (v) community mobilization  
26 against substance abuse and violence; (vi) asset building for working  
27 families; (vii) local and community projects including the building  
28 communities fund, building for the arts, and youth recreational  
29 facilities grants; (viii) dispute resolution centers; (ix) the  
30 Washington families fund; (x) community services block grants; (xi)  
31 community development block grants; (xii) child care facility fund;  
32 (xiii) WorkFirst community jobs; (xiv) long-term care ombudsman; (xv)  
33 state drug task forces; (xvi) justice assistance grants; (xvii)  
34 children and families of incarcerated parents; and (xviii) the  
35 Washington new Americans program.

36 (c) The economic development committees in the house of  
37 representatives and the senate shall, in consultation with the governor  
38 and the department: (i) Solicit information and advice from

1 representatives of community, social services, and housing  
2 organizations at the local and state levels, including minority  
3 communities, people with disabilities, and other vulnerable  
4 populations; and (ii) develop a plan for consideration and action in  
5 the 2011 legislative session to establish a separate state government  
6 agency whose mission is focused on community services and housing.

7 (6) The department shall examine the functions and operations of  
8 agricultural commodity commissions in the state and collaborate with  
9 industry sector and cluster associations on legislation that would  
10 enable industries to develop self-financing systems for addressing  
11 industry-identified issues such as workforce training, international  
12 marketing, quality improvement, and technology deployment. By December  
13 1, 2010, the department shall report to the governor and the  
14 legislature on its findings and proposed legislation.

15 **PART I**

16 **DEPARTMENT OF HEALTH--PUBLIC HEALTH**

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

19 (1) The county public health account is created in the state  
20 treasury. Funds deposited in the county public health account shall be  
21 distributed by the state treasurer to each local public health  
22 jurisdiction based upon amounts certified to it by the department of  
23 (~~community, trade, and economic development~~) health in consultation  
24 with the Washington state association of counties. The account shall  
25 include funds distributed under RCW 82.14.200(8) and such funds as are  
26 appropriated to the account from the state general fund, the public  
27 health services account under RCW 43.72.902, and such other funds as  
28 the legislature may appropriate to it.

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

33 (b) Only if funds are available and in an amount no greater than  
34 available funds under RCW 82.14.200(8), the department of community,  
35 trade, and economic development shall adjust the amount certified under  
36 (a) of this subsection to compensate for any annexation of an area with

1 fifty thousand residents or more to any city as a result of a petition  
2 during calendar year 1996 or 1997, or for any city that became newly  
3 incorporated as a result of an election during calendar year 1994 or  
4 1995. The amount to be adjusted shall be equal to the amount which  
5 otherwise would have been lost to the health jurisdiction due to the  
6 annexation or incorporation as calculated using the jurisdiction's 1995  
7 funding formula.

8 (c) The county treasurer shall certify the actual 1995 city  
9 contribution to the department. Funds in excess of the base shall be  
10 distributed proportionately among the health jurisdictions based on  
11 incorporated population figures as last determined by the office of  
12 financial management.

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

15 NEW SECTION. **Sec. 102.** (1) All powers, duties, and functions of  
16 the department of commerce pertaining to county public health  
17 assistance are transferred to the department of health. All references  
18 to the director or the department of commerce in the Revised Code of  
19 Washington shall be construed to mean the secretary or the department  
20 of health when referring to the functions transferred in this section.

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

31 (b) Any appropriations made to the department of commerce for  
32 carrying out the powers, functions, and duties transferred shall, on  
33 the effective date of this section, be transferred and credited to the  
34 department of health.

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

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

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

12 (4) All rules and all pending business before the department of  
13 commerce pertaining to the powers, functions, and duties transferred  
14 shall be continued and acted upon by the department of health. All  
15 existing contracts and obligations shall remain in full force and shall  
16 be performed by the department of health.

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

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

26 (7) All classified employees of the department of commerce assigned  
27 to the department of health under this section whose positions are  
28 within an existing bargaining unit description at the department of  
29 health shall become a part of the existing bargaining unit at the  
30 department of health and shall be considered an appropriate inclusion  
31 or modification of the existing bargaining unit under the provisions of  
32 chapter 41.80 RCW.

## 33 PART II

### 34 DEPARTMENT OF HEALTH--DEVELOPMENTAL DISABILITIES

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

1 The developmental disabilities endowment governing board is  
2 established to design and administer the developmental disabilities  
3 endowment. To the extent funds are appropriated for this purpose, the  
4 (~~director~~) secretary of the department (~~of commerce~~) shall provide  
5 staff and administrative support to the governing board.

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

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

11 (b) Three members of the board, who shall be appointed by the  
12 governor, shall be persons who have demonstrated expertise and  
13 leadership in areas such as business, developmental disabilities  
14 service design, management, or public policy, and shall be family  
15 members of persons with developmental disabilities.

16 (c) The seventh member of the board, who shall serve as chair of  
17 the board, shall be appointed by the remaining six members of the  
18 board.

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

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

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

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

34 (6) Members of the governing board and the state investment board  
35 are not liable to the state, to the fund, or to any other person as a  
36 result of their activities as members, whether ministerial or  
37 discretionary, except for willful dishonesty or intentional violations

1 of law. The department and the state investment board, respectively,  
2 may purchase liability insurance for members.

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

5 The department (~~(of commerce)~~) shall adopt rules for the  
6 implementation of policies established by the governing board in RCW  
7 43.330.200 through 43.330.230 (as recodified by this act). Such rules  
8 will be consistent with those statutes and chapter 34.05 RCW.

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

11 RCW 43.330.195  
12 RCW 43.330.200  
13 RCW 43.330.205  
14 RCW 43.330.210  
15 RCW 43.330.220  
16 RCW 43.330.225  
17 RCW 43.330.230  
18 RCW 43.330.240

19 NEW SECTION. **Sec. 204.** (1) All powers, duties, and functions of  
20 the department of commerce pertaining to the developmental disabilities  
21 endowment are transferred to the department of health. All references  
22 to the director or the department of commerce in the Revised Code of  
23 Washington shall be construed to mean the secretary or the department  
24 of health when referring to the functions transferred in this section.

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



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

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

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

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

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

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

33 (7) All classified employees of the department of commerce assigned  
34 to the department of health under this section whose positions are  
35 within an existing bargaining unit description at the department of  
36 health shall become a part of the existing bargaining unit at the  
37 department of health and shall be considered an appropriate inclusion

1 or modification of the existing bargaining unit under the provisions of  
2 chapter 41.80 RCW.

3 **PART III**  
4 **BUILDING CODE COUNCIL**

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

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

9 (1) The state building code council shall consist of fifteen  
10 members, two of whom shall be county elected legislative body members  
11 or elected executives and two of whom shall be city elected legislative  
12 body members or mayors. One of the members shall be a local government  
13 building code enforcement official and one of the members shall be a  
14 local government fire service official. Of the remaining nine members,  
15 one member shall represent general construction, specializing in  
16 commercial and industrial building construction; one member shall  
17 represent general construction, specializing in residential and  
18 multifamily building construction; one member shall represent the  
19 architectural design profession; one member shall represent the  
20 structural engineering profession; one member shall represent the  
21 mechanical engineering profession; one member shall represent the  
22 construction building trades; one member shall represent manufacturers,  
23 installers, or suppliers of building materials and components; one  
24 member shall be a person with a physical disability and shall represent  
25 the disability community; and one member shall represent the general  
26 public. At least six of these fifteen members shall reside east of the  
27 crest of the Cascade mountains. The council shall include: Two  
28 members of the house of representatives appointed by the speaker of the  
29 house, one from each caucus; two members of the senate appointed by the  
30 president of the senate, one from each caucus; and an employee of the  
31 electrical division of the department of labor and industries, as ex  
32 officio, nonvoting members with all other privileges and rights of  
33 membership. Terms of office shall be for three years. The council  
34 shall elect a member to serve as chair of the council for one-year  
35 terms of office. Any member who is appointed by virtue of being an  
36 elected official or holding public employment shall be removed from the

1 council if he or she ceases being such an elected official or holding  
2 such public employment. Before making any appointments to the building  
3 code council, the governor shall seek nominations from recognized  
4 organizations which represent the entities or interests listed in this  
5 subsection. Members serving on the council on July 28, 1985, may  
6 complete their terms of office. Any vacancy shall be filled by  
7 alternating appointments from governmental and nongovernmental entities  
8 or interests until the council is constituted as required by this  
9 subsection.

10 (2) Members shall not be compensated but shall receive  
11 reimbursement for travel expenses in accordance with RCW 43.03.050 and  
12 43.03.060.

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

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

18 (1) Each applicant for a building permit of a building  
19 necessitating potable water shall provide evidence of an adequate water  
20 supply for the intended use of the building. Evidence may be in the  
21 form of a water right permit from the department of ecology, a letter  
22 from an approved water purveyor stating the ability to provide water,  
23 or another form sufficient to verify the existence of an adequate water  
24 supply. In addition to other authorities, the county or city may  
25 impose conditions on building permits requiring connection to an  
26 existing public water system where the existing system is willing and  
27 able to provide safe and reliable potable water to the applicant with  
28 reasonable economy and efficiency. An application for a water right  
29 shall not be sufficient proof of an adequate water supply.

30 (2) Within counties not required or not choosing to plan pursuant  
31 to RCW 36.70A.040, the county and the state may mutually determine  
32 those areas in the county in which the requirements of subsection (1)  
33 of this section shall not apply. The departments of health and ecology  
34 shall coordinate on the implementation of this section. Should the  
35 county and the state fail to mutually determine those areas to be  
36 designated pursuant to this subsection, the county may petition the

1 department of (~~community, trade, and economic development~~) general  
2 administration to mediate or, if necessary, make the determination.

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

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

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

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

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

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

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

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

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

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

35 (4) The Washington state energy code for residential buildings

1 shall be the 2006 edition of the Washington state energy code, or as  
2 amended by rule by the council.

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

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

10 (b) The state energy code for residential structures does not  
11 preempt a city, town, or county's energy code for residential  
12 structures which exceeds the requirements of the state energy code and  
13 which was adopted by the city, town, or county prior to March 1, 1990.  
14 Such cities, towns, or counties may not subsequently amend their energy  
15 code for residential structures to exceed the requirements adopted  
16 prior to March 1, 1990.

17 (7) The state building code council shall consult with the  
18 department of (~~community, trade, and economic development~~) general  
19 administration as provided in RCW 34.05.310 prior to publication of  
20 proposed rules. The director of the department of (~~community, trade,~~  
21 ~~and economic development~~) general administration shall recommend to  
22 the state building code council any changes necessary to conform the  
23 proposed rules to the requirements of this section.

24 (8) The state building code council shall evaluate and consider  
25 adoption of the international energy conservation code in Washington  
26 state in place of the existing state energy code.

27 (9) The definitions in RCW 19.27A.140 apply throughout this  
28 section.

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

31 The definitions in this section apply to RCW 19.27A.130 through  
32 19.27A.190 and 19.27A.020 unless the context clearly requires  
33 otherwise.

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

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

3 (3) "Consumer-owned utility" includes a municipal electric utility  
4 formed under Title 35 RCW, a public utility district formed under Title  
5 54 RCW, an irrigation district formed under chapter 87.03 RCW, a  
6 cooperative formed under chapter 23.86 RCW, a mutual corporation or  
7 association formed under chapter 24.06 RCW, a port district formed  
8 under Title 53 RCW, or a water-sewer district formed under Title 57  
9 RCW, that is engaged in the business of distributing electricity to one  
10 or more retail electric customers in the state.

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

- 13 (a) To be reliable and available within the time it is needed; and  
14 (b) To meet or reduce the power demand of the intended consumers at  
15 an estimated incremental system cost no greater than that of the least-  
16 cost similarly reliable and available alternative project or resource,  
17 or any combination thereof.

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

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

21 ~~(7))~~ (7) "Embodied energy" means the total amount of fossil fuel  
22 energy consumed to extract raw materials and to manufacture, assemble,  
23 transport, and install the materials in a building and the life-cycle  
24 cost benefits including the recyclability and energy efficiencies with  
25 respect to building materials, taking into account the total sum of  
26 current values for the costs of investment, capital, installation,  
27 operating, maintenance, and replacement as estimated for the lifetime  
28 of the product or project.

29 ~~((8))~~ (8) "Energy consumption data" means the monthly amount of  
30 energy consumed by a customer as recorded by the applicable energy  
31 meter for the most recent twelve-month period.

32 ~~((9))~~ (9) "Energy service company" has the same meaning as in RCW  
33 43.19.670.

34 ~~((10))~~ (10) "General administration" means the department of  
35 general administration.

36 ~~((11))~~ (11) "Greenhouse gas" and "greenhouse gases" includes  
37 carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,  
38 perfluorocarbons, and sulfur hexafluoride.

1        ~~((+12+))~~ (11) "Investment grade energy audit" means an intensive  
2 engineering analysis of energy efficiency and management measures for  
3 the facility, net energy savings, and a cost-effectiveness  
4 determination.

5        ~~((+13+))~~ (12) "Investor-owned utility" means a corporation owned by  
6 investors that meets the definition of "corporation" as defined in RCW  
7 80.04.010 and is engaged in distributing either electricity or natural  
8 gas, or both, to more than one retail electric customer in the state.

9        ~~((+14+))~~ (13) "Major facility" means any publicly owned or leased  
10 building, or a group of such buildings at a single site, having ten  
11 thousand square feet or more of conditioned floor space.

12        ~~((+15+))~~ (14) "National energy performance rating" means the score  
13 provided by the energy star program, to indicate the energy efficiency  
14 performance of the building compared to similar buildings in that  
15 climate as defined in the United States environmental protection agency  
16 "ENERGY STAR® Performance Ratings Technical Methodology."

17        ~~((+16+))~~ (15) "Net zero energy use" means a building with net  
18 energy consumption of zero over a typical year.

19        ~~((+17+))~~ (16) "Portfolio manager" means the United States  
20 environmental protection agency's energy star portfolio manager or an  
21 equivalent tool adopted by the department of general administration.

22        ~~((+18+))~~ (17) "Preliminary energy audit" means a quick evaluation  
23 by an energy service company of the energy savings potential of a  
24 building.

25        ~~((+19+))~~ (18) "Qualifying public agency" includes all state  
26 agencies, colleges, and universities.

27        ~~((+20+))~~ (19) "Qualifying utility" means a consumer-owned or  
28 investor-owned gas or electric utility that serves more than twenty-  
29 five thousand customers in the state of Washington.

30        ~~((+21+))~~ (20) "Reporting public facility" means any of the  
31 following:

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

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

1 (c) A wastewater treatment facility owned by a qualifying public  
2 agency; or

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

4 ((+22)) (21) "State portfolio manager master account" means a  
5 portfolio manager account established to provide a single shared  
6 portfolio that includes reports for all the reporting public  
7 facilities.

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

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

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

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

25 (a) Consider development of aspirational codes separate from the  
26 state energy code that contain economically and technically feasible  
27 optional standards that could achieve higher energy efficiency for  
28 those builders that elected to follow the aspirational codes in lieu of  
29 or in addition to complying with the standards set forth in the state  
30 energy code;

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

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

35 (d) Include state strategies to support research, demonstration,  
36 and education programs designed to achieve a seventy percent reduction



1 in annual net energy consumption as specified in RCW 19.27A.160 and  
2 enhance energy efficiency and on-site renewable energy production in  
3 buildings;

4 (e) Recommend incentives, education, training programs and  
5 certifications, particularly state-approved training or certification  
6 programs, joint apprenticeship programs, or labor-management  
7 partnership programs that train workers for energy-efficiency projects  
8 to ensure proposed programs are designed to increase building  
9 professionals' ability to design, construct, and operate buildings that  
10 will meet the seventy percent reduction in annual net energy  
11 consumption as specified in RCW 19.27A.160;

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

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

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

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

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

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

30 (l) Investigate methodologies and standards for the measurement of  
31 the amount of embodied energy used in building materials.

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

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

37 By December 31, 2009, to the extent that funding is appropriated

1 specifically for the purposes of this section, the department of  
2 commerce shall develop and recommend to the legislature a methodology  
3 to determine an energy performance score for residential buildings and  
4 an implementation strategy to use such information to improve the  
5 energy efficiency of the state's existing housing supply. In  
6 developing its strategy, the department of commerce shall seek input  
7 from providers of residential energy audits, utilities, building  
8 contractors, mixed use developers, the residential real estate  
9 industry, and real estate listing and form providers.

10 NEW SECTION. Sec. 308. (1) All powers, duties, and functions of  
11 the department of commerce pertaining to administrative and support  
12 services for the state building code council are transferred to the  
13 department of general administration. All references to the director  
14 or the department of commerce in the Revised Code of Washington shall  
15 be construed to mean the director or the department of general  
16 administration when referring to the functions transferred in this  
17 section. Policy and planning assistance functions performed by the  
18 department of commerce remain with the department of commerce.

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

30 (b) Any appropriations made to the department of commerce for  
31 carrying out the powers, functions, and duties transferred shall, on  
32 the effective date of this section, be transferred and credited to the  
33 department of general administration.

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

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

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

13 (4) All rules and all pending business before the department of  
14 commerce pertaining to the powers, functions, and duties transferred  
15 shall be continued and acted upon by the department of general  
16 administration. All existing contracts and obligations shall remain in  
17 full force and shall be performed by the department of general  
18 administration.

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

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

28 (7) All classified employees of the department of commerce assigned  
29 to the department of general administration under this section whose  
30 positions are within an existing bargaining unit description at the  
31 department of general administration shall become a part of the  
32 existing bargaining unit at the department of general administration  
33 and shall be considered an appropriate inclusion or modification of the  
34 existing bargaining unit under the provisions of chapter 41.80 RCW.

35 **PART IV**

36 **DEPARTMENT OF COMMERCE--ENERGY POLICY**

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

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

5       (a) Is based on unbiased analysis;

6       (b) Engages public agencies and stakeholders in a thoughtful,  
7 deliberative process that creates a cohesive plan that earns sustained  
8 support of the public and the organizations and institutions that will  
9 ultimately be responsible for implementation and execution of the plan;  
10 and

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

13       (2) The legislature further finds that energy drives the entire  
14 modern economy from petroleum for vehicles to electricity to light  
15 homes and power businesses. The legislature further finds that the  
16 nation and the world have started the transition to a clean energy  
17 economy, with significant improvements in energy efficiency and  
18 investments in new clean and renewable energy resources and  
19 technologies. The legislature further finds this transition may  
20 increase energy costs and that these cost increases must be fair and  
21 reasonable.

22       (3) The legislature finds and declares that it is the continuing  
23 purpose of state government, consistent with other essential  
24 considerations of state policy, to foster wise and efficient energy use  
25 and to promote energy self-sufficiency through the use of indigenous  
26 and renewable energy sources, consistent with the promotion of reliable  
27 energy sources, the general welfare, and the protection of  
28 environmental quality.

29       (4) The legislature further declares that a successful state energy  
30 strategy shall be guided by the following three goals:

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

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

36       (c) Meet the state's obligations to reduce greenhouse gas  
37 emissions.

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

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

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

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

7       (4) "Distributor" means any person, private corporation,  
8 partnership, individual proprietorship, utility, including investor-  
9 owned utilities, municipal utility, public utility district, joint  
10 operating agency, or cooperative, which engages in or is authorized to  
11 engage in the activity of generating, transmitting, or distributing  
12 energy in this state;

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

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

26       (7) "State energy strategy" means the document (~~(and energy policy~~  
27 ~~direction)) developed ((under section 1, chapter 201, Laws of 1991~~  
28 ~~including any related appendices)) and updated by the department under~~

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

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

35       (a) Pursue all cost-effective energy efficiency and conservation as  
36 the state's preferred energy resource;

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

4 (c) Maintain and enhance economic competitiveness by ensuring an  
5 affordable and reliable supply of energy resources and by supporting  
6 clean energy technology innovation, access to clean energy markets  
7 worldwide, and clean energy business and workforce development;

8 (d) Reduce dependence on fossil fuel energy sources through  
9 improved efficiency and development of cleaner energy sources, such as  
10 bioenergy, low-carbon energy sources, and natural gas;

11 (e) Improve efficiency of transportation energy use through  
12 advances in vehicle technology, increased system efficiencies,  
13 development of electricity, biofuels, and other clean fuels, and  
14 regional transportation planning to improve transportation choices;

15 (f) Meet the state's statutory climate change goals and targets and  
16 other environmental requirements as the state develops and uses energy  
17 resources;

18 (g) Build on the advantage provided by the state's clean regional  
19 electrical grid by expanding and integrating additional carbon-free and  
20 carbon-neutral renewable energy generation and improving the  
21 transmission capacity serving the state;

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

24 (i) Maintain and enhance our state's existing energy  
25 infrastructure.

26 (2) The department shall:

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

32 (b) Develop and disseminate impartial and objective energy  
33 information and analysis, while taking full advantage of the  
34 capabilities of the state's institutions of higher education, national  
35 laboratory, and other organizations with relevant expertise and  
36 analytical capabilities;

37 (c) Actively seek to maximize federal and other nonstate funding

1 and support to the state for energy efficiency, renewable energy,  
2 emerging energy technologies, and other activities of benefit to the  
3 state's overall energy future; and

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

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

9 (1)(a) By December 1, 2010, the department ((shall review the state  
10 energy strategy as developed under section 1, chapter 201, Laws of  
11 1991, periodically with the guidance of an advisory committee. For  
12 each review, an advisory committee shall be established with a  
13 membership resembling as closely as possible the original energy  
14 strategy advisory committee specified under section 1, chapter 201,  
15 Laws of 1991. Upon completion of a public hearing regarding the  
16 advisory committee's advice and recommendations for revisions to the  
17 energy strategy, a written report shall be conveyed by the department  
18 to the governor and the appropriate legislative committees. Any  
19 advisory committee established under this section shall be dissolved  
20 within three months after their written report is conveyed.)) of  
21 commerce shall update and revise the state energy strategy and  
22 implementation report with the guidance of an advisory committee formed  
23 under subsection (4) of this section. By December 1, 2011, by December  
24 1, 2014, and every four years thereafter, the department shall, with  
25 the advisory committee's guidance, produce a fully updated state energy  
26 strategy and implementation report.

27 (b) The 2010 state energy strategy update and each future update or  
28 revision must be approved by the legislature by concurrent resolution  
29 before the department may implement the strategy.

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

32 (b) In producing and updating the energy strategy, the department  
33 and advisory committee shall review related processes and documents  
34 relevant to a state energy strategy, including but not limited to,  
35 prior state energy strategies, the work of the clean energy leadership  
36 council, the climate advisory and action teams, the evergreen jobs

1 committee, reports of state transportation planning commission,  
2 economic development commission, and the northwest power and  
3 conservation council.

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

7 (d) The strategy must identify administrative actions, regulatory  
8 coordination, and recommendations for legislation that need to be  
9 undertaken to ensure that the energy strategy is implemented and  
10 operationally supported by all state agencies, regulatory bodies, and  
11 other organizations responsible for implementation of energy policy in  
12 the state.

13 (3)(a) In order to facilitate decision making by the department and  
14 the advisory committee as provided in subsection (4) of this section,  
15 the director of the department shall engage a group of scientific,  
16 engineering, economic, and other experts in energy analysis.

17 (b) The group shall be comprised of representatives from the  
18 following institutions:

19 (i) Research institutions of higher education;

20 (ii) Pacific northwest national laboratory;

21 (iii) Northwest power and conservation council; and

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

24 (c) This group shall:

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

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

30 (4)(a) In order to update the state energy strategy, the department  
31 shall form an advisory committee. The director shall appoint the  
32 advisory committee with a membership reflecting a balance of the  
33 interests in energy generation, distribution, consumption, and economic  
34 development including: Residential, commercial, industrial, and  
35 agricultural users; electric and natural gas utilities or  
36 organizations, both consumer-owned and investor-owned; liquid fuel and  
37 natural gas industries; local governments; labor; civic and  
38 environmental organizations; clean energy companies; energy research



1 and development organizations; economic development organizations; key  
2 public agencies; and other interested stakeholders. The president of  
3 the senate shall appoint one member from each of the two largest  
4 caucuses of the senate and the speaker of the house of representatives  
5 shall appoint one member from each of the two largest caucuses of the  
6 house of representatives to serve as ex-officio members of the advisory  
7 committee. The department shall work with stakeholders and other state  
8 agencies to develop the strategy.

9 (b) Upon completion of a public hearing regarding the advisory  
10 committee's advice and recommendations for revisions to the state  
11 energy strategy, the department shall present a written report to the  
12 governor and appropriate legislative committees which may include  
13 specific actions that will be needed to implement the strategy. Any  
14 advisory committee established under this section must be dissolved  
15 within three months after the written report is conveyed.

16 (5) The department may periodically review and update the state  
17 energy strategy, as necessary. The department shall engage an advisory  
18 committee as required in this section when updating the strategy and  
19 present any updates to the legislature for its approval.

20 (6) To assist in updates of the state energy strategy, the  
21 department shall actively seek both in-kind and financial support for  
22 this process from nonstate sources. In order to avoid competition  
23 among Washington state agencies, the department of commerce shall  
24 coordinate the search for such external support. The department shall  
25 develop a work plan for updating the energy strategy that reflects the  
26 levels of activities and deliverables commensurate with the level of  
27 funding and in-kind support available from state and nonstate sources.

28 NEW SECTION. Sec. 405. RCW 43.21F.015 (State policy) and 1994 c  
29 207 s 3 & 1981 c 295 s 1 are each repealed.

30 **PART V**

31 **CRIMINAL JUSTICE TRAINING COMMISSION--DRUG**

32 **PROSECUTION ASSISTANCE PROGRAM**

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

35 The legislature recognizes that, due to the magnitude or volume of

1 offenses in a given area of the state, there is a recurring need for  
2 supplemental assistance in the prosecuting of drug and drug-related  
3 offenses that can be directed to the area of the state with the  
4 greatest need for short-term assistance. A statewide drug prosecution  
5 assistance program is created within the (~~department of community,~~  
6 ~~trade, and economic development~~) criminal justice training commission  
7 to assist county prosecuting attorneys in the prosecution of drug and  
8 drug-related offenses.

9 NEW SECTION. Sec. 502. (1) All powers, duties, and functions of  
10 the department of commerce pertaining to the drug prosecution  
11 assistance program are transferred to the criminal justice training  
12 commission. All references to the director or the department of  
13 commerce in the Revised Code of Washington shall be construed to mean  
14 the director or the criminal justice training commission when referring  
15 to the functions transferred in this section.

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

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

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

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

10 (4) All rules and all pending business before the department of  
11 commerce pertaining to the powers, functions, and duties transferred  
12 shall be continued and acted upon by the criminal justice training  
13 commission. All existing contracts and obligations shall remain in  
14 full force and shall be performed by the criminal justice training  
15 commission.

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

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

25 (7) All classified employees of the department of commerce assigned  
26 to the criminal justice training commission under this section whose  
27 positions are within an existing bargaining unit description at the  
28 criminal justice training commission shall become a part of the  
29 existing bargaining unit at the criminal justice training commission  
30 and shall be considered an appropriate inclusion or modification of the  
31 existing bargaining unit under the provisions of chapter 41.80 RCW.

32 **PART VI**

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

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

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

3 (2)(a) The chair of the council shall be appointed by the governor  
4 with the advice and consent of the senate, shall have a vote on matters  
5 before the council, shall serve for a term coextensive with the term of  
6 the governor, and is removable for cause. The chair may designate a  
7 member of the council to serve as acting chair in the event of the  
8 chair's absence. The salary of the chair shall be determined under RCW  
9 43.03.040. The chair is a "state employee" for the purposes of chapter  
10 42.52 RCW. As applicable, when attending meetings of the council,  
11 members may receive reimbursement for travel expenses in accordance  
12 with RCW 43.03.050 and 43.03.060, and are eligible for compensation  
13 under RCW 43.03.250.

14 (b) The chair or a designee shall execute all official documents,  
15 contracts, and other materials on behalf of the council. The  
16 Washington (~~state department of community, trade, and economic~~  
17 ~~development~~) utilities and transportation commission shall provide all  
18 administrative and staff support for the council. The (~~director of~~  
19 ~~the department of community, trade, and economic development~~)  
20 commission has supervisory authority over the staff of the council and  
21 shall employ such personnel as are necessary to implement this chapter.  
22 Not more than three such employees may be exempt from chapter 41.06  
23 RCW. The council shall otherwise retain its independence in exercising  
24 its powers, functions, and duties and its supervisory control over  
25 nonadministrative staff support. Membership, powers, functions, and  
26 duties of the Washington state utilities and transportation commission  
27 and the council shall otherwise remain as provided by law.

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

31 (i) Department of ecology;

32 (ii) Department of fish and wildlife;

33 (iii) Department of (~~community, trade, and economic development~~)  
34 commerce;

35 (iv) Utilities and transportation commission; and

36 (v) Department of natural resources.

37 (b) The directors, administrators, or their designees, of the  
38 following departments, agencies, and commissions, or their statutory

1 successors, may participate as councilmembers at their own discretion  
2 provided they elect to participate no later than sixty days after an  
3 application is filed:

4 (i) Department of agriculture;

5 (ii) Department of health;

6 (iii) Military department; and

7 (iv) Department of transportation.

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

13 (4) The appropriate county legislative authority of every county  
14 wherein an application for a proposed site is filed shall appoint a  
15 member or designee as a voting member to the council. The member or  
16 designee so appointed shall sit with the council only at such times as  
17 the council considers the proposed site for the county which he or she  
18 represents, and such member or designee shall serve until there has  
19 been a final acceptance or rejection of the proposed site.

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

27 (6) For any port district wherein an application for a proposed  
28 port facility is filed subject to this chapter, the port district shall  
29 appoint a member or designee as a nonvoting member to the council. The  
30 member or designee so appointed shall sit with the council only at such  
31 times as the council considers the proposed site for the port district  
32 which he or she represents, and such member or designee shall serve  
33 until there has been a final acceptance or rejection of the proposed  
34 site. The provisions of this subsection shall not apply if the port  
35 district is the applicant, either singly or in partnership or  
36 association with any other person.

1        NEW SECTION.    **Sec. 602.**    (1) All administrative powers, duties, and  
2 functions of the department of commerce pertaining to the energy  
3 facility site evaluation council are transferred to the Washington  
4 utilities and transportation commission.    All references to the  
5 director or the department of commerce in the Revised Code of  
6 Washington shall be construed to mean the Washington utilities and  
7 transportation commission when referring to the functions transferred  
8 in this section.

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

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

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

30        (3) All employees of the department of commerce engaged in  
31 performing the powers, functions, and duties transferred are  
32 transferred to the jurisdiction of the Washington utilities and  
33 transportation commission. All employees classified under chapter  
34 41.06 RCW, the state civil service law, are assigned to the Washington  
35 utilities and transportation commission to perform their usual duties  
36 upon the same terms as formerly, without any loss of rights, subject to  
37 any action that may be appropriate thereafter in accordance with the  
38 laws and rules governing state civil service.

1 (4) All rules and all pending business before the department of  
2 commerce pertaining to the powers, functions, and duties transferred  
3 shall be continued and acted upon by the Washington utilities and  
4 transportation commission. All existing contracts and obligations  
5 shall remain in full force and shall be performed by the Washington  
6 utilities and transportation commission.

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

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

16 (7) All classified employees of the department of commerce assigned  
17 to the Washington utilities and transportation commission under this  
18 section whose positions are within an existing bargaining unit  
19 description at the Washington utilities and transportation commission  
20 shall become a part of the existing bargaining unit at the Washington  
21 utilities and transportation commission and shall be considered an  
22 appropriate inclusion or modification of the existing bargaining unit  
23 under the provisions of chapter 41.80 RCW.

24 **PART VII**

25 **MUNICIPAL RESEARCH COUNCIL**

26 **Sec. 701.** RCW 43.110.010 and 2001 c 290 s 1 are each amended to  
27 read as follows:

28 There shall be a state agency which shall be known as the municipal  
29 research council. The council shall be composed of fourteen members.  
30 Two members shall be appointed by the president of the senate, with  
31 equal representation from each of the two major political parties; two  
32 members shall be appointed by the speaker of the house of  
33 representatives, with equal representation from each of the two major  
34 political parties; one member shall be the director of (~~community,~~  
35 ~~trade, and economic development~~) the department of commerce; six  
36 members, who shall be city or town officials, shall be appointed by the

1 governor from a list of six nominees submitted by the board of  
2 directors of the association of Washington cities; and three members,  
3 who shall be county officials, shall be appointed by the governor, one  
4 of whom shall be a nominee submitted by the board of directors of the  
5 Washington association of county officials, and two of whom shall be  
6 from a list of two nominees submitted by the board of directors of the  
7 Washington state association of counties. Of the city or town  
8 officials, at least one shall be an official of a city having a  
9 population of twenty thousand or more; at least one shall be an  
10 official of a city having a population of one thousand five hundred to  
11 twenty thousand; and at least one shall be an official of a town having  
12 a population of less than one thousand five hundred.

13 The terms of members shall be for two years. The terms of those  
14 members who are appointed as legislators or city, town, or county  
15 officials shall be dependent upon continuance in legislative, city,  
16 town, or county office. The terms of all members except legislative  
17 members shall commence on the first day of August in every odd-numbered  
18 year. The speaker of the house of representatives and the president of  
19 the senate shall make their appointments on or before the third Monday  
20 in January in each odd-numbered year, and the terms of the members thus  
21 appointed shall commence on the third Monday of January in each odd-  
22 numbered year.

23 Council members shall receive no compensation (~~(but)~~) and shall not  
24 be reimbursed by the council for travel or for any other expenses (~~(at~~  
25 ~~rates in accordance with RCW 43.03.050 and 43.03.060 as now existing or~~  
26 ~~hereafter amended)~~), except that members of the council who are also  
27 members of the legislature shall be reimbursed at the rates provided by  
28 RCW 44.04.120. Meetings of the council must be held in venues that are  
29 free of cost to state agencies, such as government buildings.

30 **PART VIII**  
31 **MISCELLANEOUS PROVISIONS**

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

- 34 (1) The provisions of this chapter do not apply to:  
35 (a) The members of the legislature or to any employee of, or  
36 position in, the legislative branch of the state government including



1 members, officers, and employees of the legislative council, joint  
2 legislative audit and review committee, statute law committee, and any  
3 interim committee of the legislature;

4 (b) The justices of the supreme court, judges of the court of  
5 appeals, judges of the superior courts or of the inferior courts, or to  
6 any employee of, or position in the judicial branch of state  
7 government;

8 (c) Officers, academic personnel, and employees of technical  
9 colleges;

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

11 (e) Elective officers of the state;

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

13 (g) In the departments of employment security and social and health  
14 services, the director and the director's confidential secretary; in  
15 all other departments, the executive head of which is an individual  
16 appointed by the governor, the director, his or her confidential  
17 secretary, and his or her statutory assistant directors;

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

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

22 (ii) If the members of the board, commission, or committee serve on  
23 a part-time basis and there is a statutory executive officer: The  
24 secretary of the board, commission, or committee; the chief executive  
25 officer of the board, commission, or committee; and the confidential  
26 secretary of the chief executive officer of the board, commission, or  
27 committee;

28 (iii) If the members of the board, commission, or committee serve  
29 on a full-time basis: The chief executive officer or administrative  
30 officer as designated by the board, commission, or committee; and a  
31 confidential secretary to the chair of the board, commission, or  
32 committee;

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

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

38 (j) Assistant attorneys general;

1 (k) Commissioned and enlisted personnel in the military service of  
2 the state;

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

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

8 (n) Officers and employees of the Washington state fruit  
9 commission;

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

11 (p) Officers and employees of the Washington state dairy products  
12 commission;

13 (q) Officers and employees of the Washington tree fruit research  
14 commission;

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

16 (s) Officers and employees of the Washington grain commission;

17 (t) Officers and employees of any commission formed under chapter  
18 15.66 RCW;

19 (u) Officers and employees of agricultural commissions formed under  
20 chapter 15.65 RCW;

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

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

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

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

34 (z) Staff employed by the department of ~~((community, trade, and  
35 economic development))~~ commerce to administer energy policy functions  
36 ~~((and manage))~~;

37 (aa) The manager of the energy facility site evaluation council  
38 ~~((activities under RCW 43.21F.045(2)(m)))~~;

1           ((+aa+)) (bb) A maximum of ten staff employed by the department of  
2 commerce to administer innovation and policy functions, including the  
3 three principal policy assistants exempted under (x) of this  
4 subsection;

5           (cc) Staff employed by Washington State University to administer  
6 energy education, applied research, and technology transfer programs  
7 under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

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

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

29           (b) The governing board of each institution, and related boards,  
30 may also exempt from this chapter classifications involving research  
31 activities, counseling of students, extension or continuing education  
32 activities, graphic arts or publications activities requiring  
33 prescribed academic preparation or special training as determined by  
34 the board: PROVIDED, That no nonacademic employee engaged in office,  
35 clerical, maintenance, or food and trade services may be exempted by  
36 the board under this provision;

37           (c) Printing craft employees in the department of printing at the  
38 University of Washington.

1 (3) In addition to the exemptions specifically provided by this  
2 chapter, the director of personnel may provide for further exemptions  
3 pursuant to the following procedures. The governor or other  
4 appropriate elected official may submit requests for exemption to the  
5 director of personnel stating the reasons for requesting such  
6 exemptions. The director of personnel shall hold a public hearing,  
7 after proper notice, on requests submitted pursuant to this subsection.  
8 If the director determines that the position for which exemption is  
9 requested is one involving substantial responsibility for the  
10 formulation of basic agency or executive policy or one involving  
11 directing and controlling program operations of an agency or a major  
12 administrative division thereof, the director of personnel shall grant  
13 the request and such determination shall be final as to any decision  
14 made before July 1, 1993. The total number of additional exemptions  
15 permitted under this subsection shall not exceed one percent of the  
16 number of employees in the classified service not including employees  
17 of institutions of higher education and related boards for those  
18 agencies not directly under the authority of any elected public  
19 official other than the governor, and shall not exceed a total of  
20 twenty-five for all agencies under the authority of elected public  
21 officials other than the governor.

22 The salary and fringe benefits of all positions presently or  
23 hereafter exempted except for the chief executive officer of each  
24 agency, full-time members of boards and commissions, administrative  
25 assistants and confidential secretaries in the immediate office of an  
26 elected state official, and the personnel listed in subsections (1)(j)  
27 through (v) and (y) and (2) of this section, shall be determined by the  
28 director of personnel. Changes to the classification plan affecting  
29 exempt salaries must meet the same provisions for classified salary  
30 increases resulting from adjustments to the classification plan as  
31 outlined in RCW 41.06.152.

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

35 Any person holding a classified position subject to the provisions  
36 of this chapter shall, when and if such position is subsequently  
37 exempted from the application of this chapter, be afforded the  
38 following rights: If such person previously held permanent status in

1 another classified position, such person shall have a right of  
2 reversion to the highest class of position previously held, or to a  
3 position of similar nature and salary.

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

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

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

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

13 Correct the title.

--- END ---