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**SECOND SUBSTITUTE HOUSE BILL 2658**

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**State of Washington**

**61st Legislature**

**2010 Regular Session**

**By** House Ways & Means (originally sponsored by Representatives Kenney, Maxwell, McCoy, and Morrell; by request of Washington State Department of Commerce)

READ FIRST TIME 02/09/10.

1       AN ACT Relating to refocusing the mission of the department of  
2 commerce, including transferring programs; amending RCW 70.05.125,  
3 43.330.210, 43.330.240, 19.27.070, 19.27.097, 19.27.150, 19.27A.020,  
4 19.27A.140, 19.27A.150, 19.27A.180, 43.21F.010, 43.21F.090, 43.21F.055,  
5 36.27.100, 80.50.030, 43.110.030, 43.110.060, 43.110.080, 43.15.020,  
6 35.21.185, 35.102.040, and 36.70B.220; reenacting and amending RCW  
7 43.21F.025; adding a new section to chapter 43.330 RCW; adding new  
8 sections to chapter 43.70 RCW; adding a new section to chapter 43.21F  
9 RCW; creating new sections; recodifying RCW 43.330.195, 43.330.200,  
10 43.330.205, 43.330.210, 43.330.220, 43.330.225, 43.330.230, and  
11 43.330.240; decodifying RCW 43.63A.150; repealing RCW 43.21F.015,  
12 43.110.010, 43.110.040, and 43.110.070; and providing an effective  
13 date.

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

15       NEW SECTION. **Sec. 1.** A new section is added to chapter 43.330 RCW  
16 to read as follows:

17       (1) In 2009, the legislature changed the name of the department of  
18 community, trade, and economic development to the department of  
19 commerce and directed the agency to organize around a concise core

1 mission aligned with the state's economic development plan and around  
2 jobs. In accordance with that legislation, chapter 565, Laws of 2009,  
3 in November 2009 the department of commerce submitted a plan that  
4 establishes a mission of growing and improving jobs in the state. The  
5 plan also outlines agency priorities, efficiencies, and program  
6 transfers that will help to advance the new mission.

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

21 (3) The legislature finds that the department of commerce has  
22 conducted a credible process to identify the most critical economic  
23 needs of our state. The legislature recognizes that to sustain a  
24 world-class innovation economy on a foundation of strong communities  
25 requires continuous improvement and focus on the fundamentals. The  
26 legislature finds that the state's reputation as a center of  
27 innovative, cutting edge research and development will form the  
28 foundation of whole new markets, product categories, and industry  
29 clusters. The legislature therefore affirms the department's mission,  
30 to focus on growing and improving jobs, and supports the eight  
31 priorities identified by the department in its 2009 report to the  
32 legislature: (a) Improving the state's competitiveness; (b)  
33 strengthening education and workforce training; (c) investing in  
34 infrastructure; (d) increasing regulatory efficiency; (e) building  
35 community capacity; (f) focusing on rural economic development; (g)  
36 engaging with key industry sectors; and (h) helping small businesses  
37 succeed.

1 (4)(a) The legislature recognizes that small businesses and  
2 entrepreneurs are a foundation of the state's economy yet they  
3 encounter many barriers to achieving long-term stability and growth.  
4 Gaining access to capital, complying with complex government  
5 regulations, and competing successfully for market opportunities are  
6 among the challenges they face. The legislature finds that state  
7 government must enhance its commitment to helping small businesses and  
8 entrepreneurs thrive, including finding ways to integrate and  
9 coordinate existing programs to make them more accessible and  
10 effective. The legislature further finds that the mission of the  
11 department of commerce to growing and improving jobs in Washington  
12 makes it particularly well-suited to take a leadership role in these  
13 efforts.

14 (b) The legislature therefore directs the department of commerce,  
15 beginning in fiscal year 2011, to create a central point of access  
16 within the department for small business and entrepreneurial  
17 assistance, and in collaboration with other agencies and partners over  
18 time, to (i) consolidate and expand small business financing services;  
19 (ii) develop and implement regulatory assistance initiatives; and (iii)  
20 institute innovative systems to connect small businesses and  
21 entrepreneurs to a broad array of technical assistance resources at the  
22 local, state, and federal levels.

23 (c) The department shall report to appropriate legislative  
24 committees by December 1, 2010, on the milestones achieved and the  
25 future actions planned to meet the priorities described in subsections  
26 (3) and (4) of this section.

27 (5)(a) The legislature recognizes that there are many strong  
28 community services and housing programs currently operating within the  
29 department and serving our most vulnerable individuals, families, and  
30 communities. The legislature finds that some of these programs can  
31 readily be transferred beginning on July 1, 2010, to other mission-  
32 aligned agencies in state government. However, the legislature finds  
33 that to maintain the strength and credibility of the majority of the  
34 department's community services and housing programs, it is necessary  
35 to create a separate division for them within the department and to  
36 develop a plan to establish a separate state government agency for them  
37 in the future.

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

21 (c) The economic development committees in the house of  
22 representatives and the senate shall, in consultation with the governor  
23 and the department: (i) Solicit information and advice from  
24 representatives of community, social services, and housing  
25 organizations at the local and state levels, including minority  
26 communities, people with disabilities, and other vulnerable  
27 populations; and (ii) develop a plan for consideration and action in  
28 the 2011 legislative session to establish a separate state government  
29 agency whose mission is focused on community services and housing.

30 **PART I**  
31 **DEPARTMENT OF HEALTH--PUBLIC HEALTH**

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

34 (1) The county public health account is created in the state  
35 treasury. Funds deposited in the county public health account shall be  
36 distributed by the state treasurer to each local public health

1 jurisdiction based upon amounts certified to it by the department of  
2 (~~community, trade, and economic development~~) health in consultation  
3 with the Washington state association of counties. The account shall  
4 include funds distributed under RCW 82.14.200(8) and such funds as are  
5 appropriated to the account from the state general fund, the public  
6 health services account under RCW 43.72.902, and such other funds as  
7 the legislature may appropriate to it.

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

12 (b) Only if funds are available and in an amount no greater than  
13 available funds under RCW 82.14.200(8), the department of community,  
14 trade, and economic development shall adjust the amount certified under  
15 (a) of this subsection to compensate for any annexation of an area with  
16 fifty thousand residents or more to any city as a result of a petition  
17 during calendar year 1996 or 1997, or for any city that became newly  
18 incorporated as a result of an election during calendar year 1994 or  
19 1995. The amount to be adjusted shall be equal to the amount which  
20 otherwise would have been lost to the health jurisdiction due to the  
21 annexation or incorporation as calculated using the jurisdiction's 1995  
22 funding formula.

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

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

30 NEW SECTION. Sec. 102. (1) All powers, duties, and functions of  
31 the department of commerce pertaining to county public health  
32 assistance 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.

36 (2)(a) All reports, documents, surveys, books, records, files,  
37 papers, or written material in the possession of the department of

1 commerce pertaining to the powers, functions, and duties transferred  
2 shall be delivered to the custody of the department of health. All  
3 cabinets, furniture, office equipment, motor vehicles, and other  
4 tangible property employed by the department of commerce in carrying  
5 out the powers, functions, and duties transferred shall be made  
6 available to the department of health. All funds, credits, or other  
7 assets held in connection with the powers, functions, and duties  
8 transferred shall be assigned to the department of health.

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

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

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

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

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

35 (6) If apportionments of budgeted funds are required because of the  
36 transfers directed by this section, the director of financial  
37 management shall certify the apportionments to the agencies affected,

1 the state auditor, and the state treasurer. Each of these shall make  
2 the appropriate transfer and adjustments in funds and appropriation  
3 accounts and equipment records in accordance with the certification.

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

11 **PART II**

12 **DEPARTMENT OF HEALTH--DEVELOPMENTAL DISABILITIES**

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

15 The developmental disabilities endowment governing board is  
16 established to design and administer the developmental disabilities  
17 endowment. To the extent funds are appropriated for this purpose, the  
18 ((director)) secretary of the department ((of commerce)) shall provide  
19 staff and administrative support to the governing board.

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

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

25 (b) Three members of the board, who shall be appointed by the  
26 governor, shall be persons who have demonstrated expertise and  
27 leadership in areas such as business, developmental disabilities  
28 service design, management, or public policy, and shall be family  
29 members of persons with developmental disabilities.

30 (c) The seventh member of the board, who shall serve as chair of  
31 the board, shall be appointed by the remaining six members of the  
32 board.

33 (2) Members of the board shall serve terms of four years and may be  
34 appointed for successive terms of four years at the discretion of the  
35 appointing authority. However, the governor may stagger the terms of

1 the initial six members of the board so that approximately one-fourth  
2 of the members' terms expire each year.

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

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

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

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

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

21 The department (~~of commerce~~) shall adopt rules for the  
22 implementation of policies established by the governing board in RCW  
23 43.330.200 through 43.330.230 (as recodified by this act). Such rules  
24 will be consistent with those statutes and chapter 34.05 RCW.

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

- 27 RCW 43.330.195
- 28 RCW 43.330.200
- 29 RCW 43.330.205
- 30 RCW 43.330.210
- 31 RCW 43.330.220
- 32 RCW 43.330.225
- 33 RCW 43.330.230
- 34 RCW 43.330.240



1        NEW SECTION.    **Sec. 204.**    (1) All powers, duties, and functions of  
2 the department of commerce pertaining to the developmental disabilities  
3 endowment are transferred to the department of health. All references  
4 to the director or the department of commerce in the Revised Code of  
5 Washington shall be construed to mean the secretary or the department  
6 of health when referring to the functions transferred in this section.

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

17        (b) Any appropriations made to the department of commerce for  
18 carrying out the powers, functions, and duties transferred shall, on  
19 the effective date of this section, be transferred and credited to the  
20 department of health.

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

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

35        (4) All rules and all pending business before the department of  
36 commerce pertaining to the powers, functions, and duties transferred  
37 shall be continued and acted upon by the department of health. All

1 existing contracts and obligations shall remain in full force and shall  
2 be performed by the department of health.

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

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

12 (7) All classified employees of the department of commerce assigned  
13 to the department of health under this section whose positions are  
14 within an existing bargaining unit description at the department of  
15 health shall become a part of the existing bargaining unit at the  
16 department of health and shall be considered an appropriate inclusion  
17 or modification of the existing bargaining unit under the provisions of  
18 chapter 41.80 RCW.

19 **PART III**  
20 **BUILDING CODE COUNCIL**

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

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

25 (1) The state building code council shall consist of fifteen  
26 members, two of whom shall be county elected legislative body members  
27 or elected executives and two of whom shall be city elected legislative  
28 body members or mayors. One of the members shall be a local government  
29 building code enforcement official and one of the members shall be a  
30 local government fire service official. Of the remaining nine members,  
31 one member shall represent general construction, specializing in  
32 commercial and industrial building construction; one member shall  
33 represent general construction, specializing in residential and  
34 multifamily building construction; one member shall represent the  
35 architectural design profession; one member shall represent the  
36 structural engineering profession; one member shall represent the

1 mechanical engineering profession; one member shall represent the  
2 construction building trades; one member shall represent manufacturers,  
3 installers, or suppliers of building materials and components; one  
4 member shall be a person with a physical disability and shall represent  
5 the disability community; and one member shall represent the general  
6 public. At least six of these fifteen members shall reside east of the  
7 crest of the Cascade mountains. The council shall include: Two  
8 members of the house of representatives appointed by the speaker of the  
9 house, one from each caucus; two members of the senate appointed by the  
10 president of the senate, one from each caucus; and an employee of the  
11 electrical division of the department of labor and industries, as ex  
12 officio, nonvoting members with all other privileges and rights of  
13 membership. Terms of office shall be for three years. The council  
14 shall elect a member to serve as chair of the council for one-year  
15 terms of office. Any member who is appointed by virtue of being an  
16 elected official or holding public employment shall be removed from the  
17 council if he or she ceases being such an elected official or holding  
18 such public employment. Before making any appointments to the building  
19 code council, the governor shall seek nominations from recognized  
20 organizations which represent the entities or interests listed in this  
21 subsection. Members serving on the council on July 28, 1985, may  
22 complete their terms of office. Any vacancy shall be filled by  
23 alternating appointments from governmental and nongovernmental entities  
24 or interests until the council is constituted as required by this  
25 subsection.

26 (2) Members shall not be compensated but shall receive  
27 reimbursement for travel expenses in accordance with RCW 43.03.050 and  
28 43.03.060.

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

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

34 (1) Each applicant for a building permit of a building  
35 necessitating potable water shall provide evidence of an adequate water  
36 supply for the intended use of the building. Evidence may be in the  
37 form of a water right permit from the department of ecology, a letter

1 from an approved water purveyor stating the ability to provide water,  
2 or another form sufficient to verify the existence of an adequate water  
3 supply. In addition to other authorities, the county or city may  
4 impose conditions on building permits requiring connection to an  
5 existing public water system where the existing system is willing and  
6 able to provide safe and reliable potable water to the applicant with  
7 reasonable economy and efficiency. An application for a water right  
8 shall not be sufficient proof of an adequate water supply.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (b) The state energy code for residential structures does not  
25 preempt a city, town, or county's energy code for residential  
26 structures which exceeds the requirements of the state energy code and  
27 which was adopted by the city, town, or county prior to March 1, 1990.  
28 Such cities, towns, or counties may not subsequently amend their energy  
29 code for residential structures to exceed the requirements adopted  
30 prior to March 1, 1990.

31 (7) The state building code council shall consult with the  
32 department of (~~community, trade, and economic development~~) general  
33 administration as provided in RCW 34.05.310 prior to publication of  
34 proposed rules. The director of the department of (~~community, trade,~~  
35 ~~and economic development~~) general administration shall recommend to  
36 the state building code council any changes necessary to conform the  
37 proposed rules to the requirements of this section.

1 (8) The state building code council shall evaluate and consider  
2 adoption of the international energy conservation code in Washington  
3 state in place of the existing state energy code.

4 (9) The definitions in RCW 19.27A.140 apply throughout this  
5 section.

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

8 The definitions in this section apply to RCW 19.27A.130 through  
9 19.27A.190 and 19.27A.020 unless the context clearly requires  
10 otherwise.

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

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

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

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

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

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

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

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

34 (+7)) "Embodied energy" means the total amount of fossil fuel  
35 energy consumed to extract raw materials and to manufacture, assemble,  
36 transport, and install the materials in a building and the life-cycle  
37 cost benefits including the recyclability and energy efficiencies with

1 respect to building materials, taking into account the total sum of  
2 current values for the costs of investment, capital, installation,  
3 operating, maintenance, and replacement as estimated for the lifetime  
4 of the product or project.

5 ~~((+8+))~~ (7) "Energy consumption data" means the monthly amount of  
6 energy consumed by a customer as recorded by the applicable energy  
7 meter for the most recent twelve-month period.

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

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

12 ~~((+11+))~~ (10) "Greenhouse gas" and "greenhouse gases" includes  
13 carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,  
14 perfluorocarbons, and sulfur hexafluoride.

15 ~~((+12+))~~ (11) "Investment grade energy audit" means an intensive  
16 engineering analysis of energy efficiency and management measures for  
17 the facility, net energy savings, and a cost-effectiveness  
18 determination.

19 ~~((+13+))~~ (12) "Investor-owned utility" means a corporation owned by  
20 investors that meets the definition of "corporation" as defined in RCW  
21 80.04.010 and is engaged in distributing either electricity or natural  
22 gas, or both, to more than one retail electric customer in the state.

23 ~~((+14+))~~ (13) "Major facility" means any publicly owned or leased  
24 building, or a group of such buildings at a single site, having ten  
25 thousand square feet or more of conditioned floor space.

26 ~~((+15+))~~ (14) "National energy performance rating" means the score  
27 provided by the energy star program, to indicate the energy efficiency  
28 performance of the building compared to similar buildings in that  
29 climate as defined in the United States environmental protection agency  
30 "ENERGY STAR® Performance Ratings Technical Methodology."

31 ~~((+16+))~~ (15) "Net zero energy use" means a building with net  
32 energy consumption of zero over a typical year.

33 ~~((+17+))~~ (16) "Portfolio manager" means the United States  
34 environmental protection agency's energy star portfolio manager or an  
35 equivalent tool adopted by the department of general administration.

36 ~~((+18+))~~ (17) "Preliminary energy audit" means a quick evaluation  
37 by an energy service company of the energy savings potential of a  
38 building.

1       ~~((+19+))~~ (18) "Qualifying public agency" includes all state  
2 agencies, colleges, and universities.

3       ~~((+20+))~~ (19) "Qualifying utility" means a consumer-owned or  
4 investor-owned gas or electric utility that serves more than twenty-  
5 five thousand customers in the state of Washington.

6       ~~((+21+))~~ (20) "Reporting public facility" means any of the  
7 following:

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

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

15       (c) A wastewater treatment facility owned by a qualifying public  
16 agency; or

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

18       ~~((+22+))~~ (21) "State portfolio manager master account" means a  
19 portfolio manager account established to provide a single shared  
20 portfolio that includes reports for all the reporting public  
21 facilities.

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

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

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



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

3 (a) Consider development of aspirational codes separate from the  
4 state energy code that contain economically and technically feasible  
5 optional standards that could achieve higher energy efficiency for  
6 those builders that elected to follow the aspirational codes in lieu of  
7 or in addition to complying with the standards set forth in the state  
8 energy code;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 general  
36 administration. All cabinets, furniture, office equipment, motor

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

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

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

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

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

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

35 (6) If apportionments of budgeted funds are required because of the  
36 transfers directed by this section, the director of financial  
37 management shall certify the apportionments to the agencies affected,

1 the state auditor, and the state treasurer. Each of these shall make  
2 the appropriate transfer and adjustments in funds and appropriation  
3 accounts and equipment records in accordance with the certification.

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

11 **PART IV**

12 **DEPARTMENT OF COMMERCE--ENERGY POLICY**

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

15 (1) The legislature finds that energy drives the entire modern  
16 economy from petroleum for vehicles to electricity to light homes and  
17 businesses. The legislature further finds that the nation and the  
18 world have started the transition to a clean energy economy, with  
19 significant improvements in energy efficiency and investments in new  
20 clean and renewable energy resources and technologies.

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

28 (3) The legislature further declares that the goals of the state's  
29 energy strategy are to:

30 (a) Maintain competitive energy prices that have been an  
31 instrumental part of our state's economic success to date;

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

34 (c) Meet the state's obligations to reduce greenhouse gas  
35 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 as  
29 required in section 404 of this act.~~

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

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

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

1 (2) 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 (3) 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 (4) Reduce dependence on fossil fuel energy sources through  
9 improved efficiency and development of cleaner energy sources, such as  
10 bioenergy, natural gas, and other low-carbon energy sources;

11 (5) 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 land  
14 use policies that improve transportation choices;

15 (6) 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 (7) Build on the advantage provided by the state's clean regional  
19 electrical grid by expanding and integrating additional carbon-free  
20 generation and improving the transmission capacity serving the state;

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

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

28 (10) Develop and disseminate impartial and objective energy  
29 information and analysis, while taking full advantage of the  
30 capabilities of the state's institutions of higher education;

31 (11) Actively seek to maximize federal and other nonstate funding  
32 and support to the state for energy efficiency, renewable energy,  
33 emerging energy technologies, and other activities of benefit to the  
34 state's overall energy future; and

35 (12) Ensure that the state energy strategy provides primary  
36 guidance for consistent implementation of the state's energy policy by  
37 all agencies of the state.

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

3           (1)(a) By December 1, 2010, and every five years thereafter, the  
4 department ((shall review the state energy strategy as developed under  
5 section 1, chapter 201, Laws of 1991, periodically with the guidance of  
6 an advisory committee. For each review, an advisory committee shall be  
7 established with a membership resembling as closely as possible the  
8 original energy strategy advisory committee specified under section 1,  
9 chapter 201, Laws of 1991. Upon completion of a public hearing  
10 regarding the advisory committee's advice and recommendations for  
11 revisions to the energy strategy, a written report shall be conveyed by  
12 the department to the governor and the appropriate legislative  
13 committees. Any advisory committee established under this section  
14 shall be dissolved within three months after their written report is  
15 conveyed.)) of commerce shall produce and present to the legislature  
16 for consideration and approval a fully updated and revised state energy  
17 strategy and implementation report with the guidance of an advisory  
18 committee. The strategy shall, to the maximum extent feasible, examine  
19 the state's entire energy system and provide specific recommendations  
20 for both further development of state analytical capabilities and  
21 policies as well as implementation recommendations. The strategy may  
22 also provide recommendations for legislation necessary to facilitate  
23 implementation of the strategy to the governor and legislature. In  
24 addition, the department shall review related processes and documents  
25 relevant to a state energy strategy including but not limited to prior  
26 state energy strategies, the work of the clean energy leadership  
27 council, the climate advisory and action teams, the evergreen jobs  
28 committee, and the northwest power and conservation council. The  
29 strategy must build upon and be consistent with all relevant and  
30 applicable statutorily authorized energy and climate policies, goals,  
31 and programs, and may include recommendations for legislation.

32           (b) The initial state energy strategy update, and each future  
33 update or revision, must be approved by the legislature by concurrent  
34 resolution before the department may implement the strategy. In  
35 addition, the department's authority to implement the strategy is  
36 subject to availability of amounts appropriated for this purpose in the  
37 omnibus operating and capital appropriations acts.

1 (c) The department may periodically review and update the state  
2 energy strategy as necessary. The department shall engage an advisory  
3 committee as required in this section when updating the strategy.

4 (d) The director shall appoint an advisory committee with a  
5 membership reflecting a balance of the interests in energy generation,  
6 distribution, and uses, including: Residential, commercial,  
7 industrial, and agricultural users; electric and natural gas utilities,  
8 both consumer-owned and investor-owned; petroleum and natural gas  
9 industries; local governments; civic and environmental organizations;  
10 key public agencies; and other interested stakeholders. Upon  
11 completion of a public hearing regarding the advisory committee's  
12 advice and recommendations for revisions to the energy strategy, a  
13 written report must be conveyed by the department to the governor and  
14 the appropriate legislative committees. Any advisory committee  
15 established under this section must be dissolved within three months  
16 after the written report is conveyed.

17 (2) To assist in updates of the state energy strategy, the  
18 department of commerce shall actively seek both in-kind and financial  
19 support for this process from the United States department of energy  
20 and its national laboratories, other public agencies, private sector  
21 entities, foundations, and other energy organizations. In order to  
22 avoid competition among Washington state agencies, the department of  
23 commerce shall coordinate the search for such external support, unless  
24 it delegates its responsibility in specific instances to another state  
25 agency. The department of commerce shall develop a work plan for  
26 update of the strategy that reflects the levels of activities and  
27 deliverables commensurate with the level of funding and in-kind support  
28 available from state and nonstate sources.

29 **Sec. 405.** RCW 43.21F.055 and 1996 c 186 s 104 are each amended to  
30 read as follows:

31 The department shall not intervene in any ~~((regulatory))~~  
32 adjudicative proceeding before the Washington utilities and  
33 transportation commission or proceedings of utilities not regulated by  
34 the commission, but the department may seek leave to submit amicus  
35 curiae briefs on matters relevant to those proceedings. Nothing in  
36 this chapter abrogates or diminishes the functions, powers, or duties



1 of the energy facility site evaluation council pursuant to chapter  
2 80.50 RCW, the utilities and transportation commission pursuant to  
3 Title 80 RCW, or other state or local agencies established by law.

4 The department shall avoid duplication of activity with other state  
5 agencies and officers and other persons.

6 NEW SECTION. **Sec. 406.** The following acts or parts of acts are  
7 each repealed:

8 (1) RCW 43.21F.015 (State policy) and 1994 c 207 s 3 & 1981 c 295  
9 s 1.

10 **PART V**

11 **CRIMINAL JUSTICE TRAINING COMMISSION--DRUG**

12 **PROSECUTION ASSISTANCE PROGRAM**

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

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

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

31 (2)(a) All reports, documents, surveys, books, records, files,  
32 papers, or written material in the possession of the department of  
33 commerce pertaining to the powers, functions, and duties transferred  
34 shall be delivered to the custody of the criminal justice training

1 commission. All cabinets, furniture, office equipment, motor vehicles,  
2 and other tangible property employed by the department of commerce in  
3 carrying out the powers, functions, and duties transferred shall be  
4 made available to the criminal justice training commission. All funds,  
5 credits, or other assets held in connection with the powers, functions,  
6 and duties transferred shall be assigned to the criminal justice  
7 training commission.

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

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

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

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

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

36 (6) If apportionments of budgeted funds are required because of the  
37 transfers directed by this section, the director of financial  
38 management shall certify the apportionments to the agencies affected,

1 the state auditor, and the state treasurer. Each of these shall make  
2 the appropriate transfer and adjustments in funds and appropriation  
3 accounts and equipment records in accordance with the certification.

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

11 **PART VI**

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

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

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

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

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

1 RCW. The council shall otherwise retain its independence in exercising  
2 its powers, functions, and duties and its supervisory control over  
3 nonadministrative staff support. Membership, powers, functions, and  
4 duties of the Washington state utilities and transportation commission  
5 and the council shall otherwise remain as provided by law.

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

9 (i) Department of ecology;

10 (ii) Department of fish and wildlife;

11 (iii) Department of (~~community, trade, and economic development~~)  
12 commerce;

13 (iv) Utilities and transportation commission; and

14 (v) Department of natural resources.

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

20 (i) Department of agriculture;

21 (ii) Department of health;

22 (iii) Military department; and

23 (iv) Department of transportation.

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

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

36 (5) The city legislative authority of every city within whose  
37 corporate limits an energy plant is proposed to be located shall  
38 appoint a member or designee as a voting member to the council. The

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

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

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

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

34 (b) Any appropriations made to the department of commerce for  
35 carrying out the powers, functions, and duties transferred shall, on  
36 the effective date of this section, be transferred and credited to the  
37 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  
38 based upon the moneys appropriated to the (~~municipal research~~

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

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

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

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

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

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

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

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

34 (a) Studying and researching issues relating to special purpose  
35 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 NEW SECTION. **Sec. 801.** RCW 43.63A.150 is decodified.

20 NEW SECTION. **Sec. 802.** This act takes effect July 1, 2010.

--- END ---