
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2658

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, 36.27.100,
5 80.50.030, 43.110.030, 43.110.060, 43.110.080, 43.15.020, 35.21.185,
6 35.102.040, and 36.70B.220; reenacting and amending RCW 43.21F.025;
7 adding a new section to chapter 43.330 RCW; adding new sections to
8 chapter 43.70 RCW; adding a new section to chapter 43.21F RCW; creating
9 new sections; recodifying RCW 43.330.195, 43.330.200, 43.330.205,
10 43.330.210, 43.330.220, 43.330.225, 43.330.230, and 43.330.240;
11 decodifying RCW 43.63A.150; repealing RCW 43.21F.015, 43.110.010,
12 43.110.040, and 43.110.070; and providing an effective date.

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

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

16 (1) In 2009, the legislature changed the name of the department of
17 community, trade, and economic development to the department of
18 commerce and directed the agency to organize around a concise core
19 mission aligned with the state's economic development plan and around

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

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

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

37 (4)(a) The legislature recognizes that small businesses and
38 entrepreneurs are a foundation of the state's economy yet they

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

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

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

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

36 (b) The legislature directs the department of commerce to establish
37 a single division to contain community services and housing programs
38 that deliver essential services to individuals, families, and

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

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

28 **PART I**

29 **DEPARTMENT OF HEALTH--PUBLIC HEALTH**

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

32 (1) The county public health account is created in the state
33 treasury. Funds deposited in the county public health account shall be
34 distributed by the state treasurer to each local public health
35 jurisdiction based upon amounts certified to it by the department of
36 (~~community, trade, and economic development~~) health in consultation

1 with the Washington state association of counties. The account shall
2 include funds distributed under RCW 82.14.200(8) and such funds as are
3 appropriated to the account from the state general fund, the public
4 health services account under RCW 43.72.902, and such other funds as
5 the legislature may appropriate to it.

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

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

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

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

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

34 (2)(a) All reports, documents, surveys, books, records, files,
35 papers, or written material in the possession of the department of
36 commerce pertaining to the powers, functions, and duties transferred
37 shall be delivered to the custody of the department of health. All

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

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 health.

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

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

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

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

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

8 **PART II**

9 **DEPARTMENT OF HEALTH--DEVELOPMENTAL DISABILITIES**

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

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

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

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

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

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

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

35 (3) Members of the board shall be compensated for their service

1 under RCW 43.03.240 and shall be reimbursed for travel expenses as
2 provided in RCW 43.03.050 and 43.03.060.

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

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

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

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

18 The department (~~(of — commerce)~~) shall adopt rules for the
19 implementation of policies established by the governing board in RCW
20 43.330.200 through 43.330.230 (as recodified by this act). Such rules
21 will be consistent with those statutes and chapter 34.05 RCW.

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

- 24 RCW 43.330.195
- 25 RCW 43.330.200
- 26 RCW 43.330.205
- 27 RCW 43.330.210
- 28 RCW 43.330.220
- 29 RCW 43.330.225
- 30 RCW 43.330.230
- 31 RCW 43.330.240

32 NEW SECTION. **Sec. 204.** (1) All powers, duties, and functions of
33 the department of commerce pertaining to the developmental disabilities
34 endowment are transferred to the department of health. All references

1 to the director or the department of commerce in the Revised Code of
2 Washington shall be construed to mean the secretary or the department
3 of health when referring to the functions transferred in this section.

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

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

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

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

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

37 (5) The transfer of the powers, duties, functions, and personnel of

1 the department of commerce shall not affect the validity of any act
2 performed before the effective date of this section.

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

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

16 **PART III**
17 **BUILDING CODE COUNCIL**

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

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

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

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

23 (2) Members shall not be compensated but shall receive
24 reimbursement for travel expenses in accordance with RCW 43.03.050 and
25 43.03.060.

26 (3) The department of (~~community, — trade, — and — economic~~
27 ~~development~~) general administration shall provide administrative and
28 clerical assistance to the building code council.

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

31 (1) Each applicant for a building permit of a building
32 necessitating potable water shall provide evidence of an adequate water
33 supply for the intended use of the building. Evidence may be in the
34 form of a water right permit from the department of ecology, a letter
35 from an approved water purveyor stating the ability to provide water,
36 or another form sufficient to verify the existence of an adequate water
37 supply. In addition to other authorities, the county or city may

1 impose conditions on building permits requiring connection to an
2 existing public water system where the existing system is willing and
3 able to provide safe and reliable potable water to the applicant with
4 reasonable economy and efficiency. An application for a water right
5 shall not be sufficient proof of an adequate water supply.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (8) The state building code council shall evaluate and consider
36 adoption of the international energy conservation code in Washington
37 state in place of the existing state energy code.

1 (9) The definitions in RCW 19.27A.140 apply throughout this
2 section.

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

5 The definitions in this section apply to RCW 19.27A.130 through
6 19.27A.190 and 19.27A.020 unless the context clearly requires
7 otherwise.

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

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

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

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

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

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

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

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

31 (+7)) "Embodied energy" means the total amount of fossil fuel
32 energy consumed to extract raw materials and to manufacture, assemble,
33 transport, and install the materials in a building and the life-cycle
34 cost benefits including the recyclability and energy efficiencies with
35 respect to building materials, taking into account the total sum of
36 current values for the costs of investment, capital, installation,

1 operating, maintenance, and replacement as estimated for the lifetime
2 of the product or project.

3 ~~((+8))~~ (7) "Energy consumption data" means the monthly amount of
4 energy consumed by a customer as recorded by the applicable energy
5 meter for the most recent twelve-month period.

6 ~~((+9))~~ (8) "Energy service company" has the same meaning as in RCW
7 43.19.670.

8 ~~((+10))~~ (9) "General administration" means the department of
9 general administration.

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

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

17 ~~((+13))~~ (12) "Investor-owned utility" means a corporation owned by
18 investors that meets the definition of "corporation" as defined in RCW
19 80.04.010 and is engaged in distributing either electricity or natural
20 gas, or both, to more than one retail electric customer in the state.

21 ~~((+14))~~ (13) "Major facility" means any publicly owned or leased
22 building, or a group of such buildings at a single site, having ten
23 thousand square feet or more of conditioned floor space.

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

29 ~~((+16))~~ (15) "Net zero energy use" means a building with net
30 energy consumption of zero over a typical year.

31 ~~((+17))~~ (16) "Portfolio manager" means the United States
32 environmental protection agency's energy star portfolio manager or an
33 equivalent tool adopted by the department of general administration.

34 ~~((+18))~~ (17) "Preliminary energy audit" means a quick evaluation
35 by an energy service company of the energy savings potential of a
36 building.

37 ~~((+19))~~ (18) "Qualifying public agency" includes all state
38 agencies, colleges, and universities.

1 (~~(20)~~) (19) "Qualifying utility" means a consumer-owned or
2 investor-owned gas or electric utility that serves more than twenty-
3 five thousand customers in the state of Washington.

4 (~~(21)~~) (20) "Reporting public facility" means any of the
5 following:

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

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

13 (c) A wastewater treatment facility owned by a qualifying public
14 agency; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (j) Develop strategies to develop and install district and

1 neighborhood-wide energy systems that help meet net zero energy use in
2 homes and buildings;

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

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

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

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

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

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

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 department of general
35 administration. All cabinets, furniture, office equipment, motor
36 vehicles, and other tangible property employed by the department of

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

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

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

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

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

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

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

1 the appropriate transfer and adjustments in funds and appropriation
2 accounts and equipment records in accordance with the certification.

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

10 **PART IV**

11 **DEPARTMENT OF COMMERCE--ENERGY POLICY**

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

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

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

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

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

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

33 (c) Meet the state's obligations to reduce greenhouse gas
34 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 NEW SECTION. Sec. 405. RCW 43.21F.015 (State policy) and 1994 c
30 207 s 3 & 1981 c 295 s 1 are each repealed.

31 **PART V**
32 **CRIMINAL JUSTICE TRAINING COMMISSION--DRUG**
33 **PROSECUTION ASSISTANCE PROGRAM**

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

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

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

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

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

32 (c) Whenever any question arises as to the transfer of any
33 personnel, funds, books, documents, records, papers, files, equipment,
34 or other tangible property used or held in the exercise of the powers
35 and the performance of the duties and functions transferred, the
36 director of financial management shall make a determination as to the
37 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 43.110.030 and 2000 c 227 s 3 are each amended to
27 read as follows:

28 (1) The (~~municipal research council~~) department of commerce shall
29 contract for the provision of municipal research and services to
30 cities, towns, and counties. Contracts for municipal research and
31 services shall be made with state agencies, educational institutions,
32 or private consulting firms, that in the judgment of (~~council~~
33 ~~members~~) the department are qualified to provide such research and
34 services. Contracts for staff support may be made with state agencies,
35 educational institutions, or private consulting firms that in the

1 judgment of the (~~council members~~) department are qualified to provide
2 such support.

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

4 (~~(1)~~) (a) Studying and researching city, town, and county
5 government and issues relating to city, town, and county government;

6 (~~(2)~~) (b) Acquiring, preparing, and distributing publications
7 related to city, town, and county government and issues relating to
8 city, town, and county government;

9 (~~(3)~~) (c) Providing educational conferences relating to city,
10 town, and county government and issues relating to city, town, and
11 county government; and

12 (~~(4)~~) (d) Furnishing legal, technical, consultative, and field
13 services to cities, towns, and counties concerning planning, public
14 health, utility services, fire protection, law enforcement, public
15 works, and other issues relating to city, town, and county government.

16 (3) Requests for legal services by county officials shall be sent
17 to the office of the county prosecuting attorney. Responses by the
18 (~~municipal research council~~) department of commerce to county
19 requests for legal services shall be provided to the requesting
20 official and the county prosecuting attorney.

21 (4) The (~~activities, programs, and services of the municipal~~
22 ~~research council shall be carried on in cooperation~~) department of
23 commerce shall coordinate with the association of Washington cities and
24 the Washington state association of counties in carrying out the
25 activities in this section. Services to cities and towns shall be
26 based upon the moneys appropriated to the (~~municipal research~~
27 ~~council~~) department from the city and town research services account
28 under RCW 43.110.060. Services to counties shall be based upon the
29 moneys appropriated to the (~~municipal research council~~) department
30 from the county research services account under RCW 43.110.050.

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

33 The city and town research services account is created in the state
34 treasury. Moneys in the account shall consist of amounts transferred
35 under RCW 66.08.190(2) and any other transfers or appropriations to the
36 account. Moneys in the account may be spent only after an

1 appropriation. Expenditures from the account may be used only for city
2 and town research.

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

7 ~~((The treasurer may disburse amounts appropriated to the municipal
8 research council from the city and town research services account by
9 warrant or check to the contracting parties on invoices or vouchers
10 certified by the chair of the municipal research council or his or her
11 designee.))~~ Payments to public agencies may be made in advance of
12 actual work contracted for, at the discretion of the ~~((council))~~
13 department of commerce.

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

16 (1) The ~~((municipal research council))~~ department of commerce shall
17 contract for the provision of research and services to special purpose
18 districts. A contract shall be made with a state agency, educational
19 institution, or private consulting firm, that in the judgment of
20 ~~((council members))~~ the department is qualified to provide such
21 research and services.

22 (2) Research and services to special purpose districts shall
23 consist of:

24 (a) Studying and researching issues relating to special purpose
25 district government;

26 (b) Acquiring, preparing, and distributing publications related to
27 special purpose districts; and

28 (c) Furnishing legal, technical, consultative, and field services
29 to special purpose districts concerning issues relating to special
30 purpose district government.

31 (3) The ~~((activities, programs, and services of the municipal
32 research council to special purpose districts shall be carried on in
33 cooperation))~~ department of commerce shall coordinate with the
34 associations representing the various special purpose districts with
35 respect to carrying out the activities in this section. Services to
36 special purpose districts shall be based upon the moneys appropriated

1 to the (~~municipal research council~~) department of commerce from the
2 special purpose district research services account under RCW
3 43.110.090.

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

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

9 (1) The lieutenant governor serves on the following boards and
10 committees:

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

12 (b) Washington higher education facilities authority, RCW
13 28B.07.030;

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

16 (d) State finance committee, RCW 43.33.010;

17 (e) State capitol committee, RCW 43.34.010;

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

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

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

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

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

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

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

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

27 (d) Sentencing guidelines commission, RCW 9.94A.860;

28 (e) State building code council, RCW 19.27.070;

29 (f) Women's history consortium board of advisors, RCW 27.34.365;

30 (g) Financial (~~literacy~~) education public-private partnership,
31 RCW 28A.300.450;

32 (h) Joint administrative rules review committee, RCW 34.05.610;

33 (i) Capital projects advisory review board, RCW 39.10.220;

34 (j) Select committee on pension policy, RCW 41.04.276;

35 (k) Legislative ethics board, RCW 42.52.310;

36 (l) Washington citizens' commission on salaries, RCW 43.03.305;

37 (m) Legislative oral history committee, RCW 44.04.325;

1 (n) State council on aging, RCW 43.20A.685;
2 (o) State investment board, RCW 43.33A.020;
3 (p) Capitol campus design advisory committee, RCW 43.34.080;
4 (q) Washington state arts commission, RCW 43.46.015;
5 (r) Information services board, RCW 43.105.032;
6 (s) K-20 educational network board, RCW 43.105.800;
7 (t) (~~(Municipal research council, RCW 43.110.010;~~
8 ~~(u))~~) Council for children and families, RCW 43.121.020;
9 (~~(v))~~) (u) PNWER-Net working subgroup under chapter 43.147 RCW;
10 (~~(w))~~) (v) Community economic revitalization board, RCW
11 43.160.030;
12 (~~(x))~~) (w) Washington economic development finance authority, RCW
13 43.163.020;
14 (~~(y))~~) (x) Life sciences discovery fund authority, RCW 43.350.020;
15 (~~(z))~~) (y) Legislative children's oversight committee, RCW
16 44.04.220;
17 (~~(aa))~~) (z) Joint legislative audit and review committee, RCW
18 44.28.010;
19 (~~(bb))~~) (aa) Joint committee on energy supply and energy
20 conservation, RCW 44.39.015;
21 (~~(cc))~~) (bb) Legislative evaluation and accountability program
22 committee, RCW 44.48.010;
23 (~~(dd))~~) (cc) Agency council on coordinated transportation, RCW
24 47.06B.020;
25 (~~(ee))~~) (dd) Manufactured housing task force, RCW 59.22.090;
26 (~~(ff))~~) (ee) Washington horse racing commission, RCW 67.16.014;
27 (~~(gg))~~) (ff) Correctional industries board of directors, RCW
28 72.09.080;
29 (~~(hh))~~) (gg) Joint committee on veterans' and military affairs,
30 RCW 73.04.150;
31 (~~(ii))~~) (hh) Joint legislative committee on water supply during
32 drought, RCW 90.86.020;
33 (~~(jj))~~) (ii) Statute law committee, RCW 1.08.001; and
34 (~~(kk))~~) (jj) Joint legislative oversight committee on trade
35 policy, RCW 44.55.020.

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

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

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

10 (3) The clerk of every city and town is directed to provide to the
11 ~~((municipal research council)) department~~ or its designee, promptly
12 after adoption, a copy of each of its regulatory ordinances and such
13 other ordinances or kinds of ordinances as may be described in a list
14 or lists promulgated by the ~~((municipal research council)) department~~
15 or its designee from time to time, and may provide such copies without
16 charge. The ~~((municipal research council)) department~~ may provide that
17 information to the entity with which it contracts for the provision of
18 municipal research and services, in order to provide a pool of
19 information for all cities and towns in the state of Washington.

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

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

23 (1)(a) The cities, working through the association of Washington
24 cities, shall form a model ordinance development committee made up of
25 a representative sampling of cities that as of July 27, 2003, impose a
26 business and occupation tax. This committee shall work through the
27 association of Washington cities to adopt a model ordinance on
28 municipal gross receipts business and occupation tax. The model
29 ordinance and subsequent amendments shall be adopted using a process
30 that includes opportunity for substantial input from business
31 stakeholders and other members of the public. Input shall be solicited
32 from statewide business associations and from local chambers of
33 commerce and downtown business associations in cities that levy a
34 business and occupation tax.

35 (b) The ~~((municipal research council)) department of commerce~~ shall
36 contract to post the model ordinance on an internet web site and to
37 make paper copies available for inspection upon request. The

1 department of revenue and the department of licensing shall post copies
2 of or links to the model ordinance on their internet web sites.
3 Additionally, a city that imposes a business and occupation tax must
4 make copies of its ordinance available for inspection and copying as
5 provided in chapter 42.56 RCW.

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

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

14 (a) A system of credits that meets the requirements of RCW
15 35.102.060 and a form for such use;

16 (b) A uniform, minimum small business tax threshold of at least the
17 equivalent of twenty thousand dollars in gross income annually. A city
18 may elect to deviate from this requirement by creating a higher
19 threshold or exemption but it shall not deviate lower than the level
20 required in this subsection. If a city has a small business threshold
21 or exemption in excess of that provided in this subsection as of
22 January 1, 2003, and chooses to deviate below the threshold or
23 exemption level that was in place as of January 1, 2003, the city must
24 notify all businesses licensed to do business within the city at least
25 one hundred twenty days prior to the potential implementation of a
26 lower threshold or exemption amount;

27 (c) Tax reporting frequencies that meet the requirements of RCW
28 35.102.070;

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

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

32 (f) Refund provisions that meet the requirements of RCW 35.102.110;
33 and

34 (g) Definitions, which at a minimum, must include the definitions
35 enumerated in RCW 35.102.030 and 35.102.120. The definitions in
36 chapter 82.04 RCW shall be used as the baseline for all definitions in
37 the model ordinance, and any deviation in the model ordinance from

1 these definitions must be described by a comment in the model
2 ordinance.

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

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

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

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

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

18 (a) Make available to permit applicants all current local
19 government regulations and adopted policies that apply to the subject
20 application. The local government shall provide counter copies thereof
21 and, upon request, provide copies according to chapter 42.56 RCW. The
22 staff shall also publish and keep current one or more handouts
23 containing lists and explanations of all local government regulations
24 and adopted policies;

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

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

29 (3) Permit assistance staff designated under this section may
30 obtain technical assistance and support in the compilation and
31 production of the handouts under subsection (2) of this section from
32 the (~~municipal-research-council-and-the-department-of-community,~~
33 ~~trade, and economic development~~) department of commerce.

34 NEW SECTION. **Sec. 708.** The following acts or parts of acts are
35 each repealed:

1 (1) RCW 43.110.010 (Council created--Membership--Terms--Travel
2 expenses) and 2001 c 290 s 1, 1997 c 437 s 1, 1990 c 104 s 1, 1983 c 22
3 s 1, 1975-'76 2nd ex.s. c 34 s 129, 1975 1st ex.s. c 218 s 1, & 1969 c
4 108 s 2;

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

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

9 NEW SECTION. **Sec. 709.** (1) The municipal research council is
10 hereby abolished and its powers, duties, and functions are hereby
11 transferred to the department of commerce. All references to the
12 municipal research council in the Revised Code of Washington shall be
13 construed to mean the department of commerce.

14 (2)(a) All reports, documents, surveys, books, records, files,
15 papers, or written material in the possession of the municipal research
16 council shall be delivered to the custody of the department of
17 commerce. All cabinets, furniture, office equipment, motor vehicles,
18 and other tangible property employed by the municipal research council
19 shall be made available to the department of commerce. All funds,
20 credits, or other assets held by the municipal research council shall
21 be assigned to the department of commerce.

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

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

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

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

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

7 **PART VIII**

8 **MISCELLANEOUS PROVISIONS**

9 NEW SECTION. **Sec. 801.** RCW 43.63A.150 is decodified.

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

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