

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2658

Chapter 271, Laws of 2010

(partial veto)

61st Legislature
2010 Regular Session

DEPARTMENT OF COMMERCE--MISSION

EFFECTIVE DATE: 07/01/10

Passed by the House March 11, 2010
Yeas 61 Nays 36

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 11, 2010
Yeas 45 Nays 2

BRAD OWEN

President of the Senate

Approved April 1, 2010, 2:21 p.m., with
the exception of Section 404 which is
vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of
the House of Representatives of
the State of Washington, do hereby
certify that the attached is
**ENGROSSED SECOND SUBSTITUTE HOUSE
BILL 2658** as passed by the House of
Representatives and the Senate on
the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

April 2, 2010

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2658

AS AMENDED BY THE SENATE

Passed Legislature - 2010 Regular Session

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 43.330.005,
3 43.330.007, 70.05.125, 43.330.210, 43.330.240, 19.27.070, 19.27.097,
4 19.27.150, 19.27A.020, 19.27A.140, 19.27A.150, 19.27A.180, 43.21F.010,
5 43.21F.090, 36.27.100, 80.50.030, 43.110.030, 43.110.060, 43.110.080,
6 43.15.020, 35.21.185, 35.102.040, and 36.70B.220; reenacting and
7 amending RCW 43.21F.025 and 41.06.070; adding new sections to chapter
8 43.70 RCW; adding a new section to chapter 43.21F RCW; creating new
9 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; providing an effective date; and providing
13 an expiration date.

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

15 NEW SECTION. **Sec. 1.** In 2009, the legislature changed the name of
16 the department of community, trade, and economic development to the
17 department of commerce and directed the agency to, among other things,
18 develop a report with recommendations on statutory changes to ensure
19 that the department's efforts: Are organized around a concise core

1 mission and aligned with the state's comprehensive plan for economic
2 development; generate greater local capacity; maximize results through
3 partnerships and the use of intermediaries; and provide transparency
4 and increased accountability. Recommendations for creating or
5 consolidating programs deemed important to meeting the department's
6 core mission and recommendations for terminating or transferring
7 specific programs if they are not consistent with the department's core
8 mission were to be included in the report.

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

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

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

24 The legislature finds that the long-term economic health of the
25 state and its citizens depends upon the strength and vitality of its
26 communities and businesses. It is the intent of this chapter to create
27 a ~~((merged))~~ department of ~~((community, — trade, — and — economic
28 development))~~ commerce that fosters new partnerships for strong and
29 sustainable communities. ~~((The consolidation of the department of
30 trade — and — economic — development — and — the — department — of — community
31 development into one department will))~~ The mission of the department is
32 to grow and improve jobs in Washington and facilitate innovation. To
33 carry out its mission, the department will bring together focused
34 efforts to: Streamline access to business assistance and economic
35 development services by providing ~~((a simpler point of entry for state
36 programs))~~ them through sector-based, cluster-based, and regional
37 partners; provide focused and flexible responses to changing economic

1 conditions; generate greater local capacity to respond to both economic
2 growth and environmental challenges; ~~((and))~~ increase accountability to
3 the public, the executive branch, and the legislature(~~(-~~

4 ~~A new department can bring together a focused effort to+))~~; manage
5 growth and achieve sustainable development; diversify the state's
6 economy and export goods and services; provide greater access to
7 economic opportunity; stimulate private sector investment and
8 entrepreneurship; provide stable family-wage jobs and meet the diverse
9 needs of families; provide affordable housing and housing services; and
10 construct public infrastructure(~~(; protect our cultural heritage; and~~
11 ~~promote the health and safety of the state's citizens))~~).

12 The legislature further finds that as a result of the rapid pace of
13 global social and economic change, the state and local communities will
14 require coordinated and creative responses by every segment of the
15 community. The state can play a role in assisting such local efforts
16 by reorganizing state assistance efforts to promote such partnerships.
17 The department has a primary responsibility to provide financial and
18 technical assistance to the communities of the state, to assist in
19 improving the delivery of federal, state, and local programs, and to
20 provide communities with opportunities for productive and coordinated
21 development beneficial to the well-being of communities and their
22 residents. It is the intent of the legislature in ~~((this~~
23 ~~consolidation))~~ creating the department to maximize the use of local
24 expertise and resources in the delivery of community and economic
25 development services.

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

28 (1) The purpose of this chapter is to establish the broad outline
29 of the structure of the department of commerce, leaving specific
30 details of its internal organization and management to those charged
31 with its administration. This chapter identifies the broad functions
32 and responsibilities of the department and is intended to provide
33 flexibility to the director to reorganize these functions to more
34 closely reflect its customers, its mission, and its priorities, and to
35 make recommendations for changes.

36 (2) In order to generate greater local capacity, maximize results
37 through partnerships and the use of intermediaries, and leverage the

1 use of state resources, the department shall, in carrying out its
2 business assistance and economic development functions, provide
3 business and economic development services primarily through sector-
4 based, cluster-based, and regionally based organizations rather than
5 providing assistance directly to individual firms.

6 NEW SECTION. Sec. 4. The department shall examine the functions
7 and operations of agricultural commodity commissions in the state and
8 collaborate with industry sector and cluster associations on
9 legislation that would enable industries to develop self-financing
10 systems for addressing industry-identified issues such as workforce
11 training, international marketing, quality improvement, and technology
12 deployment. By December 1, 2010, the department shall report to the
13 governor and the legislature on its findings and proposed legislation.

14 NEW SECTION. Sec. 5. (1) The legislature recognizes that there
15 are many strong community services and housing programs currently
16 operating within the department and serving our most vulnerable
17 individuals, families, and communities. The legislature finds that
18 some of these programs can readily be transferred beginning on July 1,
19 2010, to other mission-aligned agencies in state government. However,
20 the legislature finds that to maintain the strength and credibility of
21 the majority of the department's community services and housing
22 programs, it is necessary to create a separate division for them within
23 the department.

24 (2)(a) The legislature directs the department to establish the
25 community services and housing division to deliver essential services
26 to individuals, families, and communities.

27 (b) Services provided by the division shall include, but are not
28 limited to: (i) Homeless housing and assistance programs including
29 transitional housing, emergency shelter grants, independent youth
30 housing, housing assistance for persons with mental illness, and
31 housing opportunities for people with AIDS; (ii) affordable housing
32 development programs including the housing trust fund and low-income
33 home energy assistance; (iii) farm worker housing; (iv) crime victims'
34 advocacy and sexual assault services; (v) community mobilization
35 against substance abuse and violence; (vi) asset building for working
36 families; (vii) local and community projects including the building

1 communities fund, building for the arts, and youth recreational
2 facilities grants; (viii) dispute resolution centers; (ix) the
3 Washington families fund; (x) community services block grants; (xi)
4 child care facility fund; (xii) WorkFirst community jobs; (xiii) long-
5 term care ombudsman; (xiv) state drug task forces; (xv) justice
6 assistance grants; (xvi) children and families of incarcerated parents;
7 and (xvii) the Washington new Americans program.

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

9 **PART I**

10 **DEPARTMENT OF HEALTH--PUBLIC HEALTH**

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

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

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

27 (b) Only if funds are available and in an amount no greater than
28 available funds under RCW 82.14.200(8), the department of community,
29 trade, and economic development shall adjust the amount certified under
30 (a) of this subsection to compensate for any annexation of an area with
31 fifty thousand residents or more to any city as a result of a petition
32 during calendar year 1996 or 1997, or for any city that became newly
33 incorporated as a result of an election during calendar year 1994 or
34 1995. The amount to be adjusted shall be equal to the amount which
35 otherwise would have been lost to the health jurisdiction due to the

1 annexation or incorporation as calculated using the jurisdiction's 1995
2 funding formula.

3 (c) The county treasurer shall certify the actual 1995 city
4 contribution to the department. Funds in excess of the base shall be
5 distributed proportionately among the health jurisdictions based on
6 incorporated population figures as last determined by the office of
7 financial management.

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

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

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

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

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

36 (3) All employees of the department of commerce engaged in
37 performing the powers, functions, and duties transferred are

1 transferred to the jurisdiction of the department of health. All
2 employees classified under chapter 41.06 RCW, the state civil service
3 law, are assigned to the department of health to perform their usual
4 duties upon the same terms as formerly, without any loss of rights,
5 subject to any action that may be appropriate thereafter in accordance
6 with the laws and rules governing state civil service.

7 (4) All rules and all pending business before the department of
8 commerce pertaining to the powers, functions, and duties transferred
9 shall be continued and acted upon by the department of health. All
10 existing contracts and obligations shall remain in full force and shall
11 be performed by the department of health.

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

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

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

28 **PART II**

29 **DEPARTMENT OF HEALTH--DEVELOPMENTAL DISABILITIES**

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

32 The developmental disabilities endowment governing board is
33 established to design and administer the developmental disabilities
34 endowment. To the extent funds are appropriated for this purpose, the
35 ((director)) secretary of the department ((of commerce)) shall provide
36 staff and administrative support to the governing board.

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

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

6 (b) Three members of the board, who shall be appointed by the
7 governor, shall be persons who have demonstrated expertise and
8 leadership in areas such as business, developmental disabilities
9 service design, management, or public policy, and shall be family
10 members of persons with developmental disabilities.

11 (c) The seventh member of the board, who shall serve as chair of
12 the board, shall be appointed by the remaining six members of the
13 board.

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

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

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

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

29 (6) Members of the governing board and the state investment board
30 are not liable to the state, to the fund, or to any other person as a
31 result of their activities as members, whether ministerial or
32 discretionary, except for willful dishonesty or intentional violations
33 of law. The department and the state investment board, respectively,
34 may purchase liability insurance for members.

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

37 The department (~~(of — commerce)~~) shall adopt rules for the

1 implementation of policies established by the governing board in RCW
2 43.330.200 through 43.330.230 (as recodified by this act). Such rules
3 will be consistent with those statutes and chapter 34.05 RCW.

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

- 6 RCW 43.330.195
- 7 RCW 43.330.200
- 8 RCW 43.330.205
- 9 RCW 43.330.210
- 10 RCW 43.330.220
- 11 RCW 43.330.225
- 12 RCW 43.330.230
- 13 RCW 43.330.240

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

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

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

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

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

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

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

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

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

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

33 PART III

34 BUILDING CODE COUNCIL

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

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

3 (1) The state building code council shall consist of fifteen
4 members, two of whom shall be county elected legislative body members
5 or elected executives and two of whom shall be city elected legislative
6 body members or mayors. One of the members shall be a local government
7 building code enforcement official and one of the members shall be a
8 local government fire service official. Of the remaining nine members,
9 one member shall represent general construction, specializing in
10 commercial and industrial building construction; one member shall
11 represent general construction, specializing in residential and
12 multifamily building construction; one member shall represent the
13 architectural design profession; one member shall represent the
14 structural engineering profession; one member shall represent the
15 mechanical engineering profession; one member shall represent the
16 construction building trades; one member shall represent manufacturers,
17 installers, or suppliers of building materials and components; one
18 member shall be a person with a physical disability and shall represent
19 the disability community; and one member shall represent the general
20 public. At least six of these fifteen members shall reside east of the
21 crest of the Cascade mountains. The council shall include: Two
22 members of the house of representatives appointed by the speaker of the
23 house, one from each caucus; two members of the senate appointed by the
24 president of the senate, one from each caucus; and an employee of the
25 electrical division of the department of labor and industries, as ex
26 officio, nonvoting members with all other privileges and rights of
27 membership. Terms of office shall be for three years. The council
28 shall elect a member to serve as chair of the council for one-year
29 terms of office. Any member who is appointed by virtue of being an
30 elected official or holding public employment shall be removed from the
31 council if he or she ceases being such an elected official or holding
32 such public employment. Before making any appointments to the building
33 code council, the governor shall seek nominations from recognized
34 organizations which represent the entities or interests listed in this
35 subsection. Members serving on the council on July 28, 1985, may
36 complete their terms of office. Any vacancy shall be filled by
37 alternating appointments from governmental and nongovernmental entities

1 or interests until the council is constituted as required by this
2 subsection.

3 (2) Members shall not be compensated but shall receive
4 reimbursement for travel expenses in accordance with RCW 43.03.050 and
5 43.03.060.

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

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

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

23 (2) Within counties not required or not choosing to plan pursuant
24 to RCW 36.70A.040, the county and the state may mutually determine
25 those areas in the county in which the requirements of subsection (1)
26 of this section shall not apply. The departments of health and ecology
27 shall coordinate on the implementation of this section. Should the
28 county and the state fail to mutually determine those areas to be
29 designated pursuant to this subsection, the county may petition the
30 department of (~~community, trade, and economic development~~) general
31 administration to mediate or, if necessary, make the determination.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 (b) The state energy code for residential structures does not
2 preempt a city, town, or county's energy code for residential
3 structures which exceeds the requirements of the state energy code and
4 which was adopted by the city, town, or county prior to March 1, 1990.
5 Such cities, towns, or counties may not subsequently amend their energy
6 code for residential structures to exceed the requirements adopted
7 prior to March 1, 1990.

8 (7) The state building code council shall consult with the
9 department of (~~community, trade, and economic development~~) general
10 administration as provided in RCW 34.05.310 prior to publication of
11 proposed rules. The director of the department of (~~community, trade,~~
12 ~~and economic development~~) general administration shall recommend to
13 the state building code council any changes necessary to conform the
14 proposed rules to the requirements of this section.

15 (8) The state building code council shall evaluate and consider
16 adoption of the international energy conservation code in Washington
17 state in place of the existing state energy code.

18 (9) The definitions in RCW 19.27A.140 apply throughout this
19 section.

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

22 The definitions in this section apply to RCW 19.27A.130 through
23 19.27A.190 and 19.27A.020 unless the context clearly requires
24 otherwise.

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

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

30 (3) "Consumer-owned utility" includes a municipal electric utility
31 formed under Title 35 RCW, a public utility district formed under Title
32 54 RCW, an irrigation district formed under chapter 87.03 RCW, a
33 cooperative formed under chapter 23.86 RCW, a mutual corporation or
34 association formed under chapter 24.06 RCW, a port district formed
35 under Title 53 RCW, or a water-sewer district formed under Title 57
36 RCW, that is engaged in the business of distributing electricity to one
37 or more retail electric customers in the state.

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

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

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

9 (6) (~~"Department" means the department of community, trade, and~~
10 ~~economic development.~~
11 ~~(7)~~) "Embodied energy" means the total amount of fossil fuel
12 energy consumed to extract raw materials and to manufacture, assemble,
13 transport, and install the materials in a building and the life-cycle
14 cost benefits including the recyclability and energy efficiencies with
15 respect to building materials, taking into account the total sum of
16 current values for the costs of investment, capital, installation,
17 operating, maintenance, and replacement as estimated for the lifetime
18 of the product or project.

19 (~~(8)~~) (7) "Energy consumption data" means the monthly amount of
20 energy consumed by a customer as recorded by the applicable energy
21 meter for the most recent twelve-month period.

22 (~~(9)~~) (8) "Energy service company" has the same meaning as in RCW
23 43.19.670.

24 (~~(10)~~) (9) "General administration" means the department of
25 general administration.

26 (~~(11)~~) (10) "Greenhouse gas" and "greenhouse gases" includes
27 carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,
28 perfluorocarbons, and sulfur hexafluoride.

29 (~~(12)~~) (11) "Investment grade energy audit" means an intensive
30 engineering analysis of energy efficiency and management measures for
31 the facility, net energy savings, and a cost-effectiveness
32 determination.

33 (~~(13)~~) (12) "Investor-owned utility" means a corporation owned by
34 investors that meets the definition of "corporation" as defined in RCW
35 80.04.010 and is engaged in distributing either electricity or natural
36 gas, or both, to more than one retail electric customer in the state.

37 (~~(14)~~) (13) "Major facility" means any publicly owned or leased

1 building, or a group of such buildings at a single site, having ten
2 thousand square feet or more of conditioned floor space.

3 ~~((15))~~ (14) "National energy performance rating" means the score
4 provided by the energy star program, to indicate the energy efficiency
5 performance of the building compared to similar buildings in that
6 climate as defined in the United States environmental protection agency
7 "ENERGY STAR® Performance Ratings Technical Methodology."

8 ~~((16))~~ (15) "Net zero energy use" means a building with net
9 energy consumption of zero over a typical year.

10 ~~((17))~~ (16) "Portfolio manager" means the United States
11 environmental protection agency's energy star portfolio manager or an
12 equivalent tool adopted by the department of general administration.

13 ~~((18))~~ (17) "Preliminary energy audit" means a quick evaluation
14 by an energy service company of the energy savings potential of a
15 building.

16 ~~((19))~~ (18) "Qualifying public agency" includes all state
17 agencies, colleges, and universities.

18 ~~((20))~~ (19) "Qualifying utility" means a consumer-owned or
19 investor-owned gas or electric utility that serves more than twenty-
20 five thousand customers in the state of Washington.

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

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

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

30 (c) A wastewater treatment facility owned by a qualifying public
31 agency; or

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

33 ~~((22))~~ (21) "State portfolio manager master account" means a
34 portfolio manager account established to provide a single shared
35 portfolio that includes reports for all the reporting public
36 facilities.

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

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

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

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

18 (a) Consider development of aspirational codes separate from the
19 state energy code that contain economically and technically feasible
20 optional standards that could achieve higher energy efficiency for
21 those builders that elected to follow the aspirational codes in lieu of
22 or in addition to complying with the standards set forth in the state
23 energy code;

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

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

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

33 (e) Recommend incentives, education, training programs and
34 certifications, particularly state-approved training or certification
35 programs, joint apprenticeship programs, or labor-management
36 partnership programs that train workers for energy-efficiency projects
37 to ensure proposed programs are designed to increase building

1 professionals' ability to design, construct, and operate buildings that
2 will meet the seventy percent reduction in annual net energy
3 consumption as specified in RCW 19.27A.160;

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

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

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

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

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

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

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

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

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

29 By December 31, 2009, to the extent that funding is appropriated
30 specifically for the purposes of this section, the department of
31 commerce shall develop and recommend to the legislature a methodology
32 to determine an energy performance score for residential buildings and
33 an implementation strategy to use such information to improve the
34 energy efficiency of the state's existing housing supply. In
35 developing its strategy, the department of commerce shall seek input
36 from providers of residential energy audits, utilities, building

1 contractors, mixed use developers, the residential real estate
2 industry, and real estate listing and form providers.

3 NEW SECTION. **Sec. 308.** (1) All powers, duties, and functions of
4 the department of commerce pertaining to administrative and support
5 services for the state building code council are transferred to the
6 department of general administration. All references to the director
7 or the department of commerce in the Revised Code of Washington shall
8 be construed to mean the director or the department of general
9 administration when referring to the functions transferred in this
10 section. Policy and planning assistance functions performed by the
11 department of commerce remain with the department of commerce.

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

23 (b) Any appropriations made to the department of commerce for
24 carrying out the powers, functions, and duties transferred shall, on
25 the effective date of this section, be transferred and credited to the
26 department of general administration.

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

33 (3) All employees of the department of commerce engaged in
34 performing the powers, functions, and duties transferred are
35 transferred to the jurisdiction of the department of general
36 administration. All employees classified under chapter 41.06 RCW, the
37 state civil service law, are assigned to the department of general

1 administration to perform their usual duties upon the same terms as
2 formerly, without any loss of rights, subject to any action that may be
3 appropriate thereafter in accordance with the laws and rules governing
4 state civil service.

5 (4) All rules and all pending business before the department of
6 commerce pertaining to the powers, functions, and duties transferred
7 shall be continued and acted upon by the department of general
8 administration. All existing contracts and obligations shall remain in
9 full force and shall be performed by the department of general
10 administration.

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

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

20 (7) All classified employees of the department of commerce assigned
21 to the department of general administration under this section whose
22 positions are within an existing bargaining unit description at the
23 department of general administration shall become a part of the
24 existing bargaining unit at the department of general administration
25 and shall be considered an appropriate inclusion or modification of the
26 existing bargaining unit under the provisions of chapter 41.80 RCW.

27 **PART IV**

28 **DEPARTMENT OF COMMERCE--ENERGY POLICY**

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

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

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

34 (b) Engages public agencies and stakeholders in a thoughtful,
35 deliberative process that creates a cohesive plan that earns sustained

1 support of the public and organizations and institutions that will
2 ultimately be responsible for implementation and execution of the plan;
3 and

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

6 (2) The legislature further finds that energy drives the entire
7 modern economy from petroleum for vehicles to electricity to light
8 homes and power businesses. The legislature further finds that the
9 nation and the world have started the transition to a clean energy
10 economy, with significant improvements in energy efficiency and
11 investments in new clean and renewable energy resources and
12 technologies. The legislature further finds this transition may
13 increase or decrease energy costs and efforts should be made to
14 mitigate cost increases.

15 (3) The legislature finds and declares that it is the continuing
16 purpose of state government, consistent with other essential
17 considerations of state policy, to foster wise and efficient energy use
18 and to promote energy self-sufficiency through the use of indigenous
19 and renewable energy sources, consistent with the promotion of reliable
20 energy sources, the general welfare, and the protection of
21 environmental quality.

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

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

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

29 (c) Meet the state's obligations to reduce greenhouse gas
30 emissions.

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

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

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

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

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

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

15 (6) "Person" means an individual, partnership, joint venture,
16 private or public corporation, association, firm, public service
17 company, political subdivision, municipal corporation, government
18 agency, public utility district, joint operating agency, or any other
19 entity, public or private, however organized; and

20 (7) "State energy strategy" means the document (~~(and energy policy~~
21 ~~direction))~~ developed (~~(under section 1, chapter 201, Laws of 1991~~
22 ~~including any related appendices))~~ and updated by the department as
23 allowed in RCW 43.21F.090.

24 NEW SECTION. Sec. 403. A new section is added to chapter 43.21F
25 RCW to read as follows:

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

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

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

34 (c) Maintain and enhance economic competitiveness by ensuring an
35 affordable and reliable supply of energy resources and by supporting
36 clean energy technology innovation, access to clean energy markets
37 worldwide, and clean energy business and workforce development;

1 (d) Reduce dependence on fossil fuel energy sources through
2 improved efficiency and development of cleaner energy sources, such as
3 bioenergy, low-carbon energy sources, and natural gas, and leveraging
4 the indigenous resources of the state for the production of clean
5 energy;

6 (e) Improve efficiency of transportation energy use through
7 advances in vehicle technology, increased system efficiencies,
8 development of electricity, biofuels, and other clean fuels, and
9 regional transportation planning to improve transportation choices;

10 (f) Meet the state's statutory greenhouse gas limits and
11 environmental requirements as the state develops and uses energy
12 resources;

13 (g) Build on the advantage provided by the state's clean regional
14 electrical grid by expanding and integrating additional carbon-free and
15 carbon-neutral generation, and improving the transmission capacity
16 serving the state;

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

19 (i) Maintain and enhance our state's existing energy
20 infrastructure.

21 (2) The department shall:

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

27 (b) Develop and disseminate impartial and objective energy
28 information and analysis, while taking full advantage of the
29 capabilities of the state's institutions of higher education, national
30 laboratory, and other organizations with relevant expertise and
31 analytical capabilities;

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

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

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

3 ~~(1) By December 1, 2010, the department ((shall review the state~~
4 ~~energy strategy as developed under section 1, chapter 201, Laws of~~
5 ~~1991, periodically with the guidance of an advisory committee. For~~
6 ~~each review, an advisory committee shall be established with a~~
7 ~~membership resembling as closely as possible the original energy~~
8 ~~strategy advisory committee specified under section 1, chapter 201,~~
9 ~~Laws of 1991. Upon completion of a public hearing regarding the~~
10 ~~advisory committee's advice and recommendations for revisions to the~~
11 ~~energy strategy, a written report shall be conveyed by the department~~
12 ~~to the governor and the appropriate legislative committees. Any~~
13 ~~advisory committee established under this section shall be dissolved~~
14 ~~within three months after their written report is conveyed.))~~ of
15 commerce shall update and revise the state energy strategy and
16 implementation report with the guidance of an advisory committee formed
17 under subsection (4) of this section. By December 1, 2011, and at
18 least every five years thereafter, the department shall produce a fully
19 updated state energy strategy and implementation report with the
20 guidance of an advisory committee formed under subsection (4) of this
21 section.

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

24 (b) In producing and updating the energy strategy, the department
25 and advisory committee shall review related processes and documents
26 relevant to a state energy strategy including, but not limited to,
27 prior state energy strategies, the work of the clean energy leadership
28 council, the climate advisory and action teams, the evergreen jobs
29 committee, and reports of the state transportation planning commission,
30 the economic development commission, and the Northwest power and
31 conservation council.

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

35 (d) The strategy must identify administrative actions, regulatory
36 coordination, and legislative recommendations that need to be
37 undertaken to ensure that the energy strategy is implemented and

1 operationally supported by all state agencies and regulatory bodies
2 responsible for implementation of energy policy in the state.

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

6 (a) This group shall be comprised of representatives from the
7 following institutions:

8 (i) Research institutions of higher education;

9 (ii) The Pacific Northwest national laboratory;

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

11 and

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

14 (b) This group will:

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

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

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

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

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

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

27 (ii) Economic development; and

28 (iii) Environmental protection, including:

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

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

32 (C) Liquid fuel and natural gas industries;

33 (D) Local governments;

34 (E) Civic and environmental organizations;

35 (F) Clean energy companies;

36 (G) Energy research and development organizations, economic
37 development organizations, and key public agencies; and

38 (H) Other interested stakeholders.

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

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

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

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

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

*Sec. 404 was vetoed. See message at end of chapter.

23 NEW SECTION. Sec. 405. RCW 43.21F.015 (State policy) and 1994 c
24 207 s 3 & 1981 c 295 s 1 are each repealed.

25 **PART V**

26 **CRIMINAL JUSTICE TRAINING COMMISSION--DRUG**

27 **PROSECUTION ASSISTANCE PROGRAM**

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

30 The legislature recognizes that, due to the magnitude or volume of
31 offenses in a given area of the state, there is a recurring need for
32 supplemental assistance in the prosecuting of drug and drug-related
33 offenses that can be directed to the area of the state with the
34 greatest need for short-term assistance. A statewide drug prosecution
35 assistance program is created within the (~~department of community,~~

1 ~~trade, and economic development))~~ criminal justice training commission
2 to assist county prosecuting attorneys in the prosecution of drug and
3 drug-related offenses.

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

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

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

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

32 (3) All employees of the department of commerce engaged in
33 performing the powers, functions, and duties transferred are
34 transferred to the jurisdiction of the criminal justice training
35 commission. All employees classified under chapter 41.06 RCW, the
36 state civil service law, are assigned to the criminal justice training
37 commission to perform their usual duties upon the same terms as

1 formerly, without any loss of rights, subject to any action that may be
2 appropriate thereafter in accordance with the laws and rules governing
3 state civil service.

4 (4) All rules and all pending business before the department of
5 commerce pertaining to the powers, functions, and duties transferred
6 shall be continued and acted upon by the criminal justice training
7 commission. All existing contracts and obligations shall remain in
8 full force and shall be performed by the criminal justice training
9 commission.

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

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

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

26 **PART VI**

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

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

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

32 (2)(a) The chair of the council shall be appointed by the governor
33 with the advice and consent of the senate, shall have a vote on matters
34 before the council, shall serve for a term coextensive with the term of
35 the governor, and is removable for cause. The chair may designate a
36 member of the council to serve as acting chair in the event of the

1 chair's absence. The salary of the chair shall be determined under RCW
2 43.03.040. The chair is a "state employee" for the purposes of chapter
3 42.52 RCW. As applicable, when attending meetings of the council,
4 members may receive reimbursement for travel expenses in accordance
5 with RCW 43.03.050 and 43.03.060, and are eligible for compensation
6 under RCW 43.03.250.

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

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

- 24 (i) Department of ecology;
- 25 (ii) Department of fish and wildlife;
- 26 (iii) Department of (~~(community, trade, and economic development)~~)
27 commerce;
- 28 (iv) Utilities and transportation commission; and
- 29 (v) Department of natural resources.

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

- 35 (i) Department of agriculture;
- 36 (ii) Department of health;
- 37 (iii) Military department; and
- 38 (iv) Department of transportation.

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

6 (4) The appropriate county legislative authority of every county
7 wherein an application for a proposed site is filed shall appoint a
8 member or designee as a voting member to the council. The member or
9 designee so appointed shall sit with the council only at such times as
10 the council considers the proposed site for the county which he or she
11 represents, and such member or designee shall serve until there has
12 been a final acceptance or rejection of the proposed site.

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

20 (6) For any port district wherein an application for a proposed
21 port facility is filed subject to this chapter, the port district shall
22 appoint a member or designee as a nonvoting 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 port district
25 which he or she represents, and such member or designee shall serve
26 until there has been a final acceptance or rejection of the proposed
27 site. The provisions of this subsection shall not apply if the port
28 district is the applicant, either singly or in partnership or
29 association with any other person.

30 NEW SECTION. **Sec. 602.** (1) All administrative powers, duties, and
31 functions of the department of commerce pertaining to the energy
32 facility site evaluation council are transferred to the Washington
33 utilities and transportation commission. All references to the
34 director or the department of commerce in the Revised Code of
35 Washington shall be construed to mean the Washington utilities and
36 transportation commission when referring to the functions transferred
37 in this section.

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

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

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

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

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

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 Washington utilities and transportation commission under this
11 section whose positions are within an existing bargaining unit
12 description at the Washington utilities and transportation commission
13 shall become a part of the existing bargaining unit at the Washington
14 utilities and transportation commission and shall be considered an
15 appropriate inclusion or modification of the existing bargaining unit
16 under the provisions of chapter 41.80 RCW.

17 **PART VII**
18 **MUNICIPAL RESEARCH COUNCIL**

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

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

- 31 (2) Municipal research and services shall consist of:
32 ~~((+1))~~ (a) Studying and researching city, town, and county
33 government and issues relating to city, town, and county government;
34 ~~((+2))~~ (b) Acquiring, preparing, and distributing publications
35 related to city, town, and county government and issues relating to
36 city, town, and county government;

1 ~~((3))~~ (c) Providing educational conferences relating to city,
2 town, and county government and issues relating to city, town, and
3 county government; and

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

8 (3) Requests for legal services by county officials shall be sent
9 to the office of the county prosecuting attorney. Responses by the
10 ~~((municipal research council))~~ department of commerce to county
11 requests for legal services shall be provided to the requesting
12 official and the county prosecuting attorney.

13 (4) The ~~((activities, programs, and services of the municipal
14 research council shall be carried on in cooperation))~~ department of
15 commerce shall coordinate with the association of Washington cities and
16 the Washington state association of counties in carrying out the
17 activities in this section. Services to cities and towns shall be
18 based upon the moneys appropriated to the ~~((municipal research
19 council))~~ department from the city and town research services account
20 under RCW 43.110.060. Services to counties shall be based upon the
21 moneys appropriated to the ~~((municipal research council))~~ department
22 from the county research services account under RCW 43.110.050.

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

25 The city and town research services account is created in the state
26 treasury. Moneys in the account shall consist of amounts transferred
27 under RCW 66.08.190(2) and any other transfers or appropriations to the
28 account. Moneys in the account may be spent only after an
29 appropriation. Expenditures from the account may be used only for city
30 and town research.

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

35 ~~((The treasurer may disburse amounts appropriated to the municipal
36 research council from the city and town research services account by
37 warrant or check to the contracting parties on invoices or vouchers~~

1 ~~certified by the chair of the municipal research council or his or her~~
2 ~~designee.))~~ Payments to public agencies may be made in advance of
3 actual work contracted for, at the discretion of the ~~((council))~~
4 department of commerce.

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

7 (1) The ~~((municipal research council))~~ department of commerce shall
8 contract for the provision of research and services to special purpose
9 districts. A contract shall be made with a state agency, educational
10 institution, or private consulting firm, that in the judgment of
11 ~~((council members))~~ the department is qualified to provide such
12 research and services.

13 (2) Research and services to special purpose districts shall
14 consist of:

15 (a) Studying and researching issues relating to special purpose
16 district government;

17 (b) Acquiring, preparing, and distributing publications related to
18 special purpose districts; and

19 (c) Furnishing legal, technical, consultative, and field services
20 to special purpose districts concerning issues relating to special
21 purpose district government.

22 (3) The ~~((activities, programs, and services of the municipal~~
23 ~~research council to special purpose districts shall be carried on in~~
24 ~~cooperation))~~ department of commerce shall coordinate with the
25 associations representing the various special purpose districts with
26 respect to carrying out the activities in this section. Services to
27 special purpose districts shall be based upon the moneys appropriated
28 to the ~~((municipal research council))~~ department of commerce from the
29 special purpose district research services account under RCW
30 43.110.090.

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

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

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

3 (a) Capitol furnishings preservation committee, RCW 27.48.040;
4 (b) Washington higher education facilities authority, RCW
5 28B.07.030;
6 (c) Productivity board, also known as the employee involvement and
7 recognition board, RCW 41.60.015;
8 (d) State finance committee, RCW 43.33.010;
9 (e) State capitol committee, RCW 43.34.010;
10 (f) Washington health care facilities authority, RCW 70.37.030;
11 (g) State medal of merit nominating committee, RCW 1.40.020;
12 (h) Medal of valor committee, RCW 1.60.020; and
13 (i) Association of Washington generals, RCW 43.15.030.

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

16 (a) Civil legal aid oversight committee, RCW 2.53.010;
17 (b) Office of public defense advisory committee, RCW 2.70.030;
18 (c) Washington state gambling commission, RCW 9.46.040;
19 (d) Sentencing guidelines commission, RCW 9.94A.860;
20 (e) State building code council, RCW 19.27.070;
21 (f) Women's history consortium board of advisors, RCW 27.34.365;
22 (g) Financial ((~~literacy~~)) education public-private partnership,
23 RCW 28A.300.450;
24 (h) Joint administrative rules review committee, RCW 34.05.610;
25 (i) Capital projects advisory review board, RCW 39.10.220;
26 (j) Select committee on pension policy, RCW 41.04.276;
27 (k) Legislative ethics board, RCW 42.52.310;
28 (l) Washington citizens' commission on salaries, RCW 43.03.305;
29 (m) Legislative oral history committee, RCW 44.04.325;
30 (n) State council on aging, RCW 43.20A.685;
31 (o) State investment board, RCW 43.33A.020;
32 (p) Capitol campus design advisory committee, RCW 43.34.080;
33 (q) Washington state arts commission, RCW 43.46.015;
34 (r) Information services board, RCW 43.105.032;
35 (s) K-20 educational network board, RCW 43.105.800;
36 (t) ((~~Municipal research council, RCW 43.110.010;~~
37 ~~u~~)) Council for children and families, RCW 43.121.020;
38 ((~~v~~)) (u) PNWER-Net working subgroup under chapter 43.147 RCW;

1 ~~((w))~~ (v) Community economic revitalization board, RCW
2 43.160.030;
3 ~~((x))~~ (w) Washington economic development finance authority, RCW
4 43.163.020;
5 ~~((y))~~ (x) Life sciences discovery fund authority, RCW 43.350.020;
6 ~~((z))~~ (y) Legislative children's oversight committee, RCW
7 44.04.220;
8 ~~((aa))~~ (z) Joint legislative audit and review committee, RCW
9 44.28.010;
10 ~~((bb))~~ (aa) Joint committee on energy supply and energy
11 conservation, RCW 44.39.015;
12 ~~((cc))~~ (bb) Legislative evaluation and accountability program
13 committee, RCW 44.48.010;
14 ~~((dd))~~ (cc) Agency council on coordinated transportation, RCW
15 47.06B.020;
16 ~~((ee))~~ (dd) Manufactured housing task force, RCW 59.22.090;
17 ~~((ff))~~ (ee) Washington horse racing commission, RCW 67.16.014;
18 ~~((gg))~~ (ff) Correctional industries board of directors, RCW
19 72.09.080;
20 ~~((hh))~~ (gg) Joint committee on veterans' and military affairs,
21 RCW 73.04.150;
22 ~~((ii))~~ (hh) Joint legislative committee on water supply during
23 drought, RCW 90.86.020;
24 ~~((jj))~~ (ii) Statute law committee, RCW 1.08.001; and
25 ~~((kk))~~ (jj) Joint legislative oversight committee on trade
26 policy, RCW 44.55.020.

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

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

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

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

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

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

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

26 (b) The (~~municipal research council~~) department of commerce shall
27 contract to post the model ordinance on an internet web site and to
28 make paper copies available for inspection upon request. The
29 department of revenue and the department of licensing shall post copies
30 of or links to the model ordinance on their internet web sites.
31 Additionally, a city that imposes a business and occupation tax must
32 make copies of its ordinance available for inspection and copying as
33 provided in chapter 42.56 RCW.

34 (c) The definitions and tax classifications in the model ordinance
35 may not be amended more frequently than once every four years, however
36 the model ordinance may be amended at any time to comply with changes

1 in state law. Any amendment to a mandatory provision of the model
2 ordinance must be adopted with the same effective date by all cities.

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

6 (a) A system of credits that meets the requirements of RCW
7 35.102.060 and a form for such use;

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

19 (c) Tax reporting frequencies that meet the requirements of RCW
20 35.102.070;

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

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

24 (f) Refund provisions that meet the requirements of RCW 35.102.110;
25 and

26 (g) Definitions, which at a minimum, must include the definitions
27 enumerated in RCW 35.102.030 and 35.102.120. The definitions in
28 chapter 82.04 RCW shall be used as the baseline for all definitions in
29 the model ordinance, and any deviation in the model ordinance from
30 these definitions must be described by a comment in the model
31 ordinance.

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

36 (4) Any city that adopts an ordinance that deviates from the
37 nonmandatory provisions of the model ordinance shall make a description

1 of such differences available to the public, in written and electronic
2 form.

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

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

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

10 (a) Make available to permit applicants all current local
11 government regulations and adopted policies that apply to the subject
12 application. The local government shall provide counter copies thereof
13 and, upon request, provide copies according to chapter 42.56 RCW. The
14 staff shall also publish and keep current one or more handouts
15 containing lists and explanations of all local government regulations
16 and adopted policies;

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

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

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

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

28 (1) RCW 43.110.010 (Council created--Membership--Terms--Travel
29 expenses) and 2001 c 290 s 1, 1997 c 437 s 1, 1990 c 104 s 1, 1983 c 22
30 s 1, 1975-'76 2nd ex.s. c 34 s 129, 1975 1st ex.s. c 218 s 1, & 1969 c
31 108 s 2;

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

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

MISCELLANEOUS PROVISIONS

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

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

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

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

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

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

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

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

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

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

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

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

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

6 (j) Assistant attorneys general;

7 (k) Commissioned and enlisted personnel in the military service of
8 the state;

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

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

14 (n) Officers and employees of the Washington state fruit
15 commission;

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

17 (p) Officers and employees of the Washington state dairy products
18 commission;

19 (q) Officers and employees of the Washington tree fruit research
20 commission;

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

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

23 (t) Officers and employees of any commission formed under chapter
24 15.66 RCW;

25 (u) Officers and employees of agricultural commissions formed under
26 chapter 15.65 RCW;

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

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

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

1 (y) All employees of the marine employees' commission;
2 (z) Staff employed by the department of ~~((community, trade, and~~
3 ~~economic development))~~ commerce to administer energy policy functions
4 ~~((and manage))~~;

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

7 ~~((+aa))~~ (bb) A maximum of ten staff employed by the department of
8 commerce to administer innovation and policy functions, including the
9 three principal policy assistants exempted under (x) of this
10 subsection;

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

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

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

35 (b) The governing board of each institution, and related boards,
36 may also exempt from this chapter classifications involving research
37 activities, counseling of students, extension or continuing education
38 activities, graphic arts or publications activities requiring

1 prescribed academic preparation or special training as determined by
2 the board: PROVIDED, That no nonacademic employee engaged in office,
3 clerical, maintenance, or food and trade services may be exempted by
4 the board under this provision;

5 (c) Printing craft employees in the department of printing at the
6 University of Washington.

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

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

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

4 Any person holding a classified position subject to the provisions
5 of this chapter shall, when and if such position is subsequently
6 exempted from the application of this chapter, be afforded the
7 following rights: If such person previously held permanent status in
8 another classified position, such person shall have a right of
9 reversion to the highest class of position previously held, or to a
10 position of similar nature and salary.

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

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

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

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

Passed by the House March 11, 2010.

Passed by the Senate March 11, 2010.

Approved by the Governor April 1, 2010, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State April 2, 2010.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to Section 404,
Engrossed Second Substitute House Bill 2658 entitled:

"AN ACT Relating to refocusing the mission of the department of
commerce, including transferring programs."

Section 404 of Engrossed Second Substitute House Bill 2658 outlines
ways the state energy strategy must identify administrative actions,
regulatory coordination, and legislative recommendations that need to
be undertaken to ensure that the energy strategy is implemented and
operationally supported by all state agencies and regulatory bodies
responsible for implementation of energy policy in the state. I
strongly agree with the intent of this section. However, a subsection
in Section 404 provides that the Legislature shall, by concurrent
resolution, approve or recommend changes to the energy strategy and
updates. Such provisions create ambiguities that may impede the
Department of Commerce in the performance of its duties.

As this bill recognizes, the energy strategy is the primary guidance
for implementation of the state's energy policy and should be an
integrated document that includes proposed executive actions under
existing law as well as any proposals for new legislation. Section

404 could be read to require legislative approval before the Department undertakes any actions that are included in the strategy. Executive actions authorized by existing law should not be subject to legislative approval, as such a requirement would infringe upon the right and ability of the executive branch to execute the laws. Therefore, I will direct the Department to undertake activities outlined in Section 404 while retaining the authority to implement existing laws without a requirement for additional legislative approval.

For these reasons I have vetoed Section 404 of Engrossed Second Substitute House Bill 2658.

With the exception of Section 404, Engrossed Second Substitute House Bill 2658 is approved."