
ENGROSSED SENATE BILL 5764

State of Washington

62nd Legislature

2011 Regular Session

By Senators Kastama, Chase, Shin, Kilmer, Brown, Conway, and McAuliffe

Read first time 02/10/11. Referred to Committee on Economic Development, Trade & Innovation.

1 AN ACT Relating to innovate Washington; amending RCW 28B.50.902,
2 70.210.010, 70.210.020, 70.210.030, 70.210.040, 70.210.050, 70.210.060,
3 70.210.070, 42.30.110, and 42.56.270; reenacting and amending RCW
4 43.325.040; adding a new section to chapter 41.06 RCW; adding a new
5 chapter to Title 43 RCW; recodifying RCW 70.210.010, 70.210.020,
6 70.210.030, 70.210.040, 70.210.050, 70.210.060, and 70.210.070;
7 repealing RCW 28B.20.283, 28B.20.285, 28B.20.287, 28B.20.289,
8 28B.20.291, 28B.20.293, 28B.20.295, 28B.20.296, 28B.20.297, 28B.38.010,
9 28B.38.020, 28B.38.030, 28B.38.040, 28B.38.050, 28B.38.060, 28B.38.070,
10 and 28B.38.900; providing an effective date; and providing an
11 expiration date.

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

13 NEW SECTION. **Sec. 1.** (1) Innovate Washington is hereby created as
14 a state agency exercising public and essential governmental functions.
15 Innovate Washington is created as the successor to the Washington
16 technology center and the Spokane intercollegiate research and
17 technology institute. Innovate Washington is created to be a
18 collaborative effort between the state's public and private

1 institutions of higher education, private industry, and government and
2 is to be the primary agency responding to the technology transfer needs
3 of existing businesses in the state.

4 (2) The mission of innovate Washington is to make Washington the
5 best place to develop, build, and deploy innovative products, services,
6 and solutions to serve the world. To carry out this mission, innovate
7 Washington is to: Develop and strengthen academic-industry
8 relationships through research and assistance that is primarily of
9 interest to existing small and medium-sized Washington-based companies;
10 facilitate company growth through early stage financing; and leverage
11 state investments in sector-focused, innovation-based economic
12 development initiatives consistent with the state's economic
13 development strategic plan. Innovate Washington shall:

14 (a) Provide leading edge collaborative research and technology
15 transfer opportunities to existing state businesses directly and by
16 working with industry associations and innovation partnership zones;

17 (b) Coordinate its activities with the commercialization and
18 technology transfer activities of the state's research institutions to
19 facilitate research that supports and develops state industries;

20 (c) Provide methods, systems, and venues for effective interaction
21 and collaboration between the state's technology-based industries and
22 its institutions of higher education;

23 (d) Provide assistance and support to businesses in:

24 (i) Securing federal and private funds to support research;

25 (ii) Developing and integrating technology in new or enhanced
26 products and services; and

27 (iii) Launching those products and services in sustainable
28 businesses in the state;

29 (e) Establish programmatic activities that, through partnerships
30 with the private sector, increase the competitiveness of state
31 industries. This may include support provided to firms in innovation
32 partnership zones established under RCW 43.330.270;

33 (f) Provide opportunities for training undergraduate and graduate
34 students in technology transfer and commercialization processes through
35 direct involvement in research and industry interactions;

36 (g) Administer technology and innovation grant and loan programs
37 including bridge funding programs for the state's technology sector;
38 and

1 (h) Emphasize and develop nonstate support of program activities.

2 (3)(a) Administrative responsibilities for the Washington
3 technology center facilities located on the University of Washington
4 Seattle campus and the Spokane intercollegiate research and technology
5 institute facilities located on the Riverpoint campus operated by
6 Washington State University Spokane are hereby transferred to innovate
7 Washington. The facilities shall be used for purposes consistent with
8 the obligations of innovate Washington under this chapter. As
9 initially established, the University of Washington and Washington
10 State University shall continue to provide the facility support and
11 maintenance for these facilities as required by innovate Washington;
12 however, other institutions of higher education may provide facility
13 support and maintenance subsequently.

14 (b) The University of Washington, Washington State University, and
15 other institutions of higher education participating in innovate
16 Washington programs shall provide the affiliated staff and faculty
17 participating in these programs at their own expense.

18 (4) The facilities of innovate Washington shall be made available
19 to any institution of higher education within the state when this would
20 benefit specific program needs consistent with this chapter.

21 (5) Innovate Washington shall, by December 1, 2012, develop a
22 five-year business plan that must be updated by December 1st of every
23 even-numbered year. The plan must include:

24 (a) A plan for operating additional facilities at Washington State
25 University Vancouver, Washington State University Tri-Cities, Western
26 Washington University, and such other locations as the innovate
27 Washington board identifies as appropriate;

28 (b) Identification and specification of activities to be undertaken
29 by those operating each of innovate Washington's facilities in
30 collaboration with innovative programs at the state's community and
31 technical colleges, which must include methods of working with the
32 centers of excellence established under RCW 28B.50.902 to identify
33 businesses that could benefit from innovate Washington services;

34 (c) The process to be followed, developed in collaboration with
35 impact Washington or any successor manufacturing extension partnership
36 program operating in the state, to ensure that impact Washington
37 clients have ready access to innovate Washington's services when

1 appropriate and that companies being assisted by innovate Washington
2 have ready access to impact Washington's services; and

3 (d) Mechanisms for outreach to firms operating in the state's
4 innovation partnership zones established under RCW 43.330.270 to ensure
5 such firms benefit from innovate Washington services.

6 NEW SECTION. **Sec. 2.** (1) The powers of innovate Washington are
7 vested in and shall be exercised by a board of directors consisting of:

8 (a) The governor of the state of Washington or the governor's
9 designee;

10 (b) The chairs of the committees in the senate and the house of
11 representatives responsible for economic development issues or their
12 designees;

13 (c) The president of the University of Washington or the
14 president's designee;

15 (d) The president of Washington State University or the president's
16 designee;

17 (e) The director of the department of commerce or the director's
18 designee; and

19 (f) Seven members appointed by the governor from among individuals
20 who own or are executives at technology-based and innovative firms that
21 manufacture in the state. The term of office for each board member
22 appointed by the governor shall be three years except, of the initial
23 appointees, two shall be appointed for one year and two shall be
24 appointed for two years. Members of the board may be appointed for
25 additional terms.

26 (2) The board shall meet at least biannually. The initial meeting
27 of the board must occur before December 31, 2011.

28 (3) A board member may be removed by the governor for cause under
29 RCW 43.06.070 and 43.06.080. The governor must fill any vacancy on the
30 board by appointment for the remainder of the unexpired term.

31 (4)(a) The appointed members of the board shall be compensated in
32 accordance with RCW 43.03.240 and may be reimbursed for expenses
33 incurred in the discharge of their duties under this chapter pursuant
34 to RCW 43.03.050 and 43.03.060.

35 (b) The ex officio members of the board under subsection (1)(a) and
36 (c) through (f) of this section may be reimbursed for expenses incurred

1 in the discharge of their duties under this chapter pursuant to RCW
2 43.03.050 and 43.03.060.

3 (c) Legislative members of the board may be reimbursed for expenses
4 incurred in the discharge of their duties under this chapter pursuant
5 to RCW 44.04.120.

6 (5) A majority of currently serving board members constitutes a
7 quorum.

8 (6) Meetings of the board shall be held in accordance with the open
9 public meetings act, chapter 42.30 RCW, and at the call of the chair or
10 when a majority of the board members so requests. Meetings of the
11 board may be held at any location within or out of the state, and board
12 members may participate in a meeting of the board by means of a
13 conference telephone or similar communication equipment under RCW
14 23B.08.200.

15 (7) The innovate Washington board must:

16 (a) Develop operating policies for innovate Washington programs;

17 (b) Appoint, and perform an annual performance review of, an
18 executive director;

19 (c) Approve an annual operating budget and ensure adequate funding
20 for operations;

21 (d) Approve a five-year business plan and its updates;

22 (e) Perform the duties required under chapter 70.210 RCW relating
23 to the investing in innovation program;

24 (f) Convene representatives of the commercialization and technology
25 transfer offices of private and public research institutions in the
26 state to determine the best methods for:

27 (i) Integrating existing databases into a single database of in-
28 state technologies and inventions;

29 (ii) Making the technologies in the integrated database accessible;
30 and

31 (iii) Promoting the integrated database to entrepreneurs and
32 investors for commercialization and licensing purposes;

33 (g) Set performance goals for each program or service established;
34 and

35 (h) Provide a report to the governor and the legislature detailing
36 the fund-raising activities and outcomes, operations, economic impact,
37 and performance of innovate Washington. The report is due by December
38 1st of every year and the first report is due by December 1, 2012. The

1 report must include measures related to customer satisfaction as well
2 as measures of results derived from assistance provided to businesses,
3 including but not limited to job creation inside and outside of
4 Washington, new product development, new markets opened and other
5 export measures, the adoption of new production processes, revenue and
6 sales growth, measures that would be included in a balanced scorecard,
7 and such other outcome-based measures as the board determines is
8 appropriate.

9 (8) The board may:

10 (a) Make and execute agreements, contracts, and other instruments
11 with any private, public, or nonprofit entity for the performance,
12 operation, administration, implementation, or advancement of any
13 program in accordance with this chapter;

14 (b) Employ, contract with, or engage staff, counsel, advisors,
15 auditors, other technical or professional assistants, and such other
16 personnel as are necessary or desirable to implement this chapter.
17 Staff support for innovate Washington programs may be provided through
18 cooperative agreements with any public or private institution of higher
19 education;

20 (c) Solicit and receive gifts, grants, donations, sponsorships, or
21 contributions from any federal, state, or local governmental agency or
22 program or any private source, and expend the same for any purpose
23 consistent with this chapter;

24 (d) Establish such affiliated organizations, special funds
25 consistent with the provisions of chapter 43.88 RCW, and controls as it
26 finds convenient for the implementation of this chapter;

27 (e) Create one or more advisory committees;

28 (f) Adopt rules consistent with this chapter;

29 (g) Delegate any of its powers and duties if consistent with the
30 purposes of this chapter; and

31 (h) Exercise any other power reasonably required to implement the
32 purposes of this chapter.

33 NEW SECTION. **Sec. 3.** (1) To increase participation by Washington
34 state small business innovators in federal small business research
35 programs, innovate Washington shall provide or contract for the
36 provision of a small business innovation assistance program. The
37 program must include a proposal review process and must train and

1 assist Washington small business innovators to win awards from federal
2 small business research programs. The program must collaborate with
3 small business development centers, entrepreneur-in-residence programs,
4 and other appropriate sources of technical assistance to ensure that
5 small business innovators also receive the planning, counseling, and
6 support services necessary to expand their businesses and protect their
7 intellectual property.

8 (2) In operating the program, innovate Washington must give
9 priority to first-time applicants to the federal small business
10 research programs, new businesses, and firms with fewer than ten
11 employees, and may charge a fee for its services.

12 (3) The definitions in this subsection apply throughout this
13 section unless the context clearly requires otherwise.

14 (a) "Federal small business research programs" means the programs,
15 operating pursuant to the small business innovation development act of
16 1982, P.L. 97-219, and the small business technology transfer act of
17 1992, P.L. 102-564, title II, that provide funds to small businesses to
18 conduct research having commercial application.

19 (b) "Small business" means a corporation, partnership, sole
20 proprietorship, or individual, operating a business for profit, with
21 two hundred fifty employees or fewer, including employees employed in
22 a subsidiary or affiliated corporation, that otherwise meets the
23 requirements of federal small business research programs.

24 NEW SECTION. **Sec. 4.** The investing in innovation account is
25 created in the custody of the state treasurer. All receipts from fund-
26 raising activities pursuant to section 2 of this act must be deposited
27 into the account. Expenditures from the account may be used only for
28 the purposes of the investing in innovation programs established in
29 chapter 70.210 RCW and any other purpose consistent with this chapter.
30 Only the executive director of innovate Washington or the executive
31 director's designee may authorize expenditures from the account. The
32 account is subject to allotment procedures under chapter 43.88 RCW, but
33 an appropriation is not required for expenditures.

34 NEW SECTION. **Sec. 5.** The Washington clean energy partnership is
35 created as a programmatic activity of innovate Washington. The
36 partnership shall develop, implement, and manage programs and funding

1 initiatives related to expanding the clean energy sector in Washington.
2 The partnership shall coordinate clean energy initiatives and implement
3 the clean energy leadership council's recommendations provided in the
4 Washington state clean energy leadership plan report.

5 NEW SECTION. **Sec. 6.** (1) The Washington clean energy partnership
6 shall, as funds are available:

7 (a) Implement the strategy and recommendations of the clean energy
8 leadership council including implementing the first three market-
9 driving initiatives identified by the council in its 2010 report:

10 (i) Combined energy efficiency, green buildings, and smart grid;

11 (ii) Renewable energy resource optimization and smart grid
12 deployment; and

13 (iii) Bioenergy deployment acceleration;

14 (b) Assess periodically other potential opportunities, such as the
15 production of thermal energy as a clean energy technology, and add
16 market-driving initiatives if justified by comprehensive analysis;

17 (c) Serve as the primary point of contact and lead entity in the
18 state for developing and coordinating clean energy-related initiatives
19 and funding programs targeted at expanding the clean energy sector;

20 (d) Secure a minimum of fifty percent nonstate funds for projects
21 undertaken by the partnership, however nonstate funds or moneys that
22 the partnership is directed to manage that have different matching
23 contribution requirements are not subject to this subsection (1)(d);

24 (e) Use state funding to demonstrate state commitment, serve as a
25 catalyst for attracting matching funding from multiple sources, and
26 stimulate collaborative projects among other purposes;

27 (f) Work with the public and private utilities, district energy
28 providers, and the utilities and transportation commission to develop
29 recommendations to improve alignment of state investments, policies,
30 and the work of the partnership, with the operations of utilities,
31 including investor-owned utilities regulated by the utilities and
32 transportation commission, however, this subsection does not create a
33 right in any person to challenge a regulatory decision of the utilities
34 and transportation commission;

35 (g) Work with the legislature to establish a long-term, stable
36 funding strategy appropriate for supporting the partnership;

1 (h) Track, identify, and create opportunities to attract federal
2 and other nonstate funding, and make recommendations for increasing
3 Washington's success rate in receiving federal and other nonstate
4 funds;

5 (i) Work with regional public and private utilities to identify a
6 process for understanding and prioritizing their goals and make
7 recommendations for aligning, coordinating, and leveraging the
8 partnership's investments with the needs of regional utilities in ways
9 that help accelerate the growth of clean energy jobs and technology in
10 the region;

11 (j) Participate fully in federal and other governmental programs
12 and take such actions as are necessary and consistent with this chapter
13 to secure for the partnership and the people of the state the benefits
14 of those programs and to meet their requirements; and

15 (k) Conduct analyses as necessary to identify and communicate to
16 policymakers the best opportunities for Washington to maintain and
17 expand the clean energy sector in Washington state.

18 (2) Existing energy policy and regulatory functions of the
19 department of commerce shall remain with the state energy office.

20 (3) By November 1, 2012, and November 1st biennially thereafter,
21 innovate Washington must submit a report to the legislature and the
22 governor with recommendations on ways to improve policy alignment,
23 streamline regulatory requirements, and remove administrative barriers
24 that limit the growth of the clean energy sector in Washington as well
25 as a discussion of best practices encountered in implementing the
26 market-driving initiatives.

27 NEW SECTION. **Sec. 7.** The Washington clean energy partnership fund
28 is created in the custody of the state treasurer to receive state and
29 federal funds, grants, private gifts, or contributions to further the
30 purpose of the Washington clean energy partnership. Only the executive
31 director of innovate Washington or the director's designee may
32 authorize expenditures from the account. The account is subject to
33 allotment procedures under chapter 43.88 RCW, but an appropriation is
34 not required for expenditures.

35 **Sec. 8.** RCW 43.325.040 and 2009 c 564 s 942 and 2009 c 451 s 5 are
36 each reenacted and amended to read as follows:

1 (1) The energy freedom account is created in the state treasury.
2 All receipts from appropriations made to the account and any loan
3 payments of principal and interest derived from loans made under the
4 energy freedom account must be deposited into the account. Moneys in
5 the account may be spent only after appropriation. Expenditures from
6 the account may be used only for financial assistance for further
7 funding for projects consistent with this chapter or otherwise
8 authorized by the legislature.

9 (2) The green energy incentive account is created in the state
10 treasury as a subaccount of the energy freedom account. All receipts
11 from appropriations made to the green energy incentive account shall be
12 deposited into the account, and may be spent only after appropriation.
13 Expenditures from the account may be used only for:

- 14 (a) Refueling projects awarded under this chapter;
- 15 (b) Pilot projects for plug-in hybrids, including grants provided
16 for the electrification program set forth in RCW 43.325.110; and
- 17 (c) Demonstration projects developed with state universities as
18 defined in RCW 28B.10.016 and local governments that result in the
19 design and building of a hydrogen vehicle fueling station.

20 (3)(a) The energy recovery act account is created in the state
21 treasury. State and federal funds may be deposited into the account
22 and any loan payments of principal and interest derived from loans made
23 from the energy recovery act account must be deposited into the
24 account. Moneys in the account may be spent only after appropriation.

25 (b) Expenditures from the account may be used only for loans, loan
26 guarantees, and grants that encourage the establishment of innovative
27 and sustainable industries for renewable energy and energy efficiency
28 technology, including but not limited to:

29 (i) Renewable energy projects or programs that require interim
30 financing to complete project development and implementation;

31 (ii) Companies with innovative, near-commercial or commercial,
32 clean energy technology; ~~((and))~~

33 (iii) Energy efficiency technologies that have a viable repayment
34 stream from reduced utility costs; and

35 (iv) Initiatives approved by the Washington clean energy
36 partnership.

37 ~~((+))~~ (4)(a) The director shall establish policies and procedures
38 for processing, reviewing, and approving applications for funding under

1 this section. ~~((When developing these))~~ The policies and procedures~~((~~
2 ~~the department must consider the clean energy leadership strategy~~
3 ~~developed under section 2, chapter 318, Laws of 2009))~~ developed under
4 this section must be approved by the Washington clean energy
5 partnership.

6 ~~((d))~~ (b) The director shall enter into agreements with approved
7 applicants to fix the term and rates of funding provided from this
8 account.

9 ~~((e))~~ (c) The policies and procedures of this subsection ~~((3))~~
10 (4) do not apply to assistance awarded for projects under RCW
11 43.325.020(3).

12 ~~((4))~~ (5) Any state agency receiving funding from the energy
13 freedom account is prohibited from retaining greater than three percent
14 of any funding provided from the energy freedom account for
15 administrative overhead or other deductions not directly associated
16 with conducting the research, projects, or other end products that the
17 funding is designed to produce unless this provision is waived in
18 writing by the director.

19 ~~((5))~~ (6) Any university, institute, or other entity that is not
20 a state agency receiving funding from the energy freedom account is
21 prohibited from retaining greater than fifteen percent of any funding
22 provided from the energy freedom account for administrative overhead or
23 other deductions not directly associated with conducting the research,
24 projects, or other end products that the funding is designed to
25 produce.

26 ~~((6) Subsections (2), (4) and (5) of this section do not apply to~~
27 ~~assistance awarded for projects under RCW 43.325.020(3).~~

28 ~~(7) During the 2009-2011 fiscal biennium, the legislature may~~
29 ~~transfer from the energy freedom account to the state general fund such~~
30 ~~amounts as reflect the excess fund balance of the account.))~~

31 NEW SECTION. Sec. 9. A new section is added to chapter 41.06 RCW
32 to read as follows:

33 In addition to the exemptions in RCW 41.06.070, this chapter does
34 not apply to any position in or employee of innovate Washington under
35 chapter 43.--- RCW (the new chapter created in section 23 of this act).

1 **Sec. 10.** RCW 28B.50.902 and 2009 c 151 s 4 are each amended to
2 read as follows:

3 (1) The college board, in consultation with business, industry,
4 labor, the workforce training and education coordinating board, the
5 department of (~~community, trade, and economic development~~) commerce,
6 the employment security department, and community and technical
7 colleges, shall designate centers of excellence and allocate funds to
8 existing and new centers of excellence based on a competitive basis.

9 (2) Eligible applicants for the program established under this
10 section include community and technical colleges. Priority shall be
11 given to applicants that have an established education and training
12 program serving the targeted industry and that have in their home
13 district or region an industry cluster with the same targeted industry
14 at its core.

15 (3) It is the role of centers of excellence to employ strategies
16 to:

17 (a) Create educational efficiencies;

18 (b) Build a diverse, competitive workforce for strategic
19 industries;

20 (c) Maintain an institutional reputation for innovation and
21 responsiveness;

22 (d) Develop innovative curriculum and means of delivering education
23 and training;

24 (e) Act as brokers of information and resources related to
25 community and technical college education and training (~~for~~) and
26 assistance available for firms in a targeted industry, including
27 working with innovate Washington to develop methods to identify
28 businesses within a targeted industry that could benefit from the
29 services offered by innovate Washington under chapter 43.--- RCW (the
30 new chapter created in section 23 of this act); and

31 (f) Serve as partners with workforce development councils,
32 associate development organizations, and other workforce and economic
33 development organizations.

34 (4) Examples of strategies under subsection (3) of this section
35 include but are not limited to: Sharing curriculum and other
36 instructional resources, to ensure cost savings to the system;
37 delivering collaborative certificate and degree programs; and holding

1 statewide summits, seminars, conferences, and workshops on industry
2 trends and best practices in community and technical college education
3 and training.

4 **Sec. 11.** RCW 70.210.010 and 2003 c 403 s 1 are each amended to
5 read as follows:

6 It is the intent of the legislature to promote growth in the
7 technology sectors of our state's economy and to particularly focus
8 support on the ~~((creation-and))~~ commercialization of intellectual
9 property ~~((in the technology, energy, and telecommunications
10 industries))~~ and the manufacture of innovative products in the state.

11 **Sec. 12.** RCW 70.210.020 and 2003 c 403 s 2 are each amended to
12 read as follows:

13 The definitions in this section apply throughout this chapter
14 unless the context clearly requires otherwise.

15 (1) ~~(("Center" means the Washington technology center established
16 under RCW 28B.20.283 through 28B.20.295.~~

17 ~~(2))~~ "Board" means the Innovate Washington board of directors
18 ~~((for the center)).~~

19 (3) "Innovate Washington" means the agency created in section 1 of
20 this act.

21 **Sec. 13.** RCW 70.210.030 and 2003 c 403 s 4 are each amended to
22 read as follows:

23 (1) The investing in innovation ~~((grants))~~ program is established.

24 (2) ~~((The center))~~ Innovate Washington shall periodically make
25 strategic assessments of the types of ~~((state))~~ investments in research
26 ~~((and)),~~ technology, and industrial development in this state that
27 would likely create new products, jobs, and business opportunities and
28 produce the most beneficial long-term improvements to the lives and
29 health of the citizens of the state. The assessments shall be
30 available to the public and shall be used to guide decisions on
31 awarding ~~((grants))~~ funds under this chapter.

32 **Sec. 14.** RCW 70.210.040 and 2003 c 403 s 5 are each amended to
33 read as follows:

34 The board shall:

1 (1) Develop criteria for the awarding of loans or grants to
2 qualifying universities, institutions, businesses, or individuals;

3 (2) Make decisions regarding distribution of ((grant)) funds ((and
4 ~~make grant awards~~)); ((and))

5 (3) In making ((grant awards, seek to provide a balance between
6 ~~research grant awards and commercialization grant awards~~)) funding
7 decisions, primarily benefit enterprises that:

8 (a) Were created through, and have existing intellectual property
9 agreements in place with, public and private research institutions in
10 the state; and

11 (b) Intend to manufacture in the state; and

12 (4) Specify in contracts awarding funds that recipients must
13 conduct their research, development, and any subsequent production
14 activities within Washington, and that a failure to comply with this
15 requirement will obligate the recipient to return the amount of the
16 award plus interest as determined by the board.

17 **Sec. 15.** RCW 70.210.050 and 2003 c 403 s 6 are each amended to
18 read as follows:

19 (1) The board may accept grant and loan proposals and establish a
20 competitive process for the awarding of grants and loans.

21 (2) The board shall establish a peer review committee to include
22 board members, scientists, engineers, and individuals with specific
23 recognized expertise. The peer review committee shall provide to the
24 board an independent peer review of all proposals determined to be
25 competitive for a loan or grant award that are submitted to the board.

26 (3) In the awarding of grants and loans, priority shall be given to
27 proposals that leverage additional private and public funding
28 resources.

29 (4) ~~((Up to fifty percent of available funds from the investing in~~
30 ~~innovation — account — may — be — used — to — support — commercialization~~
31 ~~opportunities for research in Washington state through an organization~~
32 ~~with commercialization expertise such as the Spokane intercollegiate~~
33 ~~research and technology institute.~~

34 ~~(5) The center)) Innovate Washington may not be a direct recipient~~

35 of ((grant awards)) funding under this chapter ((403, Laws of 2003))

1 (f) To receive and evaluate complaints or charges brought against
2 a public officer or employee. However, upon the request of such
3 officer or employee, a public hearing or a meeting open to the public
4 shall be conducted upon such complaint or charge;

5 (g) To evaluate the qualifications of an applicant for public
6 employment or to review the performance of a public employee. However,
7 subject to RCW 42.30.140(4), discussion by a governing body of
8 salaries, wages, and other conditions of employment to be generally
9 applied within the agency shall occur in a meeting open to the public,
10 and when a governing body elects to take final action hiring, setting
11 the salary of an individual employee or class of employees, or
12 discharging or disciplining an employee, that action shall be taken in
13 a meeting open to the public;

14 (h) To evaluate the qualifications of a candidate for appointment
15 to elective office. However, any interview of such candidate and final
16 action appointing a candidate to elective office shall be in a meeting
17 open to the public;

18 (i) To discuss with legal counsel representing the agency matters
19 relating to agency enforcement actions, or to discuss with legal
20 counsel representing the agency litigation or potential litigation to
21 which the agency, the governing body, or a member acting in an official
22 capacity is, or is likely to become, a party, when public knowledge
23 regarding the discussion is likely to result in an adverse legal or
24 financial consequence to the agency.

25 This subsection (1)(i) does not permit a governing body to hold an
26 executive session solely because an attorney representing the agency is
27 present. For purposes of this subsection (1)(i), "potential
28 litigation" means matters protected by RPC 1.6 or RCW 5.60.060(2)(a)
29 concerning:

30 (i) Litigation that has been specifically threatened to which the
31 agency, the governing body, or a member acting in an official capacity
32 is, or is likely to become, a party;

33 (ii) Litigation that the agency reasonably believes may be
34 commenced by or against the agency, the governing body, or a member
35 acting in an official capacity; or

36 (iii) Litigation or legal risks of a proposed action or current
37 practice that the agency has identified when public discussion of the

1 litigation or legal risks is likely to result in an adverse legal or
2 financial consequence to the agency;

3 (j) To consider, in the case of the state library commission or its
4 advisory bodies, western library network prices, products, equipment,
5 and services, when such discussion would be likely to adversely affect
6 the network's ability to conduct business in a competitive economic
7 climate. However, final action on these matters shall be taken in a
8 meeting open to the public;

9 (k) To consider, in the case of the state investment board,
10 financial and commercial information when the information relates to
11 the investment of public trust or retirement funds and when public
12 knowledge regarding the discussion would result in loss to such funds
13 or in private loss to the providers of this information;

14 (l) To consider proprietary or confidential nonpublished
15 information related to the development, acquisition, or implementation
16 of state purchased health care services as provided in RCW 41.05.026;

17 (m) To consider in the case of the life sciences discovery fund
18 authority, the substance of grant applications and grant awards when
19 public knowledge regarding the discussion would reasonably be expected
20 to result in private loss to the providers of this information;

21 (n) To consider in the case of a health sciences and services
22 authority, the substance of grant applications and grant awards when
23 public knowledge regarding the discussion would reasonably be expected
24 to result in private loss to the providers of this information;

25 (o) To consider in the case of innovate Washington, the substance
26 of grant or loan applications and grant or loan awards if public
27 knowledge regarding the discussion would reasonably be expected to
28 result in private loss to the providers of this information.

29 (2) Before convening in executive session, the presiding officer of
30 a governing body shall publicly announce the purpose for excluding the
31 public from the meeting place, and the time when the executive session
32 will be concluded. The executive session may be extended to a stated
33 later time by announcement of the presiding officer.

34 **Sec. 19.** RCW 42.56.270 and 2009 c 394 s 3 are each amended to read
35 as follows:

36 The following financial, commercial, and proprietary information is
37 exempt from disclosure under this chapter:

1 (1) Valuable formulae, designs, drawings, computer source code or
2 object code, and research data obtained by any agency within five years
3 of the request for disclosure when disclosure would produce private
4 gain and public loss;

5 (2) Financial information supplied by or on behalf of a person,
6 firm, or corporation for the purpose of qualifying to submit a bid or
7 proposal for (a) a ferry system construction or repair contract as
8 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
9 or improvement as required by RCW 47.28.070;

10 (3) Financial and commercial information and records supplied by
11 private persons pertaining to export services provided under chapters
12 43.163 and 53.31 RCW, and by persons pertaining to export projects
13 under RCW 43.23.035;

14 (4) Financial and commercial information and records supplied by
15 businesses or individuals during application for loans or program
16 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
17 43.168 RCW, or during application for economic development loans or
18 program services provided by any local agency;

19 (5) Financial information, business plans, examination reports, and
20 any information produced or obtained in evaluating or examining a
21 business and industrial development corporation organized or seeking
22 certification under chapter 31.24 RCW;

23 (6) Financial and commercial information supplied to the state
24 investment board by any person when the information relates to the
25 investment of public trust or retirement funds and when disclosure
26 would result in loss to such funds or in private loss to the providers
27 of this information;

28 (7) Financial and valuable trade information under RCW 51.36.120;

29 (8) Financial, commercial, operations, and technical and research
30 information and data submitted to or obtained by the clean Washington
31 center in applications for, or delivery of, program services under
32 chapter 70.95H RCW;

33 (9) Financial and commercial information requested by the public
34 stadium authority from any person or organization that leases or uses
35 the stadium and exhibition center as defined in RCW 36.102.010;

36 (10)(a) Financial information, including but not limited to account
37 numbers and values, and other identification numbers supplied by or on
38 behalf of a person, firm, corporation, limited liability company,

1 partnership, or other entity related to an application for a horse
2 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
3 license, gambling license, or lottery retail license;

4 (b) Internal control documents, independent auditors' reports and
5 financial statements, and supporting documents: (i) Of house-banked
6 social card game licensees required by the gambling commission pursuant
7 to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes
8 with an approved tribal/state compact for class III gaming;

9 (11) Proprietary data, trade secrets, or other information that
10 relates to: (a) A vendor's unique methods of conducting business; (b)
11 data unique to the product or services of the vendor; or (c)
12 determining prices or rates to be charged for services, submitted by
13 any vendor to the department of social and health services for purposes
14 of the development, acquisition, or implementation of state purchased
15 health care as defined in RCW 41.05.011;

16 (12)(a) When supplied to and in the records of the department of
17 (~~community, trade, and economic development~~) commerce:

18 (i) Financial and proprietary information collected from any person
19 and provided to the department of (~~community, trade, and economic~~
20 ~~development~~) commerce pursuant to RCW 43.330.050(8); and

21 (ii) Financial or proprietary information collected from any person
22 and provided to the department of (~~community, trade, and economic~~
23 ~~development~~) commerce or the office of the governor in connection with
24 the siting, recruitment, expansion, retention, or relocation of that
25 person's business and until a siting decision is made, identifying
26 information of any person supplying information under this subsection
27 and the locations being considered for siting, relocation, or expansion
28 of a business;

29 (b) When developed by the department of (~~community, trade, and~~
30 ~~economic development~~) commerce based on information as described in
31 (a)(i) of this subsection, any work product is not exempt from
32 disclosure;

33 (c) For the purposes of this subsection, "siting decision" means
34 the decision to acquire or not to acquire a site;

35 (d) If there is no written contact for a period of sixty days to
36 the department of (~~community, trade, and economic development~~)
37 commerce from a person connected with siting, recruitment, expansion,

1 retention, or relocation of that person's business, information
2 described in (a)(ii) of this subsection will be available to the public
3 under this chapter;

4 (13) Financial and proprietary information submitted to or obtained
5 by the department of ecology or the authority created under chapter
6 70.95N RCW to implement chapter 70.95N RCW;

7 (14) Financial, commercial, operations, and technical and research
8 information and data submitted to or obtained by the life sciences
9 discovery fund authority in applications for, or delivery of, grants
10 under chapter 43.350 RCW, to the extent that such information, if
11 revealed, would reasonably be expected to result in private loss to the
12 providers of this information;

13 (15) Financial and commercial information provided as evidence to
14 the department of licensing as required by RCW 19.112.110 or
15 19.112.120, except information disclosed in aggregate form that does
16 not permit the identification of information related to individual fuel
17 licensees;

18 (16) Any production records, mineral assessments, and trade secrets
19 submitted by a permit holder, mine operator, or landowner to the
20 department of natural resources under RCW 78.44.085;

21 (17)(a) Farm plans developed by conservation districts, unless
22 permission to release the farm plan is granted by the landowner or
23 operator who requested the plan, or the farm plan is used for the
24 application or issuance of a permit;

25 (b) Farm plans developed under chapter 90.48 RCW and not under the
26 federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to
27 RCW 42.56.610 and 90.64.190;

28 (18) Financial, commercial, operations, and technical and research
29 information and data submitted to or obtained by a health sciences and
30 services authority in applications for, or delivery of, grants under
31 RCW 35.104.010 through 35.104.060, to the extent that such information,
32 if revealed, would reasonably be expected to result in private loss to
33 providers of this information;

34 (19) Information gathered under chapter 19.85 RCW or RCW 34.05.328
35 that can be identified to a particular business; (~~and~~)

36 (20) Financial and commercial information submitted to or obtained
37 by the University of Washington, other than information the university
38 is required to disclose under RCW 28B.20.150, when the information

1 relates to investments in private funds, to the extent that such
2 information, if revealed, would reasonably be expected to result in
3 loss to the University of Washington consolidated endowment fund or to
4 result in private loss to the providers of this information; and
5 (21) Financial, commercial, operations, and technical and research
6 information and data submitted to or obtained by innovate Washington in
7 applications for, or delivery of, grants and loans under chapter 43.---
8 RCW (the new chapter created in section 23 of this act), to the extent
9 that such information, if revealed, would reasonably be expected to
10 result in private loss to the providers of this information.

11 NEW SECTION. Sec. 20. The following acts or parts of acts are
12 each repealed:

13 (1) RCW 28B.20.283 (Washington technology center--Findings) and
14 1995 c 399 s 25 & 1992 c 142 s 1;

15 (2) RCW 28B.20.285 (Washington technology center--Created--Purpose)
16 and 2004 c 151 s 3, 2003 c 403 s 10, 1992 c 142 s 3, & 1983 1st ex.s.
17 c 72 s 11;

18 (3) RCW 28B.20.287 (Washington technology center--Definitions) and
19 2004 c 151 s 4 & 1992 c 142 s 2;

20 (4) RCW 28B.20.289 (Washington technology center--Administration--
21 Board of directors) and 2003 c 403 s 11, 1995 c 399 s 26, & 1992 c 142
22 s 4;

23 (5) RCW 28B.20.291 (Washington technology center--Support from
24 participating institutions) and 1992 c 142 s 5;

25 (6) RCW 28B.20.293 (Washington technology center--Role of
26 department of community, trade, and economic development) and 1995 c
27 399 s 27 & 1992 c 142 s 6;

28 (7) RCW 28B.20.295 (Washington technology center--Availability of
29 facilities to other institutions) and 1992 c 142 s 7;

30 (8) RCW 28B.20.296 (Washington technology center--Renewable energy
31 and energy efficiency business development--Strategic plan) and 2004 c
32 151 s 2;

33 (9) RCW 28B.20.297 (Washington technology center--Small business
34 innovation research assistance program) and 2005 c 357 s 1;

35 (10) RCW 28B.38.010 (Spokane intercollegiate research and
36 technology institute) and 2004 c 275 s 55 & 1998 c 344 s 9;

1 (11) RCW 28B.38.020 (Administration--Board of directors--Powers and
2 duties) and 1998 c 344 s 10;

3 (12) RCW 28B.38.030 (Support from participating institutions) and
4 1998 c 344 s 11;

5 (13) RCW 28B.38.040 (Operating staff--Cooperative agreements for
6 programs and research) and 1998 c 344 s 12;

7 (14) RCW 28B.38.050 (Role of department of community, trade, and
8 economic development) and 1998 c 344 s 13;

9 (15) RCW 28B.38.060 (Availability of facilities to other
10 institutions) and 1998 c 344 s 14;

11 (16) RCW 28B.38.070 (Authority to receive and expend funds) and
12 1998 c 344 s 15; and

13 (17) RCW 28B.38.900 (Captions not law) and 1998 c 344 s 16.

14 NEW SECTION. **Sec. 21.** (1) The Spokane intercollegiate research
15 and technology institute and the Washington technology center are
16 hereby abolished and the powers, duties, and functions are hereby
17 transferred to innovate Washington. Once the board created in section
18 2 of this act has convened, all references to the Spokane
19 intercollegiate research and technology institute or the Washington
20 technology center in the Revised Code of Washington shall be construed
21 to mean innovate Washington.

22 (2)(a) All reports, documents, surveys, books, records, files,
23 papers, or written material in the possession of the Spokane
24 intercollegiate research and technology institute or the Washington
25 technology center shall be delivered to the custody of innovate
26 Washington. All cabinets, furniture, office equipment, motor vehicles,
27 and other tangible property employed by the Spokane intercollegiate
28 research and technology institute or the Washington technology center
29 shall be made available to innovate Washington. All funds, credits, or
30 other assets held by the Spokane intercollegiate research and
31 technology institute or the Washington technology center shall be
32 assigned to innovate Washington.

33 (b) Any appropriations made to the Spokane intercollegiate research
34 and technology institute or the Washington technology center shall, on
35 the effective date of this section, be transferred and credited to
36 innovate Washington.

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

7 (3) All employees of the Spokane intercollegiate research and
8 technology institute or the Washington technology center are
9 transferred to the jurisdiction of innovate Washington. All employees
10 classified under chapter 41.06 RCW, the state civil service law, are
11 assigned to innovate Washington to perform their usual duties upon the
12 same terms as formerly, without any loss of rights, subject to any
13 action that may be appropriate thereafter in accordance with the laws
14 and rules governing state civil service.

15 (4) All rules and all pending business before the Spokane
16 intercollegiate research and technology institute or the Washington
17 technology center shall be continued and acted upon by innovate
18 Washington. All existing contracts and obligations shall remain in
19 full force and shall be performed by innovate Washington.

20 (5) The transfer of the powers, duties, functions, and personnel of
21 the Spokane intercollegiate research and technology institute and the
22 Washington technology center shall not affect the validity of any act
23 performed before the effective date of this section.

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

30 (7) All classified employees of the Spokane intercollegiate
31 research and technology institute or the Washington technology center
32 assigned to innovate Washington under this section whose positions are
33 within an existing bargaining unit description at innovate Washington
34 shall become a part of the existing bargaining unit at innovate
35 Washington and shall be considered an appropriate inclusion or
36 modification of the existing bargaining unit under the provisions of
37 chapter 41.80 RCW.

1 NEW SECTION. **Sec. 22.** RCW 70.210.010, 70.210.020, 70.210.030,
2 70.210.040, 70.210.050, 70.210.060, and 70.210.070 are each recodified
3 as sections in chapter 43.--- RCW (the new chapter created in section
4 23 of this act).

5 NEW SECTION. **Sec. 23.** Sections 1 through 7 and 21 of this act
6 constitute a new chapter in Title 43 RCW.

7 NEW SECTION. **Sec. 24.** Section 8 of this act expires June 30,
8 2016.

9 NEW SECTION. **Sec. 25.** This act takes effect August 1, 2011.

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