

1 healthy jobs climate, and enhance the quality of life for the state's
2 residents; and

3 (b) Increase the effective, efficient, and accountable use of state
4 resources by decreasing the number of state agencies and programs
5 authorized to finance businesses and public infrastructure.

6 (2) The bank's objectives are to:

7 (a) Act as a clearinghouse that provides a single point of decision
8 making and accountability for allocating major economic development
9 grant and loan funds;

10 (b) Reduce state staff, operational costs, and inefficient
11 processes by consolidating under one umbrella authority the autonomous
12 public infrastructure and business programs that are currently
13 dispersed under management of several agencies;

14 (c) Achieve economies of scale, including potential decreases in
15 interest rates attached to public and private projects;

16 (d) Streamline access to financing information by standardizing
17 application processes and evaluation criteria, and consolidating
18 sources of information, including web sites; and

19 (e) Increase access to capital for Washington businesses and public
20 infrastructure.

21 (3) The bank is authorized to:

22 (a) Operate as the state's single financing authority for
23 businesses and public infrastructure;

24 (b) Issue taxable and tax-exempt revenue bonds, make loans or
25 grants, and leverage state and federal funds; and

26 (c) Provide a means for the state, for public benefit, to buy
27 public debt and sell it to public entities, as well as to refinance the
28 debt of the state and its political subdivisions.

29 (4) In addition to other powers specified in this chapter, the bank
30 may:

31 (a) Sue and be sued in its own name;

32 (b) Make and execute agreements, contracts, and other instruments,
33 with any public or private person or entity, in accordance with this
34 chapter and the state Constitution;

35 (c) Solicit and accept gifts, grants, donations, or contributions
36 from any federal, state, local governmental agency or program, or any
37 private source, and expend the same for any purpose consistent with
38 this chapter;

- 1 (d) Adopt rules, in accordance with chapter 34.05 RCW; and
2 (e) Exercise any other power reasonably required to implement the
3 purposes of this chapter.

4 NEW SECTION. **Sec. 102.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Bank" means the Washington economic prosperity bank created in
7 this chapter.

8 (2) "Board" means the board of directors of the bank.

9 NEW SECTION. **Sec. 103.** (1) The bank shall be governed by a five
10 member board of directors: The governor; the lieutenant governor; the
11 state auditor; the attorney general; and the state treasurer, who shall
12 serve as board chair.

13 (2) The board shall:

14 (a) Establish an advisory council of financial experts and appoint
15 its members;

16 (b) Appoint the bank's officers and evaluate their performance;

17 (c) Set objectives and common criteria for allocating the bank's
18 resources based upon legislative direction, best practices,
19 maximization of benefits to the state at a prudent level of risk, and
20 creation of long-term value for the state;

21 (d) Make final decisions on allocation of its resources among
22 funding programs under its management; and

23 (e) Communicate its decisions and rationale to the legislature and
24 the public.

25 (3)(a) The board shall appoint a five member advisory council.
26 Each council candidate must have experience in finance, banking, or
27 budget and demonstrate a statewide perspective regarding economic
28 prosperity. At least four board members must vote affirmatively to
29 confirm each candidate as an advisory councilmember. Advisory
30 councilmembers serve at the pleasure of the board.

31 (b) As authority to make funding decisions under an existing
32 program is transferred to the bank pursuant to section 201 of this act,
33 the board shall appoint the transferred program's current executive
34 director or board chair to one of the five positions on the advisory
35 council. The appointment must remain in effect until either one

1 funding cycle has been completed under the bank's management, or the
2 board determines that the transfer of the program to the bank has
3 otherwise been completed, whichever occurs first.

4 (c) The advisory council shall:

5 (i) Develop and recommend to the board common criteria for
6 evaluating applications for the funding programs under the bank's
7 management;

8 (ii) Make recommendations to the board on which applications to
9 approve for funding; and

10 (iii) Develop and recommend to the board contractual policies and
11 procedures.

12 (d) Members of the advisory council are entitled to reimbursement
13 for expenses incurred in the discharge of their duties under this
14 chapter, as provided in RCW 43.03.050 and 43.03.060.

15 (4) The board may delegate some of its functions to the chair and
16 to the bank president. However, board members may not delegate their
17 final decision-making authority or their attendance at meetings.
18 Members may participate in a meeting by conference telephone or similar
19 electronic communications equipment so that all persons participating
20 in the meeting can hear each other at the same time. Participation by
21 that method constitutes presence in person at a meeting.

22 (5) The board may adopt policies and procedures for its own
23 governance.

24 (6) The board may establish expert ad hoc technical advisory
25 committees to assist in evaluating applications for bank funding. The
26 board may, and is encouraged to, draw these experts from boards and
27 agencies that previously managed the relevant funding programs. The
28 board may also establish technical advisory committees or consult with
29 public and private sector experts in substantive areas related to the
30 bank's mission, objectives, and duties.

31 (7)(a)(i) The board shall appoint a bank president and other
32 officers, all of whom must have demonstrated experience in finance,
33 banking, or budget. The officers are exempt from the provisions of
34 chapter 41.06 RCW. The officers shall serve at the board's pleasure,
35 on such terms and conditions as the board determines, but subject to
36 chapter 42.52 RCW.

37 (ii) The officers shall provide support to the board and the

1 advisory council, carry out bank policies and programs, and exercise
2 additional authority as may be delegated by the board.

3 (b) Subject to available funding and consistent with board
4 direction, the bank president:

5 (i) May employ such additional personnel as are necessary to the
6 bank's operations. This employment shall be in accordance with the
7 state civil service law, chapter 41.06 RCW; and

8 (ii) May contract with persons who have the technical expertise
9 needed to carry out a specific, time-limited project.

10 NEW SECTION. **Sec. 104.** A new section is added to chapter 41.06
11 RCW to read as follows:

12 In addition to the exemptions under RCW 41.06.070, this chapter
13 does not apply in the Washington economic prosperity bank to its
14 officers, as provided in section 103(7)(a)(i) of this act.

15 PART II
16 PROGRAM TRANSFERS, SIX-YEAR PLAN, ACCOUNTABILITY

17 NEW SECTION. **Sec. 201.** (1) When the bank is provided with the
18 relevant specific expenditure authority in the enacted operating or the
19 capital appropriations act, the following business finance programs
20 will be transitioned from their current agencies to the bank: The life
21 sciences discovery fund established in chapter 43.350 RCW, and the
22 energy freedom program established in chapter 43.325 RCW. The
23 legislature expects that these programs will be fully transferred to
24 the bank within one year of the bank receiving such expenditure
25 authority. Until the board determines that the program is fully
26 transferred to the bank, funding applications must continue to be
27 evaluated and selected using agency personnel, criteria, policies, and
28 procedures provided for under the applicable statute authorizing the
29 program.

30 (2)(a) Before the commencement of the legislative session
31 immediately following the legislative session in which the bank is
32 provided with specific expenditure authority, the board must submit to
33 the legislature a six-year plan for transferring management authority
34 for additional business finance programs and public infrastructure
35 programs to the bank.

1 (b) To determine which categories, funding sources, and programs to
2 recommend for transfer, the board must use a quantitative and
3 qualitative process, including considering whether each transfer will
4 provide measurable public benefit through expanded investment
5 opportunities, administrative efficiencies, or other criteria
6 determined by the board.

7 (c) The six-year plan must include recommendations for:

8 (i) Program transfers that would take place within two, four, and
9 six years of bank operations commencing;

10 (ii) Management of matching funds, federal funds, legacy accounts,
11 and any other sources of revenue that would be under the bank's
12 management;

13 (iii) Protection of existing bondholder's rights, covenants, and
14 contracts;

15 (iv) A timeline within which the bank will achieve fiscal self-
16 sufficiency; and

17 (v) Statutory or budgetary changes that will increase the bank's
18 capacity to achieve its mission, objectives, and duties.

19 (3) To prepare its six-year plan, the board must evaluate, at a
20 minimum, the following business and public infrastructure fund sources
21 for transfer to the bank:

22 (a) The rural Washington loan fund under chapter 43.168 RCW;

23 (b) The forest products revolving loan fund, managed by the
24 department of commerce;

25 (c) The coastal revolving loan fund, managed by the department of
26 commerce;

27 (d) HUD section 108 guaranteed loans, managed by the department of
28 commerce;

29 (e) Community development block grant float loans, managed by the
30 department of commerce;

31 (f) The child care facility revolving fund under RCW 43.31.502;

32 (g) Industrial revenue bonds, managed by the Washington economic
33 development finance authority;

34 (h) The public works trust fund under chapter 43.155 RCW;

35 (i) Community economic revitalization board loans and grants under
36 chapter 43.160 RCW;

37 (j) The centennial clean water program, managed by the department
38 of ecology;

1 (k) The freight mobility strategic investment program under chapter
2 47.06A RCW;

3 (l) The housing trust fund under RCW 43.185.030;

4 (m) Housing finance commission programs under chapter 43.180 RCW;
5 and

6 (n) Washington wildlife and recreation program grants under chapter
7 79A.15 RCW.

8 (4) The legislature may modify the six-year plan submitted by the
9 bank and direct any program and fund source transfers through
10 legislation and the operating and capital appropriations budgets.

11 NEW SECTION. **Sec. 202.** (1) Beginning December 1, of the year in
12 which this section takes effect, the bank must report annually to the
13 legislature on its most recently completed fiscal year's activities and
14 outcomes and its proposed plans for the upcoming fiscal year. The
15 report must include: The bank's objectives; the common criteria and
16 prudent risk definition that it uses to evaluate and select projects;
17 projects submitted, evaluated, and selected for funding; the size,
18 scope, and fund sources included in the bank's outstanding portfolio;
19 outcomes that the bank has achieved including return on investment,
20 creation of long-term value, and self-funding of bank operations; any
21 significant staff changes; and any policy or fiscal recommendations for
22 legislative consideration.

23 (2) By July 1 ten years after the year in which this section takes
24 effect, and every ten years thereafter, the joint legislative audit and
25 review committee must conduct a performance audit to assess the extent
26 to which implementation and operation of the bank has met the
27 objectives provided in section 101(2) of this act and to recommend
28 additional actions to improve the bank's performance and
29 accountability.

30 (3) If circumstances require that the bank terminate its
31 activities, its functions must be transferred to the office of the
32 state treasurer or to another agency as directed by the legislature.

33 PART III
34 FISCAL PROVISIONS

1 consideration would cause a likelihood of decreased price. However,
2 final action selling or leasing public property shall be taken in a
3 meeting open to the public;

4 (d) To review negotiations on the performance of publicly bid
5 contracts when public knowledge regarding such consideration would
6 cause a likelihood of increased costs;

7 (e) To consider, in the case of an export trading company,
8 financial and commercial information supplied by private persons to the
9 export trading company;

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

14 (g) To evaluate the qualifications of an applicant for public
15 employment or to review the performance of a public employee. However,
16 subject to RCW 42.30.140(4), discussion by a governing body of
17 salaries, wages, and other conditions of employment to be generally
18 applied within the agency shall occur in a meeting open to the public,
19 and when a governing body elects to take final action hiring, setting
20 the salary of an individual employee or class of employees, or
21 discharging or disciplining an employee, that action shall be taken in
22 a meeting open to the public;

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

27 (i) To discuss with legal counsel representing the agency matters
28 relating to agency enforcement actions, or to discuss with legal
29 counsel representing the agency litigation or potential litigation to
30 which the agency, the governing body, or a member acting in an official
31 capacity is, or is likely to become, a party, when public knowledge
32 regarding the discussion is likely to result in an adverse legal or
33 financial consequence to the agency.

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

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

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

7 (iii) Litigation or legal risks of a proposed action or current
8 practice that the agency has identified when public discussion of the
9 litigation or legal risks is likely to result in an adverse legal or
10 financial consequence to the agency;

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

17 (k) To consider, in the case of the state investment board,
18 financial and commercial information when the information relates to
19 the investment of public trust or retirement funds and when public
20 knowledge regarding the discussion would result in loss to such funds
21 or in private loss to the providers of this information;

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

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

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

33 (o) To consider in the case of the Washington economic prosperity
34 bank, the substance of loan or grant applications and awards when
35 public knowledge regarding the discussion would reasonably be expected
36 to result in private loss to the providers of this information.

37 (2) Before convening in executive session, the presiding officer of
38 a governing body shall publicly announce the purpose for excluding the

1 public from the meeting place, and the time when the executive session
2 will be concluded. The executive session may be extended to a stated
3 later time by announcement of the presiding officer.

4 **Sec. 402.** RCW 42.56.270 and 2009 c 394 s 3 are each amended to
5 read as follows:

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

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

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

17 (3) Financial and commercial information and records supplied by
18 private persons pertaining to export services provided under chapters
19 43.163 and 53.31 RCW, and by persons pertaining to export projects
20 under RCW 43.23.035;

21 (4) Financial and commercial information and records supplied by
22 businesses or individuals during application for loans or program
23 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
24 43.168 RCW, or during application for economic development loans or
25 program services provided by any local agency;

26 (5) Financial information, business plans, examination reports, and
27 any information produced or obtained in evaluating or examining a
28 business and industrial development corporation organized or seeking
29 certification under chapter 31.24 RCW;

30 (6) Financial and commercial information supplied to the state
31 investment board by any person when the information relates to the
32 investment of public trust or retirement funds and when disclosure
33 would result in loss to such funds or in private loss to the providers
34 of this information;

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

36 (8) Financial, commercial, operations, and technical and research

1 information and data submitted to or obtained by the clean Washington
2 center in applications for, or delivery of, program services under
3 chapter 70.95H RCW;

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

7 (10)(a) Financial information, including but not limited to account
8 numbers and values, and other identification numbers supplied by or on
9 behalf of a person, firm, corporation, limited liability company,
10 partnership, or other entity related to an application for a horse
11 racing license submitted pursuant to RCW 67.16.260(1)(b), liquor
12 license, gambling license, or lottery retail license;

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

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

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

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

30 (ii) Financial or proprietary information collected from any person
31 and provided to the department of (~~community, trade, and economic
32 development~~) commerce or the office of the governor in connection with
33 the siting, recruitment, expansion, retention, or relocation of that
34 person's business and until a siting decision is made, identifying
35 information of any person supplying information under this subsection
36 and the locations being considered for siting, relocation, or expansion
37 of a business;

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

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

7 (d) If there is no written contact for a period of sixty days to
8 the department of (~~community, trade, and economic development~~)
9 commerce from a person connected with siting, recruitment, expansion,
10 retention, or relocation of that person's business, information
11 described in (a)(ii) of this subsection will be available to the public
12 under this chapter;

13 (13) Financial and proprietary information submitted to or obtained
14 by the department of ecology or the authority created under chapter
15 70.95N RCW to implement chapter 70.95N RCW;

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

22 (15) Financial and commercial information provided as evidence to
23 the department of licensing as required by RCW 19.112.110 or
24 19.112.120, except information disclosed in aggregate form that does
25 not permit the identification of information related to individual fuel
26 licensees;

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

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

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

37 (18) Financial, commercial, operations, and technical and research
38 information and data submitted to or obtained by a health sciences and

1 services authority in applications for, or delivery of, grants under
2 RCW 35.104.010 through 35.104.060, to the extent that such information,
3 if revealed, would reasonably be expected to result in private loss to
4 providers of this information;

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

7 (20) Financial and commercial information submitted to or obtained
8 by the University of Washington, other than information the university
9 is required to disclose under RCW 28B.20.150, when the information
10 relates to investments in private funds, to the extent that such
11 information, if revealed, would reasonably be expected to result in
12 loss to the University of Washington consolidated endowment fund or to
13 result in private loss to the providers of this information; and

14 (21) Financial, commercial, operations, and technical and research
15 information and data submitted to or obtained by the Washington
16 economic prosperity bank in applications for loans or grants under
17 chapter 43.--- RCW (the new chapter created in section 502 of this
18 act), to the extent that such information, if revealed, would
19 reasonably be expected to result in private loss to the providers of
20 this information.

21 **Sec. 403.** RCW 43.79A.040 and 2010 sp.s. c 19 s 22, 2010 sp.s. c 13
22 s 4, 2010 sp.s. c 9 s 6, 2010 c 222 s 4, and 2010 c 215 s 7 are each
23 reenacted and amended to read as follows:

24 (1) Money in the treasurer's trust fund may be deposited, invested,
25 and reinvested by the state treasurer in accordance with RCW 43.84.080
26 in the same manner and to the same extent as if the money were in the
27 state treasury, and may be commingled with moneys in the state treasury
28 for cash management and cash balance purposes.

29 (2) All income received from investment of the treasurer's trust
30 fund must be set aside in an account in the treasury trust fund to be
31 known as the investment income account.

32 (3) The investment income account may be utilized for the payment
33 of purchased banking services on behalf of treasurer's trust funds
34 including, but not limited to, depository, safekeeping, and
35 disbursement functions for the state treasurer or affected state
36 agencies. The investment income account is subject in all respects to

1 chapter 43.88 RCW, but no appropriation is required for payments to
2 financial institutions. Payments must occur prior to distribution of
3 earnings set forth in subsection (4) of this section.

4 (4)(a) Monthly, the state treasurer must distribute the earnings
5 credited to the investment income account to the state general fund
6 except under (b), (c), and (d) of this subsection.

7 (b) The following accounts and funds must receive their
8 proportionate share of earnings based upon each account's or fund's
9 average daily balance for the period: The Washington promise
10 scholarship account, the college savings program account, the
11 Washington advanced college tuition payment program account, the
12 accessible communities account, the agricultural local fund, the
13 American Indian scholarship endowment fund, the foster care scholarship
14 endowment fund, the foster care endowed scholarship trust fund, the
15 students with dependents grant account, the basic health plan self-
16 insurance reserve account, the contract harvesting revolving account,
17 the Washington state combined fund drive account, the commemorative
18 works account, the county enhanced 911 excise tax account, the
19 Washington international exchange scholarship endowment fund, the toll
20 collection account, the developmental disabilities endowment trust
21 fund, the energy account, the fair fund, the family leave insurance
22 account, the food animal veterinarian conditional scholarship account,
23 the fruit and vegetable inspection account, the future teachers
24 conditional scholarship account, the game farm alternative account, the
25 GET ready for math and science scholarship account, the Washington
26 global health technologies and product development account, the grain
27 inspection revolving fund, the juvenile accountability incentive
28 account, the law enforcement officers' and firefighters' plan 2 expense
29 fund, the local tourism promotion account, the pilotage account, the
30 produce railcar pool account, the regional transportation investment
31 district account, the rural rehabilitation account, the stadium and
32 exhibition center account, the youth athletic facility account, the
33 self-insurance revolving fund, the sulfur dioxide abatement account,
34 the children's trust fund, the Washington economic prosperity bank
35 account, the Washington horse racing commission Washington bred owners'
36 bonus fund and breeder awards account, the Washington horse racing
37 commission class C purse fund account, the individual development
38 account program account, the Washington horse racing commission

1 operating account (earnings from the Washington horse racing commission
2 operating account must be credited to the Washington horse racing
3 commission class C purse fund account), the life sciences discovery
4 fund, the Washington state heritage center account, the reduced
5 cigarette ignition propensity account, and the reading achievement
6 account.

7 (c) The following accounts and funds must receive eighty percent of
8 their proportionate share of earnings based upon each account's or
9 fund's average daily balance for the period: The advanced right-of-way
10 revolving fund, the advanced environmental mitigation revolving
11 account, the federal narcotics asset forfeitures account, the high
12 occupancy vehicle account, the local rail service assistance account,
13 and the miscellaneous transportation programs account.

14 (d) Any state agency that has independent authority over accounts
15 or funds not statutorily required to be held in the custody of the
16 state treasurer that deposits funds into a fund or account in the
17 custody of the state treasurer pursuant to an agreement with the office
18 of the state treasurer shall receive its proportionate share of
19 earnings based upon each account's or fund's average daily balance for
20 the period.

21 (5) In conformance with Article II, section 37 of the state
22 Constitution, no trust accounts or funds shall be allocated earnings
23 without the specific affirmative directive of this section.

24 **Sec. 404.** RCW 43.325.020 and 2009 c 451 s 3 are each amended to
25 read as follows:

26 (1) This section applies except as provided in section 201(1) of
27 this act.

28 (2) The energy freedom program is established within the
29 department. The director may establish policies and procedures
30 necessary for processing, reviewing, and approving applications made
31 under this chapter.

32 ((+2)) (3) When reviewing applications submitted under this
33 program, the director shall consult with those agencies and other
34 public entities having expertise and knowledge to assess the technical
35 and business feasibility of the project and probability of success.
36 These agencies may include, but are not limited to, Washington State
37 University, the University of Washington, the department of ecology,

1 the department of natural resources, the department of agriculture, the
2 department of general administration, local clean air authorities, the
3 Washington state conservation commission, and the clean energy
4 leadership council created in section 2, chapter 318, Laws of 2009.

5 ~~((+3))~~ (4) Except as provided in subsections ~~((+4))~~ (5) and
6 ~~((+5))~~ (6) of this section, the director, in cooperation with the
7 department of agriculture, may approve an application only if the
8 director finds:

9 (a) The project will convert farm products, wastes, cellulose, or
10 biogas directly into electricity or biofuel or other coproducts
11 associated with such conversion;

12 (b) The project demonstrates technical feasibility and directly
13 assists in moving a commercially viable project into the marketplace
14 for use by Washington state citizens;

15 (c) The facility will produce long-term economic benefits to the
16 state, a region of the state, or a particular community in the state;

17 (d) The project does not require continuing state support;

18 (e) The assistance will result in new jobs, job retention, or
19 higher incomes for citizens of the state;

20 (f) The state is provided an option under the assistance agreement
21 to purchase a portion of the fuel or feedstock to be produced by the
22 project, exercisable by the department of general administration;

23 (g) The project will increase energy independence or diversity for
24 the state;

25 (h) The project will use feedstocks produced in the state, if
26 feasible, except this criterion does not apply to the construction of
27 facilities used to distribute and store fuels that are produced from
28 farm products or wastes;

29 (i) Any product produced by the project will be suitable for its
30 intended use, will meet accepted national or state standards, and will
31 be stored and distributed in a safe and environmentally sound manner;

32 (j) The application provides for adequate reporting or disclosure
33 of financial and employment data to the director, and permits the
34 director to require an annual or other periodic audit of the project
35 books; and

36 (k) For research and development projects, the application has been
37 independently reviewed by a peer review committee as defined in RCW
38 43.325.010 and the findings delivered to the director.

1 (~~(4)~~) (5) When reviewing an application for a refueling project,
2 the coordinator may award a grant or a loan to an applicant if the
3 director finds:

4 (a) The project will offer alternative fuels to the motoring
5 public;

6 (b) The project does not require continued state support;

7 (c) The project is located within a green highway zone as defined
8 in RCW 43.325.010;

9 (d) The project will contribute towards an efficient and adequately
10 spaced alternative fuel refueling network along the green highways
11 designated in RCW 47.17.020, 47.17.135, and 47.17.140; and

12 (e) The project will result in increased access to alternative
13 fueling infrastructure for the motoring public along the green highways
14 designated in RCW 47.17.020, 47.17.135, and 47.17.140.

15 (~~(5)~~) (6) When reviewing an application for energy efficiency
16 improvements, renewable energy improvements, or innovative energy
17 technology, the director may award a grant or a loan to an applicant if
18 the director finds:

19 (a) The project or program will result in increased access for the
20 public, state and local governments, and businesses to energy
21 efficiency improvements, renewable energy improvements, or innovative
22 energy technologies;

23 (b) The project or program demonstrates technical feasibility and
24 directly assists in moving a commercially viable project into the
25 marketplace for use by Washington state citizens;

26 (c) The project or program does not require continued state
27 support; or

28 (d) The federal government has provided funds with a limited time
29 frame for use for energy independence and security, energy efficiency,
30 renewable energy, innovative energy technologies, or conservation.

31 (~~(6)~~) (7)(a) The director may approve a project application for
32 assistance under subsection (~~(3)~~) (4) of this section up to five
33 million dollars. In no circumstances shall this assistance constitute
34 more than fifty percent of the total project cost.

35 (b) The director may approve a refueling project application for a
36 grant or a loan under subsection (~~(4)~~) (5) of this section up to
37 fifty thousand dollars. In no circumstances shall a grant or a loan
38 award constitute more than fifty percent of the total project cost.

1 ~~((3))~~ (4)(a) The energy recovery act account is created in the
2 state treasury. State and federal funds may be deposited into the
3 account and any loan payments of principal and interest derived from
4 loans made from the energy recovery act account must be deposited into
5 the account. Moneys in the account may be spent only after
6 appropriation.

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

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

13 (ii) Companies with innovative, near-commercial or commercial,
14 clean energy technology; and

15 (iii) Energy efficiency technologies that have a viable repayment
16 stream from reduced utility costs.

17 (c) The director shall establish policies and procedures for
18 processing, reviewing, and approving applications for funding under
19 this section. When developing these policies and procedures, the
20 department must consider the clean energy leadership strategy developed
21 under section 2, chapter 318, Laws of 2009.

22 (d) The director shall enter into agreements with approved
23 applicants to fix the term and rates of funding provided from this
24 account.

25 (e) The policies and procedures of this subsection ~~((3))~~ (4) do
26 not apply to assistance awarded for projects under RCW
27 43.325.020~~((3))~~ (4).

28 ~~((4))~~ (5) Any state agency receiving funding from the energy
29 freedom account is prohibited from retaining greater than three percent
30 of any funding provided from the energy freedom account for
31 administrative overhead or other deductions not directly associated
32 with conducting the research, projects, or other end products that the
33 funding is designed to produce unless this provision is waived in
34 writing by the director.

35 ~~((5))~~ (6) Any university, institute, or other entity that is not
36 a state agency receiving funding from the energy freedom account is
37 prohibited from retaining greater than fifteen percent of any funding
38 provided from the energy freedom account for administrative overhead or

1 other deductions not directly associated with conducting the research,
2 projects, or other end products that the funding is designed to
3 produce.

4 ~~((+6+))~~ (7) Subsections ~~((+2+), (+4+ and +5+))~~ (3), (5), and (6) of
5 this section do not apply to assistance awarded for projects under RCW
6 43.325.020~~((+3+))~~ (4).

7 ~~((+7+))~~ (8) During the 2009-2011 fiscal biennium, the legislature
8 may transfer from the energy freedom account to the state general fund
9 such amounts as reflect the excess fund balance of the account.

10 **Sec. 406.** RCW 43.325.050 and 2009 c 518 s 20 are each amended to
11 read as follows:

12 Except as provided in section 201(1) of this act, the director
13 shall report to the legislature and governor on the status of the
14 energy freedom program created under this chapter, on or before
15 December 1, 2006, and biennially thereafter. This report must include
16 information on the projects that have been funded, the status of these
17 projects, and their environmental, energy savings, and job creation
18 benefits.

19 **Sec. 407.** RCW 43.325.902 and 2007 c 348 s 307 are each amended to
20 read as follows:

21 (1) This section applies except as provided in section 201(1) of
22 this act.

23 (2) Energy freedom program projects funded pursuant to RCW
24 43.325.040 or by the legislature pursuant to sections 191 and 192,
25 chapter 371, Laws of 2006 for which the department of agriculture has
26 signed loan agreements and disbursed funds prior to June 30, 2007,
27 shall continue to be serviced by the department of agriculture.

28 ~~((+2+))~~ (3) Energy freedom program projects funded pursuant to RCW
29 43.325.040 or by the legislature pursuant to sections 191 and 192,
30 chapter 371, Laws of 2006 for which moneys have been appropriated but
31 loan agreements or disbursements have not been completed must be
32 transferred to the department for project management on July 1, 2007,
33 subject to the ongoing requirements of the energy freedom program.

34 **Sec. 408.** RCW 43.350.005 and 2005 c 424 s 1 are each amended to
35 read as follows:

1 (1) The legislature declares that promoting the health of state
2 residents is a fundamental purpose of state government. The
3 legislature declares it to be a clear public purpose and governmental
4 function to promote life sciences research to foster a preventive and
5 predictive vision of the next generation of health-related innovations,
6 to enhance the competitive position of Washington state in this vital
7 sector of the economy, and to improve the quality and delivery of
8 health care for the people of Washington. The legislature finds that
9 public support for and promotion of life sciences research will benefit
10 the state and its residents through improved health status and health
11 outcomes, economic development, and contributions to scientific
12 knowledge, and such research will lead to breakthroughs and
13 improvements that might not otherwise be discovered due to lack of
14 existing market incentives, especially in the area of regenerative
15 medicine. The legislature finds that public support for and promotion
16 of life sciences research has the potential to provide cures or new
17 treatments for many debilitating diseases that cost the state millions
18 of dollars each year. It is appropriate and consistent with the intent
19 of the master settlement agreement between the state and tobacco
20 product manufacturers to invest a portion of the revenues derived
21 therefrom by the state in life sciences research, to leverage the
22 revenues with other funds, and to encourage cooperation and innovation
23 among public and private institutions involved in life sciences
24 research.

25 (2) Except as provided in section 201(1) of this act, the purpose
26 of this chapter is to establish a life sciences discovery fund
27 authority, to grant that authority the power to contract with the state
28 to receive revenues under the master settlement agreement, and to
29 contract with other entities to receive other funds, and to disburse
30 those funds consistent with the purpose of this chapter. The life
31 sciences discovery fund is intended to promote the best available
32 research in life sciences disciplines through diverse Washington
33 institutions and to build upon existing strengths in the area of
34 biosciences and biomanufacturing in order to spread the economic
35 benefits across the state. The life sciences discovery fund is also
36 intended to foster improved health care outcomes and improved
37 agricultural production research across this state and the world. The
38 research investments of the life sciences discovery fund are intended

1 to further the goals of the "Bio 21" report and to support future
2 statewide, comprehensive strategies to lead the nation in life
3 sciences-related research and employment.

4 **Sec. 409.** RCW 43.350.020 and 2005 c 424 s 3 are each amended to
5 read as follows:

6 (1) This section applies except as provided in section 201(1) of
7 this act.

8 (2) The life sciences discovery fund authority is created and
9 constitutes a public instrumentality and agency of the state, separate
10 and distinct from the state, exercising public and essential
11 governmental functions.

12 ((+2)) (3) The powers of the authority are vested in and shall be
13 exercised by a board of trustees consisting of: Two members of either
14 the house appropriations committee or the house committee dealing with
15 technology issues, one from each caucus, to be appointed by the speaker
16 of the house of representatives; two members of either the senate
17 committee on ways and means or the senate committee dealing with
18 technology issues, one from each caucus, to be appointed by the
19 president of the senate; and seven members appointed by the governor
20 with the consent of the senate, one of whom shall be appointed by the
21 governor as chair of the authority and who shall serve on the board and
22 as chair of the authority at the pleasure of the governor. The
23 respective officials shall make the initial appointments no later than
24 thirty days after May 12, 2005. The term of the trustees, other than
25 the chair, is four years from the date of their appointment, except
26 that the terms of three of the initial gubernatorial appointees, as
27 determined by the governor, are for two years from the date of their
28 appointment. A trustee appointed by the governor may be removed by the
29 governor for cause under RCW 43.06.070 and 43.06.080. The appropriate
30 official shall fill any vacancy on the board by appointment for the
31 remainder of the unexpired term. The trustees appointed by the
32 governor shall be compensated in accordance with RCW 43.03.240 and may
33 be reimbursed, solely from the funds of the authority, for expenses
34 incurred in the discharge of their duties under this chapter, subject
35 to RCW 43.03.050 and 43.03.060. The trustees who are legislators shall
36 be reimbursed for travel expenses in accordance with RCW 44.04.120.

37 ((+3)) (4) Seven members of the board constitute a quorum.

1 (~~(4)~~) (5) The trustees shall elect a treasurer and secretary
2 annually, and other officers as the trustees determine necessary, and
3 may adopt bylaws or rules for their own government.

4 (~~(5)~~) (6) Meetings of the board shall be held in accordance with
5 the open public meetings act, chapter 42.30 RCW, and at the call of the
6 chair or when a majority of the trustees so requests. Meetings of the
7 board may be held at any location within or out of the state, and
8 trustees may participate in a meeting of the board by means of a
9 conference telephone or similar communication equipment under RCW
10 23B.08.200.

11 (~~(6)~~) (7) The authority is subject to audit by the state auditor.

12 (~~(7)~~) (8) The attorney general must advise the authority and
13 represent it in all legal proceedings.

14 **Sec. 410.** RCW 43.350.030 and 2005 c 424 s 4 are each amended to
15 read as follows:

16 Except as provided in section 201(1) of this act, in addition to
17 other powers and duties prescribed in this chapter, the authority is
18 empowered to:

19 (1) Use public moneys in the life sciences discovery fund,
20 leveraging those moneys with amounts received from other public and
21 private sources in accordance with contribution agreements, to promote
22 life sciences research;

23 (2) Solicit and receive gifts, grants, and bequests, and enter into
24 contribution agreements with private entities and public entities other
25 than the state to receive moneys in consideration of the authority's
26 promise to leverage those moneys with amounts received through
27 appropriations from the legislature and contributions from other public
28 entities and private entities, in order to use those moneys to promote
29 life sciences research. Nonstate moneys received by the authority for
30 this purpose shall be deposited in the life sciences discovery fund
31 created in RCW 43.350.070;

32 (3) Hold funds received by the authority in trust for their use
33 pursuant to this chapter to promote life sciences research;

34 (4) Manage its funds, obligations, and investments as necessary and
35 as consistent with its purpose including the segregation of revenues
36 into separate funds and accounts;

1 (5) Make grants to entities pursuant to contract for the promotion
2 of life sciences research to be conducted in the state. Grant
3 agreements shall specify deliverables to be provided by the recipient
4 pursuant to the grant. The authority shall solicit requests for
5 funding and evaluate the requests by reference to factors such as: (a)
6 The quality of the proposed research; (b) its potential to improve
7 health outcomes, with particular attention to the likelihood that it
8 will also lower health care costs, substitute for a more costly
9 diagnostic or treatment modality, or offer a breakthrough treatment for
10 a particular disease or condition; (c) its potential for leveraging
11 additional funding; (d) its potential to provide health care benefits
12 or benefit human learning and development; (e) its potential to
13 stimulate the health care delivery, biomedical manufacturing, and life
14 sciences related employment in the state; (f) the geographic diversity
15 of the grantees within Washington; (g) evidence of potential royalty
16 income and contractual means to recapture such income for purposes of
17 this chapter; and (h) evidence of public and private collaboration;

18 (6) Create one or more advisory boards composed of scientists,
19 industrialists, and others familiar with life sciences research; and

20 (7) Adopt policies and procedures to facilitate the orderly process
21 of grant application, review, and reward.

22 **Sec. 411.** RCW 43.350.040 and 2005 c 424 s 5 are each amended to
23 read as follows:

24 Except as provided in section 201(1) of this act, the authority has
25 all the general powers necessary to carry out its purposes and duties
26 and to exercise its specific powers. In addition to other powers
27 specified in this chapter, the authority may: (1) Sue and be sued in
28 its own name; (2) make and execute agreements, contracts, and other
29 instruments, with any public or private person or entity, in accordance
30 with this chapter; (3) employ, contract with, or engage independent
31 counsel, financial advisors, auditors, other technical or professional
32 assistants, and such other personnel as are necessary or desirable to
33 implement this chapter; (4) establish such special funds, and controls
34 on deposits to and disbursements from them, as it finds convenient for
35 the implementation of this chapter; (5) enter into contracts with
36 public and private entities for life sciences research to be conducted
37 in the state; (6) adopt rules, consistent with this chapter; (7)

1 delegate any of its powers and duties if consistent with the purposes
2 of this chapter; (8) exercise any other power reasonably required to
3 implement the purposes of this chapter; and (9) hire staff and pay
4 administrative costs.

5 **Sec. 412.** RCW 43.350.070 and 2005 c 424 s 8 are each amended to
6 read as follows:

7 The life sciences discovery fund is created in the custody of the
8 state treasurer. Except as provided in section 201(1) of this act,
9 only the board or the board's designee may authorize expenditures from
10 the fund. Expenditures from the fund may be made only for purposes of
11 this chapter. Administrative expenses of the authority, including
12 staff support, may be paid only from the fund. Revenues to the fund
13 consist of transfers made by the legislature from strategic
14 contribution payments deposited in the tobacco settlement account under
15 RCW 43.79.480, moneys received pursuant to contribution agreements
16 entered into pursuant to RCW 43.350.030, moneys received from gifts,
17 grants, and bequests, and interest earned on the fund.

18 PART V

19 MISCELLANEOUS PROVISIONS

20 NEW SECTION. **Sec. 501.** (1) The sum of, or as much
21 thereof as may be necessary, is appropriated for the fiscal year ending
22 June 30, 2012, from the general fund to the Washington economic
23 prosperity bank for its operations.

24 (2) The sum of, or as much thereof as may be necessary,
25 is appropriated for the fiscal year ending June 30, 2013, from the
26 general fund to the Washington economic prosperity bank for its
27 operations.

28 NEW SECTION. **Sec. 502.** Sections 101 through 103, 201, 202, and
29 301 of this act constitute a new chapter in Title 43 RCW.

30 NEW SECTION. **Sec. 503.** Sections 404 through 406 of this act
31 expire June 30, 2016.

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