

CERTIFICATION OF ENROLLMENT

SECOND ENGROSSED SENATE BILL 5764

Chapter 14, Laws of 2011

(partial veto)

62nd Legislature
2011 1st Special Session

INNOVATE WASHINGTON--CREATION

EFFECTIVE DATE: 08/01/11

Passed by the Senate May 23, 2011
YEAS 45 NAYS 2

BRAD OWEN

President of the Senate

Passed by the House May 22, 2011
YEAS 53 NAYS 35

FRANK CHOPP

Speaker of the House of Representatives

Approved June 7, 2011, 3:04 p.m., with
the exception of Section 18 which is
vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of
the Senate of the State of
Washington, do hereby certify that
the attached is **SECOND ENGROSSED
SENATE BILL 5764** as passed by the
Senate and the House of
Representatives on the dates
hereon set forth.

THOMAS HOEMANN

Secretary

FILED

June 8, 2011

**Secretary of State
State of Washington**

SECOND ENGROSSED SENATE BILL 5764

AS AMENDED BY THE HOUSE

Passed Legislature - 2011 1st Special Session

State of Washington 62nd Legislature 2011 1st Special 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; adding a new section to chapter
4 41.06 RCW; adding a new chapter to Title 43 RCW; recodifying RCW
5 70.210.070; repealing RCW 28B.20.283, 28B.20.285, 28B.20.287,
6 28B.20.289, 28B.20.291, 28B.20.293, 28B.20.295, 28B.20.296, 28B.20.297,
7 28B.38.010, 28B.38.020, 28B.38.030, 28B.38.040, 28B.38.050, 28B.38.060,
8 28B.38.070, and 28B.38.900; and providing an effective date.

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

10 NEW SECTION. **Sec. 1.** (1) Innovate Washington is hereby created as
11 a state agency exercising public and essential governmental functions.
12 Innovate Washington is created as the successor to the Washington
13 technology center and the Spokane intercollegiate research and
14 technology institute. Innovate Washington is created to be a
15 collaborative effort between the state's public and private
16 institutions of higher education, private industry, and government and
17 is to be the primary agency focused on growing the innovation-based
18 economic sectors of the state and responding to the technology transfer
19 needs of existing businesses in the state.

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

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

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

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

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

22 (i) Securing federal and private funds to support product research
23 and commercialization;

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

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

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

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

35 (g) Work with regional public and private utilities, district
36 energy providers, the utilities and transportation commission, and the
37 state energy office to improve the alignment of investments in clean

1 energy technologies with existing state policies. This may include
2 facilitating public-private partnerships to encourage research and
3 development of emerging clean and renewable energy technologies;

4 (h) Serve as the lead entity in the state for coordinating clean
5 energy-related initiatives and establishing a long-term funding
6 strategy for programs targeted at expanding the clean energy sector,
7 while maintaining existing energy policy and regulatory functions at
8 the department of commerce within the state energy office;

9 (i) Administer technology and innovation grant and loan programs
10 including bridge funding programs for the state's technology sector;

11 (j) Emphasize and develop nonstate support of program activities;
12 and

13 (k) Facilitate public-private partnerships that support the growth
14 of strategic, innovation-based sectors.

15 (3)(a) Administrative responsibilities for the Washington
16 technology center facilities located on the University of Washington
17 Seattle campus and the Spokane intercollegiate research and technology
18 institute facilities located on the Riverpoint campus operated by
19 Washington State University Spokane are hereby transferred to innovate
20 Washington except to the extent that such responsibilities are the
21 subject of an interagency agreement between the University of
22 Washington and the Washington technology center, in which case the
23 terms of that agreement control. The facilities shall be used for
24 purposes consistent with the obligations of innovate Washington under
25 this chapter. As initially established, the University of Washington
26 and Washington State University shall continue to provide the facility
27 support and maintenance for these facilities as required by innovate
28 Washington, except to the extent that such responsibilities are the
29 subject of an interagency agreement between the University of
30 Washington and the Washington technology center, in which case the
31 terms of that agreement control. Other institutions of higher
32 education may provide facility support and maintenance subsequently.

33 (b) The University of Washington, Washington State University, and
34 other institutions of higher education participating in innovate
35 Washington programs shall provide the affiliated staff and faculty
36 participating in these programs at their own expense.

37 (4) The facilities of innovate Washington may be made available to

1 any research institution or any public institution of higher education
2 within the state when this would benefit specific program needs
3 consistent with this chapter.

4 (5) Innovate Washington shall, by December 1, 2012, develop a
5 five-year business plan that must be updated by December 1st of every
6 even-numbered year and submitted to the appropriate committees of the
7 legislature. The plan must include:

8 (a) A plan for operating additional facilities in Vancouver, the
9 Tri-Cities, Bellingham, and such other locations as the innovate
10 Washington board identifies as appropriate;

11 (b) Identification and specification of activities to be undertaken
12 by those operating each of innovate Washington's facilities to include
13 potential collaboration with innovative programs at the state's
14 community and technical colleges and methods of working with the
15 centers of excellence established under RCW 28B.50.902 to identify
16 businesses that could benefit from innovate Washington services;

17 (c) The process to be followed, developed in collaboration with
18 impact Washington or any successor manufacturing extension partnership
19 program operating in the state, to ensure that impact Washington
20 clients have ready access to innovate Washington's services when
21 appropriate and that companies being assisted by innovate Washington
22 have ready access to impact Washington's services; and

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

26 (6) The five-year business plan required under this section must
27 include a clean energy component that includes:

28 (a) A strategy for implementation of the first three market-driving
29 initiatives identified by the clean energy leadership council in its
30 2010 report. These market-driving initiatives are in the areas of:

- 31 (i) Combined energy efficiency, green buildings, and smart grid;
- 32 (ii) Renewable energy resource optimization and smart grid
33 deployment; and
- 34 (iii) Bioenergy deployment acceleration.

35 (b) Recommendations on ways to improve policy alignment, streamline
36 regulatory requirements, and remove administrative barriers that limit
37 the growth of the clean energy sector in Washington.

1 (7) For the purposes of this section, "lead entity" means the
2 organization that all other state agencies must coordinate with and
3 receive approval from in order to award state funds in support of clean
4 energy initiatives.

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

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

9 (b)(i) The president of the senate shall appoint one member from
10 each of the two largest caucuses of the senate;

11 (ii) The speaker of the house of representatives shall appoint one
12 member from each of the two largest caucuses of the house of
13 representatives;

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

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

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

20 (f) The chairs of the sector advisory committees created under this
21 chapter shall serve as ex officio voting members; and

22 (g) Seven members appointed by the governor from among individuals
23 who own or are executives at technology-based and innovative firms in
24 the state; of these members, at least four must be from firms
25 manufacturing in the state. The term of office for each board member
26 appointed by the governor shall be three years except, of the initial
27 appointees, three shall be appointed for one year and three shall be
28 appointed for two years. Members of the board may be appointed for
29 additional terms.

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

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

35 (4)(a) The appointed members of the board shall be compensated in
36 accordance with RCW 43.03.240 and may be reimbursed for expenses

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

3 (b) The ex officio members of the board under subsection (1)(a) and
4 (c) through (g) of this section may be reimbursed for expenses incurred
5 in the discharge of their duties under this chapter pursuant to RCW
6 43.03.050 and 43.03.060.

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

10 (5) A majority of currently serving board members constitutes a
11 quorum.

12 (6) Meetings of the board shall be held in accordance with the open
13 public meetings act, chapter 42.30 RCW, and at the call of the chair or
14 when a majority of the board members so requests. Meetings of the
15 board may be held at any location within or out of the state, and board
16 members may participate in a meeting of the board by means of a
17 conference telephone or similar communication equipment under RCW
18 23B.08.200.

19 (7) The innovate Washington board must:

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

21 (b) Appoint, and perform an annual performance review of, an
22 executive director;

23 (c) Approve an annual operating budget and ensure adequate funding
24 for operations;

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

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

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

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

33 (ii) Making the technologies in the integrated database accessible;
34 and

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

37 (g) Set performance goals for each program or service established;
38 and

1 (h) Provide a report to the governor and the legislature detailing
2 the fund-raising activities and outcomes, operations, economic impact,
3 and performance of innovate Washington. The report is due by December
4 1st of every year and the first report is due by December 1, 2012. The
5 report must include measures related to customer satisfaction as well
6 as measures of results derived from assistance provided to businesses,
7 including but not limited to manufacturing facilities established in
8 Washington, job creation inside and outside of Washington, new product
9 development, new markets opened and other export measures, the adoption
10 of new production processes, revenue and sales growth, measures that
11 would be included in a balanced scorecard, and such other outcome-based
12 measures as the board determines is appropriate.

13 (8) The board may:

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

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

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

27 (d) Establish such:

28 (i) Affiliated organizations, that may not be considered state
29 agencies as defined under chapter 43.88 RCW, to facilitate partnerships
30 and program delivery with the private sector;

31 (ii) Special funds consistent with the provisions of chapter 43.88
32 RCW; and

33 (iii) Controls as it finds convenient for the implementation of
34 this chapter;

35 (e) Create one or more advisory committees;

36 (f) Adopt rules consistent with this chapter;

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

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

3 NEW SECTION. **Sec. 3.** (1) To increase participation by Washington
4 state small business innovators in federal small business research
5 programs, innovate Washington shall provide or contract for the
6 provision of a small business innovation assistance program. The
7 program must include a proposal review process and must train and
8 assist Washington small business innovators to win awards from federal
9 small business research programs. The program must collaborate with
10 small business development centers, entrepreneur-in-residence programs,
11 and other appropriate sources of technical assistance to ensure that
12 small business innovators also receive the planning, counseling, and
13 support services necessary to expand their businesses and protect their
14 intellectual property.

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

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

21 (a) "Federal small business research programs" means the programs,
22 operating pursuant to the small business innovation development act of
23 1982, P.L. 97-219, and the small business technology transfer act of
24 1992, P.L. 102-564, title II, that provide funds to small businesses to
25 conduct research having commercial application.

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

31 NEW SECTION. **Sec. 4.** The investing in innovation account is
32 created in the custody of the state treasurer to receive state and
33 federal funds, grants, private gifts, or contributions to further the
34 purpose of innovate Washington. Expenditures from the account may be
35 used only for the purposes of the investing in innovation programs
36 established in chapter 70.210 RCW and any other purpose consistent with

1 this chapter. Only the executive director of innovate Washington or
2 the executive director's designee may authorize expenditures from the
3 account. The account is subject to allotment procedures under chapter
4 43.88 RCW, but an appropriation is not required for expenditures.

5 NEW SECTION. **Sec. 5.** A new section is added to chapter 41.06 RCW
6 to read as follows:

7 In addition to the exemptions in RCW 41.06.070, this chapter does
8 not apply to any position in or employee of innovate Washington under
9 chapter 43.--- RCW (the new chapter created in section 20 of this act).

10 **Sec. 6.** RCW 28B.50.902 and 2009 c 151 s 4 are each amended to read
11 as follows:

12 (1) The college board, in consultation with business, industry,
13 labor, the workforce training and education coordinating board, the
14 department of (~~community, trade, and economic development~~) commerce,
15 the employment security department, and community and technical
16 colleges, shall designate centers of excellence and allocate funds to
17 existing and new centers of excellence based on a competitive basis.

18 (2) Eligible applicants for the program established under this
19 section include community and technical colleges. Priority shall be
20 given to applicants that have an established education and training
21 program serving the targeted industry and that have in their home
22 district or region an industry cluster with the same targeted industry
23 at its core.

24 (3) It is the role of centers of excellence to employ strategies
25 to:

26 (a) Create educational efficiencies;

27 (b) Build a diverse, competitive workforce for strategic
28 industries;

29 (c) Maintain an institutional reputation for innovation and
30 responsiveness;

31 (d) Develop innovative curriculum and means of delivering education
32 and training;

33 (e) Act as brokers of information and resources related to
34 community and technical college education and training (~~for~~) and
35 assistance available for firms in a targeted industry, including
36 working with innovate Washington to develop methods to identify

1 businesses within a targeted industry that could benefit from the
2 services offered by innovate Washington under chapter 43.--- RCW (the
3 new chapter created in section 20 of this act); and

4 (f) Serve as partners with workforce development councils,
5 associate development organizations, and other workforce and economic
6 development organizations.

7 (4) Examples of strategies under subsection (3) of this section
8 include but are not limited to: Sharing curriculum and other
9 instructional resources, to ensure cost savings to the system;
10 delivering collaborative certificate and degree programs; and holding
11 statewide summits, seminars, conferences, and workshops on industry
12 trends and best practices in community and technical college education
13 and training.

14 **Sec. 7.** RCW 70.210.010 and 2003 c 403 s 1 are each amended to read
15 as follows:

16 It is the intent of the legislature to promote growth in the
17 technology sectors of our state's economy and to particularly focus
18 support on the ~~((creation and))~~ commercialization of intellectual
19 property ~~((in the technology, energy, and telecommunications~~
20 ~~industries))~~ and the manufacture of innovative products in the state.

21 **Sec. 8.** RCW 70.210.020 and 2003 c 403 s 2 are each amended to read
22 as follows:

23 The definitions in this section apply throughout this chapter
24 unless the context clearly requires otherwise.

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

27 ~~(2))~~ "Board" means the innovate Washington board of directors
28 ~~((for the center)).~~

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

31 **Sec. 9.** RCW 70.210.030 and 2003 c 403 s 4 are each amended to read
32 as follows:

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

34 (2) ~~((The center))~~ Innovate Washington shall periodically make
35 strategic assessments of the types of ~~((state))~~ investments in research

1 (~~and~~), technology, and industrial development in this state that
2 would likely create new products, jobs, and business opportunities and
3 produce the most beneficial long-term improvements to the lives and
4 health of the citizens of the state. The assessments shall be
5 available to the public and shall be used to guide decisions on
6 awarding (~~grants~~) funds under this chapter.

7 **Sec. 10.** RCW 70.210.040 and 2003 c 403 s 5 are each amended to
8 read as follows:

9 The board shall:

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

12 (2) Make decisions regarding distribution of (~~grant~~) funds (~~and~~
13 ~~make grant awards~~); (~~and~~)

14 (3) In making (~~grant awards, seek to provide a balance between~~
15 ~~research grant awards and commercialization grant awards~~) funding
16 decisions and to the extent that economic impact is not diminished,
17 provide priority to enterprises that:

18 (a) Were created through, and have existing intellectual property
19 agreements in place with, public and private research institutions in
20 the state; and

21 (b) Intend to produce new products or services, develop or expand
22 facilities, or manufacture in the state; and

23 (4) Specify in contracts awarding funds that recipients must
24 utilize funding received to support operations in the state of
25 Washington and must subsequently report on the impact of their
26 research, development, and any subsequent production activities within
27 Washington for a period of ten years following the award of funds, and
28 that a failure to comply with this requirement will obligate the
29 recipient to return the amount of the award plus interest as determined
30 by the board.

31 **Sec. 11.** RCW 70.210.050 and 2003 c 403 s 6 are each amended to
32 read as follows:

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

35 (2) The board shall establish a peer review committee to include
36 board members, scientists, engineers, and individuals with specific

1 recognized expertise. The peer review committee shall provide to the
2 board an independent peer review of all proposals determined to be
3 competitive for a loan or grant award that are submitted to the board.

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

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

12 ~~(5) The center)) Innovate Washington may not be a direct recipient
13 of ((grant awards)) funding under this chapter ((403, Laws of 2003))~~

14 **Sec. 12.** RCW 70.210.060 and 2003 c 403 s 7 are each amended to
15 read as follows:

16 The board shall establish performance benchmarks against which the
17 program will be evaluated. The ((grants)) program shall be reviewed
18 periodically by the board. The board shall report annually to the
19 appropriate standing committees of the legislature on loans made and
20 grants awarded and as appropriate on program reviews conducted by the
21 board.

22 **Sec. 13.** RCW 70.210.070 and 2003 c 403 s 8 are each amended to
23 read as follows:

24 (1) ((The — center)) Innovate Washington shall administer the
25 investing in innovation ((grants)) program.

26 (2) Not more than one percent of the available funds from the
27 investing in innovation account may be used for administrative costs of
28 the program.

29 **Sec. 14.** RCW 42.30.110 and 2010 1st sp.s. c 33 s 5 are each
30 amended to read as follows:

31 (1) Nothing contained in this chapter may be construed to prevent
32 a governing body from holding an executive session during a regular or
33 special meeting:

34 (a) To consider matters affecting national security;

1 (b) To consider the selection of a site or the acquisition of real
2 estate by lease or purchase when public knowledge regarding such
3 consideration would cause a likelihood of increased price;

4 (c) To consider the minimum price at which real estate will be
5 offered for sale or lease when public knowledge regarding such
6 consideration would cause a likelihood of decreased price. However,
7 final action selling or leasing public property shall be taken in a
8 meeting open to the public;

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

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

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

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

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

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

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

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

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

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

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

22 (k) To consider, in the case of the state investment board,
23 financial and commercial information when the information relates to
24 the investment of public trust or retirement funds and when public
25 knowledge regarding the discussion would result in loss to such funds
26 or in private loss to the providers of this information;

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

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

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

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

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

10 **Sec. 15.** RCW 42.56.270 and 2009 c 394 s 3 are each amended to read
11 as follows:

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

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

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

23 (3) Financial and commercial information and records supplied by
24 private persons pertaining to export services provided under chapters
25 43.163 and 53.31 RCW, and by persons pertaining to export projects
26 under RCW 43.23.035;

27 (4) Financial and commercial information and records supplied by
28 businesses or individuals during application for loans or program
29 services provided by chapters 43.325, 43.163, 43.160, 43.330, and
30 43.168 RCW, or during application for economic development loans or
31 program services provided by any local agency;

32 (5) Financial information, business plans, examination reports, and
33 any information produced or obtained in evaluating or examining a
34 business and industrial development corporation organized or seeking
35 certification under chapter 31.24 RCW;

36 (6) Financial and commercial information supplied to the state
37 investment board by any person when the information relates to the

1 investment of public trust or retirement funds and when disclosure
2 would result in loss to such funds or in private loss to the providers
3 of this information;

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

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

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

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

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

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

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

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

35 (ii) Financial or proprietary information collected from any person
36 and provided to the department of (~~community, trade, and economic
37 development~~) commerce or the office of the governor in connection with
38 the siting, recruitment, expansion, retention, or relocation of that

1 person's business and until a siting decision is made, identifying
2 information of any person supplying information under this subsection
3 and the locations being considered for siting, relocation, or expansion
4 of a business;

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

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

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

17 (13) Financial and proprietary information submitted to or obtained
18 by the department of ecology or the authority created under chapter
19 70.95N RCW to implement chapter 70.95N RCW;

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

26 (15) Financial and commercial information provided as evidence to
27 the department of licensing as required by RCW 19.112.110 or
28 19.112.120, except information disclosed in aggregate form that does
29 not permit the identification of information related to individual fuel
30 licensees;

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

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

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

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

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

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

19 (21) Financial, commercial, operations, and technical and research
20 information and data submitted to or obtained by innovate Washington in
21 applications for, or delivery of, grants and loans under chapter 43.---
22 RCW (the new chapter created in section 20 of this act), to the extent
23 that such information, if revealed, would reasonably be expected to
24 result in private loss to the providers of this information.

25 NEW SECTION. Sec. 16. The following acts or parts of acts are
26 each repealed:

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

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

32 (3) RCW 28B.20.287 (Washington technology center--Definitions) and
33 2004 c 151 s 4 & 1992 c 142 s 2;

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

- 1 (5) RCW 28B.20.291 (Washington technology center--Support from
2 participating institutions) and 1992 c 142 s 5;
- 3 (6) RCW 28B.20.293 (Washington technology center--Role of
4 department of community, trade, and economic development) and 1995 c
5 399 s 27 & 1992 c 142 s 6;
- 6 (7) RCW 28B.20.295 (Washington technology center--Availability of
7 facilities to other institutions) and 1992 c 142 s 7;
- 8 (8) RCW 28B.20.296 (Washington technology center--Renewable energy
9 and energy efficiency business development--Strategic plan) and 2004 c
10 151 s 2;
- 11 (9) RCW 28B.20.297 (Washington technology center--Small business
12 innovation research assistance program) and 2005 c 357 s 1;
- 13 (10) RCW 28B.38.010 (Spokane intercollegiate research and
14 technology institute) and 2004 c 275 s 55 & 1998 c 344 s 9;
- 15 (11) RCW 28B.38.020 (Administration--Board of directors--Powers and
16 duties) and 1998 c 344 s 10;
- 17 (12) RCW 28B.38.030 (Support from participating institutions) and
18 1998 c 344 s 11;
- 19 (13) RCW 28B.38.040 (Operating staff--Cooperative agreements for
20 programs and research) and 1998 c 344 s 12;
- 21 (14) RCW 28B.38.050 (Role of department of community, trade, and
22 economic development) and 1998 c 344 s 13;
- 23 (15) RCW 28B.38.060 (Availability of facilities to other
24 institutions) and 1998 c 344 s 14;
- 25 (16) RCW 28B.38.070 (Authority to receive and expend funds) and
26 1998 c 344 s 15; and
- 27 (17) RCW 28B.38.900 (Captions not law) and 1998 c 344 s 16.

28 NEW SECTION. **Sec. 17.** (1) The Spokane intercollegiate research
29 and technology institute and the Washington technology center are
30 hereby abolished and the powers, duties, and functions are hereby
31 transferred to innovate Washington. Once the board created in section
32 2 of this act has convened, all references to the Spokane
33 intercollegiate research and technology institute or the Washington
34 technology center in the Revised Code of Washington shall be construed
35 to mean innovate Washington.

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

1 intercollegiate research and technology institute or the Washington
2 technology center shall be delivered to the custody of innovate
3 Washington. All cabinets, furniture, office equipment, motor vehicles,
4 and other tangible property employed by the Spokane intercollegiate
5 research and technology institute or the Washington technology center
6 shall be made available to innovate Washington. All funds, credits, or
7 other assets held by the Spokane intercollegiate research and
8 technology institute or the Washington technology center shall be
9 assigned to innovate Washington.

10 (b) Any appropriations made to the Spokane intercollegiate research
11 and technology institute or the Washington technology center shall, on
12 the effective date of this section, be transferred and credited to
13 innovate Washington.

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

20 (3) All employees of the Spokane intercollegiate research and
21 technology institute or the Washington technology center are
22 transferred to the jurisdiction of innovate Washington. All employees
23 classified under chapter 41.06 RCW, the state civil service law, are
24 assigned to innovate Washington to perform their usual duties upon the
25 same terms as formerly, without any loss of rights, subject to any
26 action that may be appropriate thereafter in accordance with the laws
27 and rules governing state civil service.

28 (4) All rules and all pending business before the Spokane
29 intercollegiate research and technology institute or the Washington
30 technology center shall be continued and acted upon by innovate
31 Washington. All existing contracts and obligations shall remain in
32 full force and shall be performed by innovate Washington.

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

37 (6) If apportionments of budgeted funds are required because of the
38 transfers directed by this section, the director of financial

1 management shall certify the apportionments to the agencies affected,
2 the state auditor, and the state treasurer. Each of these shall make
3 the appropriate transfer and adjustments in funds and appropriation
4 accounts and equipment records in accordance with the certification.

5 (7) All classified employees of the Spokane intercollegiate
6 research and technology institute or the Washington technology center
7 assigned to innovate Washington under this section whose positions are
8 within an existing bargaining unit description at innovate Washington
9 shall become a part of the existing bargaining unit at innovate
10 Washington and shall be considered an appropriate inclusion or
11 modification of the existing bargaining unit under the provisions of
12 chapter 41.80 RCW.

13 ***NEW SECTION. Sec. 18. The joint legislative audit and review**
14 **committee shall review the performance of innovate Washington as**
15 **provided in this act and make recommendations to the appropriate policy**
16 **and fiscal committees of the legislature by December 1, 2015, regarding**
17 **the effectiveness of innovate Washington programs. The review shall**
18 **consider each aspect of the innovate Washington balanced scorecard as**
19 **adopted by the innovate Washington board under section 2(7)(h) of this**
20 **act and any other measures of performance deemed relevant by the joint**
21 **legislative audit and review committee.**

**Sec. 18 was vetoed. See message at end of chapter.*

22 **NEW SECTION. Sec. 19.** RCW 70.210.070 is recodified as a section
23 in chapter 43.--- RCW (the new chapter created in section 20 of this
24 act).

25 **NEW SECTION. Sec. 20.** Sections 1 through 4, 17, and 18 of this
26 act constitute a new chapter in Title 43 RCW.

27 **NEW SECTION. Sec. 21.** This act takes effect August 1, 2011.

Passed by the Senate May 23, 2011.

Passed by the House May 22, 2011.

Approved by the Governor June 7, 2011, with the exception of
certain items that were vetoed.

Filed in Office of Secretary of State June 8, 2011.

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

"I am returning herewith, without my approval as to Section 18, Second
Engrossed Senate Bill 5764 entitled:

"AN ACT Relating to innovate Washington."

This bill creates Innovate Washington as the successor agency to the Washington Technology Center and the Spokane Intercollegiate Research and Technology Institute.

Section 1 provides that Innovate Washington will act as the primary agency focused on growing innovation-based sectors of our economy and will work with business to meet technology transfer needs. This section defines the mission of Innovate Washington as making our state the best place to develop, build, and deploy innovative products with collaborative partnerships among academic institutions, industry and government. Among the means Section 1 outlines to carry out this mission is leveraging state investments in sector-focused, innovation-based economic development initiatives. Innovate Washington is designated as the lead entity to coordinate and approve state funding "for programs targeted at expanding the clean energy sector" while maintaining policy and regulatory functions at the state energy office housed at the Department of Commerce.

Given Innovate Washington's mission, the definition of "lead entity" in Section 1(7) to mean "the organization that all other state agencies must coordinate with and receive approval from in order to award state funds in support of clean energy initiatives" is limited to approval of state funding awards for the primary purpose of economic development in the clean energy sector. Approval would not extend to state funding of initiatives not specifically targeted to grow the clean energy sector. Moreover, as stated in a colloquy on the Senate floor and consistent with the terminology clean energy "initiatives," the approval required under Section 1(7) applies to new programs begun after the effective date of the act. The above understanding and interpretation of the bill is shared by the legislature as set forth in a letter to me from Senator Jim Kastama and Representative Deb Eddy dated May 25, 2011 encouraging me to give clarifying direction to the agencies involved. It is with this understanding that I approve Section 1.

I am vetoing Section 18 of Second Engrossed Senate Bill 5764 which requires the joint legislative audit and review committee to review performance of Innovate Washington and to make recommendations regarding the effectiveness of its programs by December 1, 2015. Innovate Washington is required to submit its first five year business plan to the legislature by December 1, 2012, which will identify its activities and programs, and set forth its operational plan and strategy for carrying out its mission. The timing of a study to determine the effectiveness of its programs is best determined based on the schedule in the business plan. When the business plan is completed, the joint legislative audit and review committee can determine the appropriate timing and content of a review based on experience without the need for a statutory provision.

For this reason, I am vetoing Section 18 of Second Engrossed Senate Bill 5764.

With the exception of Section 18, Second Engrossed Senate Bill 5764 is approved."