

# HOUSE BILL REPORT

## HB 2535

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### As Reported By House Committee On:

Trade & Economic Development

**Title:** An act relating to ethics, technology, and federal standards for conflicts in public service.

**Brief Description:** Adopting ethics standards for academic or scientific public service work.

**Sponsors:** Representatives Van Luven, Jacobsen and Carlson.

### Brief History:

#### Committee Activity:

Trade & Economic Development: 1/22/96, 1/24/96 [DPS].

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## HOUSE COMMITTEE ON TRADE & ECONOMIC DEVELOPMENT

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 13 members: Representatives Van Luven, Chairman; Radcliff, Vice Chairman; D. Schmidt, Vice Chairman; Sheldon, Ranking Minority Member; Veloria, Assistant Ranking Minority Member; Backlund; Ballasiotes; Hatfield; Hickel; Mason; Sherstad; Skinner and Valle.

**Staff:** Kenny Pittman (786-7392).

**Background:** In 1994, the Legislature adopted the Ethics in Public Service law. The laws prescribe ethical standards for state officers and state employees in all branches of state government except where an individual is expressly excluded.

Prohibited activities include (1) having any interest or business which is in conflict with state duties; (2) having an interest, either direct or indirect, in a contract, sale, lease, purchase, or grant that is under the officer's or employee's supervision; (3) participating in a transaction involving the state in his or her official capacity with a person of which the officer or employee is an officer, agent, employee, or member, or in which the officer or employee owns a beneficial interest; (4) accepting employment which might reasonably require the disclosure of confidential information obtained through state employment; (5) accepting any compensation or benefit from sources other than the state for the performance of state duties; (6) accepting anything

of economic value given to influence the performance of state duties; and (7) using state resources for personal benefit.

Technology transfer is the process that turns university discoveries and inventions into products that benefit the public and strengthen the state's economy. As an idea moves from a university laboratory to a licensing arrangement with a private company and to commercial development and production, success often depends on the continued involvement of the original faculty inventor.

The state ethics law is more restrictive than federal regulations regarding conflict-of-interest policies. This has had the effect of reducing faculty-member involvement in research if there is any "beneficial (economic) interest" with a private company. Under current law, a faculty member awarded the Nobel Prize would have to decline the monetary part of the prize.

**Summary of Substitute Bill:** The Ethics in Public Service law is amended regarding state officers or employees in institutions of higher education and the Spokane Intercollegiate Research and Technology Institute (SIRTI).

A state officer or employee of either an institution of higher education or SIRTI may receive something of economic benefit or benefit in a contract or grant. The institution of higher education and SIRTI must have a written administrative process, in compliance with federal law, to identify and manage, reduce, or eliminate conflicting interest in the transaction, and the state officer or employee must comply with the policy.

A state officer or employee of an institution of higher education or SIRTI may serve as (1) an officer, agent, employee, or member, or on the board of directors, board of trustees, advisory board, or committee or review panel of any nonprofit institute, foundation, or fundraising entity; and (2) a member of an advisory board, committee, or review panel for a governmental or other nonprofit entity.

The bill clarifies that a state officer or employee may not make an unauthorized disclosure of confidential information gained as a result of his or her official position or use the information for his or her own personal gain or benefit. Disclosure of information is allowed under the terms of the contract involving the state officer's or employee's agency or if authorized by a person or persons authorized to waive the authority.

A state officer or employee of institutions of higher education may receive compensation, gift, reward, or gratuity for performing or omitting or deferring the performance of any official duty from a governmental entity, an agency or instrumentality of a governmental entity, or a nonprofit organization organized for the

benefit and support of the state employee's agency or other state agencies under the terms of the state employee's agency.

A state officer or employee awarded a contract or issued a grant may delete proprietary information or research from the information submitted for review by the appropriate ethics board.

"Contract or grant" is defined as an agreement between two or more people that creates an obligation to do or not do something (includes an employment contract, lease, license, purchase or sales agreement).

"Gift" is clarified not to include awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.

"Official duty" is defined as duties within the specific scope of employment of the state officer or employee as defined by the state agency, or by statute or the state Constitution.

**Substitute Bill Compared to Original Bill:** The substitute bill (1) adds state officers and employees of the Spokane Intercollegiate Research and Technology Institute (SIRTI); (2) clarifies official duties of state officers and employees defined by statute or the state Constitution; (3) clarifies that state officers and employees of institutions of higher education and SIRTI may serve as members of an advisory board, committee, or review panel of a governmental or other nonprofit entity; and (4) clarifies that disclosure of confidential information is permitted if authorized by a person or persons authorized to waive the authority.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date of Substitute Bill:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** We need to keep university-based technology research in the United States. The transfer of technology from the university to the private sector is important to job creation. The existing state ethics laws have had a negative impact on academic and scientific research. The proposed changes will assure that state ethics laws are in compliance with federal laws regarding conflict of interest on this type of research.

**Testimony Against:** None.

**Testified:** (Pro) Bob Edie and Bob Miller, University of Washington; Tom Rankin, Biomedical Association; and Ian MacGowan, American Electronics Association.