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SECOND SUBSTITUTE SENATE BILL 6518

State of Washington 63rd Legislature 2014 Regular Session

By Senate Ways & Means (originally sponsored by Senator Chase; by request of Washington State Department of Commerce)

READ FIRST TIME 02/27/14.

- 1 ACT Relating to terminating the operations of innovate 2 Washington and transferring property from innovate Washington to Washington State University and the department of commerce; amending 3 RCW 28B.50.902, 28B.155.010, 42.30.110, and 42.56.270; amending 2012 c 4 63 s 1 (uncodified); adding a new section to chapter 43.333 RCW; 5 6 new section; repealing RCW 43.333.010, 43.333.020, 7 43.333.030, 43.333.040, 43.333.050, 43.333.800, 43.333.900, 43.333.901, 41.06.0711, 70.210.020, 70.210.030, 70.210.040, 70.210.050, 8 9 70.210.060; and providing an effective date.
- 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:
- NEW SECTION. Sec. 1. The legislature intends to dissolve the operations of innovate Washington and transfer the innovate Washington
- 13 facilities to Washington State University.
- 14 **Sec. 2.** RCW 28B.50.902 and 2011 1st sp.s. c 14 s 6 are each 15 amended to read as follows:
- 16 (1) The college board, in consultation with business, industry,
- 17 labor, the workforce training and education coordinating board, the
- 18 department of commerce, the employment security department, and

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- community and technical colleges, shall designate centers of excellence and allocate funds to existing and new centers of excellence based on a competitive basis.
 - (2) Eligible applicants for the program established under this section include community and technical colleges. Priority shall be given to applicants that have an established education and training program serving the targeted industry and that have in their home district or region an industry cluster with the same targeted industry at its core.
- 10 (3) It is the role of centers of excellence to employ strategies 11 to:
 - (a) Create educational efficiencies;

- 13 (b) Build a diverse, competitive workforce for strategic 14 industries;
- 15 (c) Maintain an institutional reputation for innovation and 16 responsiveness;
- 17 (d) Develop innovative curriculum and means of delivering education and training;
 - (e) Act as brokers of information and resources related to community and technical college education and training and assistance available for firms in a targeted industry((, including working with innovate Washington to develop methods to identify businesses within a targeted industry that could benefit from the services offered by innovate Washington under chapter 43.333 RCW)); and
 - (f) Serve as partners with workforce development councils, associate development organizations, and other workforce and economic development organizations.
 - (4) Examples of strategies under subsection (3) of this section include but are not limited to: Sharing curriculum and other instructional resources, to ensure cost savings to the system; delivering collaborative certificate and degree programs; and holding statewide summits, seminars, conferences, and workshops on industry trends and best practices in community and technical college education and training.
- **Sec. 3.** RCW 28B.155.010 and 2012 c 242 s 1 are each amended to read as follows:

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1 (1) The joint center for aerospace technology innovation is created 2 to:

- (a) Pursue joint industry-university research in computing, manufacturing efficiency, materials/structures innovation, and other new technologies that can be used in aerospace firms;
- (b) Enhance the education of students in the engineering departments of the University of Washington, Washington State University, and other participating institutions through industry-focused research; and
- (c) Work directly with existing small, medium-sized, and large aerospace firms and aerospace industry associations to identify research needs and opportunities to transfer off-the-shelf technologies that would benefit such firms.
- (2) The center shall be operated and administered as a multi-institutional education and research center, conducting research and development programs in various locations within Washington under the joint authority of the University of Washington and Washington State University. The initial administrative offices of the center shall be west of the crest of the Cascade mountains. In order to meet aerospace industry needs, the facilities and resources of the center must be made available to all four-year institutions of higher education as defined in RCW 28B.10.016. Resources include, but are not limited to, internships, on-the-job training, and research opportunities for undergraduate and graduate students and faculty.
- (3) The powers of the center are vested in and shall be exercised by a board of directors. The board shall consist of nine members appointed by the governor. The governor shall appoint a nonvoting chair. Of the eight voting members, one member shall represent small aerospace firms, one member shall represent medium-sized firms, one member shall represent large aerospace firms, one member shall represent labor, two members shall represent aerospace industry associations, and two members shall represent higher education. The terms of the initial members shall be staggered.
- (4) The board shall hire an executive director. The executive director shall hire such staff as the board deems necessary to operate the center. Staff support may be provided from among the cooperating institutions through cooperative agreements to the extent funds are available. The executive director may enter into cooperative

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agreements for programs and research with public and private organizations including state and nonstate agencies consistent with policies of the participating institutions.

(5) The board must:

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- (a) Work with aerospace industry associations and aerospace firms of all sizes to identify the research areas that will benefit the intermediate and long-term economic vitality of the Washington aerospace industry;
- (b) Identify entrepreneurial researchers to join or lead research teams in the research areas specified in (a) of this subsection and the steps the University of Washington and Washington State University will take to recruit such researchers;
- (c) Assist firms to integrate existing technologies into their operations and align the activities of the center with those of impact Washington ((and innovate Washington)) to enhance services available to aerospace firms;
- (d) Develop internships, on-the-job training, research, and other opportunities and ensure that all undergraduate and graduate students enrolled in an aerospace engineering curriculum have direct experience with aerospace firms;
- (e) Assist researchers and firms in safeguarding intellectual property while advancing industry innovation;
 - (f) Develop and strengthen university-industry relationships through promotion of faculty collaboration with industry, and sponsor((, in collaboration with innovate Washington,)) at least one annual symposium focusing on aerospace research in the state of Washington;
 - (g) Encourage a full range of projects from small research projects that meet the specific needs of a smaller company to large scale, multipartner projects;
- (h) Develop nonstate support of the center's research activities through leveraging dollars from federal and private for-profit and nonprofit sources;
- (i) Leverage its financial impact through joint support arrangements on a project-by-project basis as appropriate;

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(j) Establish mechanisms for soliciting and evaluating proposals and for making awards and reporting on technological progress, financial leverage, and other measures of impact; (k) By June 30, 2013, develop an operating plan that includes the specific processes, methods, or mechanisms the center will use to accomplish each of its duties as set out in this subsection; and

- (1) Report biennially to the legislature and the governor about the impact of the center's work on the state's economy and the aerospace sector, with projections of future impact, providing indicators of its impact, and outlining ideas for enhancing benefits to the state. The report must be coordinated with the governor's office, the Washington economic development commission, <u>and</u> the department of commerce((, <u>and innovate Washington</u>)).
- **Sec. 4.** RCW 42.30.110 and 2011 1st sp.s. c 14 s 14 are each 12 amended to read as follows:
 - (1) Nothing contained in this chapter may be construed to prevent a governing body from holding an executive session during a regular or special meeting:
 - (a) To consider matters affecting national security;
 - (b) To consider the selection of a site or the acquisition of real estate by lease or purchase when public knowledge regarding such consideration would cause a likelihood of increased price;
 - (c) To consider the minimum price at which real estate will be offered for sale or lease when public knowledge regarding such consideration would cause a likelihood of decreased price. However, final action selling or leasing public property shall be taken in a meeting open to the public;
 - (d) To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs;
 - (e) To consider, in the case of an export trading company, financial and commercial information supplied by private persons to the export trading company;
 - (f) To receive and evaluate complaints or charges brought against a public officer or employee. However, upon the request of such officer or employee, a public hearing or a meeting open to the public shall be conducted upon such complaint or charge;
- 35 (g) To evaluate the qualifications of an applicant for public 36 employment or to review the performance of a public employee. However, 37 subject to RCW 42.30.140(4), discussion by a governing body of

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salaries, wages, and other conditions of employment to be generally applied within the agency shall occur in a meeting open to the public, and when a governing body elects to take final action hiring, setting the salary of an individual employee or class of employees, or discharging or disciplining an employee, that action shall be taken in a meeting open to the public;

- (h) To evaluate the qualifications of a candidate for appointment to elective office. However, any interview of such candidate and final action appointing a candidate to elective office shall be in a meeting open to the public;
- (i) To discuss with legal counsel representing the agency matters relating to agency enforcement actions, or to discuss with legal counsel representing the agency litigation or potential litigation to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party, when public knowledge regarding the discussion is likely to result in an adverse legal or financial consequence to the agency.

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

- (i) Litigation that has been specifically threatened to which the agency, the governing body, or a member acting in an official capacity is, or is likely to become, a party;
- (ii) Litigation that the agency reasonably believes may be commenced by or against the agency, the governing body, or a member acting in an official capacity; or
- (iii) Litigation or legal risks of a proposed action or current practice that the agency has identified when public discussion of the litigation or legal risks is likely to result in an adverse legal or financial consequence to the agency;
- (j) To consider, in the case of the state library commission or its advisory bodies, western library network prices, products, equipment, and services, when such discussion would be likely to adversely affect the network's ability to conduct business in a competitive economic climate. However, final action on these matters shall be taken in a meeting open to the public;

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

- (1) To consider proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services as provided in RCW 41.05.026;
- (m) To consider in the case of the life sciences discovery fund authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information;
- (n) To consider in the case of a health sciences and services authority, the substance of grant applications and grant awards when public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information ($\dot{\tau}$
- (o) To consider in the case of innovate Washington, the substance of grant or loan applications and grant or loan awards if public knowledge regarding the discussion would reasonably be expected to result in private loss to the providers of this information)).
- (2) Before convening in executive session, the presiding officer of a governing body shall publicly announce the purpose for excluding the public from the meeting place, and the time when the executive session will be concluded. The executive session may be extended to a stated later time by announcement of the presiding officer.
- **Sec. 5.** RCW 42.56.270 and 2013 c 305 s 14 are each amended to read 27 as follows:

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

- (1) Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by any agency within five years of the request for disclosure when disclosure would produce private gain and public loss;
- (2) Financial information supplied by or on behalf of a person, firm, or corporation for the purpose of qualifying to submit a bid or proposal for (a) a ferry system construction or repair contract as

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required by RCW 47.60.680 through 47.60.750 or (b) highway construction or improvement as required by RCW 47.28.070;

- (3) Financial and commercial information and records supplied by private persons pertaining to export services provided under chapters 43.163 and 53.31 RCW, and by persons pertaining to export projects under RCW 43.23.035;
- (4) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by chapters 43.325, 43.163, 43.160, 43.330, and 43.168 RCW, or during application for economic development loans or program services provided by any local agency;
- (5) Financial information, business plans, examination reports, and any information produced or obtained in evaluating or examining a business and industrial development corporation organized or seeking certification under chapter 31.24 RCW;
- (6) Financial and commercial information supplied to the state investment board by any person when the information relates to the investment of public trust or retirement funds and when disclosure would result in loss to such funds or in private loss to the providers of this information;
 - (7) Financial and valuable trade information under RCW 51.36.120;
- (8) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the clean Washington center in applications for, or delivery of, program services under chapter 70.95H RCW;
- (9) Financial and commercial information requested by the public stadium authority from any person or organization that leases or uses the stadium and exhibition center as defined in RCW 36.102.010;
- (10)(a) Financial information, including but not limited to account numbers and values, and other identification numbers supplied by or on behalf of a person, firm, corporation, limited liability company, partnership, or other entity related to an application for a horse racing license submitted pursuant to RCW 67.16.260(1)(b), liquor license, gambling license, or lottery retail license;
- 35 (b) Internal control documents, independent auditors' reports and 36 financial statements, and supporting documents: (i) Of house-banked 37 social card game licensees required by the gambling commission pursuant

to rules adopted under chapter 9.46 RCW; or (ii) submitted by tribes with an approved tribal/state compact for class III gaming;

- (11) Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; or (c) determining prices or rates to be charged for services, submitted by any vendor to the department of social and health services for purposes of the development, acquisition, or implementation of state purchased health care as defined in RCW 41.05.011;
- 10 (12)(a) When supplied to and in the records of the department of commerce:
 - (i) Financial and proprietary information collected from any person and provided to the department of commerce pursuant to RCW 43.330.050(8); and
 - (ii) Financial or proprietary information collected from any person and provided to the department of commerce or the office of the governor in connection with the siting, recruitment, expansion, retention, or relocation of that person's business and until a siting decision is made, identifying information of any person supplying information under this subsection and the locations being considered for siting, relocation, or expansion of a business;
 - (b) When developed by the department of commerce based on information as described in (a)(i) of this subsection, any work product is not exempt from disclosure;
 - (c) For the purposes of this subsection, "siting decision" means the decision to acquire or not to acquire a site;
 - (d) If there is no written contact for a period of sixty days to the department of commerce from a person connected with siting, recruitment, expansion, retention, or relocation of that person's business, information described in (a)(ii) of this subsection will be available to the public under this chapter;
 - (13) Financial and proprietary information submitted to or obtained by the department of ecology or the authority created under chapter 70.95N RCW to implement chapter 70.95N RCW;
 - (14) Financial, commercial, operations, and technical and research information and data submitted to or obtained by the life sciences discovery fund authority in applications for, or delivery of, grants

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under chapter 43.350 RCW, to the extent that such information, if revealed, would reasonably be expected to result in private loss to the providers of this information;

- (15) Financial and commercial information provided as evidence to the department of licensing as required by RCW 19.112.110 or 19.112.120, except information disclosed in aggregate form that does not permit the identification of information related to individual fuel licensees;
- (16) Any production records, mineral assessments, and trade secrets submitted by a permit holder, mine operator, or landowner to the department of natural resources under RCW 78.44.085;
- (17)(a) Farm plans developed by conservation districts, unless permission to release the farm plan is granted by the landowner or operator who requested the plan, or the farm plan is used for the application or issuance of a permit;
- (b) Farm plans developed under chapter 90.48 RCW and not under the federal clean water act, 33 U.S.C. Sec. 1251 et seq., are subject to RCW 42.56.610 and 90.64.190;
- (18) Financial, commercial, operations, and technical and research information and data submitted to or obtained by a health sciences and services authority in applications for, or delivery of, grants under RCW 35.104.010 through 35.104.060, to the extent that such information, if revealed, would reasonably be expected to result in private loss to providers of this information;
- (19) Information gathered under chapter 19.85 RCW or RCW 34.05.328 that can be identified to a particular business;
- (20) Financial and commercial information submitted to or obtained by the University of Washington, other than information the university is required to disclose under RCW 28B.20.150, when the information relates to investments in private funds, to the extent that such information, if revealed, would reasonably be expected to result in loss to the University of Washington consolidated endowment fund or to result in private loss to the providers of this information; and
- (21) ((Financial, commercial, operations, and technical and research information and data submitted to or obtained by innovate Washington in applications for, or delivery of, grants and loans under chapter 43.333 RCW, to the extent that such information, if revealed,

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would reasonably be expected to result in private loss to the providers

for this information; and

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 $\frac{(22)}{(23)}$) Market share data submitted by a manufacturer under RCW 70.95N.190(4).

Sec. 6. 2012 c 63 s 1 (uncodified) is amended to read as follows:

The legislature finds that Washington is becoming a leader in the development and commercialization of aviation biofuels due to its strong tradition of market innovation, a concentrated demand for sustainable aviation fuels, leading expertise and research capacity, an established aviation manufacturing sector, and the availability of a diverse range of feedstocks for the production of biofuels. The legislature also finds that the development of aviation biofuels has the potential to reduce dependence on foreign sources of fossil fuels, reduce greenhouse gas emissions, and promote economic development and jobs in Washington. The legislature intends to support the development commercial-scale aviation biofuels production facilities Washington by facilitating and streamlining the permitting process for new facilities and the expansion of existing facilities and by providing access to low-cost financing through the issuance of revenue bonds.

The legislature finds that the 2012 Washington state energy strategy calls for a targeted, strategic policy focus on sustainable aviation biofuels to encourage the realization of Washington's The legislature also finds that a regional stakeholder potential. effort to explore the opportunities and challenges surrounding the production of sustainable aviation fuels, known as sustainable aviation biofuels northwest, urged policymakers in the Northwest to develop supportive public policies that will jump start the industry, attract investment, and accelerate industry growth. In order to provide focus and develop policy recommendations to support the sustainable aviation biofuels sector in Washington, the legislature intends to establish a sustainable aviation biofuels work group. ((Additionally, the legislature intends Innovate Washington, designated in 2011 as the lead agency for coordinating clean energy-related initiatives targeted at growing the clean energy sector, to convene the appropriate stakeholders and facilitate the opportunity for the state to realize the full economic growth impact to the state's economy.))

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NEW SECTION. Sec. 7. A new section is added to chapter 43.333 RCW to read as follows:

- (1) Innovate Washington is hereby abolished and its mission, powers, duties, and functions are hereby transferred to the department of commerce on July 1, 2015.
- (2)(a) Except as provided in (c) of this subsection, all property of innovate Washington shall be assigned and transferred to the department of commerce on July 1, 2015. Except as provided in (c) of this subsection, all reports, documents, surveys, books, records, files, papers, and written material, regardless of physical form or characteristics, in the possession of innovate Washington shall be delivered to the department of commerce. Except as provided in (c) of this subsection, all cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by innovate Washington shall be made available to the department of commerce. Except as provided in (b) and (c) of this subsection, all funds, credits, and other assets, tangible or intangible, held by innovate Washington shall be assigned and transferred to the department of commerce.
- (b) The department of commerce shall honor any donor-imposed condition on the transfer of assets to innovate Washington, consistent with chapter 14, Laws of 2011 1st sp. sess., returning any unused funds or other assets to the grantor or the grantor's successor in interest, if return of such funds or other assets is required in the grant or other instrument by which the asset was conveyed to innovate Washington. Any donated assets, the use of which is limited by a donor-imposed restriction, shall be used only for the purposes specified in the granting instrument, and where the instrument restricts the use of such funds or other assets for the purposes of innovate Washington, they shall be used by the department of commerce only for the purpose of growing the innovation-based economic sectors of the state and responding to the technology transfer needs of existing businesses in the state.
- (c)(i) On July 1, 2014, all real property of innovate Washington is assigned and transferred to Washington State University, including all real estate, buildings, and facilities located at 665 North Riverpoint Boulevard in Spokane, Washington and any associated tenant leases and building obligations. All cabinets, furniture, office equipment, motor vehicles, and other tangible property associated with the facilities

located at 665 North Riverpoint Boulevard in Spokane, Washington are 1 2 assigned and transferred to Washington State University. The master lease for the Spokane Technology Center building located at 120 North 3 4 Pine Street in Spokane, Washington is assigned and transferred to 5 Washington State University. The department of commerce shall coordinate with the department of enterprise services in assigning and 6 7 transferring the master lease. Washington State University shall 8 explore terminating the master lease on the Spokane Technology Center and acquiring the property for reintegration into the campus, if in the 9 10 best interests of the university.

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- (ii) In operating the 665 North Riverpoint Boulevard building and the Spokane Technology Center building, Washington State University may offer rental space to public, private, or private nonprofit entities that provided services to innovate Washington in the Spokane Technology Center building, and not in the 665 North Riverpoint Boulevard building, and only at a gross per square foot rate equal to or greater than the rate charged to Washington State University as subleasees before the effective date of this section.
- (d) If any question arises as to the transfer of any asset used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.
- (3) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.
- 30 <u>NEW SECTION.</u> **Sec. 8.** The following acts or parts of acts are each 31 repealed:
- 32 (1) RCW 43.333.010 (Innovate Washington--Created--Mission--Transfer 33 of administrative responsibilities for facilities located at the 34 Washington technology center and Spokane intercollegiate research and 35 technology institute--Five-year business plan requirements) and 2011 36 1st sp.s. c 14 s 1;

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- 1 (2) RCW 43.333.020 (Board of directors--Composition--Meetings--2 Duties) and 2011 1st sp.s. c 14 s 2;
- 3 (3) RCW 43.333.030 (Investing in innovation account) and 2011 1st 4 sp.s. c 14 s 4;
- 5 (4) RCW 43.333.040 (Small business innovation assistance program) 6 and 2011 1st sp.s. c 14 s 3;
- 7 (5) RCW 43.333.050 (Investing in innovation program--8 Administration) and 2011 1st sp.s. c 14 s 13 & 2003 c 403 s 8;
- 9 (6) RCW 43.333.800 (Sustainable aviation biofuels work group) and 10 2012 c 63 s 4;
- 11 (7) RCW 43.333.900 (Transfer of powers, duties, and functions of 12 Spokane intercollegiate research and technology institute and 13 Washington technology center) and 2011 1st sp.s. c 14 s 17;
- 14 (8) RCW 43.333.901 (Effective date--2011 1st sp.s. c 14) and 2011 1st sp.s. c 14 s 21;
- 16 (9) RCW 41.06.0711 (Innovate Washington--Certain personnel exempted 17 from chapter) and 2011 1st sp.s. c 14 s 5;
- 18 (10) RCW 70.210.020 (Definitions) and 2011 1st sp.s. c 14 s 8 & 19 2003 c 403 s 2;
- 20 (11) RCW 70.210.030 (Assessments) and 2011 1st sp.s. c 14 s 9 & 21 2003 c 403 s 4;
- 22 (12) RCW 70.210.040 (Loan or grant award criteria) and 2011 1st 23 sp.s. c 14 s 10 & 2003 c 403 s 5;
- 24 (13) RCW 70.210.050 (Peer review committee--Support of research 25 commercialization opportunities--Grant and loan awards, priority, 26 eligibility) and 2011 1st sp.s. c 14 s 11 & 2003 c 403 s 6; and
- 27 (14) RCW 70.210.060 (Performance benchmarks, review, report) and 28 2011 1st sp.s. c 14 s 12 & 2003 c 403 s 7.
- NEW SECTION. Sec. 9. Except for sections 1 and 7 of this act, this act takes effect July 1, 2015.

--- END ---