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**ENGROSSED SUBSTITUTE SENATE BILL 6096**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Becker, Litzow, Parlette, Bailey, Hill, Fain, Dammeier, Brown, Rivers, Roach, and McAuliffe)

AN ACT Relating to cancer research; adding a new chapter to Title 43 RCW; and providing an expiration date.

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

NEW SECTION. **Sec.**  FINDINGS AND INTENT. (1) The legislature finds the following:

(a) Washington has an existing infrastructure of world-class cancer research and care centers for children and adults that can develop and apply new techniques for the prevention of cancer and care of cancer patients throughout Washington;

(b) Sustained investment in cancer research, prevention, and care is critical to reducing long-term health costs, saving lives, and relieving pain and suffering;

(c) Promoting the health of state residents is a fundamental public purpose and governmental function. Action to promote cancer research and prevention to improve the quality of life of the people of Washington is consistent with this fundamental public purpose; and

(d) Additional public resources dedicated exclusively to cancer research will provide sustained investment in cancer research to the benefit of the people of Washington.

(2) It is the intent of the legislature in enacting this act to:

(a) Optimize the use of public funds by giving priority to research utilizing the best science and technology with the greatest potential to improve health outcomes;

(b) Increase the value of our public investments by leveraging our state's existing cancer research facilities and talent, as well as clinical and therapeutic resources;

(c) Incentivize additional investment by requiring private or other nonstate resources to match public funds;

(d) Protect and benefit Washington taxpayers by funding proposals for cancer research that are reviewed by an independent scientific panel;

(e) Require fiscal and public accountability through independent audits, open public meetings and hearings, and annual reports to the public; and

(f) Create jobs and encourage investments that will generate new tax revenues in our state, and advance the biotech, medical device, and health care information technology industries in Washington.

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

(1) "Authority" means the cancer research endowment authority created in this chapter.

(2) "Board" means the governing board of the authority.

(3) "Cancer" means a group of diseases involving unregulated cell growth.

(4) "Cancer patient advocacy organizations" means groups with offices in the state that promote cancer prevention and advocate on behalf of cancer patients.

(5) "Cancer research" means advanced and applied research and development relating to the causes, prevention, and diagnosis of cancer and care of cancer patients including the development of tests, genetic analysis, medications, processes, services, and technologies to optimize cancer therapies and their manufacture and commercialization and includes the costs of recruiting scientists and establishing and equipping research facilities.

(6) "CARE fund" or "fund" means the cancer research endowment fund created in section 7(1)(b) of this act.

(7) "Commercial entity" means a for-profit entity located in the state that develops, manufactures, or sells goods or services relating to cancer prevention or care.

(8) "Committee" means an independent expert scientific review and advisory committee established under section 6 of this act.

(9) "Contribution agreement" means any agreement authorized under this chapter in which a private entity or a public entity other than the state agrees to provide to the authority contributions for the purpose of cancer research, prevention, or care.

(10) "Costs" means the costs and expenses associated with the conduct of research, prevention, and care including, but not limited to, the cost of recruiting and compensating personnel, securing and financing facilities and equipment, and conducting clinical trials.

(11) "Department" means the department of commerce.

(12) "Health care delivery system" means hospitals and clinics providing care to patients in the state.

(13) "Life sciences research" means advanced and applied research and development intended to improve human health, including scientific study of the developing brain and human learning and development, and other areas of scientific research and development vital to the state's economy.

(14) "Prevention" means measures to prevent the development and progression of cancer, including education, vaccinations, and screening processes and technologies, and to reduce the risk of cancer.

(15) "Program" means the cancer research endowment program created in section 5 of this act.

(16) "Program administrator" means a private nonprofit corporation qualified as a tax-exempt entity under 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code, with expertise in conducting or managing research granting activities, funds, or organizations.

NEW SECTION. **Sec.**  CANCER RESEARCH ENDOWMENT AUTHORITY. (1) The cancer research endowment authority is created. The powers of the authority are vested in and must be exercised by a board. The board consists of thirteen members appointed by the governor:

(a) Two members must be appointed from nominations submitted by the presidents of the University of Washington and Washington State University;

(b) Two members must be appointed from nominations submitted by the Fred Hutchinson cancer research center, Seattle cancer care alliance, and the Seattle children's research institute;

(c) Two members must be appointed from nominations submitted by patient advocacy organizations;

(d) Two members must be appointed from nominations submitted by representatives of businesses or industries engaged in the commercialization of life sciences research or cancer research;

(e) One member must be appointed from a list of at least three nominated by the speaker of the house of representatives;

(f) One member must be appointed from a list of at least three nominated by the president of the senate;

(g) One member must be appointed from nominations submitted by entities or systems that provide health care delivery services;

(h) One member from nominations provided by private sector donors to the fund. However, the governor may reject all nominations and request a new list from which the governor must select the member; and

(i) The remaining member must be a member of the public.

(2) In soliciting nominations and appointing members, the governor must seek to identify individuals from throughout the state having relevant knowledge, experience, and expertise with regard to (a) cancer research, prevention, and care; (b) health care consumer issues; (c) government finance and budget; and (d) the commercialization of life sciences or cancer research. In soliciting nominations and appointing members, the governor must seek individuals who will contribute to the geographic diversity of the board, with the goal that at least five board members be from counties with a population less than one million persons. Appointments must be made on or before July 1, 2016.

(3) The term of a member is four years from the date of their appointment except the initial term of the members in subsection (1)(d) through (i) of this section must be two years to create a staggered appointment process. A member may be appointed to not more than two full consecutive terms. A member appointed by the governor may be removed by the governor for cause under RCW 43.06.070 and 43.06.080. The members may not be compensated but may be reimbursed, solely from the fund, for expenses incurred in the discharge of their duties under this chapter.

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

(5) The members must elect a chair, treasurer, and secretary annually, and other officers as the members determine necessary, and may adopt bylaws or rules for their own government.

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

NEW SECTION. **Sec.**  AUTHORITY—GENERAL POWERS. The authority has all the general powers necessary to carry out its purposes and duties and to exercise its specific powers. In addition to other powers specified in this chapter, the authority may:

(1) Sue and be sued in its own name;

(2) Make and execute agreements, contracts, and other instruments, with any public or private person or entity, including commercial entities, in accordance with this chapter;

(3) Employ, contract with, or engage independent counsel, financial advisors, auditors, other technical or professional assistants, and such other personnel as are necessary or desirable to implement this chapter;

(4) Exercise any other power reasonably required to implement the purposes of this chapter; and

(5) Delegate any of its powers and duties if consistent with the purposes of this chapter.

NEW SECTION. **Sec.**  CANCER RESEARCH ENDOWMENT PROGRAM. (1) The cancer research endowment program is created. The purpose of the program is to make grants to public and private entities, including commercial entities, to fund or reimburse the entities pursuant to agreement for the promotion of cancer research to be conducted in the state. The authority is to oversee and guide the program, including the solicitation, selection, and award of grants.

(2) The board must develop a plan for the allocation of projected amounts in the CARE fund, which it must update annually, following at least one annual public hearing. The plan must provide for appropriate funding continuity and take into account the projected speed at which revenues will be available and amounts that can be spent during the plan period.

(3) The authority must solicit requests for grant funding and evaluate the requests by reference to factors such as: (a) The quality of the proposed research or program; (b) its potential to improve health outcomes of persons with cancer, with particular attention to the likelihood that it will also lower health care costs, substitute for a more costly diagnostic or treatment modality, or offer a breakthrough treatment for a particular cancer or cancer-related condition or disease; (c) its potential for leveraging additional funding; (d) its potential to provide additional health care benefits or benefit other human diseases or conditions; (e) its potential to stimulate life science, health care, and biomedical employment in the state; (f) the geographic diversity of the grantees within Washington; (g) evidence of potential royalty, sales, or licensing revenue, or other commercialization-related revenue and contractual means to recapture such income for purposes of this chapter; and (h) evidence of public and private collaboration.

(4) The authority may not award a grant for a proposal that was not recommended by an independent expert scientific review and advisory committee under section 6 of this act.

(5) The authority must issue an annual report to the public that sets forth its activities with respect to the CARE fund, including grants awarded, grant-funded work in progress, research accomplishments, prevention, and care activities, and future program directions with respect to cancer research, prevention, and care. Each annual report regarding activities of the cancer research endowment program and CARE fund must include, but not be limited to, the following: The number and dollar amounts of grants; the grantees for the prior year; the authority's administrative expenses; an assessment of the availability of funding for cancer research, prevention, and care from sources other than the authority; a summary of research, prevention, and care-related findings, including promising new areas for investment; and a report on the benefits to Washington of its programs to date.

(6) The authority's first annual report must include a proposed operating plan for the design, implementation, and administration of an endowment program supporting the purposes of the authority and program.

(7) The authority must adopt policies to ensure that all potential conflicts have been disclosed and that all conflicts have been eliminated or mitigated.

(8) The authority must establish standards to ensure that recipients of grants for cancer research, prevention, or care purchase goods and services from Washington suppliers to the extent reasonably possible.

NEW SECTION. **Sec.**  INDEPENDENT EXPERT SCIENTIFIC REVIEW AND ADVISORY COMMITTEE. (1) In addition to any advisory boards the authority determines to establish, the authority must establish one or more independent expert scientific review and advisory committees for the purposes of evaluating grant proposals for cancer research and recommending grants to be made from the CARE fund; advising the authority during the development and review of its strategic plans for cancer research; and advising the authority on scientific and other matters in furtherance of the cancer research purposes of this act.

(2) Each independent expert scientific review and advisory committee must consist of individuals with nationally recognized expertise in the scientific, clinical, ethical, commercial, and regulatory aspects of cancer research, prevention, and care. The board must appoint the members of the committee. Preliminary review of grant proposals may be made by a panel of such committee or an independent contractor chosen by the board upon recommendation of the committee, but all recommendations for grants to be made from the CARE fund may be made only upon majority vote of the committee.

NEW SECTION. **Sec.**  PROGRAM ADMINISTRATOR. (1) The program administrator must provide services to the board and has the following duties and responsibilities:

(a) Jointly with the board, solicit and receive gifts, grants, and bequests, and enter into contribution agreements with private entities and public entities, including commercial entities, in order to use those moneys to fund grants awarded by the authority;

(b) Establish a cancer research endowment fund to be known as the CARE fund. The CARE fund must be a separate private account outside the state treasury into which grants and contributions received from public and private sources as well as state matching funds must be deposited, and from which funds for grants awarded by the authority must be disbursed. Once moneys in the cancer research endowment fund match transfer account are subject to an agreement under section 9(6) of this act and are deposited in the CARE fund under this section, the moneys in the CARE fund are not considered state money, common cash, or revenue to the state;

(c) Manage the CARE fund, its obligations, and investments as to achieve the maximum possible rate of return on investment in the CARE fund;

(d) Establish policies and procedures to facilitate the orderly process of grant application, review, selection, and notification; and

(e) Distribute CARE funds to selected entities through grant agreements. Grant agreements must set forth the terms and conditions of the grant and must include, but not be limited to: (i) Deliverables to be provided by the recipient pursuant to the grant; (ii) the circumstances under which the grant amount would be required to be repaid or the circumstances under which royalty, sales, or licensing revenue, or other commercialization-related revenue would be required to be shared; and (iii) indemnification, dispute resolution, and any other terms and conditions as are customary for grant agreements or are deemed reasonable by the board. The program administrator may negotiate with any grantee the costs associated with performing scientific activities funded by grants.

(2) Periodically, but not less often than every three years, the authority and the department must conduct a request for proposals and retain the services of an independent auditor with experience in performance auditing of research granting entities similar to the authority. The independent auditor must review the authority's strategic plan, program, and program administrator and publish a report assessing their performance and providing recommendations for improvement. The authority must hold at least one public hearing at which the results of each audit are presented and discussed.

NEW SECTION. **Sec.**  CHARITABLE CONTRIBUTIONS. The program administrator may create additional legal entities and take such action as may be necessary or advisable to enable the CARE fund to accept charitable contributions. In addition, the program administrator may provide technical assistance, information, and training to private employers and other potential donors to establish programs that facilitate charitable contributions to the CARE fund including tobacco use premium surcharge programs.

NEW SECTION. **Sec.**  CANCER RESEARCH ENDOWMENT FUND MATCH TRANSFER ACCOUNT. (1) The cancer research endowment fund match transfer account is created in the custody of the state treasurer as a nonappropriated account to be used solely and exclusively for the cancer research endowment program created in section 5 of this act. The purpose of the account is to provide matching funds for the CARE fund and administrative costs.

(2) Revenues to the account must consist of deposits into the account, legislative appropriations, and any gifts, grants, or donations received by the department for this purpose.

(3) The legislature must appropriate a state match, up to a maximum of ten million dollars annually, beginning July 1, 2016, and each July 1st following the end of the fiscal year from tax collections and penalties generated from enforcement of state taxes on cigarettes and other tobacco products by the state liquor and cannabis board or other federal, state or local law or tax enforcement agency, as determined by the department of revenue. Tax collections include any cigarette tax, other tobacco product tax, and retail sales and use tax.

(4) Expenditures, in the form of matching funds, from the account may be made only upon receipt of proof from the program administrator of nonstate or private contributions to the CARE fund for the cancer research endowment program. Expenditures, in the form of matching funds, may not exceed the total amount of nonstate or private contributions.

(5) Only the director of the department or the director's designee may authorize expenditures from the cancer research endowment fund match transfer account. Such authorization must be made as soon as practicable following receipt of proof as required under subsection (4) of this section.

(6) The department must enter into an appropriate agreement with the program administrator to demonstrate exchange of consideration for the matching funds.

NEW SECTION. **Sec.**  This chapter expires July 1, 2025.

NEW SECTION. **Sec.**  Sections 1 through 10 of this act constitute a new chapter in Title 43 RCW.

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