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SENATE BILL 5375

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State of Washington

65th Legislature

2017 Regular Session

**By** Senators Fain, Braun, Angel, Brown, Becker, O'Ban, Miloscia, Schoesler, Bailey, Sheldon, Warnick, King, Rivers, Fortunato, Rossi, Baumgartner, Wilson, Honeyford, Padden, Zeiger, Ranker, Darneille, Palumbo, Pedersen, Pearson, Frockt, and Hasegawa

Read first time 01/20/17. Referred to Committee on Health Care.

1 AN ACT Relating to renaming the cancer research endowment  
2 authority to the Andy Hill cancer research endowment; and amending  
3 RCW 43.348.010, 43.348.020, 43.348.030, 43.348.040, 43.348.050,  
4 43.348.060, 43.348.070, and 43.348.080.

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

6 **Sec. 1.** RCW 43.348.010 and 2015 3rd sp.s. c 34 s 2 are each  
7 amended to read as follows:

8 The definitions in this section apply throughout this chapter  
9 unless the context clearly requires otherwise.

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

12 ~~(2))~~ "Board" means the governing board of the ((authority))  
13 endowment.

14 ((~~3~~)) (2) "Cancer" means a group of diseases involving  
15 unregulated cell growth.

16 ((~~4~~)) (3) "Cancer patient advocacy organizations" means groups  
17 with offices in the state that promote cancer prevention and advocate  
18 on behalf of cancer patients.

19 ((~~5~~)) (4) "Cancer research" means advanced and applied research  
20 and development relating to the causes, prevention, and diagnosis of  
21 cancer and care of cancer patients including the development of

1 tests, genetic analysis, medications, processes, services, and  
2 technologies to optimize cancer therapies and their manufacture and  
3 commercialization and includes the costs of recruiting scientists and  
4 establishing and equipping research facilities.

5 ~~((6) "CARE fund" or)~~ (5) "Fund" means the Andy Hill cancer  
6 research ~~((endowment))~~ fund created in RCW 43.348.060(1)(b).

7 ~~((7))~~ (6) "Commercial entity" means a for-profit entity located  
8 in the state that develops, manufactures, or sells goods or services  
9 relating to cancer prevention or care.

10 ~~((8))~~ (7) "Committee" means an independent expert scientific  
11 review and advisory committee established under RCW 43.348.050.

12 ~~((9))~~ (8) "Contribution agreement" means any agreement  
13 authorized under this chapter in which a private entity or a public  
14 entity other than the state agrees to provide to the ~~((authority))~~  
15 endowment contributions for the purpose of cancer research,  
16 prevention, or care.

17 ~~((10))~~ (9) "Costs" means the costs and expenses associated with  
18 the conduct of research, prevention, and care including, but not  
19 limited to, the cost of recruiting and compensating personnel,  
20 securing and financing facilities and equipment, and conducting  
21 clinical trials.

22 ~~((11))~~ (10) "Department" means the department of commerce.

23 (11) "Endowment" means the Andy Hill cancer research endowment.

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

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

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

35 (15) "Program" means the Andy Hill cancer research endowment  
36 program created in RCW 43.348.040.

37 (16) "Program administrator" means a private nonprofit  
38 corporation qualified as a tax-exempt entity under 26 U.S.C. Sec.  
39 501(c)(3) of the federal internal revenue code, with expertise in

1 conducting or managing research granting activities, funds, or  
2 organizations.

3 **Sec. 2.** RCW 43.348.020 and 2015 3rd sp.s. c 34 s 3 are each  
4 amended to read as follows:

5 (1) The Andy Hill cancer research endowment ((~~authority~~)) is  
6 created. The powers of the ((~~authority~~)) endowment are vested in and  
7 must be exercised by a board. The board consists of thirteen members  
8 appointed by the governor:

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

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

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

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

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

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

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

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

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

31 (2) In soliciting nominations and appointing members, the  
32 governor must seek to identify individuals from throughout the state  
33 having relevant knowledge, experience, and expertise with regard to  
34 (a) cancer research, prevention, and care; (b) health care consumer  
35 issues; (c) government finance and budget; and (d) the  
36 commercialization of life sciences or cancer research. In soliciting  
37 nominations and appointing members, the governor must seek  
38 individuals who will contribute to the geographic diversity of the  
39 board, with the goal that at least five board members be from

1 counties with a population less than one million persons.  
2 Appointments must be made on or before July 1, 2016.

3 (3) The term of a member is four years from the date of their  
4 appointment except the initial term of the members in subsection  
5 (1)(d) through (i) of this section must be two years to create a  
6 staggered appointment process. A member may be appointed to not more  
7 than two full consecutive terms. A member appointed by the governor  
8 may be removed by the governor for cause under RCW 43.06.070 and  
9 43.06.080. The members may not be compensated but may be reimbursed,  
10 solely from the fund, for expenses incurred in the discharge of their  
11 duties under this chapter.

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

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

16 (6) Meetings of the board must be held in accordance with the  
17 open public meetings act, chapter 42.30 RCW, and at the call of the  
18 chair or when a majority of the members so requests. Meetings of the  
19 board may be held at any location within or out of the state, and  
20 members may participate in a meeting of the board by means of a  
21 conference telephone or similar communication equipment under RCW  
22 23B.08.200.

23 **Sec. 3.** RCW 43.348.030 and 2015 3rd sp.s. c 34 s 4 are each  
24 amended to read as follows:

25 The ((~~authority~~)) endowment has all the general powers necessary  
26 to carry out its purposes and duties and to exercise its specific  
27 powers. In addition to other powers specified in this chapter, the  
28 ((~~authority~~)) endowment may:

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

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

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

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

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

3 **Sec. 4.** RCW 43.348.040 and 2015 3rd sp.s. c 34 s 5 are each  
4 amended to read as follows:

5 (1) The Andy Hill cancer research endowment program is created.  
6 The purpose of the program is to make grants to public and private  
7 entities, including commercial entities, to fund or reimburse the  
8 entities pursuant to agreement for the promotion of cancer research  
9 to be conducted in the state. The ((~~authority~~)) endowment is to  
10 oversee and guide the program, including the solicitation, selection,  
11 and award of grants.

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

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

35 (4) The ((~~authority~~)) endowment may not award a grant for a  
36 proposal that was not recommended by an independent expert scientific  
37 review and advisory committee under RCW 43.348.050.

38 (5) The ((~~authority~~)) endowment must issue an annual report to  
39 the public that sets forth its activities with respect to the

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

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

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

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

25 **Sec. 5.** RCW 43.348.050 and 2015 3rd sp.s. c 34 s 6 are each  
26 amended to read as follows:

27 (1) In addition to any advisory boards the ((~~authority~~))  
28 endowment determines to establish, the ((~~authority~~)) endowment must  
29 establish one or more independent expert scientific review and  
30 advisory committees for the purposes of evaluating grant proposals  
31 for cancer research and recommending grants to be made from the  
32 ((CARE)) Andy Hill cancer research fund; advising the ((~~authority~~))  
33 endowment during the development and review of its strategic plans  
34 for cancer research; and advising the ((~~authority~~)) endowment on  
35 scientific and other matters in furtherance of the cancer research  
36 purposes of (~~chapter 34, Laws of 2015 3rd sp. sess~~) this chapter.

37 (2) Each independent expert scientific review and advisory  
38 committee must consist of individuals with nationally recognized  
39 expertise in the scientific, clinical, ethical, commercial, and

1 regulatory aspects of cancer research, prevention, and care. The  
2 board must appoint the members of the committee. Preliminary review  
3 of grant proposals may be made by a panel of such committee or an  
4 independent contractor chosen by the board upon recommendation of the  
5 committee, but all recommendations for grants to be made from the  
6 ((CARE)) fund may be made only upon majority vote of the committee.

7 **Sec. 6.** RCW 43.348.060 and 2015 3rd sp.s. c 34 s 7 are each  
8 amended to read as follows:

9 (1) The program administrator must provide services to the board  
10 and has the following duties and responsibilities:

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

16 (b) Establish ((a)) an Andy Hill cancer research ((endowment))  
17 fund ((to be known as the CARE fund)). The ((CARE)) fund must be a  
18 separate private account outside the state treasury into which grants  
19 and contributions received from public and private sources as well as  
20 state matching funds must be deposited, and from which funds for  
21 grants awarded by the ((authority)) endowment must be disbursed. Once  
22 moneys in the Andy Hill cancer research endowment fund match transfer  
23 account are subject to an agreement under RCW 43.348.080(6) and are  
24 deposited in the ((CARE)) fund under this section, the moneys in the  
25 ((CARE)) fund are not considered state money, common cash, or revenue  
26 to the state;

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

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

33 (e) Distribute ((CARE)) funds to selected entities through grant  
34 agreements. Grant agreements must set forth the terms and conditions  
35 of the grant and must include, but not be limited to: (i)  
36 Deliverables to be provided by the recipient pursuant to the grant;  
37 (ii) the circumstances under which the grant amount would be required  
38 to be repaid or the circumstances under which royalty, sales, or  
39 licensing revenue, or other commercialization-related revenue would

1 be required to be shared; and (iii) indemnification, dispute  
2 resolution, and any other terms and conditions as are customary for  
3 grant agreements or are deemed reasonable by the board. The program  
4 administrator may negotiate with any grantee the costs associated  
5 with performing scientific activities funded by grants.

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

16 **Sec. 7.** RCW 43.348.070 and 2015 3rd sp.s. c 34 s 8 are each  
17 amended to read as follows:

18 The program administrator may create additional legal entities  
19 and take such action as may be necessary or advisable to enable the  
20 ((~~CARE~~)) fund to accept charitable contributions. In addition, the  
21 program administrator may provide technical assistance, information,  
22 and training to private employers and other potential donors to  
23 establish programs that facilitate charitable contributions to the  
24 ((~~CARE~~)) fund including tobacco use premium surcharge programs.

25 **Sec. 8.** RCW 43.348.080 and 2015 3rd sp.s. c 34 s 9 are each  
26 amended to read as follows:

27 (1) The Andy Hill cancer research endowment fund match transfer  
28 account is created in the custody of the state treasurer as a  
29 nonappropriated account to be used solely and exclusively for the  
30 ((~~cancer research endowment~~)) program created in RCW 43.348.040. The  
31 purpose of the account is to provide matching funds for the ((~~CARE~~))  
32 fund and administrative costs.

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

36 (3) The legislature must appropriate a state match, up to a  
37 maximum of ten million dollars annually, beginning July 1, 2016, and  
38 each July 1st following the end of the fiscal year from tax



1 collections and penalties generated from enforcement of state taxes  
2 on cigarettes and other tobacco products by the state liquor and  
3 cannabis board or other federal, state or local law or tax  
4 enforcement agency, as determined by the department of revenue. Tax  
5 collections include any cigarette tax, other tobacco product tax, and  
6 retail sales and use tax.

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

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

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

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