H-1777.3

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**HOUSE BILL 2194**

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

**By** Representatives Hunter, Hansen, Carlyle, Johnson, Walkinshaw, Ryu, and Santos

AN ACT Relating to creating a funding stream and program for cancer research, prevention, and care; amending RCW 43.350.005, 43.350.010, 43.350.020, and 43.350.040; reenacting and amending RCW 43.79A.040; adding new sections to chapter 43.350 RCW; adding a new section to chapter 82.24 RCW; adding new sections to chapter 82.26 RCW; creating new sections; providing an effective date; and declaring an emergency.

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

**Sec.**  RCW 43.350.005 and 2005 c 424 s 1 are each amended to read as follows:

INTENT.

The legislature declares that promoting the health of state residents is a fundamental purpose of state government. The legislature declares it to be a clear public purpose and governmental function to promote life sciences research, including cancer research and prevention, to foster a preventive and predictive vision of the next generation of health-related innovations, to enhance the competitive position of Washington state in this vital sector of the economy, and to improve the quality and delivery of health care for the people of Washington.

Cancer is the leading cause of death in Washington and is the leading cause of childhood mortality due to disease. Many of the state's high rates of cancer can be prevented and treated, particularly if detected early and patients have access to the most effective care. 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.

The legislature finds that public support for and promotion of life sciences research, including cancer research, prevention, and care, will benefit the state and its residents through improved health status and health outcomes, economic development, and contributions to scientific knowledge, and such research will lead to breakthroughs and improvements that might not otherwise be discovered due to lack of existing market incentives, especially in the area of regenerative medicine.

The legislature finds that public support for and promotion of life sciences research, including cancer research, prevention, and care, has the potential to provide cures or new treatments for many debilitating diseases that cost the state millions of dollars each year.

It is appropriate and consistent with the intent of the master settlement agreement between the state and tobacco product manufacturers to invest a portion of the revenues derived therefrom by the state in life sciences research, to leverage the revenues with other funds, and to encourage cooperation and innovation among public and private institutions involved in life sciences research.

The purpose of this chapter is to establish a life sciences discovery fund authority, to grant that authority the power to contract with the state to receive revenues under the master settlement agreement, and to contract with other entities to receive other funds, and to disburse those funds consistent with the purpose of this chapter. The life sciences discovery fund is intended to promote the best available research in life sciences disciplines through diverse Washington institutions and to build upon existing strengths in the area of biosciences and biomanufacturing in order to spread the economic benefits across the state. The life sciences discovery fund is also intended to foster improved health care outcomes and improved agricultural production research across this state and the world.

The research investments of the life sciences discovery fund are intended to further the goals of the "Bio 21" report and to support future statewide, comprehensive strategies to lead the nation in life sciences-related research and employment.

Further, this chapter is intended to establish a fund to fight cancer. The fund to fight cancer is intended to support sustained investment in cancer research, prevention, and care to reduce long-term health costs, save lives, and relieve the pain and suffering associated with cancer.

Sustained investment in cancer research, prevention, and care is critical to reducing long-term health costs, saving lives, and relieving pain and suffering. Unfortunately, federal funding and private philanthropy are not sufficient to support and advance cancer research, prevention, and care, and the lack of state funding further worsens critical gaps.

Specifically, resources of the fund to fight cancer are intended to provide the additional funding required to support and advance cancer research, prevention, and care. The legislature intends to accomplish these goals by:

(1) Optimizing the use of public funds by giving priority to research using the best science and technology with the greatest potential to improve health outcomes and leveraging the sizeable existing investment in facilities and research talent, as well as clinical and therapeutic resources, in Washington;

(2) Protecting and benefiting Washington taxpayers by funding proposals for cancer research that are reviewed by an independent scientific panel subject to established ethical standards and procedures that yield fair, equitable, informed, and unbiased consideration; by reducing future state health care costs; and by providing an opportunity for the state to benefit from royalty, sales, or licensing revenue, or other commercialization-related revenue that results from the research;

(3) Requiring strict fiscal and public accountability through mandatory independent audits, transparent review processes and consideration of funding proposals, open public meetings and hearings, and annual reports to the public; and

(4) Growing the Washington economy by creating jobs and encouraging investments that will generate new tax revenues in the state, and advance the biotech, medical device, and health care information technology industries in Washington to world leadership, as an economic engine for Washington's future.

**Sec.**  RCW 43.350.010 and 2005 c 424 s 2 are each amended to read as follows:

DEFINITIONS.

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

(1) "Authority" means the life sciences discovery fund authority created in this chapter.

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

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

(8) "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 promoting life sciences research.

((~~(4)~~)) (9) "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.

(10) "Fund authority" means the life sciences discovery fund to fight cancer authority.

(11) "Genetic analysis" means the use of DNA/RNA/protein sequencing methods to define potential mutations or patterns to assist prescribing physicians in determining anticancer medications or treatments that can be used to optimize cancer therapies.

(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.

((~~(5)~~)) (14) "Master settlement agreement" means the national master settlement agreement and related documents entered into on November 23, 1998, by the state and the four principal United States tobacco product manufacturers, as amended and supplemented, for the settlement of litigation brought by the state against the tobacco product manufacturers.

((~~(6)~~)) (15) "Nonprofit cancer research institution" means a nonprofit institution located in the state that conducts cancer research.

(16) "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.

(17) "Public employee" means any person employed by the state of Washington or any agency or political subdivision thereof.

((~~(7)~~)) (18) "Public facilities" means any public institution, public facility, public equipment, or any physical asset owned, leased, or controlled by the state of Washington or any agency or political subdivision thereof.

((~~(8)~~)) (19) "Public funds" means any funds received or controlled by the state of Washington or any agency or political subdivision thereof, including, but not limited to, funds derived from federal, state, or local taxes, gifts or grants from any source, public or private, federal grants or payments, or intergovernmental transfers.

((~~(9)~~)) (20) "State agreement" means the agreement authorized under this chapter in which the state provides to the authority the strategic contribution payments required to be made by tobacco product manufacturers to the state and the state's rights to receive such payments, pursuant to the master settlement agreement, for the purpose of promoting life sciences research.

((~~(10)~~)) (21) "Strategic contribution payments" means the payments designated as such under the master settlement agreement, which will be made to the state in the years 2008 through 2017.

**Sec.**  RCW 43.350.020 and 2005 c 424 s 3 are each amended to read as follows:

LIFE SCIENCES DISCOVERY FUND AUTHORITY BOARD MEMBERS ADDED.

(1) The life sciences discovery fund authority is created and constitutes a public instrumentality and agency of the state, separate and distinct from the state, exercising public and essential governmental functions.

(2)(a) The powers of the authority are vested in and shall be exercised by a board of trustees consisting of: Two members of either the house appropriations committee or the house committee dealing with technology issues, one from each caucus, to be appointed by the speaker of the house of representatives; two members of either the senate committee on ways and means or the senate committee dealing with technology issues, one from each caucus, to be appointed by the president of the senate; and ((~~seven~~)) eleven members appointed by the governor with the consent of the senate, one of whom shall be appointed by the governor as chair of the authority and who shall serve on the board and as chair of the authority at the pleasure of the governor. Members appointed by the governor must include:

(i) Two trustees from nominations submitted by the presidents of the University of Washington and Washington State University;

(ii) Two trustees from nominations submitted by the Fred Hutchinson cancer research center, Seattle cancer care alliance, and the Seattle children's research institute;

(iii) Two trustees from nominations submitted by patient advocacy organizations;

(iv) Two trustees from nominations submitted by entities or systems that provide health care delivery services;

(v) One trustee from nominations submitted by any health sciences and services authority established under chapter 35.104 RCW; and

(vi) The remaining two trustees must be members of the public, one of whom must be appointed by the governor as chair of the authority and who must serve on the authority and as chair of the authority at the pleasure of the governor.

(b) The respective officials shall make ((~~the initial~~)) any new appointments required by chapter..., Laws of 2015 (this act) no later than thirty days after ((~~May 12, 2005~~)) the effective date of this section. The term of the trustees, other than the chair, is four years from the date of their appointment, except that the terms of three of the initial gubernatorial appointees, as determined by the governor, are for two years from the date of their appointment. A trustee appointed by the governor may be removed by the governor for cause under RCW 43.06.070 and 43.06.080. The appropriate official shall fill any vacancy on the board by appointment for the remainder of the unexpired term. The trustees appointed by the governor shall be compensated in accordance with RCW 43.03.240 and may be reimbursed, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter, subject to RCW 43.03.050 and 43.03.060. The trustees who are legislators shall be reimbursed for travel expenses in accordance with RCW 44.04.120.

(3) ((~~Seven~~)) Eight members of the board constitute a quorum.

(4) The trustees shall elect a treasurer and secretary annually, and other officers as the trustees determine necessary, and may adopt bylaws or rules for their own government.

(5) Meetings of the board shall 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 trustees so requests. Meetings of the board may be held at any location within or out of the state, and trustees may participate in a meeting of the board by means of a conference telephone or similar communication equipment under RCW 23B.08.200.

(6) The authority is subject to audit by the state auditor.

(7) The attorney general must advise the authority and represent it in all legal proceedings.

NEW SECTION. **Sec.**  AUTHORITY—POWERS—FUND TO FIGHT CANCER DUTIES. In addition to other powers and duties prescribed in this chapter, the authority is empowered to:

(1) Use public moneys in the fund to fight cancer, leveraging those moneys with amounts received from other public and private sources in accordance with contribution agreements, to fund costs of cancer research and the administrative costs of the authority;

(2) Use amounts in the fund to fight cancer created in section 8 of this act to fund the costs of cancer research and the related administrative costs of the authority. However, the authority may use an amount equal to not more than five percent of the amount in the fund to fight cancer to pay administrative costs of the authority allocable to cancer research, prevention, and care, including the oversight of the grant-making process and the operations of the board and the committee;

(3) 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 the costs of cancer research, prevention, and care. Nonstate moneys received by the authority for the purpose of cancer research must be deposited in the fund to fight cancer created in section 8 of this act;

(4) Hold funds received by the authority for deposit in the fund to fight cancer exclusively in trust dedicated, pursuant to section 8 of this act, to promote cancer research;

(5) Subject to chapter 39.58 RCW, manage its funds, obligations, and investments as necessary and as consistent with its purpose including the segregation of revenues into separate funds and accounts;

(6)(a) Make grants to public and private entities, including commercial entities, to fund or reimburse the entities pursuant to contract for the promotion of cancer research to be conducted in the state. Grant agreements must specify deliverables to be provided by the recipient pursuant to the grant. The authority must solicit requests for funding and evaluate the requests by reference to factors such as: (i) The quality of the proposed research or program; (ii) its potential to improve cancer outcomes, 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 cancer; (iii) its potential for leveraging additional funding; (iv) its potential to provide cancer care benefits; (v) its potential to stimulate cancer prevention and health care delivery; (vi) the geographic diversity of the grantees within Washington; (vii) 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 (viii) evidence of public and private collaboration.

(b) 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 manner 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 authority may negotiate with any grantee the costs associated with performing scientific activities funded by grants;

(7) Create one or more permanent or ad hoc advisory boards composed of scientists, clinicians, industrialists, and others familiar with cancer research, prevention, and care; and

(8) Adopt policies and procedures to facilitate the orderly process of grant application, review, and reward.

**Sec.**  RCW 43.350.040 and 2005 c 424 s 5 are each amended to read as follows:

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, 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) establish such special funds, and controls on deposits to and disbursements from them, as it finds convenient for the implementation of this chapter; (5) enter into contracts with public and private entities for life sciences research to be conducted in the state; (6) adopt rules, consistent with this chapter; (7) delegate any of its powers and duties if consistent with the purposes of this chapter; (8) exercise any other power reasonably required to implement the purposes of this chapter; ((~~and~~)) (9) hire staff and pay administrative costs; and (10) subject to appropriate agreements, advance funds to defray charges for materials to be furnished or services to be rendered by grant recipients pursuant to authority rule permitting advances, in amounts no greater than the estimated charges, where the advances would be in the best interests of the authority.

NEW SECTION. **Sec.**  INDEPENDENT EXPERT SCIENTIFIC COMMITTEES RELATED TO THE FUND TO FIGHT CANCER. (1) In addition to any advisory boards the authority determines to establish under RCW 43.350.030(7) or section 4(7) of this act, the authority must establish one or more independent expert scientific review and advisory committees for the purposes of: (a) Soliciting and evaluating grant proposals for cancer research and recommending grants to be made from the fund to fight cancer; (b) advising the authority during the development and review of its strategic plans for cancer research; (c) advising the authority on scientific and other matters in furtherance of the cancer research purposes of RCW 43.350.040 and sections 4, 6, and 7 of this act; (d) advising the authority on the recruitment of scientists in the fields of cancer research, prevention, and treatment; and (e) advising the authority regarding a statewide program for the genetic analysis of patient tumors to optimize cancer therapies.

(2) A committee to solicit and evaluate grant proposals for cancer research and recommend grants to be made from the fund to fight cancer is created and must consist of eleven individuals or such larger number as the board determines, with nationally recognized expertise in the scientific, clinical, ethical, commercial, and regulatory aspects of cancer research, prevention, and care. A majority of the committee must reside out of the state. The board must appoint members of the committee. The committee must report to the board. 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 fund to fight cancer may be made only upon majority vote of the committee. A recommendation to the board by the committee to fund a grant proposal must be approved by the board unless the recommendation is rejected by a two-thirds vote of the entire board.

NEW SECTION. **Sec.**  FUND TO FIGHT CANCER PLAN AND STANDARDS. (1) The board must develop a plan for the allocation of projected amounts in the fund to fight cancer, 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.

(2) Allocation targets must be developed in the plan for funding targeted to pediatric cancer research. The plan with respect to funding cancer research must seek to provide that no less than ten percent of the funding is granted to areas outside the Puget Sound region in part to build and diversify research capacity. However, all grants for research meet the highest standards for scientific research and are based on ethical standards and procedures that yield fair, equitable, informed, and unbiased consideration.

(3) The authority must issue an annual report to the public that sets forth its activities with respect to the fund to fight cancer, 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 with respect to the fund to fight cancer 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.

(4) The authority must include as an addendum to the first annual report, a proposed operating plan for the design, implementation, and administration of an endowment program supporting the purposes of the authority. The authority must submit the operating plan to the governor, the legislature, and the stakeholders of the authority at the time the first annual report is published.

(5) Periodically, but not less often than every three years, the authority 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 strategic plan of the authority for the allocation of projected amounts in the fund to fight cancer and its performance against such plan and publish a report assessing the performance of the authority. The independent auditor must make recommendations to the authority, the governor, and the legislature regarding improvements to the authority's performance for the allocation of projected amounts in the fund to fight cancer. The authority must hold at least one public hearing at which the results of each audit are presented and discussed.

(6) The authority must establish standards for grants made from the fund to fight cancer that may require that contracts for cancer research, prevention, or care contain provisions that balance the opportunity of the state or its public universities to derive benefit from the intellectual or tangible property that result from cancer research, prevention, or care activities performed subject to RCW 43.350.040 and sections 4, 6, and 7 of this act with the need to assure that essential research is not unreasonably hindered.

(7) It is essential that the personal interests of authority trustees, staff, and agents do not impede their judgment or compromise their objectivity. Even the perception of a conflict of interest has the potential to erode the public's confidence in the authority's work. 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.**  FUND TO FIGHT CANCER CREATED AS NONAPPROPRIATED ACCOUNT. (1) The fund to fight cancer is created in the custody of the state treasurer.

(2) Revenues to the fund consist of: (a) Revenues appropriated by the legislature from the fight cancer treasury fund created in section 9 of this act from taxes levied in sections 10 and 11 of this act; (b) moneys received by the authority from gifts, grants, bequests, contribution agreements, royalty, sales, or licensing revenue, or other commercialization-related revenue, grant remittances, and other sources; and (c) interest earned on the fund.

(3) Expenditures from the fund may be made solely for the purposes of funding cancer research as provided in RCW 43.350.040 and sections 4, 6, and 7 of this act. Only the board or the board's designee may authorize expenditures from the fund. The fund is subject to the allotment procedures of chapter 43.88 RCW, but an appropriation is not required for expenditure.

(4) The board must develop and approve an annual budget for expenditures from the fund to fight cancer.

NEW SECTION. **Sec.**  FIGHT CANCER TREASURY FUND CREATED TO RECEIVE TAX REVENUE. (1) The fight cancer treasury fund is created in the state treasury. Revenues to the fund consist of taxes levied pursuant to sections 10 and 11 of this act, subject to the provisions of subsection (2) of this section. Moneys in the fund may be expended solely after appropriation. The legislature must appropriate all revenues to the fund into the fund to fight cancer created in section 8 of this act subject to the provisions of subsection (2) of this section.

(2)(a) Each fiscal year the amount to be deposited into the fight cancer treasury fund created in this section must be reduced by the amount necessary to offset the state revenue decrease to other state accounts directly resulting from imposition of the additional taxes imposed by sections 10 and 11 of this act, determined as follows: (i) The department of revenue must determine by January 31, 2016, and by each January 31st thereafter, the effect that the additional tax imposed on cigarettes by section 10 of this act, and the additional taxes on tobacco products imposed by section 11 of this act, have on the consumption of cigarettes and tobacco products in this state; and (ii) to the extent that a decrease in consumption is determined by the department of revenue to be a direct result of the additional taxes imposed by sections 10 and 11 of this act, the department of revenue must determine the fiscal effect the decrease in consumption has on state revenues to other state accounts and must provide the state treasurer by March 1, 2016, and by each March 1st thereafter, the amount of decreased revenues as determined in this subsection.

(b) The state treasurer must transfer the amount of decreased revenue determined by the department of revenue in (a) of this subsection from the fight cancer treasury fund to the general fund by July 1, 2016, and by each July 1st thereafter.

NEW SECTION. **Sec.**  A new section is added to chapter 82.24 RCW to read as follows:

CIGARETTE TAX.

(1) In addition to the tax imposed upon the sale, use, consumption, handling, possession, or distribution of cigarettes set forth in RCW 82.24.020 and 82.24.026, there is imposed a tax in an amount equal to 2.5 cents per cigarette, which must be levied and collected, beginning July 1, 2015.

(2) Taxes received pursuant to this section must be deposited in the fight cancer treasury fund created in section 9 of this act and used exclusively for the purposes set forth in RCW 43.350.040 and sections 4, 6, and 7 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 82.26 RCW to read as follows:

TOBACCO TAX.

(1) In addition to the tax levied and collected in RCW 82.26.020, and without regard to any limitations set forth in RCW 82.26.020, including without limitation the not-to-exceed cap on the tax on cigars under RCW 82.26.020(1)(a), there is levied and collected a tax upon the sale, handling, or distribution of all tobacco products in this state at the following rates, beginning July 1, 2015:

(a) For cigars except little cigars, a rate equal to ten percent of the taxable sales price of cigars;

(b) For all tobacco products except those covered under separate provisions of this subsection, a rate equal to ten percent of the taxable sales price;

(c) For moist snuff, a rate equal to ten percent of the tax under RCW 82.26.020; and

(d) For little cigars, a rate per cigar equal to ten percent of the cigarette tax under chapter 82.24 RCW.

(2) Taxes under this section must be imposed at the time the distributor (a) brings, or causes to be brought, into this state from without the state tobacco products for sale, (b) makes, manufactures, fabricates, or stores tobacco products in this state for sale in this state, (c) ships or transports tobacco products to retailers in this state, to be sold by those retailers, or (d) handles for sale any tobacco products that are within this state but upon which tax has not been imposed.

(3) Taxes received pursuant to this section must be deposited in the fight cancer treasury fund created in section 9 of this act and used exclusively for the purposes set forth in RCW 43.350.040 and sections 4, 6, and 7 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 82.26 RCW to read as follows:

PAYMENT OF TAXES.

(1) For any other tobacco products on which a tax pursuant to this chapter has already been paid that is in the possession or control of a distributor or retailer or any other person in the business of distributing or selling tobacco products on the effective date of the additional tax on that tobacco product under section 11 of this act, the distributor, retailer, or any other person must, to fully comply with the additional tax, make a tax payment on tobacco products in his or her possession or control equal to the new tax rate on tobacco products, taking into account the additional tax, minus the amount of tax already paid on that tobacco product.

(2) For any cigarettes on which a tax pursuant to RCW 82.24.020 and 82.24.026 has already been paid, and that are in the possession or control of a distributor, wholesaler, retailer, or any other person in the business of distributing or selling cigarettes on the effective date of the additional tax on the sale, use, consumption, handling, possession, or distribution of cigarettes under section 10 of this act, the distributor, wholesaler, retailer, or other person must, to fully comply with the additional tax, make a tax payment equal to the tax rate on the cigarettes, taking into account the additional tax, minus the amount of tax already paid on those cigarettes.

(3) These payments must be made to the department within thirty days of the effective date of the tax rate increase due to the additional taxes under section 10 or 11 of this act and must be submitted along with a report, in such a form as the department may prescribe, describing all the subject cigarettes or tobacco products in the possession or control of the distributor, retailer, or other person on the effective date of the tax rate increase due to the additional taxes and showing the related tax payments due.

(a) Any tax payments pursuant to this section made later than thirty days after the effective date of the tax rate increase due to the additional taxes under section 10 or 11 of this act must also pay interest at the rate of two percent per month or fraction of a month from the date the tax payment was due until the date that the tax payment is received by the department.

(b) Any tax payments pursuant to this section received by the department within twenty days of the tax rate increase due to the additional taxes under section 10 or 11 of this act may be reduced by one percent.

(4) Taxes received pursuant to this section must be deposited in the fight cancer treasury fund created in section 9 of this act and used exclusively for the purposes in RCW 43.350.040 and sections 4, 6, and 7 of this act.

**Sec.**  RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are each reenacted and amended to read as follows:

MANAGEMENT—INCOME—INVESTMENT INCOME ACCOUNT—DISTRIBUTION.

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund must be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments must occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer must distribute the earnings credited to the investment income account to the state general fund except under (b), (c), and (d) of this subsection.

(b) The following accounts and funds must receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the Washington advanced college tuition payment program account, the accessible communities account, the community and technical college innovation account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the county enhanced 911 excise tax account, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the Washington global health technologies and product development account, the grain inspection revolving fund, the industrial insurance rainy day fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the multiagency permitting team account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account, the fund to fight cancer, the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, the center for childhood deafness and hearing loss account, the school for the blind account, the Millersylvania park trust fund, the public employees' and retirees' insurance reserve fund, and the radiation perpetual maintenance fund.

(c) The following accounts and funds must receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer ((~~shall~~)) must receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds ((~~shall~~)) may be allocated earnings without the specific affirmative directive of this section.

NEW SECTION. **Sec.**  Sections 4 and 6 through 9 of this act are each added to chapter 43.350 RCW.

NEW SECTION. **Sec.**  CONSTRUCTION. This act, being necessary for the welfare of the state and its inhabitants, must be liberally construed.

NEW SECTION. **Sec.**  SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  APPLICATION. This act applies only with respect to tax liability incurred under chapter 82.24 or 82.26 RCW on or after July 1, 2015, for the sale, handling, or distribution of cigarettes or tobacco products.

NEW SECTION. **Sec.**  EFFECTIVE DATE. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2015.

**--- END ---**