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**SENATE BILL 6096**

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

**By** Senators Becker, Litzow, Parlette, Bailey, Hill, Fain, Dammeier, Brown, Rivers, Roach, and McAuliffe

AN ACT Relating to cancer research; amending RCW 28A.400.350 and 41.05.065; and adding a new chapter to Title 43 RCW.

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.

(7) The board must be staffed by the program administrator.

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, under contract with the department, must staff 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 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(5) of this act and are deposited in the CARE fund under this section, the state acts in a fiduciary rather than ownership capacity with regard to those assets. Assets 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.

(3) The program administrator must be paid an administrative fee from the CARE fund, as determined by the board.

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.

(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) No expenditures from the account may be made except 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.

(4) 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 (3) of this section.

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

**Sec.**  RCW 28A.400.350 and 2012 2nd sp.s. c 3 s 3 are each amended to read as follows:

(1) The board of directors of any of the state's school districts or educational service districts may make available liability, life, health, health care, accident, disability, and salary protection or insurance, direct agreements as defined in chapter 48.150 RCW, or any one of, or a combination of the types of employee benefits enumerated in this subsection, or any other type of insurance or protection, for the members of the boards of directors, the students, and employees of the school district or educational service district, and their dependents. Such coverage may be provided by contracts or agreements with private carriers, with the state health care authority after July 1, 1990, pursuant to the approval of the authority administrator, or through self-insurance or self-funding pursuant to chapter 48.62 RCW, or in any other manner authorized by law. Any direct agreement must comply with RCW 48.150.050.

(2) Whenever funds are available for these purposes the board of directors of the school district or educational service district may contribute all or a part of the cost of such protection or insurance for the employees of their respective school districts or educational service districts and their dependents. The premiums on such liability insurance shall be borne by the school district or educational service district.

After October 1, 1990, school districts may not contribute to any employee protection or insurance other than liability insurance unless the district's employee benefit plan conforms to RCW 28A.400.275 and 28A.400.280.

(3) For school board members, educational service district board members, and students, the premiums due on such protection or insurance shall be borne by the assenting school board member, educational service district board member, or student. The school district or educational service district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school, school district, or educational service district. The school district board of directors and the educational service district board may require any student participating in extracurricular interschool activities to, as a condition of participation, document evidence of insurance or purchase insurance that will provide adequate coverage, as determined by the school district board of directors or the educational service district board, for medical expenses incurred as a result of injury sustained while participating in the extracurricular activity. In establishing such a requirement, the district shall adopt regulations for waiving or reducing the premiums of such coverage as may be offered through the school district or educational service district to students participating in extracurricular activities, for those students whose families, by reason of their low income, would have difficulty paying the entire amount of such insurance premiums. The district board shall adopt regulations for waiving or reducing the insurance coverage requirements for low-income students in order to assure such students are not prohibited from participating in extracurricular interschool activities.

(4) All contracts or agreements for insurance or protection written to take advantage of the provisions of this section shall provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57, and 18.71 RCW.

(5) School districts offering medical, vision, and dental benefits shall:

(a) Offer a high deductible health plan option with a health savings account that conforms to section 223, part VII of subchapter 1 of the internal revenue code of 1986. School districts shall comply with all applicable federal standards related to the establishment of health savings accounts;

(b) Make progress toward employee premiums that are established to ensure that full family coverage premiums are not more than three times the premiums for employees purchasing single coverage for the same coverage plan, unless a subsequent premium differential target is defined as a result of the review and subsequent actions described in RCW 41.05.655;

(c) Offer employees at least one health benefit plan that is not a high deductible health plan offered in conjunction with a health savings account in which the employee share of the premium cost for a full-time employee, regardless of whether the employee chooses employee-only coverage or coverage that includes dependents, does not exceed the share of premium cost paid by state employees during the state employee benefits year that started immediately prior to the school year;

(d)(i) For the first plan year beginning after December 31, 2015, assess an additional one hundred dollar per month surcharge in addition to the premium due from each employee of the school district or educational service district who uses tobacco products or covers an adult dependent who uses tobacco products and is covered by a health benefit plan offered by the district.

(ii) For purposes of this subsection (5)(d):

(A) "Tobacco products" means: (I) Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by other means; and (II) any electronic device that can be used to deliver nicotine or other substance to the person inhaling from the device including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.

(B) "Tobacco products" does not include any product that has been approved by the United States food and drug administration for tobacco cessation or other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

(iii) Funds from the surcharge assessed under this subsection (5)(d) must be remitted monthly to the state treasurer for deposit in the cancer research endowment fund match transfer account created in section 9 of this act.

(6) All contracts or agreements for employee benefits must be held to responsible contracting standards, meaning a fair, prudent, and accountable competitive procedure for procuring services that includes an open competitive process, except where an open process would compromise cost-effective purchasing, with documentation justifying the approach.

(7) School districts offering medical, vision, and dental benefits shall also make progress on promoting health care innovations and cost savings and significantly reduce administrative costs.

(8) All contracts or agreements for insurance or protection described in this section shall be in compliance with chapter 3, Laws of 2012 2nd sp. sess.

(9) Upon notification from the office of the insurance commissioner of a school district's substantial noncompliance with the data reporting requirements of RCW 28A.400.275, and the failure is due to the action or inaction of the school district, and if the noncompliance has occurred for two reporting periods, the superintendent is authorized and required to limit the school district's authority provided in subsection (1) of this section regarding employee health benefits to the provision of health benefit coverage provided by the state health care authority.

**Sec.**  RCW 41.05.065 and 2011 1st sp.s. c 8 s 1 are each amended to read as follows:

(1) The board shall study all matters connected with the provision of health care coverage, life insurance, liability insurance, accidental death and dismemberment insurance, and disability income insurance or any of, or a combination of, the enumerated types of insurance for employees and their dependents on the best basis possible with relation both to the welfare of the employees and to the state. However, liability insurance shall not be made available to dependents.

(2) The board shall develop employee benefit plans that include comprehensive health care benefits for employees. In developing these plans, the board shall consider the following elements:

(a) Methods of maximizing cost containment while ensuring access to quality health care;

(b) Development of provider arrangements that encourage cost containment and ensure access to quality care, including but not limited to prepaid delivery systems and prospective payment methods;

(c) Wellness incentives that focus on proven strategies, such as smoking cessation, injury and accident prevention, reduction of alcohol misuse, appropriate weight reduction, exercise, automobile and motorcycle safety, blood cholesterol reduction, and nutrition education;

(d) Utilization review procedures including, but not limited to a cost-efficient method for prior authorization of services, hospital inpatient length of stay review, requirements for use of outpatient surgeries and second opinions for surgeries, review of invoices or claims submitted by service providers, and performance audit of providers;

(e) Effective coordination of benefits; and

(f) Minimum standards for insuring entities.

(3) To maintain the comprehensive nature of employee health care benefits, benefits provided to employees shall be substantially equivalent to the state employees' health benefit((~~s~~)) plan in effect on January 1, 1993. Nothing in this subsection shall prohibit changes or increases in employee point-of-service payments or employee premium payments for benefits or the administration of a high deductible health plan in conjunction with a health savings account. The board may establish employee eligibility criteria which are not substantially equivalent to employee eligibility criteria in effect on January 1, 1993.

(4) Except if bargained for under chapter 41.80 RCW, the board shall design benefits and determine the terms and conditions of employee and retired employee participation and coverage, including establishment of eligibility criteria subject to the requirements of this chapter. Employer groups obtaining benefits through contractual agreement with the authority for employees defined in RCW 41.05.011(6) (a) through (d) may contractually agree with the authority to benefits eligibility criteria which differs from that determined by the board. The eligibility criteria established by the board shall be no more restrictive than the following:

(a) Except as provided in (b) through (e) of this subsection, an employee is eligible for benefits from the date of employment if the employing agency anticipates he or she will work an average of at least eighty hours per month and for at least eight hours in each month for more than six consecutive months. An employee determined ineligible for benefits at the beginning of his or her employment shall become eligible in the following circumstances:

(i) An employee who works an average of at least eighty hours per month and for at least eight hours in each month and whose anticipated duration of employment is revised from less than or equal to six consecutive months to more than six consecutive months becomes eligible when the revision is made.

(ii) An employee who works an average of at least eighty hours per month over a period of six consecutive months and for at least eight hours in each of those six consecutive months becomes eligible at the first of the month following the six-month averaging period.

(b) A seasonal employee is eligible for benefits from the date of employment if the employing agency anticipates that he or she will work an average of at least eighty hours per month and for at least eight hours in each month of the season. A seasonal employee determined ineligible at the beginning of his or her employment who works an average of at least half-time, as defined by the board, per month over a period of six consecutive months and at least eight hours in each of those six consecutive months becomes eligible at the first of the month following the six-month averaging period. A benefits-eligible seasonal employee who works a season of less than nine months shall not be eligible for the employer contribution during the off season, but may continue enrollment in benefits during the off season by self-paying for the benefits. A benefits-eligible seasonal employee who works a season of nine months or more is eligible for the employer contribution through the off season following each season worked.

(c) Faculty are eligible as follows:

(i) Faculty who the employing agency anticipates will work half–time or more for the entire instructional year or equivalent nine-month period are eligible for benefits from the date of employment. Eligibility shall continue until the beginning of the first full month of the next instructional year, unless the employment relationship is terminated, in which case eligibility shall cease the first month following the notice of termination or the effective date of the termination, whichever is later.

(ii) Faculty who the employing agency anticipates will not work for the entire instructional year or equivalent nine-month period are eligible for benefits at the beginning of the second consecutive quarter or semester of employment in which he or she is anticipated to work, or has actually worked, half-time or more. Such an employee shall continue to receive uninterrupted employer contributions for benefits if the employee works at least half-time in a quarter or semester. Faculty who the employing agency anticipates will not work for the entire instructional year or equivalent nine-month period, but who actually work half-time or more throughout the entire instructional year, are eligible for summer or off-quarter coverage. Faculty who have met the criteria of this subsection (4)(c)(ii), who work at least two quarters of the academic year with an average academic year workload of half-time or more for three quarters of the academic year, and who have worked an average of half-time or more in each of the two preceding academic years shall continue to receive uninterrupted employer contributions for benefits if he or she works at least half-time in a quarter or semester or works two quarters of the academic year with an average academic workload each academic year of half-time or more for three quarters. Eligibility under this section ceases immediately if this criteria is not met.

(iii) Faculty may establish or maintain eligibility for benefits by working for more than one institution of higher education. When faculty work for more than one institution of higher education, those institutions shall prorate the employer contribution costs, or if eligibility is reached through one institution, that institution will pay the full employer contribution. Faculty working for more than one institution must alert his or her employers to his or her potential eligibility in order to establish eligibility.

(iv) The employing agency must provide written notice to faculty who are potentially eligible for benefits under this subsection (4)(c) of their potential eligibility.

(v) To be eligible for maintenance of benefits through averaging under (c)(ii) of this subsection, faculty must provide written notification to his or her employing agency or agencies of his or her potential eligibility.

(d) A legislator is eligible for benefits on the date his or her term begins. All other elected and full-time appointed officials of the legislative and executive branches of state government are eligible for benefits on the date his or her term begins or they take the oath of office, whichever occurs first.

(e) A justice of the supreme court and judges of the court of appeals and the superior courts become eligible for benefits on the date he or she takes the oath of office.

(f) Except as provided in (c)(i) and (ii) of this subsection, eligibility ceases for any employee the first of the month following termination of the employment relationship.

(g) In determining eligibility under this section, the employing agency may disregard training hours, standby hours, or temporary changes in work hours as determined by the authority under this section.

(h) Insurance coverage for all eligible employees begins on the first day of the month following the date when eligibility for benefits is established. If the date eligibility is established is the first working day of a month, insurance coverage begins on that date.

(i) Eligibility for an employee whose work circumstances are described by more than one of the eligibility categories in (a) through (e) of this subsection shall be determined solely by the criteria of the category that most closely describes the employee's work circumstances.

(j) Except for an employee eligible for benefits under (b) or (c)(ii) of this subsection, an employee who has established eligibility for benefits under this section shall remain eligible for benefits each month in which he or she is in pay status for eight or more hours, if (i) he or she remains in a benefits-eligible position and (ii) leave from the benefits-eligible position is approved by the employing agency. A benefits-eligible seasonal employee is eligible for the employer contribution in any month of his or her season in which he or she is in pay status eight or more hours during that month. Eligibility ends if these conditions are not met, the employment relationship is terminated, or the employee voluntarily transfers to a noneligible position.

(k) For the purposes of this subsection:

(i) "Academic year" means summer, fall, winter, and spring quarters or semesters;

(ii) "Half-time" means one-half of the full-time academic workload as determined by each institution, except that half-time for community and technical college faculty employees shall have the same meaning as "part-time" under RCW 28B.50.489;

(iii) "Benefits-eligible position" shall be defined by the board.

(5)(a) The board may authorize premium contributions for an employee and the employee's dependents in a manner that encourages the use of cost-efficient managed health care systems.

(b)(i) In addition to the premium contributions the board must also assess an additional one hundred dollar per month surcharge in addition to the premium due from each employee who uses tobacco products or who elects to cover an adult dependent who uses tobacco products.

(ii) For purposes of this subsection (5)(b):

(A) "Tobacco products" means: (I) Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption whether chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by other means; and (II) any electronic device that can be used to deliver nicotine or other substance to the person inhaling from the device including, but not limited to, an electronic cigarette, cigar, pipe, or hookah.

(B) "Tobacco products" does not include any product that has been approved by the United States food and drug administration for tobacco cessation or other therapeutic purposes where such product is marketed and sold solely for such an approved purpose.

(iii) Funds from the surcharge assessed under this subsection (5)(b) must be remitted monthly to the state treasurer for deposit in the cancer research endowment fund match transfer account created in section 9 of this act.

(6)(a) For any open enrollment period following August 24, 2011, the board shall offer a health savings account option for employees that conforms to section 223, Part VII of subchapter B of chapter 1 of the internal revenue code of 1986. The board shall comply with all applicable federal standards related to the establishment of health savings accounts.

(b) By November 30, 2015, and each year thereafter, the authority shall submit a report to the relevant legislative policy and fiscal committees that includes the following:

(i) Public employees' benefits board health plan cost and service utilization trends for the previous three years, in total and for each health plan offered to employees;

(ii) For each health plan offered to employees, the number and percentage of employees and dependents enrolled in the plan, and the age and gender demographics of enrollees in each plan;

(iii) Any impact of enrollment in alternatives to the most comprehensive plan, including the high deductible health plan with a health savings account, upon the cost of health benefits for those employees who have chosen to remain enrolled in the most comprehensive plan.

(7) Notwithstanding any other provision of this chapter, for any open enrollment period following August 24, 2011, the board shall offer a high deductible health plan in conjunction with a health savings account developed under subsection (6) of this section.

(8) Employees shall choose participation in one of the health care benefit plans developed by the board and may be permitted to waive coverage under terms and conditions established by the board.

(9) The board shall review plans proposed by insuring entities that desire to offer property insurance and/or accident and casualty insurance to state employees through payroll deduction. The board may approve any such plan for payroll deduction by insuring entities holding a valid certificate of authority in the state of Washington and which the board determines to be in the best interests of employees and the state. The board shall adopt rules setting forth criteria by which it shall evaluate the plans.

(10) Before January 1, 1998, the public employees' benefits board shall make available one or more fully insured long-term care insurance plans that comply with the requirements of chapter 48.84 RCW. Such programs shall be made available to eligible employees, retired employees, and retired school employees as well as eligible dependents which, for the purpose of this section, includes the parents of the employee or retiree and the parents of the spouse of the employee or retiree. Employees of local governments, political subdivisions, and tribal governments not otherwise enrolled in the public employees' benefits board sponsored medical programs may enroll under terms and conditions established by the administrator, if it does not jeopardize the financial viability of the public employees' benefits board's long-term care offering.

(a) Participation of eligible employees or retired employees and retired school employees in any long-term care insurance plan made available by the public employees' benefits board is voluntary and shall not be subject to binding arbitration under chapter 41.56 RCW. Participation is subject to reasonable underwriting guidelines and eligibility rules established by the public employees' benefits board and the health care authority.

(b) The employee, retired employee, and retired school employee are solely responsible for the payment of the premium rates developed by the health care authority. The health care authority is authorized to charge a reasonable administrative fee in addition to the premium charged by the long-term care insurer, which shall include the health care authority's cost of administration, marketing, and consumer education materials prepared by the health care authority and the office of the insurance commissioner.

(c) To the extent administratively possible, the state shall establish an automatic payroll or pension deduction system for the payment of the long-term care insurance premiums.

(d) The public employees' benefits board and the health care authority shall establish a technical advisory committee to provide advice in the development of the benefit design and establishment of underwriting guidelines and eligibility rules. The committee shall also advise the board and authority on effective and cost-effective ways to market and distribute the long-term care product. The technical advisory committee shall be comprised, at a minimum, of representatives of the office of the insurance commissioner, providers of long-term care services, licensed insurance agents with expertise in long-term care insurance, employees, retired employees, retired school employees, and other interested parties determined to be appropriate by the board.

(e) The health care authority shall offer employees, retired employees, and retired school employees the option of purchasing long-term care insurance through licensed agents or brokers appointed by the long-term care insurer. The authority, in consultation with the public employees' benefits board, shall establish marketing procedures and may consider all premium components as a part of the contract negotiations with the long-term care insurer.

(f) In developing the long-term care insurance benefit designs, the public employees' benefits board shall include an alternative plan of care benefit, including adult day services, as approved by the office of the insurance commissioner.

(g) The health care authority, with the cooperation of the office of the insurance commissioner, shall develop a consumer education program for the eligible employees, retired employees, and retired school employees designed to provide education on the potential need for long-term care, methods of financing long-term care, and the availability of long-term care insurance products including the products offered by the board.

(11) The board may establish penalties to be imposed by the authority when the eligibility determinations of an employing agency fail to comply with the criteria under this chapter.

NEW SECTION. **Sec.**  Sections 1 through 9 of this act constitute a new chapter in Title 43 RCW.

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