

HB 2679 - H AMD 976

By Representative Morris

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds and declares  
4 the following:

5 (a) Promoting the health of state residents is a fundamental  
6 purpose of state government, and action to promote life sciences and  
7 cancer research and prevention is a governmental function consistent  
8 with this fundamental public purpose;

9 (b) Sustained investment in life sciences and cancer research is  
10 critical to improving the quality and delivery of health care for the  
11 people of Washington; and

12 (c) Washington has an existing infrastructure of world-class life  
13 sciences and cancer research and care centers. Action to promote this  
14 infrastructure enhances the competitive position of the state.

15 (2) It is the intent of the legislature to create a center of  
16 excellence for life sciences and cancer research to:

17 (a) Optimize the use of public funds by aligning and  
18 consolidating the missions, powers, duties, and functions of the life  
19 sciences discovery fund authority and the cancer research endowment  
20 authority within a single center of excellence devoted to life  
21 sciences and cancer research;

22 (b) Capitalize on ten years of expertise and positive outcomes  
23 developed by the life sciences discovery fund authority and its board  
24 and achieve value migration by transferring to the life sciences  
25 discovery fund authority and its board certain powers and authority  
26 vested in the cancer research endowment authority and its board by  
27 chapter 34, Laws of 2015; and

28 (c) Modify the cancer research endowment program to improve its  
29 effectiveness in facilitating investment of cancer research dollars  
30 in the state.

1        NEW SECTION.    **Sec. 2.**    The definitions in this section apply  
2 throughout this chapter unless the context clearly requires  
3 otherwise.

4        (1) "Authority" means the life sciences discovery fund authority  
5 created in RCW 43.350.020 (as recodified by this act).

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

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

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

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

20       (6) "CARE fund" means the fund created in section 5 of this act.

21       (7) "Center" means the center of excellence for life sciences and  
22 cancer research.

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

26       (9) "Committee" means an independent expert scientific review and  
27 advisory committee established under RCW 43.348.050 (as recodified by  
28 this act).

29       (10) "Contribution agreement" means any agreement authorized  
30 under this chapter in which a private entity or a public entity other  
31 than the state agrees to provide to the authority contributions for  
32 the purpose of promoting life sciences research or cancer research,  
33 prevention, or care.

34       (11) "Costs" means the costs and expenses associated with the  
35 conduct of life sciences research and cancer research including, but  
36 not limited to, the cost of recruiting and compensating personnel,  
37 securing and financing facilities and equipment, and conducting  
38 clinical trials.

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

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

6 (14) "Master settlement agreement" means the national master  
7 settlement agreement and related documents entered into on November  
8 23, 1998, by the state and the four principal United States tobacco  
9 product manufacturers, as amended and supplemented, for the  
10 settlement of litigation brought by the state against the tobacco  
11 product manufacturers.

12 (15) "Program" means the cancer research program.

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

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

24 (18) "Strategic contribution payments" means the payments  
25 designated as such under the master settlement agreement.

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

28 (1) The center of excellence for life sciences and cancer  
29 research is created to promote sustained investment in life sciences  
30 and cancer research.

31 (2) The powers of the center are vested in and shall be exercised  
32 by the board of the authority.

33 (3) The cancer research (~~endowment~~) program is created within  
34 the center. The purpose of the program is to make grants to public  
35 and private entities, including commercial entities, to fund or  
36 reimburse the entities pursuant to agreement for the promotion of  
37 cancer research to be conducted in the state.

38 (4) The authority (~~is to~~) must oversee and guide the program,  
39 including the solicitation, selection, and award of grants.

1        ~~((+2))~~ (5) The board must develop a plan for the allocation of  
2 projected amounts in the cancer research fund and the CARE fund,  
3 which it must update annually, following at least one annual public  
4 hearing. The plan must provide for appropriate funding continuity and  
5 take into account the projected speed at which revenues will be  
6 available and amounts that can be spent during the plan period.

7        ~~((+3))~~ (6) The authority must solicit requests for grant funding  
8 and evaluate the requests by reference to factors such as: (a) The  
9 quality of the proposed research or program; (b) its potential to  
10 improve health outcomes of persons with cancer, with particular  
11 attention to the likelihood that it will also lower health care  
12 costs, substitute for a more costly diagnostic or treatment modality,  
13 or offer a breakthrough treatment for a particular cancer or cancer-  
14 related condition or disease; (c) its potential for leveraging  
15 additional funding; (d) its potential to provide additional health  
16 care benefits or benefit other human diseases or conditions; (e) its  
17 potential to stimulate life science, health care, and biomedical  
18 employment in the state; (f) the geographic diversity of the grantees  
19 within Washington; (g) evidence of potential royalty, sales, or  
20 licensing revenue, or other commercialization-related revenue and  
21 contractual means to recapture such income for purposes of this  
22 chapter; and (h) evidence of public and private collaboration.

23        ~~((+4))~~ (7) The authority may not award a grant for a proposal  
24 that was not recommended by an independent expert scientific review  
25 and advisory committee under RCW 43.348.050 (as recodified by this  
26 act).

27        ~~((+5))~~ (8) The authority must distribute cancer research funds  
28 and CARE funds to selected entities through grant agreements that set  
29 forth the terms and conditions of the grant, which must include, but  
30 not be limited to: (a) Deliverables to be provided by the recipient  
31 pursuant to the grant; (b) the circumstances under which the grant  
32 amount would be required to be repaid or the circumstances under  
33 which royalty, sales, or licensing revenue, or other  
34 commercialization-related revenue would be required to be shared; and  
35 (c) indemnification, dispute resolution, and any other terms and  
36 conditions as are customary for grant agreements or are deemed  
37 reasonable by the board. The authority may negotiate with any grantee  
38 the costs associated with performing scientific activities funded by  
39 grants.

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

16       (~~(6)~~) (10) The authority's first annual report under this  
17 section must include a proposed operating plan for the design,  
18 implementation, and administration of (~~an endowment program~~  
19 ~~supporting the purposes of the authority and~~) the program.

20       (~~(7)~~) (11) The authority must adopt policies to ensure that all  
21 potential conflicts of interest have been disclosed and that all  
22 conflicts of interest have been eliminated or mitigated.

23       (~~(8)~~) (12) The authority must establish standards to ensure  
24 that recipients of grants for cancer research, prevention, or care  
25 purchase goods and services from Washington suppliers to the extent  
26 reasonably possible.

27       (13) The administrative costs of the authority associated with  
28 the program in this section may not exceed six percent.

29       **Sec. 4.** RCW 43.348.050 and 2015 3rd sp.s. c 34 s 6 are each  
30 amended to read as follows:

31       (1) In addition to any advisory boards the authority determines  
32 to establish, the authority must establish one or more independent  
33 expert scientific review and advisory committees for the purposes of  
34 evaluating grant proposals for cancer research and recommending  
35 grants to be made from the cancer research fund or the CARE fund;  
36 advising the authority during the development and review of its  
37 strategic plans for cancer research; and advising the authority on  
38 scientific and other matters in furtherance of the cancer research

1 purposes of (~~chapter 34, Laws of 2015 3rd sp. sess~~) section 1 of  
2 this act.

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

13 NEW SECTION. Sec. 5. (1) The authority may establish a fund as  
14 a separate private account outside of the treasury, to be known as  
15 the CARE fund. Grants and contributions from nonstate public and  
16 private sources may be deposited into the CARE fund. Funds from the  
17 CARE fund may only be disbursed for cancer research grants,  
18 consistent with the procedures outlined in RCW 43.348.040 (as  
19 recodified by this act). Moneys in the CARE fund are not considered  
20 state money, common cash, or revenue to the state.

21 (2) The authority must manage the CARE fund, its obligations, and  
22 its investments so as to achieve the maximum possible rate of return  
23 on investment.

24 (3) The authority may create additional legal entities and take  
25 such action as may be necessary or advisable to enable the CARE fund  
26 to accept charitable contributions.

27 **Sec. 6.** RCW 43.348.080 and 2015 3rd sp.s. c 34 s 9 are each  
28 amended to read as follows:

29 (1) The cancer research (~~endowment fund match transfer account~~)  
30 fund is created in the custody of the state treasurer as a  
31 nonappropriated account to be used solely and exclusively for the  
32 cancer research (~~endowment~~) program created in RCW 43.348.040 (as  
33 recodified by this act). The purpose of the (~~account~~) fund is to  
34 provide matching funds (~~for the CARE fund~~) for cancer research  
35 grants and contributions pledged by public and private sources to  
36 public and private entities, including commercial entities, and  
37 administrative costs.

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

5 (3) The legislature must appropriate ~~((a state match))~~ to the  
6 fund, up to a maximum of ten million dollars annually, beginning July  
7 1, 2016, and each July 1st following the end of the fiscal year, from  
8 tax collections and penalties generated from enforcement of state  
9 taxes on cigarettes and other tobacco products by the state liquor  
10 and cannabis board or other federal, state or local law or tax  
11 enforcement agency, as determined by the department of revenue. Tax  
12 collections include any cigarette tax, other tobacco product tax, and  
13 retail sales and use tax.

14 (4) Each expenditure~~((s))~~, in the form of matching funds, from  
15 the account may be made only upon the authority's receipt of proof  
16 from the ~~((program administrator of nonstate or private contributions~~  
17 ~~to the CARE fund for the cancer research endowment program.~~  
18 ~~Expenditures, in the form of matching funds, may not exceed the total~~  
19 ~~amount of nonstate or private contributions))~~ prospective grantee of  
20 the program that the grantee has received a commitment of public or  
21 private contributions equal to or exceeding the expenditure, or the  
22 authority's commitment of equal matching funds from the CARE fund.

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

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

31 **Sec. 7.** RCW 43.350.050 and 2005 c 424 s 6 are each amended to  
32 read as follows:

33 Members of the board and persons acting on behalf of the  
34 authority or the center, while acting within the scope of their  
35 employment or agency, are not subject to personal liability resulting  
36 from carrying out the powers and duties conferred on them under this  
37 chapter. Neither the state nor the authority or center is liable for  
38 any loss, damage, harm, or other consequence resulting directly or

1 indirectly from grants made by the authority or by any life sciences  
2 or cancer research funded by such grants.

3 **Sec. 8.** RCW 43.350.070 and 2011 c 5 s 916 are each amended to  
4 read as follows:

5 The life sciences discovery fund is created in the custody of the  
6 state treasurer. Only the board or the board's designee may authorize  
7 expenditures from the fund. Expenditures from the fund may be made  
8 only for purposes of this chapter. Except as provided in RCW  
9 43.348.080 (as recodified by this act), administrative expenses of  
10 the authority, including staff support, may be paid only from the  
11 fund. Revenues to the fund consist of transfers made by the  
12 legislature from strategic contribution payments deposited in the  
13 tobacco settlement account under RCW 43.79.480, moneys received  
14 pursuant to contribution agreements entered into pursuant to RCW  
15 43.350.030 (as recodified by this act), moneys received from gifts,  
16 grants, and bequests, and interest earned on the fund. (~~During the~~  
17 ~~2009-2011 fiscal biennium, the legislature may transfer to other~~  
18 ~~state funds or accounts such amounts as represent the excess balance~~  
19 ~~of the life sciences discovery fund.))~~)

20 NEW SECTION. **Sec. 9.** The center may develop recommendations to  
21 the legislature for a program or process to identify and recruit top  
22 graduate students in the fields of life sciences and cancer research  
23 to conduct research in Washington state. The center is encouraged to  
24 submit such recommendations by December 1, 2016, to the speaker of  
25 the house of representatives, the president of the senate, and the  
26 committees with jurisdiction over economic development issues.

27 **Sec. 10.** RCW 43.350.020 and 2005 c 424 s 3 are each amended to  
28 read as follows:

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

33 (2)(a) The powers of the authority are vested in and shall be  
34 exercised by a board of trustees (~~consisting of: Two members of~~  
35 ~~either the house appropriations committee or the house committee~~  
36 ~~dealing with technology issues, one from each caucus, to be appointed~~  
37 ~~by the speaker of the house of representatives; two members of either~~



1 ~~the senate committee on ways and means or the senate committee~~  
2 ~~dealing with technology issues, one from each caucus, to be appointed~~  
3 ~~by the president of the senate; and seven members appointed by the~~  
4 ~~governor with the consent of the senate, one of whom shall be~~  
5 ~~appointed by the governor as chair of the authority and who shall~~  
6 ~~serve on the board and as chair of the authority at the pleasure of~~  
7 ~~the governor. The respective officials shall make the initial~~  
8 ~~appointments no later than thirty days after May 12, 2005))~~,  
9 appointed by the governor as provided in section 11 of this act.

10 (b) The term of the trustees, other than the chair, is four years  
11 from the date of their appointment, except that the terms of three of  
12 the initial gubernatorial appointees, as determined by the governor,  
13 are for two years from the date of their appointment, and the terms  
14 of the legislators serving on the board as of the effective date of  
15 this section expire June 15, 2016.

16 (c) A trustee appointed by the governor may be removed by the  
17 governor for cause under RCW 43.06.070 and 43.06.080. The appropriate  
18 official shall fill any vacancy on the board by appointment for the  
19 remainder of the unexpired term. The trustees appointed by the  
20 governor shall be compensated in accordance with RCW 43.03.240 and  
21 may be reimbursed, solely from the funds of the authority, for  
22 expenses incurred in the discharge of their duties under this  
23 chapter, subject to RCW 43.03.050 and 43.03.060. The trustees who are  
24 legislators shall be reimbursed for travel expenses in accordance  
25 with RCW 44.04.120.

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

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

30 (5) Meetings of the board shall be held in accordance with the  
31 open public meetings act, chapter 42.30 RCW, and at the call of the  
32 chair or when a majority of the trustees so requests. Meetings of the  
33 board may be held at any location within or out of the state, and  
34 trustees may participate in a meeting of the board by means of a  
35 conference telephone or similar communication equipment under RCW  
36 23B.08.200.

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

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

1        NEW SECTION.    **Sec. 11.**    (1) The trustees of the authority as of  
2 the effective date of this section may continue to serve the  
3 remainder of their four-year terms, except that the term of members  
4 appointed by the speaker of the house of representatives and  
5 president of the senate expire on the effective date of this section.

6        (2) The governor must, by July 1, 2016, make appointments to fill  
7 any vacancies existing on the effective date of this section.

8        (3) Until the board has achieved the composition set forth in  
9 subsection (4) of this section, the governor must appoint trustees to  
10 replace the legislative members whose terms have expired and all  
11 other trustees as vacancies arise, in the following order:

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

15        (b) Two vacancies must be appointed from nominations submitted by  
16 the University of Washington and Washington State University;

17        (c) The individuals appointed to the next two vacancies must be  
18 representatives of patient advocacy organizations and entities or  
19 systems that provide health care delivery services; and

20        (d) The governor must appoint to the remaining four positions,  
21 when they become vacant, individuals from throughout the state with  
22 relevant knowledge, experience, and expertise with regard to: Cancer  
23 research, prevention, and care; health care consumer issues;  
24 government finance and budget; and commercialization of life sciences  
25 or cancer research.

26        (4) By July 1, 2020, the powers of the authority are vested in  
27 and must be exercised by a board of trustees with the following  
28 composition:

29        (a) Two members appointed by the governor from nominations  
30 submitted by the presidents of the University of Washington and  
31 Washington State University;

32        (b) Three members appointed by the governor from nominations  
33 submitted by the Fred Hutchinson cancer research center, Seattle  
34 cancer care alliance, and the Seattle children's research institute;

35        (c) Two members appointed by the governor from patient advocacy  
36 organizations and entities or systems that provide health care  
37 delivery services; and

38        (d) Four members appointed by the governor from throughout the  
39 state with relevant knowledge, experience, and expertise with regard  
40 to: Cancer research, prevention, and care; health care consumer

1 issues; government finance and budget; and commercialization of life  
2 sciences or cancer research.

3 NEW SECTION. **Sec. 12.** The following acts or parts of acts are  
4 each repealed:

5 (1) RCW 43.348.005 (Findings—Intent) and 2015 3rd sp.s. c 34 s 1;

6 (2) RCW 43.348.010 (Definitions) and 2015 3rd sp.s. c 34 s 2;

7 (3) RCW 43.348.020 (Cancer research endowment authority) and 2015  
8 3rd sp.s. c 34 s 3;

9 (4) RCW 43.348.030 (Authority—General powers) and 2015 3rd sp.s.  
10 c 34 s 4;

11 (5) RCW 43.348.060 (Program administrator—CARE fund—Independent  
12 auditor) and 2015 3rd sp.s. c 34 s 7;

13 (6) RCW 43.348.070 (Charitable contributions) and 2015 3rd sp.s.  
14 c 34 s 8;

15 (7) RCW 43.348.900 (Expiration of chapter) and 2015 3rd sp.s. c  
16 34 s 10; and

17 (8) RCW 43.350.010 (Definitions) and 2005 c 424 s 2.

18 NEW SECTION. **Sec. 13.** RCW 43.348.040, 43.348.050, 43.348.080,  
19 43.350.020, 43.350.030, 43.350.040, and 43.350.060 are each  
20 recodified as sections in the new chapter created in section 14 of  
21 this act.

22 NEW SECTION. **Sec. 14.** Sections 1, 2, 5, 9, and 11 of this act  
23 constitute a new chapter in Title 43 RCW.

24 NEW SECTION. **Sec. 15.** This act is necessary for the immediate  
25 preservation of the public peace, health, or safety, or support of  
26 the state government and its existing public institutions, and takes  
27 effect immediately."

28 Correct the title.

EFFECT: Makes the following changes:

(1) Changes the composition of the Life Sciences Discovery Fund Authority Board (Board), requiring the Governor to fill Board vacancies with members nominated by the Fred Hutchinson Cancer Research Center, Seattle Cancer Care Alliance, Seattle Children's Research Institute, University of Washington, Washington State University, and with representatives of patient advocacy organizations and entities or systems that provide health care delivery services.

(2) Establishes a June 15, 2016, expiration date for the four trustee positions appointed by legislative leaders, and removes the requirement that the Governor's appointments be made with consent of the Senate.

(3) Requires the Governor to fill any vacancies by July 1, 2016.

(4) Provides that the administrative costs of the Life Sciences Discovery Fund Authority associated with the Cancer Research Program may not exceed six percent.

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