

SSB 6096 - S AMD 479
By Senator Becker

PULLED 6/29/2015

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

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

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

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

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

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

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

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

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

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

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

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

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

7 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
8 section apply throughout this chapter unless the context clearly
9 requires otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (16) "Program administrator" means a private nonprofit
16 corporation qualified as a tax-exempt entity under 26 U.S.C. Sec.
17 501(c)(3) of the federal internal revenue code, with expertise in
18 conducting or managing research granting activities, funds, or
19 organizations.

20 NEW SECTION. **Sec. 3.** CANCER RESEARCH ENDOWMENT AUTHORITY. (1)
21 The cancer research endowment authority is created. The powers of the
22 authority are vested in and must be exercised by a board. The board
23 consists of thirteen members appointed by the governor:

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

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

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

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

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

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

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

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

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

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

19 (3) The term of a member is four years from the date of their
20 appointment except the initial term of the members in subsection
21 (1)(d) through (i) of this section must be two years to create a
22 staggered appointment process. A member may be appointed to not more
23 than two full consecutive terms. A member appointed by the governor
24 may be removed by the governor for cause under RCW 43.06.070 and
25 43.06.080. The members may not be compensated but may be reimbursed,
26 solely from the fund, for expenses incurred in the discharge of their
27 duties under this chapter.

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

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

32 (6) Meetings of the board must be held in accordance with the
33 open public meetings act, chapter 42.30 RCW, and at the call of the
34 chair or when a majority of the members so requests. Meetings of the
35 board may be held at any location within or out of the state, and
36 members may participate in a meeting of the board by means of a
37 conference telephone or similar communication equipment under RCW
38 23B.08.200.

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

1 NEW SECTION. **Sec. 4.** AUTHORITY—GENERAL POWERS. The authority
2 has all the general powers necessary to carry out its purposes and
3 duties and to exercise its specific powers. In addition to other
4 powers specified in this chapter, the authority may:

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

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

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

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

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

17 NEW SECTION. **Sec. 5.** CANCER RESEARCH ENDOWMENT PROGRAM. (1) The
18 cancer research endowment program is created. The purpose of the
19 program is to make grants to public and private entities, including
20 commercial entities, to fund or reimburse the entities pursuant to
21 agreement for the promotion of cancer research to be conducted in the
22 state. The authority is to oversee and guide the program, including
23 the solicitation, selection, and award of grants.

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

30 (3) The authority must solicit requests for grant funding and
31 evaluate the requests by reference to factors such as: (a) The
32 quality of the proposed research or program; (b) its potential to
33 improve health outcomes of persons with cancer, with particular
34 attention to the likelihood that it will also lower health care
35 costs, substitute for a more costly diagnostic or treatment modality,
36 or offer a breakthrough treatment for a particular cancer or cancer-
37 related condition or disease; (c) its potential for leveraging
38 additional funding; (d) its potential to provide additional health
39 care benefits or benefit other human diseases or conditions; (e) its

1 potential to stimulate life science, health care, and biomedical
2 employment in the state; (f) the geographic diversity of the grantees
3 within Washington; (g) evidence of potential royalty, sales, or
4 licensing revenue, or other commercialization-related revenue and
5 contractual means to recapture such income for purposes of this
6 chapter; and (h) evidence of public and private collaboration.

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

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

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

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

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

35 NEW SECTION. **Sec. 6.** INDEPENDENT EXPERT SCIENTIFIC REVIEW AND
36 ADVISORY COMMITTEE. (1) In addition to any advisory boards the
37 authority determines to establish, the authority must establish one
38 or more independent expert scientific review and advisory committees
39 for the purposes of evaluating grant proposals for cancer research

1 and recommending grants to be made from the CARE fund; advising the
2 authority during the development and review of its strategic plans
3 for cancer research; and advising the authority on scientific and
4 other matters in furtherance of the cancer research purposes of this
5 act.

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

15 NEW SECTION. **Sec. 7.** PROGRAM ADMINISTRATOR. (1) The program
16 administrator, under contract with the department, must staff the
17 board and has the following duties and responsibilities:

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

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

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

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

38 (e) Distribute CARE funds to selected entities through grant
39 agreements. Grant agreements must set forth the terms and conditions

1 of the grant and must include, but not be limited to: (i)
2 Deliverables to be provided by the recipient pursuant to the grant;
3 (ii) the circumstances under which the grant amount would be required
4 to be repaid or the circumstances under which royalty, sales, or
5 licensing revenue, or other commercialization-related revenue would
6 be required to be shared; and (iii) indemnification, dispute
7 resolution, and any other terms and conditions as are customary for
8 grant agreements or are deemed reasonable by the board. The program
9 administrator may negotiate with any grantee the costs associated
10 with performing scientific activities funded by grants.

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

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

22 NEW SECTION. **Sec. 8.** CHARITABLE CONTRIBUTIONS. The program
23 administrator may create additional legal entities and take such
24 action as may be necessary or advisable to enable the CARE fund to
25 accept charitable contributions. In addition, the program
26 administrator may provide technical assistance, information, and
27 training to private employers and other potential donors to establish
28 programs that facilitate charitable contributions to the CARE fund
29 including tobacco use premium surcharge programs.

30 NEW SECTION. **Sec. 9.** CANCER RESEARCH ENDOWMENT FUND MATCH
31 TRANSFER ACCOUNT. (1) The cancer research endowment fund match
32 transfer account is created in the custody of the state treasurer as
33 a nonappropriated account to be used solely and exclusively for the
34 cancer research endowment program created in section 5 of this act.
35 The purpose of the account is to provide matching funds for the CARE
36 fund.

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

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

13 (4) No expenditures from the account may be made except upon
14 receipt of proof from the program administrator of nonstate or
15 private contributions to the CARE fund for the cancer research
16 endowment program. Expenditures, in the form of matching funds, may
17 not exceed the total amount of nonstate or private contributions.

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

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

26 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act
27 constitute a new chapter in Title 43 RCW."

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28 On page 1, line 1 of the title, after "research;" strike the
29 remainder of the title and insert "and adding a new chapter to Title
30 43 RCW."

EFFECT: Removes the tobacco use surcharges on state employees and
public school employees that were used to fund the cancer research
endowment fund match transfer account. Beginning July 1, 2016,
directs up to \$10 million annually in state matching funds be

appropriated into the match transfer account from tax collections and penalties generated from enforcement of state taxes on cigarettes and other tobacco products by the state liquor and cannabis board and other agencies.

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