

Initiative Measure No. _____

AN ACT Relating to cancer research, prevention and care; amending RCW 43.350.010, 43.350.020, 43.350.030, 43.350.040, and 43.350.050; creating new sections; and providing an effective date.

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

NEW SECTION. **Sec. 1. FINDINGS AND INTENT.** The people of State of Washington find and declare the following:

Cancer is the leading cause of death in Washington and is the leading cause of childhood mortality due to disease. But many of our state's high rates of cancer can be prevented and treated, particularly if detected early and patients have access to the most effective care. Washington has an existing infrastructure of world class cancer research and care centers for children and adults that can develop and apply new techniques for the prevention of cancer and care of cancer patients throughout Washington.

Sustained investment in cancer research, prevention and care is critical to reducing long-term health costs, saving lives and relieving pain and suffering. Unfortunately, federal funding and private philanthropy are not sufficient to support and advance cancer research, prevention and care, and the lack of state funding further worsens critical gaps. For example, state funding for successful smoking prevention and control programs virtually has been eliminated in the last several years, despite a 2011 study finding that Washington saved more than five dollars in tobacco-related hospitalization costs for every one dollar spent.

Promoting the health of state residents is a fundamental purpose of state government. It is a clear public purpose and governmental function to promote cancer research and prevention and to improve the quality and delivery of cancer care for the people of Washington, and to enhance the competitive position of Washington state in this vital sector of the economy.

The life sciences discovery fund authority has a successful track record of grant making for research based on the best available science. With additional public resources deposited to a fund dedicated exclusively to cancer research, prevention and care, the authority will provide

sustained investment in cancer research and the development of vital tools for cancer prevention and care that are available throughout the state.

It is the intent of the people of Washington in enacting this measure to:

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 and leveraging the sizeable existing investment in facilities and research talent, as well as clinical and therapeutic resources, in Washington.

Extend cancer prevention and care to underserved areas and populations throughout the state, including a statewide program for the genetic analysis of tumors to assist physicians in optimizing cancer therapies in every region of Washington.

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

Require strict fiscal and public accountability through mandatory independent audits, transparent review processes and consideration of funding proposals, open public meetings and hearings, and annual reports to the public.

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

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

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

- (1) "Authority" means the life sciences discovery fund authority created in this chapter.
- (2) "Board" means the governing board of trustees of the authority.

(3) “Bonds” means the bonds, notes, or other evidences of indebtedness of the authority issued pursuant to this act, the interest paid on which may or may not qualify for tax exemption.

(4) “Cancer” means a group of diseases involving unregulated cell growth.

(5) “Cancer patient advocacy organizations” means groups with offices in the state that promote cancer prevention and advocate on behalf of cancer patients.

(6) “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, medications, processes and technologies and their manufacture and commercialization and includes the costs of recruiting scientists and establishing and equipping research facilities.

(7) “Care” means the treatment of cancer and the provision of services to provide relief from pain and suffering for cancer patients, and specifically includes genetic analysis of tumors to optimize cancer therapies, medications, processes and technologies used for these purposes.

(8) “Commercial entity” means a for-profit entity located in the state that develops, manufactures or sells goods or services relating to life sciences research or cancer prevention or care.

(9) “Committee” means an independent expert scientific review and advisory committee established pursuant to Section 4 of this act.

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

(11) “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.

(12) “Fund to fight cancer” means the fund created by section 10 of this act.

(13) “Genetic analysis” means the use of DNA/RNA/protein sequencing methods to define potential mutations or patterns to assist prescribing physicians in determining anti-cancer medications or treatments that can be utilized to optimize cancer therapies.

(14) “Health care delivery system” means hospitals and clinics providing care to patients in the state.

((4))15) “Life sciences discovery fund” means the fund created by RCW 43.350.070.

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

~~((5))~~17 "Master settlement agreement" means the national master settlement agreement and related documents entered into on November 23, 1998, by the state and the four principal United States tobacco product manufacturers, as amended and supplemented, for the settlement of litigation brought by the state against the tobacco product manufacturers.

(18) "Nonprofit cancer research institution" means a not-for-profit institution located in the state that conducts cancer research.

(19) "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.

~~((6))~~20 "Public employee" means any person employed by the state of Washington or any agency or political subdivision thereof.

~~((7))~~21 "Public facilities" means any public institution, public facility, public equipment, or any physical asset owned, leased, or controlled by the state of Washington or any agency or political subdivision thereof.

~~((8))~~22 "Public funds" means any funds received or controlled by the state of Washington or any agency or political subdivision thereof, including, but not limited to, funds derived from federal, state, or local taxes, gifts or grants from any source, public or private, federal grants or payments, or intergovernmental transfers.

~~((9))~~23 "State agreement" means the agreement authorized under this chapter in which the state provides to the authority the strategic contribution payments required to be made by tobacco product manufacturers to the state and the state's rights to receive such payments, pursuant to the master settlement agreement, for the purpose of promoting life sciences research.

(24) "State tobacco prevention and control program" means the tobacco prevention and control program that is administered by the Washington state department of health and is implemented in accordance with best practices as established by the federal centers for disease control and prevention.

~~((10))~~25 "Strategic contribution payments" means the payments designated as such under the master settlement agreement, which will be made to the state in the years 2008 through 2017.

Sec. 3. LIFE SCIENCES DISCOVERY FUND AUTHORITY. RCW 43.350.020 and 2005 c 424 § 3 are each amended to read as follows:

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

(2) The powers of the authority are vested in and shall be exercised by a board of trustees consisting of: ~~((Two members of either the house appropriations committee or the house committee dealing with technology issues, one from each caucus, to be appointed by the speaker of the house of representatives; two members of either the senate committee on ways and means or the senate committee dealing with technology issues, one from each caucus, to be appointed by the president of the senate; and seven members appointed by the governor with the consent of the senate, one of whom shall be appointed by the governor as chair of the authority and who shall serve on the board and as chair of the authority at the pleasure of the governor. The respective officials shall make the initial appointments no later than thirty days after May 12, 2005.))~~ thirteen members appointed by the governor. Except as set forth in subsection (h) the trustees of the board of the authority shall be replaced with trustees appointed as follows:

(a) Two trustees shall be appointed from nominations submitted by the presidents of the University of Washington and Washington State University;

(b) Two trustees shall be appointed from nominations submitted by the Fred Hutchinson Cancer Research Center and the Seattle Children's Research Institute;

(c) Two trustees shall be appointed from nominations submitted by health and patient advocacy organizations;

(d) Two trustees shall be appointed from nominations submitted by entities or systems that provide health care delivery services;

(e) One trustee shall be appointed from a list of at least three nominated by the speaker of the house;

(f) One trustee shall be appointed from a list of at least three nominated by the majority leader of the senate; and

(g) One trustee shall be appointed from nominations submitted by any health sciences and services authority established under chapter 35.104 RCW.

(h) The remaining two trustees shall be members of the public appointed by the governor, one of whom shall be appointed by the governor as chair of the authority and who shall serve on the authority and as chair of the authority at the pleasure of the governor. Two trustees of the board of the authority previously appointed by the governor and serving unexpired terms as of the effective date of this act, including the chair of the authority, shall be appointed under this subsection (h) to serve the remainder of their unexpired terms.

In soliciting nominations and appointing trustees, the governor shall seek to identify individuals from throughout the state having relevant knowledge, experience and expertise with regard to (a)(i) cancer research, prevention and care, or (ii) life sciences research (b) health care consumer issues, (c) government finance and budget, and (d) the life sciences commercial sector. In soliciting nominations and appointing trustees, the governor shall 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. The initial appointees under this act shall be appointed on or before January 1, 2015.

The term of the trustees, other than the chair, is four years from the date of their appointment, except that the initial terms of ((three)) four of the initial ((gubernatorial)) appointees, as determined by the governor, are for two years from the date of their appointment and the initial terms of four of the initial appointees, as determined by the governor, are for three years from the date of their appointment. A trustee may be appointed to not more than two full consecutive terms. A trustee appointed by the governor may be removed by the governor for cause under RCW 43.06.070 and 43.06.080. The appropriate official shall fill any vacancy on the board by appointment for the remainder of the unexpired term. The trustees ~~((appointed by the governor))~~ shall not be compensated ~~((in accordance with RCW 43.03.240 and))~~ but may be reimbursed, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter, subject to RCW 43.03.050 and 43.03.060. ~~((The trustees who are legislators shall be reimbursed for travel expenses in accordance with RCW 44.04.120.))~~

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

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

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

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

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

NEW SECTION. Sec. 4. INDEPENDENT EXPERT SCIENTIFIC COMMITTEES RELATED TO THE FUND TO FIGHT CANCER. In addition to any advisory boards the authority determines to establish under section 5(8), the authority shall establish one or more independent expert scientific review and advisory committees for the purposes of: (a) soliciting and evaluating grant proposals for cancer research, prevention and care and recommending grants to be made from the fund to fight cancer; (b) advising the authority during the development and review of its strategic plans for cancer research, prevention and care; (c) advising the authority on scientific and other matters in furtherance of the cancer research, prevention and care purposes of this act; (d) advising the authority on the recruitment of scientists in the fields of cancer research, prevention and treatment; and (e) advising the authority regarding a statewide program for the genetic analysis of patient tumors to optimize cancer therapies.

A committee appointed to solicit and evaluate grant proposals for cancer research, prevention and care and recommend grants to be made from the fund to fight cancer shall consist of eleven individuals or such larger number as the board determines, with nationally recognized expertise in the scientific, clinical, ethical, commercial and regulatory aspects of cancer research, prevention and care. A majority of any such committee shall reside out of the state. Members of such committee shall be appointed by and report to the board. Preliminary review of grant proposals may be made by a panel of such committee or an independent contractor chosen by the board upon recommendation of the committee, but all recommendations for grants to be made from the fund to fight cancer shall be made only upon majority vote of such committee. A

recommendation to the board by such committee to fund a grant proposal shall be approved by the board unless the recommendation is rejected by a two-thirds vote of the entire board.

Sec. 5. AUTHORITY -- TRUST POWERS. RCW 43.350.030 and 2005 c 424 § 4 are each amended to read as follows:

In addition to other powers and duties prescribed in this chapter, the authority is empowered to:

(1) Use public moneys in the life sciences discovery fund, leveraging those moneys with amounts received from other public and private sources in accordance with contribution agreements, to promote life sciences research including funding costs of life sciences research and the administrative costs of the authority relating thereto;

(2) Use amounts in the fund to fight cancer derived from the taxes authorized by this act and other amounts deposited therein to fund the costs of cancer research, prevention and care and the administrative costs of the authority related thereto; provided, that an aggregate amount equal to not more than five percent of the amount available to fund cancer research, prevention and care pursuant to this act may be used to pay administrative costs of the authority allocable to cancer research, prevention and care, including the oversight of the grant making process and the operations of the board and the committee;

~~(((2))3)~~ Solicit and receive gifts, grants, and bequests, and enter into contribution agreements with private entities and public entities, including commercial entities ~~((other than the state to receive moneys in consideration of the authority's promise to leverage those moneys with amounts received through appropriations from the legislature and contributions from other public entities and private entities))~~, in order to use those moneys to promote life sciences research and to fund the costs of cancer research, prevention and care. Nonstate moneys received by the authority for ~~this~~ the purpose of promoting life sciences research shall be deposited in the life sciences discovery fund ~~((created in RCW 43.350.070-))~~ and amounts received by the authority for the purpose of cancer research, prevention and care shall be deposited in the fund to fight cancer created in section 10 of this act;

~~(((3))4)~~ Hold funds received by the authority for deposit in the life sciences discovery fund exclusively in trust for their use pursuant to this chapter to promote life sciences research and hold funds received by the authority for deposit in the fund to fight cancer exclusively in trust dedicated pursuant to this act to promote cancer research, prevention and care;

~~((4))~~5) Manage its funds, obligations, and investments as necessary and as consistent with its purpose including the segregation of revenues into separate funds and accounts;

~~((5))~~6) Make grants to public and private entities, including commercial entities, to fund or reimburse such entities pursuant to contract for the promotion of life sciences research or for cancer research, prevention and care to be conducted or delivered in the state. Grant agreements shall specify deliverables to be provided by the recipient pursuant to the grant. The authority shall solicit requests for 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, 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 disease or condition or cancer; (c) its potential for leveraging additional funding; (d) its potential to provide health care benefits or benefit human learning and development; (e) its potential to stimulate ~~((the))~~ cancer prevention and health care delivery, biomedical manufacturing, and ~~((life sciences))~~ related 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. No requests for funding or grant proposals shall be required for the funding of the state tobacco prevention and control program.

(7) Grant agreements shall set forth the terms and conditions of the grant and shall 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 such other terms and conditions as are customary for such agreements or are deemed reasonable by the board. The authority may negotiate with any grantee the costs associated with performing scientific activities funded by grants.

~~((6))~~8) Create one or more permanent or ad hoc advisory boards composed of scientists, clinicians, industrialists, and others familiar with life sciences research or cancer research, prevention and care; and

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

Sec. 6. AUTHORITY -- GENERAL POWERS. RCW 43.0350.040 and 2005 c 424 § 5 are each amended to read as follows:

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

NEW SECTION. **Sec. 7. FUND TO FIGHT CANCER PLAN AND STANDARDS.**

(1) Plans and Budgets. The board shall develop a plan for the allocation of projected amounts in the fund to fight cancer, which it shall update annually, following at least one annual public hearing. The plan shall provide for appropriate funding continuity and the allocation of funding among research, prevention and care, and take into account the projected speed at which revenues will be available and amounts that can be spent during the plan period. Over a projected ten years of spending of amounts in the fund to fight cancer, the plans shall provide that in the aggregate:

(a) no less than sixty percent of grant funds shall be allocated to grants for cancer research,

(b) no less than twenty percent of grant funds shall be allocated to grants for cancer prevention including as a part thereof no less than fifty percent of such amount to fund the state tobacco prevention and control program, and

(c) no less than fifteen percent of grant funds shall be allocated to grants for cancer care, including as a part thereof no less than seventy-five percent of such amount in the first five years of the ten year plan to fund a statewide program to provide genetic analysis of tumors to optimize cancer therapies, particularly in areas of the state where prescribing physicians do not have access to such analysis.

Allocation targets shall be developed in the plan for funding targeted to pediatric cancer research, prevention and care. Cancer prevention programs shall be targeted to the extent practical to most effectively address the greatest risks of cancers to identified populations in various geographical areas. The plan with respect to funding cancer research shall seek to provide that, by the fifth year of the program, no less than ten percent of the funding is granted to areas outside the Puget Sound region in part to build and diversify research capacity, provided that all grants for research meet the highest standards for scientific research and are based on ethical standards and procedures that yield fair, equitable, informed, and unbiased consideration. Beginning no later than the seventh year of the spending plan, the plan shall consider how cancer fighting efforts will continue following the tenth year.

(2) Annual Public Report. The authority shall issue an annual report to the public that sets forth its activities with respect to the fund to fight cancer and the life sciences discovery 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 with respect to the fund to fight cancer and the life sciences discovery fund shall 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.

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

(4) Royalty, Sales or Licensing Revenue, or Other Commercialization-Related Revenue Paid to the State of Washington. The authority shall establish standards for grants made from the fund to fight cancer that may require that contracts for cancer research, prevention or care contain provisions that balance the opportunity of the state or its public universities to derive benefit from the intellectual or tangible property that result from cancer research, prevention or care activities performed subject to this act with the need to assure that essential research is not unreasonably hindered.

(5) Conflicts of Interest. It is essential that the personal interests of authority trustees, staff and agents do not impede their judgment or compromise their objectivity. Even the perception of a conflict of interest has the potential to erode the public's confidence in the authority's work. The authority shall adopt policies to ensure that all potential conflicts have been disclosed and that all conflicts have been eliminated or mitigated.

(6) Preference for Washington Suppliers. The authority shall establish standards to ensure that recipients of grants for cancer research or life sciences research, prevention or care purchase goods and services from Washington suppliers to the extent reasonably possible.

Sec. 8. LIMITATION OF LIABILITY. RCW 43.350.050 and 2005 c 424 § 6 are each amended to read as follows:

Members of the board and persons acting on behalf of the authority, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties conferred on them under this chapter. Neither the state nor the

authority is liable for any loss, damage, harm, or other consequence resulting directly or indirectly from grants made by the authority or by any life sciences research or cancer research, prevention or care funded by such grants.

Sec. 9. LIFE SCIENCES DISCOVERY FUND. RCW 43.350.070 and 2011 c 5 § 916 are each amended to read as follows:

The life sciences discovery fund is created in the custody of the state treasurer. Only the board or the board's designee may authorize expenditures from the fund. Expenditures from the fund may be made only for purposes of this chapter. Administrative expenses of the authority relating to life sciences research, including staff support, may be paid only from the fund. Revenues to the fund consist of transfers made by the legislature from strategic contribution payments deposited in the tobacco settlement account under RCW 43.79.480, moneys received pursuant to contribution agreements entered into pursuant to RCW 43.350.030, moneys received from gifts, grants, and bequests, and interest earned on the fund. During the 2009-2011 fiscal biennium, the legislature may transfer to other state funds or accounts such amounts as represent the excess balance of the life sciences discovery fund.

NEW SECTION. **Sec. 10.** FUND TO FIGHT CANCER. The fund to fight cancer is created as a special trust fund in the custody of the state treasurer. This special trust fund is of a proprietary nature, and is held and dedicated exclusively for the specific purpose of funding cancer research, prevention and care as provided in the act. An appropriation is not required for expenditures from or payment of obligations of the fund to fight cancer pursuant to this act.

The board shall develop and approve an annual budget for the expenditure of funds on deposit in the fund to fight cancer. Only the board or the board's designee may authorize expenditures from the fund pursuant to its annual budget. Expenditures from the fund may be made only for the following purposes and in the following order of priority: (a) for the payment of principal of and interest when due and payable on bonds issued pursuant to this act; (b) for the maintenance of required debt service reserves and other reserves consistent with covenants to bondowners or otherwise necessary to market and sell the bonds in the determination of the board; (c) for the cancer research, prevention and care purposes of this act including, including costs of the authority in fulfilling this purpose; and (d) for deposit, in the discretion of the board,

to the public health supplemental account, public health services account or such comparable state account from which expenditures for the purposes of this act are made and exclusively for such use. Deposits under subsection (d) may be made after payment of debt service under subsection (a), maintenance of reserves under subsection (b), and expenditures designated in subsection (c).

In years one through three of the fund to fight cancer, and subject to the priorities set forth in subsections (a), (b) and (c) above, the amount to be deposited under subsection (d) above shall be the amount necessary to offset the state revenue decrease directly resulting from imposition of the additional taxes imposed by section 13 and section 14 of this act, determined as follows. The department of revenue shall determine within one year of the passage of this act, and twice annually thereafter, the effect that the additional tax imposed on cigarettes by section 13 of this act, and the additional taxes on tobacco products imposed by section 14 of this act, have on the consumption of cigarettes and tobacco products in this state. To the extent that a decrease in consumption is determined by the department of revenue to be a direct result of the additional tax imposed by section 13 of this act, or a direct result on the additional taxes on tobacco products imposed by section 14 of this act, the department of revenue shall determine the fiscal effect the decrease in consumption has on state revenues and shall certify to the board the amount of such fiscal effect, together with supporting documentation, for the board's acceptance (which acceptance shall not be unreasonably withheld).

The following shall be deposited into the fund to fight cancer: (a) the taxes authorized in this act; (b) the proceeds of bonds issued by the authority pursuant to this act; (c) moneys received by the authority from gifts, grants, bequests, contribution agreements, royalty, sales or licensing revenue, or other commercialization-related revenue, grant remittances and other sources; and (d) interest earned on the fund.

For so long as any bond issued pursuant this act shall remain outstanding, all amounts on deposit in the fund shall be pledged to the holders of the bonds outstanding for their repayment, subject only to their use in accordance with this act. Amounts in the fund may be set aside by the board as reserves for the payment of debt service on such bonds.

NEW SECTION. **Sec. 11. BONDS.** (1) For the purpose of providing funds to pay for cancer research, prevention and care and other related expenditures authorized by this act, the

authority is authorized to issue bonds in accordance with this act. Such bonds shall be issued in the name of the authority and shall be obligations only of the authority payable from the fund to fight cancer or debt retirement account therein. Bonds issued in the name of the authority shall contain a recital on their face to the effect that payment of the principal of, interest on, and prepayment premium, if any, on the bonds, shall be a valid claim only as against the fund to fight cancer or debt retirement account therein, that neither the faith and credit nor the general taxing power of the state or any municipal corporation, subdivision, or agency of the state, other than as set forth in this act, is pledged to the payment of the principal of, interest on, and prepayment premium, if any on the bonds. Contracts relating to bonds issued in the name of the authority shall be entered into in the name of the authority and not in the name of the state of Washington. The obligations of the authority under such contracts shall be obligations only of the authority and are not in any way obligations of the state of Washington.

(2) The authority may issue its bonds in principal amounts that, in the opinion of the board, are necessary to provide sufficient funds for achievement of its purposes, the payment of debt service on its bonds, the establishment of reserves to secure the bonds, the costs of issuance of its bonds including credit enhancements, if any, and all other expenditures of the authority incident to and necessary to carry out its purposes or powers. The bonds may be issued in one or more series an aggregate amount not to exceed one billion dollars upon approval of this initiative pursuant to Article VIII, Section 3, without regard to the debt limitation set forth in Article VIII, Section 1 of the state constitution. The authority may also issue refunding bonds, including advance refunding bonds, for the purpose of refunding previously issued bonds, and may issue other types of bonds, debt obligations, and financing arrangements necessary to fulfill its purposes or the purposes of this chapter. The bonds are investment securities and negotiable instruments within the meaning of and for the purposes of the uniform commercial code.

(3) Authority bonds shall bear such date or dates, mature at such time or times, be in such denominations, be in such form, be registered or registrable in such manner, be made transferable, exchangeable, and interchangeable, be payable in such medium of payment, at such place or places, be subject to such terms of redemption, bear such fixed or variable rate or rates of interest, be taxable or tax exempt, be payable at such time or times, and be sold in such manner and at such price or prices, as the board determines. The bonds shall be executed by one or more officers of the authority, and by the bond trustee or paying agent if the authority

determines to use a bond trustee or paying agent for the bonds. Execution of the bonds may be by manual or facsimile signature, provided that at least one signature on the bond is manual.

(4) Authority bonds shall be subject to such terms, conditions, covenants, and protective provisions as are found necessary or desirable by the authority, including, but not limited to, pledges of the fund to fight cancer, or any bond retirement account or reserve account therein, and taxes authorized under this act, setting aside of reserves, and other provisions the authority finds are necessary or desirable for the security of bondholders.

(5) Any pledge of the fund to fight cancer, or any bond retirement account or reserve account therein, or the taxes authorized under this act shall be valid and binding at the time the authority makes such pledge. Amounts so pledged and then or thereafter received by the authority and any securities in which such receipts may be invested shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the authority, whether such parties have notice of the lien. In any year the amount accumulated in the fund to fight cancer is insufficient for the payment of the principal and interest on the bonds issued under this chapter, the amount of the insufficiency shall be a continuing obligation against the fund to fight cancer. Notwithstanding any other provision to the contrary, the resolution or indenture of the authority or any other instrument by which a pledge is created need not be recorded or filed pursuant to chapter 62A.9A RCW to perfect such pledge. The authority shall constitute a governmental unit within the meaning of RCW 62A.9A-102.

(6) When issuing bonds, the authority may provide for the future issuance of additional bonds or parity debt on a parity with outstanding bonds, and the terms and conditions of their issuance. The authority may issue refunding bonds in accordance with chapter 39.53 RCW or issue bonds with a subordinate lien against the fund to fight cancer, or any bond retirement account therein, or the taxes securing outstanding bonds.

(7) The board and any person executing the bonds are not liable personally on the indebtedness or subject to any personal liability or accountability by reason of the issuance thereof.

(8) The authority may, out of any amounts available therefor, purchase bonds issued under this act.

(9) Bonds issued under this act are hereby made securities in which all insurance companies, trust companies in their commercial departments, savings banks, cooperative banks, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in obligations of the state may properly and legally invest funds, including capital in their control or belonging to them.

NEW SECTION. **Sec. 12.** BANKRUPTCY. Prior to the date that is three hundred sixty-six days after which bonds are no longer outstanding under this act, the authority is prohibited from filing a voluntary petition under chapter 9 of the federal bankruptcy code or such corresponding chapter or section as may, from time to time, be in effect, and a public official or organization, entity, or other person shall not authorize the authority to be or become a debtor under chapter 9 or any successor or corresponding chapter or sections during such periods. This section shall be part of any contractual obligation owed to the holders of bonds issued under this chapter. Any such contractual obligation shall not subsequently be modified by state law during the period of the contractual obligation.

NEW SECTION. **Sec. 13.** CIGARETTE TAX. (1) A new section is added to chapter 82.24 RCW to read as follows: In addition to the tax imposed upon the sale, use, consumption, handling, possession, or distribution of cigarettes set forth in RCW 82.24.020 and RCW 82.24.026, there is imposed a tax in an amount equal to five cents per cigarette, which tax shall be levied and collected, commencing on July 1, 2015.

(2) If bonds are issued under this act that are payable from such taxes, the taxes shall be levied until the bonds are redeemed or provision has been made for their payment or for such longer period as directed by the board.

(3) Taxes received pursuant to this section shall be deposited in the fund to fight cancer established under section 10 of this act and used exclusively for the purposes set forth in this act.

NEW SECTION. **Sec. 14.** A new section is added to chapter 82.26 RCW to read as follows:

(1) In addition to the tax levied and collected in RCW 82.26.020, and without regarding to any limitations set forth in RCW 82.26.020 (including without limitation the not-to-exceed

cap on the tax on cigars under RCW 82.26.020(1)(a)), there is levied and collected a tax upon the sale, handling, or distribution of all tobacco products in this state at the following rates:

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

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

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

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

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

(3) Taxes received pursuant to this section shall be deposited in the fund to fight cancer established under section 10 of this act and used exclusively for the purposes set forth in this act.

NEW SECTION. **Sec. 15.** A new section is added to chapter 82.26 RCW to read as follows:

(1) For any other tobacco products on which a tax pursuant to chapter 82.26 RCW has already been paid that is in the possession or control of a distributor or retailer or any other person in the business of distributing or selling tobacco products on the effective date of the additional tax on that tobacco product under section 14 of this act, the distributor, retailer or such other person shall, to fully comply with the additional tax, make a tax payment on tobacco products in his possession or control equal to the new tax rate on tobacco products (taking into account the additional tax) minus the amount of tax already paid on that tobacco product.

(2) For any cigarettes on which a tax pursuant to RCW 82.24.020 and RCW 82.24.026 has already been paid, and that are in the possession or control of a distributor, wholesaler,

retailer or any other person in the business of distributing or selling cigarettes on the effective date of the additional tax on the sale, use, consumption, handling, possession, or distribution of cigarettes under section 13 of this act, the distributor, wholesaler, retailer or other person shall, to fully comply with the additional tax, make a tax payment equal to the tax rate on the cigarettes (taking into account the additional tax) minus the amount of tax already paid on those cigarettes.

(3) These payments shall be made to the department within 30 days of the effective date of the tax rate increase due to the additional taxes under section 13 or 14 of this act and shall be submitted along with a report, in such form as the department may prescribe, describing all the subject cigarettes or tobacco products in the possession or control of the distributor, retailer or other person on the effective date of the tax rate increase due to the additional taxes and showing the related tax payments due.

(a) Any tax payments pursuant to this section made later than 30 days after the effective date of the tax rate increase due to the additional taxes under section 13 or 14 of this act shall also pay interest at the rate of two percent per month or fraction of a month from the date the tax payment was due until the date that the tax payment is received by the department.

(b) Any tax payments pursuant to this section received by the department within 20 days of the tax rate increase due to the additional taxes under section 13 or 14 of this act may be reduced by one percent.

Sec. 16. RCW 43.79A.040 and 2013 c 251 § 5 are each amended to read as follows:

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

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

(3) The investment income account may be utilized for the payment of purchased ranking services on behalf of treasurer's trust funds....

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, ..., the fund to fight cancer,

and any bond retirement or reserve account therein, and the life sciences discovery fund. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

...

NEW SECTION. Sec. 17. CAPTIONS. Captions used in this act are not any part of the law.

NEW SECTION. Sec. 18. CONSTRUCTION. This act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed.

NEW SECTION. Sec. 19. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 20. EFFECTIVE DATE. This act shall be in operation on and after January 1, 2015. This act applies only with respect to tax liability incurred under chapter 82.24 RCW or 82.26 RCW on or after January 1, 2015, for the sale, handling, or distribution of cigarettes or tobacco products.

NEW SECTION. Sec. 21. INITIATIVE. The secretary of state shall submit this act to the people for their adoption and ratification, or rejection, at the next general election to be held in this state, in accordance with Article II, Section 1 and Article VIII, section 3 of the state Constitution and the laws adopted to facilitate its operation.

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