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**SUBSTITUTE SENATE BILL 6096**

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**State of Washington**

**64th Legislature**

**2015 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Becker, Litzow, Parlette, Bailey, Hill, Fain, Dammeier, Brown, Rivers, Roach, and McAuliffe)

READ FIRST TIME 04/07/15.

1 AN ACT Relating to cancer research; amending RCW 28A.400.350 and  
2 41.05.065; and adding a new chapter to Title 43 RCW.

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

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

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

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

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

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

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

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

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

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

9 (d) Protect and benefit Washington taxpayers by funding proposals  
10 for cancer research that are reviewed by an independent scientific  
11 panel;

12 (e) Require fiscal and public accountability through independent  
13 audits, open public meetings and hearings, and annual reports to the  
14 public; and

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

18 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
19 section apply throughout this chapter unless the context clearly  
20 requires otherwise.

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

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

24 (3) "Cancer" means a group of diseases involving unregulated cell  
25 growth.

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

29 (5) "Cancer research" means advanced and applied research and  
30 development relating to the causes, prevention, and diagnosis of  
31 cancer and care of cancer patients including the development of  
32 tests, genetic analysis, medications, processes, services, and  
33 technologies to optimize cancer therapies and their manufacture and  
34 commercialization and includes the costs of recruiting scientists and  
35 establishing and equipping research facilities.

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

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

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

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

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

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

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

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

22 (14) "Prevention" means measures to prevent the development and  
23 progression of cancer, including education, vaccinations, and  
24 screening processes and technologies, and to reduce the risk of  
25 cancer.

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

28 (16) "Program administrator" means a private nonprofit  
29 corporation qualified as a tax-exempt entity under 26 U.S.C. Sec.  
30 501(c)(3) of the federal internal revenue code, with expertise in  
31 conducting or managing research granting activities, funds, or  
32 organizations.

33 NEW SECTION. **Sec. 3.** CANCER RESEARCH ENDOWMENT AUTHORITY. (1)

34 The cancer research endowment authority is created. The powers of the  
35 authority are vested in and must be exercised by a board. The board  
36 consists of thirteen members appointed by the governor:

37 (a) Two members must be appointed from nominations submitted by  
38 the presidents of the University of Washington and Washington State  
39 University;

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

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

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

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

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

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

15 (h) One member from nominations provided by private sector donors  
16 to the fund. However, the governor may reject all nominations and  
17 request a new list from which the governor must select the member;  
18 and

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

20 (2) In soliciting nominations and appointing members, the  
21 governor must seek to identify individuals from throughout the state  
22 having relevant knowledge, experience, and expertise with regard to  
23 (a) cancer research, prevention, and care; (b) health care consumer  
24 issues; (c) government finance and budget; and (d) the  
25 commercialization of life sciences or cancer research. In soliciting  
26 nominations and appointing members, the governor must seek  
27 individuals who will contribute to the geographic diversity of the  
28 board, with the goal that at least five board members be from  
29 counties with a population less than one million persons.  
30 Appointments must be made on or before July 1, 2016.

31 (3) The term of a member is four years from the date of their  
32 appointment except the initial term of the members in subsection  
33 (1)(d) through (i) of this section must be two years to create a  
34 staggered appointment process. A member may be appointed to not more  
35 than two full consecutive terms. A member appointed by the governor  
36 may be removed by the governor for cause under RCW 43.06.070 and  
37 43.06.080. The members may not be compensated but may be reimbursed,  
38 solely from the fund, for expenses incurred in the discharge of their  
39 duties under this chapter.

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

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

4 (6) Meetings of the board must be held in accordance with the  
5 open public meetings act, chapter 42.30 RCW, and at the call of the  
6 chair or when a majority of the members so requests. Meetings of the  
7 board may be held at any location within or out of the state, and  
8 members may participate in a meeting of the board by means of a  
9 conference telephone or similar communication equipment under RCW  
10 23B.08.200.

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

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

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

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

20 (3) Employ, contract with, or engage independent counsel,  
21 financial advisors, auditors, other technical or professional  
22 assistants, and such other personnel as are necessary or desirable to  
23 implement this chapter;

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

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

28 NEW SECTION. **Sec. 5.** CANCER RESEARCH ENDOWMENT PROGRAM. (1) The  
29 cancer research endowment program is created. The purpose of the  
30 program is to make grants to public and private entities, including  
31 commercial entities, to fund or reimburse the entities pursuant to  
32 agreement for the promotion of cancer research to be conducted in the  
33 state. The authority is to oversee and guide the program, including  
34 the solicitation, selection, and award of grants.

35 (2) The board must develop a plan for the allocation of projected  
36 amounts in the CARE fund, which it must update annually, following at  
37 least one annual public hearing. The plan must provide for  
38 appropriate funding continuity and take into account the projected

1 speed at which revenues will be available and amounts that can be  
2 spent during the plan period.

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

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

22 (5) The authority must issue an annual report to the public that  
23 sets forth its activities with respect to the CARE fund, including  
24 grants awarded, grant-funded work in progress, research  
25 accomplishments, prevention, and care activities, and future program  
26 directions with respect to cancer research, prevention, and care.  
27 Each annual report regarding activities of the cancer research  
28 endowment program and CARE fund must include, but not be limited to,  
29 the following: The number and dollar amounts of grants; the grantees  
30 for the prior year; the authority's administrative expenses; an  
31 assessment of the availability of funding for cancer research,  
32 prevention, and care from sources other than the authority; a summary  
33 of research, prevention, and care-related findings, including  
34 promising new areas for investment; and a report on the benefits to  
35 Washington of its programs to date.

36 (6) The authority's first annual report must include a proposed  
37 operating plan for the design, implementation, and administration of  
38 an endowment program supporting the purposes of the authority and  
39 program.

1 (7) The authority must adopt policies to ensure that all  
2 potential conflicts have been disclosed and that all conflicts have  
3 been eliminated or mitigated.

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

8 NEW SECTION. **Sec. 6.** INDEPENDENT EXPERT SCIENTIFIC REVIEW AND  
9 ADVISORY COMMITTEE. (1) In addition to any advisory boards the  
10 authority determines to establish, the authority must establish one  
11 or more independent expert scientific review and advisory committees  
12 for the purposes of evaluating grant proposals for cancer research  
13 and recommending grants to be made from the CARE fund; advising the  
14 authority during the development and review of its strategic plans  
15 for cancer research; and advising the authority on scientific and  
16 other matters in furtherance of the cancer research purposes of this  
17 act.

18 (2) Each independent expert scientific review and advisory  
19 committee must consist of individuals with nationally recognized  
20 expertise in the scientific, clinical, ethical, commercial, and  
21 regulatory aspects of cancer research, prevention, and care. The  
22 board must appoint the members of the committee. Preliminary review  
23 of grant proposals may be made by a panel of such committee or an  
24 independent contractor chosen by the board upon recommendation of the  
25 committee, but all recommendations for grants to be made from the  
26 CARE fund may be made only upon majority vote of the committee.

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

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

34 (b) Establish a cancer research endowment fund to be known as the  
35 CARE fund. The CARE fund must be a separate account outside the state  
36 treasury into which grants and contributions received from public and  
37 private sources as well as state matching funds must be deposited,  
38 and from which funds for grants awarded by the authority must be

1 disbursed. Once moneys in the cancer research endowment fund match  
2 transfer account are subject to an agreement under section 9(5) of  
3 this act and are deposited in the CARE fund under this section, the  
4 state acts in a fiduciary rather than ownership capacity with regard  
5 to those assets. Assets in the CARE fund are not considered state  
6 money, common cash, or revenue to the state;

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

10 (d) Establish policies and procedures to facilitate the orderly  
11 process of grant application, review, selection, and notification;  
12 and

13 (e) Distribute CARE funds to selected entities through grant  
14 agreements. Grant agreements must set forth the terms and conditions  
15 of the grant and must include, but not be limited to: (i)  
16 Deliverables to be provided by the recipient pursuant to the grant;  
17 (ii) the circumstances under which the grant amount would be required  
18 to be repaid or the circumstances under which royalty, sales, or  
19 licensing revenue, or other commercialization-related revenue would  
20 be required to be shared; and (iii) indemnification, dispute  
21 resolution, and any other terms and conditions as are customary for  
22 grant agreements or are deemed reasonable by the board. The program  
23 administrator may negotiate with any grantee the costs associated  
24 with performing scientific activities funded by grants.

25 (2) Periodically, but not less often than every three years, the  
26 authority and the department must conduct a request for proposals and  
27 retain the services of an independent auditor with experience in  
28 performance auditing of research granting entities similar to the  
29 authority. The independent auditor must review the authority's  
30 strategic plan, program, and program administrator and publish a  
31 report assessing their performance and providing recommendations for  
32 improvement. The authority must hold at least one public hearing at  
33 which the results of each audit are presented and discussed.

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

36 NEW SECTION. **Sec. 8.** CHARITABLE CONTRIBUTIONS. The program  
37 administrator may create additional legal entities and take such  
38 action as may be necessary or advisable to enable the CARE fund to  
39 accept charitable contributions. In addition, the program



1 administrator may provide technical assistance, information, and  
2 training to private employers and other potential donors to establish  
3 programs that facilitate charitable contributions to the CARE fund  
4 including tobacco use premium surcharge programs.

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

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

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

20 (4) Only the director of the department or the director's  
21 designee may authorize expenditures from the cancer research  
22 endowment fund match transfer account. Such authorization must be  
23 made as soon as practicable following receipt of proof as required  
24 under subsection (3) of this section.

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

28 **Sec. 10.** RCW 28A.400.350 and 2012 2nd sp.s. c 3 s 3 are each  
29 amended to read as follows:

30 (1) The board of directors of any of the state's school districts  
31 or educational service districts may make available liability, life,  
32 health, health care, accident, disability, and salary protection or  
33 insurance, direct agreements as defined in chapter 48.150 RCW, or any  
34 one of, or a combination of the types of employee benefits enumerated  
35 in this subsection, or any other type of insurance or protection, for  
36 the members of the boards of directors, the students, and employees  
37 of the school district or educational service district, and their  
38 dependents. Such coverage may be provided by contracts or agreements

1 with private carriers, with the state health care authority after  
2 July 1, 1990, pursuant to the approval of the authority  
3 administrator, or through self-insurance or self-funding pursuant to  
4 chapter 48.62 RCW, or in any other manner authorized by law. Any  
5 direct agreement must comply with RCW 48.150.050.

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

13 After October 1, 1990, school districts may not contribute to any  
14 employee protection or insurance other than liability insurance  
15 unless the district's employee benefit plan conforms to RCW  
16 28A.400.275 and 28A.400.280.

17 (3) For school board members, educational service district board  
18 members, and students, the premiums due on such protection or  
19 insurance shall be borne by the assenting school board member,  
20 educational service district board member, or student. The school  
21 district or educational service district may contribute all or part  
22 of the costs, including the premiums, of life, health, health care,  
23 accident or disability insurance which shall be offered to all  
24 students participating in interschool activities on the behalf of or  
25 as representative of their school, school district, or educational  
26 service district. The school district board of directors and the  
27 educational service district board may require any student  
28 participating in extracurricular interschool activities to, as a  
29 condition of participation, document evidence of insurance or  
30 purchase insurance that will provide adequate coverage, as determined  
31 by the school district board of directors or the educational service  
32 district board, for medical expenses incurred as a result of injury  
33 sustained while participating in the extracurricular activity. In  
34 establishing such a requirement, the district shall adopt regulations  
35 for waiving or reducing the premiums of such coverage as may be  
36 offered through the school district or educational service district  
37 to students participating in extracurricular activities, for those  
38 students whose families, by reason of their low income, would have  
39 difficulty paying the entire amount of such insurance premiums. The  
40 district board shall adopt regulations for waiving or reducing the

1 insurance coverage requirements for low-income students in order to  
2 assure such students are not prohibited from participating in  
3 extracurricular interschool activities.

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

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

12 (a) Offer a high deductible health plan option with a health  
13 savings account that conforms to section 223, part VII of subchapter  
14 1 of the internal revenue code of 1986. School districts shall comply  
15 with all applicable federal standards related to the establishment of  
16 health savings accounts;

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

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

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

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

38 (A) "Tobacco products" means any product containing, made, or  
39 derived from tobacco that is intended for human consumption whether

1 chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or  
2 ingested by other means.

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

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

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

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

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

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

33 **Sec. 11.** RCW 41.05.065 and 2011 1st sp.s. c 8 s 1 are each  
34 amended to read as follows:

35 (1) The board shall study all matters connected with the  
36 provision of health care coverage, life insurance, liability  
37 insurance, accidental death and dismemberment insurance, and  
38 disability income insurance or any of, or a combination of, the  
39 enumerated types of insurance for employees and their dependents on

1 the best basis possible with relation both to the welfare of the  
2 employees and to the state. However, liability insurance shall not be  
3 made available to dependents.

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

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

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

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

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

23 (e) Effective coordination of benefits; and

24 (f) Minimum standards for insuring entities.

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

35 (4) Except if bargained for under chapter 41.80 RCW, the board  
36 shall design benefits and determine the terms and conditions of  
37 employee and retired employee participation and coverage, including  
38 establishment of eligibility criteria subject to the requirements of  
39 this chapter. Employer groups obtaining benefits through contractual  
40 agreement with the authority for employees defined in RCW

1 41.05.011(6) (a) through (d) may contractually agree with the  
2 authority to benefits eligibility criteria which differs from that  
3 determined by the board. The eligibility criteria established by the  
4 board shall be no more restrictive than the following:

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

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

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

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

37 (c) Faculty are eligible as follows:

38 (i) Faculty who the employing agency anticipates will work half-  
39 time or more for the entire instructional year or equivalent nine-  
40 month period are eligible for benefits from the date of employment.

1 Eligibility shall continue until the beginning of the first full  
2 month of the next instructional year, unless the employment  
3 relationship is terminated, in which case eligibility shall cease the  
4 first month following the notice of termination or the effective date  
5 of the termination, whichever is later.

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

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

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

38 (v) To be eligible for maintenance of benefits through averaging  
39 under (c)(ii) of this subsection, faculty must provide written

1 notification to his or her employing agency or agencies of his or her  
2 potential eligibility.

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

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

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

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

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

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

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

40 (k) For the purposes of this subsection:



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

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

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

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

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

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

17 (A) "Tobacco products" means any product containing, made, or  
18 derived from tobacco that is intended for human consumption whether  
19 chewed, smoked, absorbed, dissolved, inhaled, snorted, sniffed, or  
20 ingested by other means.

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

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

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

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

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

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

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

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

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

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

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

37 (a) Participation of eligible employees or retired employees and  
38 retired school employees in any long-term care insurance plan made  
39 available by the public employees' benefits board is voluntary and  
40 shall not be subject to binding arbitration under chapter 41.56 RCW.

1 Participation is subject to reasonable underwriting guidelines and  
2 eligibility rules established by the public employees' benefits board  
3 and the health care authority.

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

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

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

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

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

38 (g) The health care authority, with the cooperation of the office  
39 of the insurance commissioner, shall develop a consumer education  
40 program for the eligible employees, retired employees, and retired

1 school employees designed to provide education on the potential need  
2 for long-term care, methods of financing long-term care, and the  
3 availability of long-term care insurance products including the  
4 products offered by the board.

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

8 NEW SECTION. **Sec. 12.** Sections 1 through 9 of this act  
9 constitute a new chapter in Title 43 RCW.

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