
SUBSTITUTE HOUSE BILL 2194

State of Washington

64th Legislature

2015 Regular Session

By House Technology & Economic Development (originally sponsored by Representatives Hunter, Hansen, Carlyle, Johnson, Walkinshaw, Ryu, and Santos)

READ FIRST TIME 04/17/15.

1 AN ACT Relating to creating a funding stream and program for
2 cancer research, prevention, and care; amending RCW 43.350.005,
3 43.350.010, 43.350.020, 43.350.040, and 82.26.030; reenacting and
4 amending RCW 43.79A.040; adding new sections to chapter 43.350 RCW;
5 adding a new section to chapter 82.24 RCW; adding new sections to
6 chapter 82.26 RCW; creating new sections; providing an effective
7 date; and declaring an emergency.

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

9 **Sec. 1.** RCW 43.350.005 and 2005 c 424 s 1 are each amended to
10 read as follows:

11 INTENT. The legislature declares that promoting the health of
12 state residents is a fundamental purpose of state government. The
13 legislature declares it to be a clear public purpose and governmental
14 function to promote life sciences research, including cancer
15 research, prevention, and care, to foster a preventive and predictive
16 vision of the next generation of health-related innovations, to
17 enhance the competitive position of Washington state in this vital
18 sector of the economy, and to improve the quality and delivery of
19 health care for the people of Washington.

20 Cancer is the leading cause of death in Washington and is the
21 leading cause of childhood mortality due to disease. Many of the

1 state's high rates of cancer can be prevented and treated,
2 particularly if detected early and patients have access to the most
3 effective care. Washington has an existing infrastructure of world-
4 class cancer research and care centers for children and adults that
5 can develop and apply new techniques for the prevention of cancer and
6 care of cancer patients throughout Washington.

7 The legislature finds that public support for and promotion of
8 life sciences research, including cancer research, prevention, and
9 care, will benefit the state and its residents through improved
10 health status and health outcomes, economic development, and
11 contributions to scientific knowledge, and such research will lead to
12 breakthroughs and improvements that might not otherwise be discovered
13 due to lack of existing market incentives, especially in the area of
14 regenerative medicine.

15 The legislature finds that public support for and promotion of
16 life sciences research, including cancer research, prevention, and
17 care, has the potential to provide cures or new treatments for many
18 debilitating diseases that cost the state millions of dollars each
19 year.

20 It is appropriate and consistent with the intent of the master
21 settlement agreement between the state and tobacco product
22 manufacturers to invest a portion of the revenues derived therefrom
23 by the state in life sciences research, to leverage the revenues with
24 other funds, and to encourage cooperation and innovation among public
25 and private institutions involved in life sciences research.

26 The purpose of this chapter is to establish a life sciences
27 discovery fund authority, to grant that authority the power to
28 contract with the state to receive revenues under the master
29 settlement agreement, and to contract with other entities to receive
30 other funds, and to disburse those funds consistent with the purpose
31 of this chapter. The life sciences discovery fund is intended to
32 promote the best available research in life sciences disciplines
33 through diverse Washington institutions and to build upon existing
34 strengths in the area of biosciences and biomanufacturing in order to
35 spread the economic benefits across the state. The life sciences
36 discovery fund is also intended to foster improved health care
37 outcomes and improved agricultural production research across this
38 state and the world.

39 The research investments of the life sciences discovery fund are
40 intended to further the goals of the "Bio 21" report and to support

1 future statewide, comprehensive strategies to lead the nation in life
2 sciences-related research and employment.

3 Further, this chapter is intended to establish a fund to fight
4 cancer. The fund to fight cancer is intended to support sustained
5 investment in cancer research, prevention, and care to reduce long-
6 term health costs, save lives, and relieve the pain and suffering
7 associated with cancer.

8 Sustained investment in cancer research, prevention, and care is
9 critical to reducing long-term health costs, saving lives, and
10 relieving pain and suffering. Unfortunately, federal funding and
11 private philanthropy are not sufficient to support and advance cancer
12 research, prevention, and care, and the lack of state funding further
13 worsens critical gaps.

14 Specifically, resources of the fund to fight cancer are intended
15 to provide the additional funding required to support and advance
16 cancer research, prevention, and care. The legislature intends to
17 accomplish these goals by:

18 (1) Optimizing the use of public funds by giving priority to
19 research using the best science and technology with the greatest
20 potential to improve health outcomes and leveraging the sizeable
21 existing investment in facilities and research talent, as well as
22 clinical and therapeutic resources, in Washington;

23 (2) Protecting and benefiting Washington taxpayers by funding
24 proposals for cancer research, prevention, and care that are reviewed
25 by an independent expert review panel and advisory committee subject
26 to established ethical standards and procedures that yield fair,
27 equitable, informed, and unbiased consideration; by reducing future
28 state health care costs; and by providing an opportunity for the
29 state to benefit from royalty, sales, or licensing revenue, or other
30 commercialization-related revenue that results from the research;

31 (3) Requiring strict fiscal and public accountability through
32 mandatory independent audits, transparent review processes and
33 consideration of funding proposals, open public meetings and
34 hearings, and annual reports to the public; and

35 (4) Growing the Washington economy by creating jobs and
36 encouraging investments that will generate new tax revenues in the
37 state, and advance the biotech, medical device, and health care
38 information technology industries in Washington to world leadership,
39 as an economic engine for Washington's future.

1 **Sec. 2.** RCW 43.350.010 and 2005 c 424 s 2 are each amended to
2 read as follows:

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

5 (1) "Authority" means the life sciences discovery fund authority
6 created in this chapter.

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

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

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

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

21 (6) "Care" means the treatment of cancer and the provision of
22 services to provide relief from pain and suffering for cancer
23 patients, and specifically includes genetic analysis of tumors to
24 optimize cancer therapies, medications, processes, and technologies
25 used for these purposes.

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

29 (8) "Committee" means an independent expert review panel and
30 advisory committee established pursuant to section 6 of this act.

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

35 ((+4)) (10) "Costs" means the costs and expenses associated with
36 the conduct of cancer research, prevention, and care including, but
37 not limited to, the cost of recruiting and compensating personnel,
38 securing and financing facilities and equipment, and conducting
39 clinical trials.

1 (11) "Genetic analysis" means the use of DNA/RNA/protein
2 sequencing methods to define potential mutations or patterns to
3 assist prescribing physicians in determining anticancer medications
4 or treatments that can be used to optimize cancer therapies.

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

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

12 ~~((+5))~~ (14) "Master settlement agreement" means the national
13 master settlement agreement and related documents entered into on
14 November 23, 1998, by the state and the four principal United States
15 tobacco product manufacturers, as amended and supplemented, for the
16 settlement of litigation brought by the state against the tobacco
17 product manufacturers.

18 ~~((+6))~~ (15) "Nonprofit cancer research institution" means a
19 nonprofit institution located in the state that conducts cancer
20 research.

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

25 (17) "Public employee" means any person employed by the state of
26 Washington or any agency or political subdivision thereof.

27 ~~((+7))~~ (18) "Public facilities" means any public institution,
28 public facility, public equipment, or any physical asset owned,
29 leased, or controlled by the state of Washington or any agency or
30 political subdivision thereof.

31 ~~((+8))~~ (19) "Public funds" means any funds received or
32 controlled by the state of Washington or any agency or political
33 subdivision thereof, including, but not limited to, funds derived
34 from federal, state, or local taxes, gifts or grants from any source,
35 public or private, federal grants or payments, or intergovernmental
36 transfers.

37 ~~((+9))~~ (20) "State agreement" means the agreement authorized
38 under this chapter in which the state provides to the authority the
39 strategic contribution payments required to be made by tobacco
40 product manufacturers to the state and the state's rights to receive

1 such payments, pursuant to the master settlement agreement, for the
2 purpose of promoting life sciences research.

3 ~~((10))~~ (21) "Strategic contribution payments" means the
4 payments designated as such under the master settlement agreement,
5 which will be made to the state in the years 2008 through 2017.

6 **Sec. 3.** RCW 43.350.020 and 2005 c 424 s 3 are each amended to
7 read as follows:

8 LIFE SCIENCES DISCOVERY FUND AUTHORITY BOARD MEMBERS ADDED. (1)
9 The life sciences discovery fund authority is created and constitutes
10 a public instrumentality and agency of the state, separate and
11 distinct from the state, exercising public and essential governmental
12 functions.

13 (2)(a) The powers of the authority are vested in and shall be
14 exercised by a board of trustees consisting of: Two members of either
15 the house appropriations committee or the house committee dealing
16 with technology issues, one from each caucus, to be appointed by the
17 speaker of the house of representatives; two members of either the
18 senate committee on ways and means or the senate committee dealing
19 with technology issues, one from each caucus, to be appointed by the
20 president of the senate; and seven members appointed by the governor
21 with the consent of the senate, one of whom shall be appointed by the
22 governor as chair of the authority and who shall serve on the board
23 and as chair of the authority at the pleasure of the governor.

24 (b) Two members shall be appointed by the advisory committee
25 created in section 6 of this act.

26 (c) The respective officials shall make ~~((the initial))~~ any new
27 appointments required by chapter . . . , Laws of 2015 (this act) no
28 later than thirty days after ~~((May 12, 2005))~~ the effective date of
29 this section. The term of the trustees, other than the chair, is four
30 years from the date of their appointment, except that the terms of
31 three of the initial gubernatorial appointees, as determined by the
32 governor, are for two years from the date of their appointment. A
33 trustee appointed by the governor may be removed by the governor for
34 cause under RCW 43.06.070 and 43.06.080. The appropriate official
35 shall fill any vacancy on the board by appointment for the remainder
36 of the unexpired term. The trustees appointed by the governor shall
37 be compensated in accordance with RCW 43.03.240 and may be
38 reimbursed, solely from the funds of the authority, for expenses
39 incurred in the discharge of their duties under this chapter, subject

1 to RCW 43.03.050 and 43.03.060. The trustees who are legislators
2 shall be reimbursed for travel expenses in accordance with RCW
3 44.04.120.

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

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

8 (5) Meetings of the board shall be held in accordance with the
9 open public meetings act, chapter 42.30 RCW, and at the call of the
10 chair or when a majority of the trustees so requests. Meetings of the
11 board may be held at any location within or out of the state, and
12 trustees may participate in a meeting of the board by means of a
13 conference telephone or similar communication equipment under RCW
14 23B.08.200.

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

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

18 NEW SECTION. **Sec. 4.** AUTHORITY—POWERS—FUND TO FIGHT CANCER
19 DUTIES. In addition to other powers and duties prescribed in this
20 chapter, the authority is empowered to:

21 (1) Use public moneys in the fund to fight cancer, leveraging
22 those moneys with amounts received from other public and private
23 sources in accordance with contribution agreements, to fund costs of
24 cancer research, prevention, and care and the administrative costs of
25 the authority;

26 (2) Use amounts in the fund to fight cancer created in section 8
27 of this act to fund the costs of cancer research, prevention, and
28 care and the related administrative costs of the authority. However,
29 the authority may use an amount equal to not more than five percent
30 of the amount in the fund to fight cancer to pay administrative costs
31 of the authority allocable to cancer research, prevention, and care,
32 including the oversight of the grant-making process and the
33 operations of the board and the committee;

34 (3) Solicit and receive gifts, grants, and bequests, and enter
35 into contribution agreements with private entities and public
36 entities, including commercial entities, in order to use those moneys
37 to fund the costs of cancer research, prevention, and care. Nonstate
38 moneys received by the authority for the purpose of cancer research,

1 prevention, and care must be deposited in the fund to fight cancer
2 created in section 8 of this act;

3 (4) Hold funds received by the authority for deposit in the fund
4 to fight cancer exclusively in trust dedicated, pursuant to section 8
5 of this act, to promote cancer research, prevention, and care;

6 (5) Subject to chapter 39.58 RCW, manage its funds, obligations,
7 and investments as necessary and as consistent with its purpose
8 including the segregation of revenues into separate funds and
9 accounts;

10 (6)(a) Make grants to public and private entities, including
11 commercial entities, to fund or reimburse the entities pursuant to
12 contract for the promotion of cancer research, prevention, and care
13 to be conducted in the state. Grant agreements must specify
14 deliverables to be provided by the recipient pursuant to the grant.
15 The authority must solicit requests for funding and evaluate the
16 requests by reference to factors such as: (i) The quality of the
17 proposed research or program; (ii) its potential to improve cancer
18 outcomes, with particular attention to the likelihood that it will
19 also lower health care costs, substitute for a more costly diagnostic
20 or treatment modality, or offer a breakthrough treatment for cancer;
21 (iii) its potential for leveraging additional funding; (iv) its
22 potential to provide cancer care benefits; (v) its potential to
23 stimulate cancer prevention and health care delivery; (vi) the
24 geographic diversity of the grantees within Washington; (vii)
25 evidence of potential royalty, sales, or licensing revenue, or other
26 commercialization-related revenue and contractual means to recapture
27 such income for purposes of this chapter; and (viii) evidence of
28 public and private collaboration.

29 (b) Grant agreements must set forth the terms and conditions of
30 the grant and must include, but not be limited to: (i) Deliverables
31 to be provided by the recipient pursuant to the grant; (ii) the
32 circumstances under which the grant amount would be required to be
33 repaid or the manner under which royalty, sales, or licensing
34 revenue, or other commercialization-related revenue would be required
35 to be shared; and (iii) indemnification, dispute resolution, and any
36 other terms and conditions as are customary for grant agreements or
37 are deemed reasonable by the board. The authority may negotiate with
38 any grantee the costs associated with performing scientific
39 activities funded by grants;

1 (7) Create one or more permanent or ad hoc advisory boards
2 composed of scientists, clinicians, industrialists, and others
3 familiar with cancer research, prevention, and care;

4 (8) Create a tax-exempt organization for the purpose of receiving
5 private donations and allocating those funds to life sciences
6 discovery fund accounts;

7 (9) Impose grant application fees; and

8 (10) Adopt policies and procedures to facilitate the orderly
9 process of grant application, review, and award.

10 **Sec. 5.** RCW 43.350.040 and 2005 c 424 s 5 are each amended to
11 read as follows:

12 AUTHORITY—GENERAL POWERS. The authority has all the general
13 powers necessary to carry out its purposes and duties and to exercise
14 its specific powers. In addition to other powers specified in this
15 chapter, the authority may: (1) Sue and be sued in its own name; (2)
16 make and execute agreements, contracts, and other instruments, with
17 any public or private person or entity, in accordance with this
18 chapter; (3) employ, contract with, or engage independent counsel,
19 financial advisors, auditors, other technical or professional
20 assistants, and such other personnel as are necessary or desirable to
21 implement this chapter; (4) establish such special funds, and
22 controls on deposits to and disbursements from them, as it finds
23 convenient for the implementation of this chapter; (5) enter into
24 contracts with public and private entities for life sciences research
25 to be conducted in the state; (6) adopt rules, consistent with this
26 chapter; (7) delegate any of its powers and duties if consistent with
27 the purposes of this chapter; (8) exercise any other power reasonably
28 required to implement the purposes of this chapter; ~~((and))~~ (9) hire
29 staff and pay administrative costs; and (10) subject to appropriate
30 agreements, advance funds to defray charges for materials to be
31 furnished or services to be rendered by grant recipients pursuant to
32 authority rule permitting advances, in amounts no greater than the
33 estimated charges, where the advances would be in the best interests
34 of the authority.

35 NEW SECTION. **Sec. 6.** ADVISORY COMMITTEE RELATED TO THE FUND TO
36 FIGHT CANCER. (1) In addition to any advisory boards the authority
37 establishes under RCW 43.350.030(7) or section 4(7) of this act, the
38 authority must establish an advisory committee for the purposes of:

1 (a) Advising the authority during the development and review of its
2 strategic plans for cancer research; and (b) advising the authority
3 on scientific and other matters in furtherance of the cancer research
4 purposes of RCW 43.350.040 and sections 4, 6, and 7 of this act.

5 (2) Members of the advisory committee appointed by the life
6 sciences discovery fund authority include:

7 (a) Two members from nominations submitted by the presidents of
8 the University of Washington and Washington State University;

9 (b) Two members from nominations submitted by the Fred Hutchinson
10 cancer research center, Seattle cancer care alliance, and the Seattle
11 children's research institute;

12 (c) Two members from nominations submitted by cancer patient
13 advocacy organizations;

14 (d) Two members from nominations submitted by entities or systems
15 that provide health care delivery system services;

16 (e) One member from nominations submitted by any health sciences
17 and services authority established under chapter 35.104 RCW; and

18 (f) Two members of the public.

19 (3) The advisory committee must continue to use the independent
20 expert review panel process as practiced.

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

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

28 (2) Allocation targets must be developed in the plan for funding
29 targeted to pediatric cancer research. The plan with respect to
30 funding cancer research must seek to provide that no less than ten
31 percent of the funding is granted to areas outside the Puget Sound
32 region in part to build and diversify research capacity. However, all
33 grants for research must meet the highest standards for scientific
34 research and be based on ethical standards and procedures that yield
35 fair, equitable, informed, and unbiased consideration.

36 (3) The authority must issue an annual report to the public that
37 sets forth its activities with respect to the fund to fight cancer,
38 including grants awarded, grant-funded work in progress, research
39 accomplishments, prevention and care activities, and future program

1 directions with respect to cancer research, prevention, and care.
2 Each annual report regarding activities with respect to the fund to
3 fight cancer must include, but not be limited to, the following: The
4 number and dollar amounts of grants; the grantees for the prior year;
5 the authority's administrative expenses; an assessment of the
6 availability of funding for cancer research, prevention, and care
7 from sources other than the authority; a summary of research,
8 prevention, and care-related findings, including promising new areas
9 for investment; and a report on the benefits to Washington of its
10 programs to date.

11 (4) The authority must include as an addendum to the first annual
12 report, a proposed operating plan for the design, implementation, and
13 administration of an endowment program supporting the purposes of the
14 authority. The authority must submit the operating plan to the
15 governor, the legislature, and the stakeholders of the authority at
16 the time the first annual report is published.

17 (5) Periodically, but not less often than every three years, the
18 authority must conduct a request for proposals and retain the
19 services of an independent auditor with experience in performance
20 auditing of research granting entities similar to the authority. The
21 independent auditor must review the strategic plan of the authority
22 for the allocation of projected amounts in the fund to fight cancer
23 and its performance against such plan and publish a report assessing
24 the performance of the authority. The independent auditor must make
25 recommendations to the authority, the governor, and the legislature
26 regarding improvements to the authority's performance for the
27 allocation of projected amounts in the fund to fight cancer. The
28 authority must hold at least one public hearing at which the results
29 of each audit are presented and discussed.

30 (6) The authority must establish standards for grants made from
31 the fund to fight cancer that may require that contracts for cancer
32 research, prevention, or care contain provisions that balance the
33 opportunity of the state or its public universities to derive benefit
34 from the intellectual or tangible property that result from cancer
35 research, prevention, or care activities performed subject to RCW
36 43.350.040 and sections 4, 6, and 7 of this act with the need to
37 assure that essential research is not unreasonably hindered.

38 (7) It is essential that the personal interests of authority
39 trustees, staff, and agents do not impede their judgment or
40 compromise their objectivity. Even the perception of a conflict of

1 interest has the potential to erode the public's confidence in the
2 authority's work. The authority must adopt policies to ensure that
3 all potential conflicts have been disclosed and that all conflicts
4 have been eliminated or mitigated.

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

9 NEW SECTION. **Sec. 8.** FUND TO FIGHT CANCER CREATED AS
10 NONAPPROPRIATED ACCOUNT. (1) The fund to fight cancer is created in
11 the custody of the state treasurer.

12 (2) Revenues to the fund consist of: (a) Revenues appropriated by
13 the legislature from the fight cancer treasury fund created in
14 section 9 of this act from taxes levied in sections 10 and 11 of this
15 act; (b) moneys received by the authority from gifts, grants,
16 bequests, contribution agreements, royalty, sales, or licensing
17 revenue, or other commercialization-related revenue, grant
18 remittances, and other sources; and (c) interest earned on the fund.

19 (3) Expenditures from the fund may be made solely for the
20 purposes of funding cancer research, prevention, and care as provided
21 in RCW 43.350.040 and sections 4, 6, and 7 of this act. Only the
22 board or the board's designee may authorize expenditures from the
23 fund. The fund is subject to the allotment procedures of chapter
24 43.88 RCW, but an appropriation is not required for expenditure.

25 (4) The board must develop and approve an annual budget for
26 expenditures from the fund to fight cancer.

27 NEW SECTION. **Sec. 9.** FIGHT CANCER TREASURY FUND CREATED TO
28 RECEIVE TAX REVENUE. (1) The fight cancer treasury fund is created in
29 the state treasury. Revenues to the fund consist of taxes levied
30 pursuant to sections 10 and 11 of this act, subject to the provisions
31 of subsection (2) of this section. Moneys in the fund may be expended
32 solely after appropriation. The legislature must appropriate all
33 revenues to the fund into the fund to fight cancer created in section
34 8 of this act subject to the provisions of subsection (2) of this
35 section.

36 (2)(a) Each fiscal year the amount to be deposited into the fight
37 cancer treasury fund created in this section must be reduced by the
38 amount necessary to offset the state revenue decrease to other state

1 accounts directly resulting from imposition of the additional taxes
2 imposed by sections 10 and 11 of this act, determined as follows: (i)
3 The department of revenue must estimate by January 31, 2016, and by
4 each January 31st thereafter, the effect that the additional tax
5 imposed on cigarettes by section 10 of this act, and the additional
6 taxes on tobacco products imposed by section 11 of this act, have on
7 the consumption of cigarettes and tobacco products taxable under
8 chapter 82.24 or 82.26 RCW; and (ii) to the extent that a decrease in
9 consumption of taxable cigarettes and tobacco products is estimated
10 by the department of revenue to be a direct result of the additional
11 taxes imposed by sections 10 and 11 of this act, the department of
12 revenue must estimate the fiscal effect the decrease in consumption
13 has on state revenues to other state accounts and must provide the
14 state treasurer by March 1, 2016, and by each March 1st thereafter,
15 the amount of decreased revenues as estimated in this subsection.

16 (b) The state treasurer must transfer the amount of decreased
17 revenue determined by the department of revenue in (a) of this
18 subsection from the fight cancer treasury fund to the general fund by
19 July 1, 2016, and by each July 1st thereafter.

20 NEW SECTION. **Sec. 10.** A new section is added to chapter 82.24
21 RCW to read as follows:

22 CIGARETTE TAX. (1) In addition to the tax imposed upon the sale,
23 use, consumption, handling, possession, or distribution of cigarettes
24 set forth in RCW 82.24.020 and 82.24.026, there is imposed a tax in
25 an amount equal to 2.5 cents per cigarette, which must be levied and
26 collected, beginning July 1, 2015.

27 (2) Taxes received pursuant to this section, including the
28 additional taxes received under RCW 82.24.280 resulting from the tax
29 rate increase made by chapter . . . , Laws of 2015 (this act) in this
30 section, must be deposited in the fight cancer treasury fund created
31 in section 9 of this act and used exclusively for the purposes set
32 forth in RCW 43.350.040 and sections 4, 6, and 7 of this act.

33 NEW SECTION. **Sec. 11.** A new section is added to chapter 82.26
34 RCW to read as follows:

35 TOBACCO TAX. (1) In addition to the tax levied and collected in
36 RCW 82.26.020, and without regard to any limitations set forth in RCW
37 82.26.020, including without limitation the not-to-exceed cap on the
38 tax on cigars under RCW 82.26.020(1)(a), there is levied and

1 collected a tax upon the sale, handling, or distribution of all
2 tobacco products in this state, other than little cigars and moist
3 snuff, at a rate equal to ten percent of the taxable sales price,
4 beginning July 1, 2015.

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

13 (3) Taxes received pursuant to this section must be deposited in
14 the fight cancer treasury fund created in section 9 of this act and
15 used exclusively for the purposes set forth in RCW 43.350.040 and
16 sections 4, 6, and 7 of this act. Such taxes include (a) the
17 additional taxes received on moist snuff and little cigars under RCW
18 82.26.020 resulting from the tax rate increase in section 10 of this
19 act and (b) the additional taxes received under section 12 of this
20 act resulting from the tax rate increase by chapter . . . , Laws of
21 2015 (this act) in this section.

22 NEW SECTION. **Sec. 12.** A new section is added to chapter 82.26
23 RCW to read as follows:

24 PAYMENT OF TAXES. (1) Any additional tax liability arising from a
25 tax rate increase under this chapter shall be paid, along with
26 reports and returns prescribed by the department, on or before the
27 last day of the month in which the increase becomes effective.

28 (2) If not paid by the due date, interest shall apply to any
29 unpaid tax. Interest shall be calculated at the rate as computed
30 under RCW 82.32.050(2) from the date the tax became due until the
31 date of payment.

32 (3) If upon examination of any returns or from other information
33 obtained by the department it appears that a tax or penalty has been
34 paid less than that properly due, the department shall assess against
35 the taxpayer such additional amount found to be due. The department
36 shall notify the taxpayer by mail, or electronically as provided in
37 RCW 82.32.135, of the additional amount due, including any applicable
38 penalties and interest. The taxpayer shall pay the additional amount

1 within thirty days from the date of the notice, or within such
2 further time as the department may provide.

3 (4) All of chapter 82.32 RCW applies to tax rate increases
4 except: RCW 82.32.050(1) and 82.32.270.

5 (5) A retailer required to comply with this section is not
6 required to obtain a distributor's license as otherwise required
7 under this chapter as long as the retailer: (a) Does not sell tobacco
8 products other than to ultimate consumers; and (b) does not meet the
9 definition of "distributor" in RCW 82.26.010 other than with respect
10 to the sale of that retailer's preexisting inventory of tobacco
11 products subject to the tax reporting and payment requirements in
12 this section.

13 **Sec. 13.** RCW 82.26.030 and 2010 1st sp.s. c 22 s 7 are each
14 amended to read as follows:

15 It is the intent and purpose of this chapter to levy a tax on all
16 tobacco products sold, used, consumed, handled, or distributed within
17 this state and to collect the tax from the distributor as defined in
18 RCW 82.26.010. It is the further intent and purpose of this chapter
19 to impose the tax (~~once, and~~) only once, except as provided in
20 section 12 of this act, on all tobacco products for sale in this
21 state, but nothing in this chapter may be construed to exempt any
22 person taxable under any other law or under any other tax imposed
23 under this title (~~(82-RCW)~~). It is the further intent and purpose of
24 this chapter that the distributor who first possesses the tobacco
25 product in this state is the distributor liable for the tax and that
26 (1) for moist snuff the tax will be based on the net weight listed by
27 the manufacturer and (2) in most other instances the tax will be
28 based on the actual price that the distributor paid for the tobacco
29 product, unless the distributor is affiliated with the seller.

30 **Sec. 14.** RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are
31 each reenacted and amended to read as follows:

32 MANAGEMENT—INCOME—INVESTMENT INCOME ACCOUNT—DISTRIBUTION. (1)
33 Money in the treasurer's trust fund may be deposited, invested, and
34 reinvested by the state treasurer in accordance with RCW 43.84.080 in
35 the same manner and to the same extent as if the money were in the
36 state treasury, and may be commingled with moneys in the state
37 treasury for cash management and cash balance purposes.

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

4 (3) The investment income account may be utilized for the payment
5 of purchased banking services on behalf of treasurer's trust funds
6 including, but not limited to, depository, safekeeping, and
7 disbursement functions for the state treasurer or affected state
8 agencies. The investment income account is subject in all respects to
9 chapter 43.88 RCW, but no appropriation is required for payments to
10 financial institutions. Payments must occur prior to distribution of
11 earnings set forth in subsection (4) of this section.

12 (4)(a) Monthly, the state treasurer must distribute the earnings
13 credited to the investment income account to the state general fund
14 except under (b), (c), and (d) of this subsection.

15 (b) The following accounts and funds must receive their
16 proportionate share of earnings based upon each account's or fund's
17 average daily balance for the period: The Washington promise
18 scholarship account, the Washington advanced college tuition payment
19 program account, the accessible communities account, the community
20 and technical college innovation account, the agricultural local
21 fund, the American Indian scholarship endowment fund, the foster care
22 scholarship endowment fund, the foster care endowed scholarship trust
23 fund, the contract harvesting revolving account, the Washington state
24 combined fund drive account, the commemorative works account, the
25 county enhanced 911 excise tax account, the toll collection account,
26 the developmental disabilities endowment trust fund, the energy
27 account, the fair fund, the family leave insurance account, the food
28 animal veterinarian conditional scholarship account, the fruit and
29 vegetable inspection account, the future teachers conditional
30 scholarship account, the game farm alternative account, the GET ready
31 for math and science scholarship account, the Washington global
32 health technologies and product development account, the grain
33 inspection revolving fund, the industrial insurance rainy day fund,
34 the juvenile accountability incentive account, the law enforcement
35 officers' and firefighters' plan 2 expense fund, the local tourism
36 promotion account, the multiagency permitting team account, the
37 pilotage account, the produce railcar pool account, the regional
38 transportation investment district account, the rural rehabilitation
39 account, the stadium and exhibition center account, the youth
40 athletic facility account, the self-insurance revolving fund, the

1 children's trust fund, the Washington horse racing commission
2 Washington bred owners' bonus fund and breeder awards account, the
3 Washington horse racing commission class C purse fund account, the
4 individual development account program account, the Washington horse
5 racing commission operating account, the fund to fight cancer, the
6 life sciences discovery fund, the Washington state heritage center
7 account, the reduced cigarette ignition propensity account, the
8 center for childhood deafness and hearing loss account, the school
9 for the blind account, the Millersylvania park trust fund, the public
10 employees' and retirees' insurance reserve fund, and the radiation
11 perpetual maintenance fund.

12 (c) The following accounts and funds must receive eighty percent
13 of their proportionate share of earnings based upon each account's or
14 fund's average daily balance for the period: The advanced right-of-
15 way revolving fund, the advanced environmental mitigation revolving
16 account, the federal narcotics asset forfeitures account, the high
17 occupancy vehicle account, the local rail service assistance account,
18 and the miscellaneous transportation programs account.

19 (d) Any state agency that has independent authority over accounts
20 or funds not statutorily required to be held in the custody of the
21 state treasurer that deposits funds into a fund or account in the
22 custody of the state treasurer pursuant to an agreement with the
23 office of the state treasurer (~~shall~~) must receive its
24 proportionate share of earnings based upon each account's or fund's
25 average daily balance for the period.

26 (5) In conformance with Article II, section 37 of the state
27 Constitution, no trust accounts or funds (~~shall~~) may be allocated
28 earnings without the specific affirmative directive of this section.

29 NEW SECTION. **Sec. 15.** Sections 4 and 6 through 9 of this act
30 are each added to chapter 43.350 RCW.

31 NEW SECTION. **Sec. 16.** CONSTRUCTION. This act, being necessary
32 for the welfare of the state and its inhabitants, must be liberally
33 construed.

34 NEW SECTION. **Sec. 17.** SEVERABILITY. If any provision of this
35 act or its application to any person or circumstance is held invalid,
36 the remainder of the act or the application of the provision to other
37 persons or circumstances is not affected.

1 NEW SECTION. **Sec. 18.** APPLICATION. This act applies only with
2 respect to tax liability incurred under chapter 82.24 or 82.26 RCW on
3 or after July 1, 2015, for the sale, handling, or distribution of
4 cigarettes or tobacco products.

5 NEW SECTION. **Sec. 19.** EFFECTIVE DATE. This act is necessary for
6 the immediate preservation of the public peace, health, or safety, or
7 support of the state government and its existing public institutions,
8 and takes effect July 1, 2015.

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