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et al.

H.B. No. 14

A BILL TO BE ENTITLED

AN ACT

1
2 relating to reorganizing certain state institutions that provide
3 financing for cancer research, including creating the Cancer
4 Prevention and Research Institute of Texas, and information about
5 certain cancer treatments; granting authority to issue bonds.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. The heading to Chapter 86, Health and Safety
8 Code, is amended to read as follows:

9 CHAPTER 86. BREAST CANCER AND LUNG CANCER

10 SECTION 2. Chapter 86, Health and Safety Code, is amended by
11 adding Subchapter C to read as follows:

12 SUBCHAPTER C. INFORMATION ON ALTERNATIVE TREATMENTS FOR LUNG CANCER

13 Sec. 86.101. PURPOSE. It is the intent of the legislature
14 that lung cancer patients have access to a standardized written
15 summary, as provided under this subchapter, of medically
16 efficacious and viable alternative treatments for lung cancer,
17 which may include surgical, radiological, or chemotherapeutic
18 treatment or combinations of those treatments.

19 Sec. 86.102. STANDARDIZED WRITTEN SUMMARY. (a) The
20 department shall publish a standardized written summary, in
21 language a patient can understand, of the advantages,
22 disadvantages, risks, and descriptions of all medically
23 efficacious and viable alternatives for the treatment of lung
24 cancer.

1 (b) The department shall update the summary annually, if
2 necessary, to reflect changes in the treatment of lung cancer.

3 (c) The advisory council shall develop the summary.

4 Sec. 86.103. ADVISORY COUNCIL. (a) The lung cancer
5 advisory council is appointed by the executive commissioner of the
6 Health and Human Services Commission.

7 (b) The lung cancer advisory council consists of the
8 following three members:

9 (1) one member who is a physician active in the
10 treatment of lung cancer;

11 (2) one member who is an advocate for lung cancer
12 patients; and

13 (3) one member of the public who is a survivor of lung
14 cancer.

15 Sec. 86.104. DISTRIBUTION OF SUMMARY. (a) Not later than
16 the 90th day after the date the department receives the
17 standardized written summary from the advisory council, the
18 department shall print and make available to all physicians in the
19 state sufficient copies of the summary.

20 (b) A physician may distribute the summary to a patient when
21 the physician determines in the physician's professional judgment
22 that it is in the best interest of the patient to receive a copy of
23 the summary.

24 Sec. 86.105. FUNDING. (a) The department may not expend
25 general revenue funds for the publication or distribution of the
26 standardized written summary.

27 (b) The department may provide technical assistance to the

1 advisory council to aid in the development of the summary.

2 (c) The department may accept grants, donations of money or
3 materials, and other forms of assistance from private and public
4 sources to be used solely for the development and distribution of
5 the summary.

6 SECTION 3. Section 86.003(b), Health and Safety Code, is
7 amended to read as follows:

8 (b) The advisory council shall include at least one of each
9 of the following:

10 (1) a representative of a statewide nonprofit
11 organization that is an advocate for breast cancer patients;

12 (2) a representative of a statewide professional
13 organization representing the full spectrum of physicians;

14 (3) a physician associated with an institution of
15 higher education who specializes in the treatment of breast cancer;
16 and

17 (4) a representative of the Cancer Prevention and
18 Research Institute of Texas [~~Cancer Council~~].

19 SECTION 4. Chapter 102, Health and Safety Code, is amended
20 to read as follows:

21 CHAPTER 102. [~~TEXAS~~] CANCER PREVENTION AND RESEARCH INSTITUTE OF

22 TEXAS [~~COUNCIL~~]

23 SUBCHAPTER A. GENERAL PROVISIONS

24 Sec. 102.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

25 (1) "Institute" means the Cancer Prevention and
26 Research Institute of Texas.

27 (2) "Oversight committee" means the Cancer Prevention

1 and Research Institute of Texas Oversight Committee.

2 (3) "Research and prevention programs committee"
3 means the Cancer Prevention and Research Institute of Texas
4 Scientific Research and Prevention Programs Committee~~[, "council"~~
5 ~~means the Texas Cancer Council]~~.

6 Sec. 102.002. PURPOSES ~~[TEXAS CANCER COUNCIL]~~. The ~~[Texas]~~
7 Cancer Prevention and Research Institute of Texas is established
8 to:

9 (1) create and expedite innovation in the area of
10 cancer research and in enhancing the potential for a medical or
11 scientific breakthrough in the prevention of cancer and cures for
12 cancer;

13 (2) attract, create, or expand research capabilities
14 of public or private institutions of higher education and other
15 public or private entities that will promote a substantial increase
16 in cancer research and in the creation of high-quality new jobs in
17 this state; and

18 (3) develop ~~[Council shall develop]~~ and ~~[work to]~~
19 implement the Texas Cancer Plan.

20 Sec. 102.003. SUNSET PROVISION. The Cancer Prevention and
21 Research Institute of Texas ~~[Cancer Council]~~ is subject to Chapter
22 325, Government Code (Texas Sunset Act). Unless continued in
23 existence as provided by that chapter, the institute ~~[council]~~ is
24 abolished and this chapter expires September 1, 2021 ~~[2009]~~.

25 SUBCHAPTER B. POWERS AND DUTIES OF INSTITUTE

26 Sec. 102.051. POWERS AND DUTIES. (a) The institute may:

27 (1) make grants to provide funds to public or private

1 persons to implement the Texas Cancer Plan, and may make grants to
2 institutions of learning and to advanced medical research
3 facilities and collaborations in this state for:

4 (A) research into the causes of and cures for all
5 types of cancer in humans;

6 (B) facilities for use in research into the
7 causes of and cures for cancer;

8 (C) research, including translational research,
9 to develop therapies, protocols, medical pharmaceuticals, or
10 procedures for the cure or substantial mitigation of all types of
11 cancer in humans; and

12 (D) cancer prevention and control programs in
13 this state to mitigate the incidence of all types of cancer in
14 humans;

15 (2) support institutions of learning and advanced
16 medical research facilities and collaborations in this state in all
17 stages in the process of finding the causes of all types of cancer
18 in humans and developing cures, from laboratory research to
19 clinical trials and including programs to address the problem of
20 access to advanced cancer treatment;

21 (3) establish the appropriate standards and oversight
22 bodies to ensure the proper use of funds authorized under this
23 chapter for cancer research and facilities development;

24 (4) employ an executive director as determined by the
25 oversight committee;

26 (5) employ necessary staff to provide administrative
27 support; and

1 (6) monitor contracts and agreements authorized by
2 this chapter.

3 (b) The institute shall work to implement the Texas Cancer
4 Plan and continually monitor and revise the Texas Cancer Plan as
5 necessary.

6 Sec. 102.052. ANNUAL PUBLIC REPORT. (a) The institute
7 shall issue an annual public report outlining the institute's
8 activities, grants awarded, grants in progress, research
9 accomplishments, and future program directions. The report must
10 include:

11 (1) the number and dollar amounts of research and
12 facilities grants;

13 (2) identification of the grant recipients for the
14 reported year;

15 (3) the institute's administrative expenses;

16 (4) an assessment of the availability of funding for
17 cancer research from sources other than the institute;

18 (5) a summary of findings of research funded by the
19 institute, including promising new research areas;

20 (6) an assessment of the relationship between the
21 institute's grants and the overall strategy of its research
22 program;

23 (7) a statement of the institute's strategic research
24 and financial plans; and

25 (8) an estimate of how much cancer has cost the state
26 during the year, including the amounts spent by the state relating
27 to cancer by the child health program, the Medicaid program, the

1 Teacher Retirement System of Texas, and the Employees Retirement
2 System of Texas.

3 (b) The institute shall submit the annual public report to
4 the governor and the legislature.

5 Sec. 102.053. INDEPENDENT FINANCIAL AUDIT FOR REVIEW BY
6 COMPTROLLER. (a) The institute shall annually commission an
7 independent financial audit of its activities from a certified
8 public accounting firm. The institute shall provide the audit to
9 the comptroller. The comptroller shall review and evaluate the
10 audit and annually issue a public report of that review. The
11 comptroller shall make recommendations concerning the institute's
12 financial practices and performance.

13 (b) The oversight committee shall review the annual
14 financial audit, the comptroller's report and evaluation of that
15 audit, and the financial practices of the institute.

16 Sec. 102.054. GIFTS AND GRANTS. The institute may solicit
17 and accept gifts and grants from any source for the purposes of this
18 chapter.

19 Sec. 102.055. QUARTERLY MEETINGS. The oversight committee
20 shall hold a public meeting at least once in each quarter of the
21 calendar year, with appropriate notice and with a formal public
22 comment period.

23 SUBCHAPTER C. OVERSIGHT COMMITTEE

24 Sec. 102.101 [~~102.004~~]. COMPOSITION OF OVERSIGHT COMMITTEE
25 [~~COUNCIL~~]. (a) The Cancer Prevention and Research Institute of
26 Texas Oversight Committee is the governing body of the institute.

27 (b) The oversight committee [~~council~~] is composed of the

1 following 11 members:

2 (1) three members appointed by the governor [~~the~~
3 ~~chairman of the Texas Board of Health, or a representative~~
4 ~~appointed by the chairman, who serves as an ex officio nonvoting~~
5 ~~member~~];

6 (2) three members appointed by the lieutenant [~~one~~
7 ~~physician active in the treatment of cancer, appointed by the~~
8 ~~governor~~];

9 (3) three members appointed by the speaker of the
10 house of representatives [~~one physician active in the treatment of~~
11 ~~cancer, appointed by the lieutenant governor~~];

12 (4) the comptroller or the comptroller's designee [~~one~~
13 ~~physician active in the treatment of cancer, appointed by the~~
14 ~~speaker of the house of representatives~~]; and

15 (5) the attorney general or the attorney general's
16 designee [~~one representative of a voluntary health organization~~
17 ~~interested in cancer, appointed by the governor~~];

18 [~~(6) one representative of a voluntary health~~
19 ~~organization interested in cancer, appointed by the lieutenant~~
20 ~~governor~~];

21 [~~(7) one representative of a voluntary health~~
22 ~~organization interested in cancer, appointed by the speaker of the~~
23 ~~house of representatives~~];

24 [~~(8) one representative of a licensed health care~~
25 ~~facility that treats a significant number of cancer patients,~~
26 ~~appointed by the governor~~];

27 [~~(9) one representative of a licensed health care~~

1 ~~facility that treats a significant number of cancer patients,~~
2 ~~appointed by the lieutenant governor,~~

3 ~~[(10) one representative of a licensed health care~~
4 ~~facility that treats a significant number of cancer patients,~~
5 ~~appointed by the speaker of the house of representatives,~~

6 ~~[(11) one member of the public, appointed by the~~
7 ~~governor,~~

8 ~~[(12) one member of the public, appointed by the~~
9 ~~lieutenant governor,~~

10 ~~[(13) one member of the public, appointed by the~~
11 ~~speaker of the house of representatives,~~

12 ~~[(14) one licensed health care professional active in~~
13 ~~the treatment or control of cancer, other than a physician,~~
14 ~~appointed by the governor,~~

15 ~~[(15) one licensed health care professional active in~~
16 ~~the treatment or control of cancer, other than a physician,~~
17 ~~appointed by the lieutenant governor, and~~

18 ~~[(16) one licensed health care professional active in~~
19 ~~the treatment or control of cancer, other than a physician,~~
20 ~~appointed by the speaker of the house of representatives].~~

21 (c) The members of the oversight committee must represent
22 the geographic and cultural diversity of the state.

23 (d) [(b)] In making appointments to the oversight committee
24 [council], the governor, lieutenant governor, and speaker of the
25 house of representatives should attempt to include cancer survivors
26 and family members of cancer patients if possible.

27 (e) [Sec. 102.0041. QUALIFICATIONS OF COUNCIL MEMBERS AND

1 ~~EMPLOYEES. (a) In this section, "Texas trade association" means a~~
2 ~~cooperative and voluntarily joined association of business or~~
3 ~~professional competitors in this state designed to assist its~~
4 ~~members and its industry or profession in dealing with mutual~~
5 ~~business or professional problems and in promoting their common~~
6 ~~interest. The term does not include a voluntary health~~
7 ~~organization.~~

8 ~~[(b)]~~ A person may not be a ~~[public]~~ member of the oversight
9 committee ~~[council]~~ if the person or the person's spouse:

10 (1) is employed by or participates in the management
11 of a business entity or other organization receiving money from the
12 institute ~~[council]~~;

13 (2) owns or controls, directly or indirectly, more
14 than a five ~~[10]~~ percent interest in a business entity or other
15 organization receiving money from the institute ~~[council]~~; or

16 (3) uses or receives a substantial amount of tangible
17 goods, services, or money from the institute ~~[council]~~, other than
18 ~~[compensation or]~~ reimbursement authorized by this chapter ~~[law]~~
19 for oversight committee ~~[council]~~ membership, attendance, or
20 expenses.

21 ~~[(c)]~~ ~~A person may not be a member of the council and may not~~
22 ~~be a council employee employed in a "bona fide executive,~~
23 ~~administrative, or professional capacity," as that phrase is used~~
24 ~~for purposes of establishing an exemption to the overtime~~
25 ~~provisions of the federal Fair Labor Standards Act of 1938 (29~~
26 ~~U.S.C. Section 201 et seq.) and its subsequent amendments if:~~

27 ~~[(1)]~~ ~~the person is an officer, employee, or paid~~

1 ~~consultant of a Texas trade association in the field of cancer~~
2 ~~control; or~~

3 ~~(2) the person's spouse is an officer, manager, or~~
4 ~~paid consultant of a Texas trade association in the field of cancer~~
5 ~~control.~~

6 ~~(d) A person may not be a member of the council or act as~~
7 ~~the general counsel to the council or the council's staff if the~~
8 ~~person is required to register as a lobbyist under Chapter 305,~~
9 ~~Government Code, because of the person's activities for~~
10 ~~compensation on behalf of a profession related to the operation of~~
11 ~~the council.~~

12 ~~(e) Appointments to the council shall be made without~~
13 ~~regard to the race, color, disability, sex, religion, age, or~~
14 ~~national origin of the appointees.]~~

15 Sec. 102.102. REMOVAL. (a) ~~(f)~~ It is a ground for
16 removal from the oversight committee ~~[council]~~ that a member:

17 (1) ~~[does not have at the time of taking office the~~
18 ~~qualifications required by Section 102.004,~~

19 ~~(2) does not maintain during service on the council~~
20 ~~the qualifications required by Section 102.004,~~

21 ~~(3)]~~ is ineligible for membership under Section
22 102.101(e) ~~[Subsections (b)-(d)];~~

23 (2) ~~(4)~~ cannot, because of illness or disability,
24 discharge the member's duties for a substantial part of the member's
25 term; or

26 (3) ~~(5)~~ is absent from more than half of the
27 regularly scheduled oversight committee ~~[council]~~ meetings that

1 the member is eligible to attend during a calendar year without an
2 excuse approved by a majority vote of the committee [~~council~~].

3 (b) [~~(g)~~] The validity of an action of the oversight
4 committee [~~council~~] is not affected by the fact that it is taken
5 when a ground for removal of a committee [~~council~~] member exists.

6 (c) [~~(h)~~] If the executive director has knowledge that a
7 potential ground for removal exists, the executive director shall
8 notify the presiding officer of the oversight committee [~~council~~]
9 of the potential ground. The presiding officer shall then notify
10 the appointing authority and the attorney general that a potential
11 ground for removal exists. If the potential ground for removal
12 involves the presiding officer, the executive director shall notify
13 the next highest ranking officer of the oversight committee
14 [~~council~~], who shall then notify the appointing authority and the
15 attorney general that a potential ground for removal exists.

16 Sec. 102.103 [~~102.005~~]. TERMS; VACANCY. (a) Oversight
17 committee [~~Except for the ex officio member of the council,~~
18 ~~council~~] members appointed by the governor, lieutenant governor,
19 and speaker of the house serve four-year [~~for staggered six-year~~]
20 terms [~~, with the terms of five members expiring February 1 of each~~
21 ~~even-numbered year~~].

22 (b) Not later than the 30th day after the date an oversight
23 committee member's term expires, the appropriate appointing
24 authority shall appoint a replacement.

25 (c) If a vacancy occurs on the oversight committee, the
26 appropriate appointing authority shall appoint a successor, in the
27 same manner as the original appointment, [~~a person~~] to serve for the

1 remainder of the unexpired term. The appropriate appointing
2 authority shall appoint the successor not later than the 30th day
3 after the date the vacancy occurs.

4 Sec. 102.104 [~~102.006~~]. OFFICERS. The oversight committee
5 [~~governor~~] shall select a [~~designate a member of the council, other~~
6 ~~than the ex officio member, as the~~] presiding officer from among its
7 members [~~of the council to serve in that capacity at the pleasure of~~
8 ~~the governor~~].

9 Sec. 102.105 [~~102.007~~]. EXPENSES [~~COMPENSATION~~]. [~~(a)~~] A
10 member of the oversight committee [~~council~~] is not entitled to
11 compensation but is entitled to reimbursement for actual and
12 necessary expenses incurred in attending meetings of the committee
13 or performing other official [~~council~~] duties authorized by the
14 presiding officer.

15 [~~(b) A member of the legislature shall be reimbursed from~~
16 ~~the appropriate fund of the legislature. A representative of a~~
17 ~~state agency shall be reimbursed from the funds of the agency the~~
18 ~~person represents. Other members shall be reimbursed from council~~
19 ~~funds.~~]

20 Sec. 102.106. CONFLICT OF INTEREST. The oversight
21 committee shall adopt conflict-of-interest rules, based on
22 standards applicable to members of scientific review committees of
23 the National Institutes of Health, to govern members of the
24 oversight committee.

25 Sec. 102.107. POWERS AND DUTIES. The oversight committee
26 shall hire an executive director.

1 SUBCHAPTER D. RESEARCH AND PREVENTION PROGRAMS COMMITTEE

2 Sec. 102.151. SCIENTIFIC RESEARCH AND PREVENTION PROGRAMS
3 COMMITTEE. (a) The Cancer Prevention and Research Institute of
4 Texas Scientific Research and Prevention Programs Committee is
5 composed of the following 18 members:

6 (1) one voting member appointed by the governor who is
7 a physician or licensed health care professional active in the
8 treatment of cancer;

9 (2) one voting member appointed by the lieutenant
10 governor who is a physician or licensed health care professional
11 active in the treatment of cancer;

12 (3) one voting member appointed by the speaker of the
13 house of representatives who is a physician or licensed health care
14 professional active in the treatment of cancer;

15 (4) one voting member appointed by the governor who is
16 a representative of a licensed health care facility that treats a
17 significant number of cancer patients;

18 (5) one voting member appointed by the lieutenant
19 governor who is a representative of a licensed health care facility
20 that treats a significant number of cancer patients;

21 (6) one voting member appointed by the speaker of the
22 house of representatives who is a representative of a licensed
23 health care facility that treats a significant number of cancer
24 patients;

25 (7) one voting member appointed by the governor who is
26 a representative of a voluntary health organization interested in
27 cancer;

1 (8) one voting member appointed by the lieutenant
2 governor who is a representative of a voluntary health organization
3 interested in cancer;

4 (9) one voting member appointed by the speaker of the
5 house of representatives who is a representative of a voluntary
6 health organization interested in cancer;

7 (10) two nonvoting members appointed by the governor
8 representing private or independent institutions of higher
9 education in this state that have demonstrated success and
10 leadership in cancer research;

11 (11) two nonvoting ex officio members appointed by the
12 chancellor of The University of Texas System to represent:

13 (A) The University of Texas Southwestern Medical
14 Center at Dallas;

15 (B) The University of Texas Medical Branch at
16 Galveston;

17 (C) The University of Texas Health Science Center
18 at Houston;

19 (D) The University of Texas Health Science Center
20 at San Antonio;

21 (E) The University of Texas Health Center at
22 Tyler; or

23 (F) The University of Texas M. D. Anderson Cancer
24 Center;

25 (12) one nonvoting ex officio member appointed by the
26 chancellor of The Texas A&M University System to represent:

27 (A) The Texas A&M University System Health

1 Science Center; or

2 (B) the teaching hospital for The Texas A&M
3 Health Science Center College of Medicine;

4 (13) one nonvoting ex officio member appointed by the
5 chancellor of the Texas Tech University System to represent the
6 Texas Tech University Health Sciences Center;

7 (14) one nonvoting ex officio member appointed by the
8 chancellor of the University of Houston System to represent the
9 system;

10 (15) one nonvoting ex officio member appointed by the
11 chancellor of the Texas State University System to represent the
12 system; and

13 (16) one nonvoting ex officio member appointed by the
14 chancellor of the University of North Texas System to represent the
15 system.

16 (b) Individuals appointed to the research and prevention
17 programs committee may be residents of another state.

18 (c) The members of the research and prevention programs
19 committee must represent the geographic and cultural diversity of
20 the state.

21 Sec. 102.152. TERMS OF RESEARCH AND PREVENTION PROGRAMS
22 COMMITTEE MEMBERS. Members of the research and prevention programs
23 committee serve four-year terms.

24 Sec. 102.153. EXPENSES. Members of the research and
25 prevention programs committee serve without compensation but are
26 entitled to reimbursement for actual and necessary expenses in
27 attending meetings of the committee or performing other official

1 duties authorized by the presiding officer.

2 SUBCHAPTER E. CANCER PREVENTION AND RESEARCH FUND

3 Sec. 102.201. CANCER PREVENTION AND RESEARCH FUND. (a) The
4 cancer prevention and research fund is a dedicated account in the
5 general revenue fund.

6 (b) The cancer prevention and research fund consists of:

7 (1) patent, royalty, and license fees and other income
8 received under a contract entered into as provided by Section
9 102.255;

10 (2) appropriations of money to the fund by the
11 legislature;

12 (3) gifts, grants, including grants from the federal
13 government, and other donations received for the fund; and

14 (4) interest earned on the investment of money in the
15 fund.

16 (c) The fund may be used only to pay for:

17 (1) grants for cancer research and for cancer research
18 facilities in this state to realize therapies, protocols, and
19 medical procedures for the cure or substantial mitigation of all
20 types of cancer in humans;

21 (2) the purchase, subject to approval by the
22 institute, of laboratory facilities by or on behalf of a state
23 agency or grant recipient;

24 (3) grants to public or private persons to implement
25 the Texas Cancer Plan;

26 (4) the operation of the institute; and

27 (5) grants for cancer prevention and control programs

1 in this state to mitigate the incidence of all types of cancer in
2 humans.

3 Sec. 102.202. ISSUANCE OF GENERAL OBLIGATION BONDS. (a)
4 The institute may request the Texas Public Finance Authority to
5 issue and sell general obligation bonds of the state as authorized
6 by Section 67, Article III, Texas Constitution.

7 (b) The Texas Public Finance Authority may not issue and
8 sell general obligation bonds authorized by this section before
9 January 1, 2008, and may not issue and sell more than \$300 million
10 in general obligation bonds authorized by this section in a state
11 fiscal year.

12 (c) The institute shall determine, and include in its
13 request for issuing bonds, the amount, exclusive of costs of
14 issuance, of the bonds to be issued and the preferred time for
15 issuing the bonds.

16 (d) The Texas Public Finance Authority shall issue the bonds
17 in accordance with and subject to Chapter 1232, Government Code,
18 and Texas Public Finance Authority rules. The bonds may be issued
19 in installments.

20 (e) Proceeds of the bonds issued under this section shall be
21 deposited in separate funds or accounts, in the state treasury, as
22 shall be set out in the proceedings authorizing the bonds.

23 (f) The proceeds of the bonds may be used only to:

24 (1) make grants authorized by Section 67, Article III,
25 Texas Constitution;

26 (2) purchase laboratory facilities approved by the
27 institute;

1 (3) pay costs of operating the institute; or

2 (4) pay the costs of issuing the bonds and related bond
3 administration costs of the Texas Public Finance Authority.

4 Sec. 102.203. AUTHORIZED USE OF FUNDS. (a) A person
5 awarded money from the cancer prevention and research fund or from
6 bond proceeds under this subchapter may use the money for research
7 consistent with the purpose of this chapter and in accordance with a
8 contract between the person and the institute.

9 (b) Except as otherwise provided by this section, money
10 awarded under this subchapter may be used for authorized expenses,
11 including honoraria, salaries and benefits, travel, conference
12 fees and expenses, consumable supplies, other operating expenses,
13 contracted research and development, capital equipment, and
14 construction or renovation of state or private facilities.

15 (c) A person receiving money under this subchapter may not
16 spend more than five percent of the money for indirect costs.

17 (d) Not more than five percent of the money awarded under
18 this subchapter may be used for facility construction purposes
19 during any year.

20 (e) Not more than 10 percent of the money awarded under this
21 subchapter may be used for cancer prevention and control programs
22 during any year.

23 Sec. 102.204. PREFERENCE FOR TEXAS BUSINESSES. If the
24 Texas Public Finance Authority contracts with a private entity to
25 issue the bonds under this subchapter, the Texas Public Finance
26 Authority shall consider contracting with an entity that has its
27 principal place of business in this state and shall include using a

1 historically underutilized business as defined by Section
2 2161.001, Government Code.

3 SUBCHAPTER F. PROCEDURE FOR MAKING AWARDS

4 Sec. 102.251. DUTIES OF SCIENTIFIC RESEARCH AND PREVENTION
5 PROGRAMS COMMITTEE. (a) The research and prevention programs
6 committee shall review grant applications and make recommendations
7 to the oversight committee regarding the award of research, therapy
8 development, and clinical trial grants.

9 (b) The ex officio members of the research and prevention
10 programs committee may participate in the review and discussion of
11 grant applications but may not vote on recommendations to the
12 oversight committee. In making recommendations to the oversight
13 committee, the research and prevention programs committee shall
14 give priority to proposals that:

15 (1) could lead to immediate or long-term medical and
16 scientific breakthroughs in the area of cancer prevention or cures
17 for cancer;

18 (2) strengthen and enhance fundamental science in
19 cancer research;

20 (3) ensure a comprehensive coordinated approach to
21 cancer research;

22 (4) are interdisciplinary or interinstitutional;

23 (5) address federal or other major research sponsors'
24 priorities in emerging scientific or technology fields in the area
25 of cancer prevention or cures for cancer;

26 (6) are matched with funds available by a private or
27 nonprofit entity and institution or institutions of higher

1 education;

2 (7) are collaborative between any combination of
3 private and nonprofit entities, public or private agencies or
4 institutions in this state, and public or private institutions
5 outside this state;

6 (8) have a demonstrable economic development benefit
7 to this state;

8 (9) enhance research superiority at institutions of
9 higher education in this state by creating new research
10 superiority, attracting existing research superiority from
11 institutions not located in this state and other research entities,
12 or enhancing existing research superiority by attracting from
13 outside this state additional researchers and resources; and

14 (10) expedite innovation and commercialization,
15 attract, create, or expand private sector entities that will drive
16 a substantial increase in high-quality jobs, and increase higher
17 education applied science or technology research capabilities.

18 (c) A member of the research and prevention programs
19 committee may not attempt to use the committee member's official
20 position to influence a decision to approve or award a grant or
21 contract to the committee member's employer.

22 Sec. 102.252. OVERRIDING RESEARCH AND PREVENTION PROGRAMS
23 COMMITTEE RECOMMENDATIONS. The oversight committee must follow the
24 funding recommendations of the research and prevention programs
25 committee unless two-thirds of the members of the oversight
26 committee vote to disregard a recommendation.

27 Sec. 102.253. MAXIMUM AMOUNT OF ANNUAL AWARDS. The

1 oversight committee may not award more than \$300 million in grants
2 under Subchapter E in a fiscal year.

3 Sec. 102.254. PERIOD FOR AWARDS. The oversight committee
4 may not award money under Subchapter E before January 1, 2008, or
5 after August 31, 2020.

6 Sec. 102.255. CONTRACT TERMS. (a) The oversight committee
7 shall negotiate on behalf of the state regarding awarding, by
8 grant, money under this chapter.

9 (b) Before awarding a grant under Subchapter E, the
10 committee shall enter into a written contract with the grant
11 recipient. The contract may specify that:

12 (1) if all or any portion of the amount of the grant is
13 used to build a capital improvement:

14 (A) the state retains a lien or other interest in
15 the capital improvement in proportion to the percentage of the
16 grant amount used to pay for the capital improvement; and

17 (B) the grant recipient shall, if the capital
18 improvement is sold:

19 (i) repay to the state the grant money used
20 to pay for the capital improvement, with interest at the rate and
21 according to the other terms provided by the contract; and

22 (ii) share with the state a proportionate
23 amount of any profit realized from the sale; and

24 (2) if, as of a date specified in the contract, the
25 grant recipient has not used grant money awarded under Subchapter E
26 for the purposes for which the grant was intended, the recipient
27 shall repay that amount and any related interest applicable under

1 the contract to the state at the agreed rate and on the agreed
2 terms.

3 (c) The contract must include terms relating to
4 intellectual property rights consistent with the standards
5 developed by the oversight committee under Section 102.256.

6 (d) Before the oversight committee may make any grant of any
7 proceeds of the bonds issued under Subchapter E, the recipient of
8 the grant must have an amount of funds equal to one-half of the
9 grant dedicated to the research that is the subject of the grant
10 request.

11 Sec. 102.256. PATENT ROYALTIES AND LICENSE REVENUES PAID TO
12 STATE. (a) The oversight committee shall establish standards that
13 require all grant awards to be subject to an intellectual property
14 agreement that allows the state to collect royalties, income, and
15 other benefits realized as a result of projects undertaken with
16 money awarded under Subchapter E.

17 (b) In determining the state's interest in any intellectual
18 property rights, the oversight committee shall balance the
19 opportunity of the state to benefit from the patents, royalties,
20 licenses, and other benefits that result from basic research,
21 therapy development, and clinical trials with the need to ensure
22 that essential medical research is not unreasonably hindered by the
23 intellectual property agreement and that the agreement does not
24 unreasonably remove the incentive on the part of the individual
25 researcher, research team, or institution.

26 Sec. 102.257. MULTIYEAR PROJECTS. The oversight committee
27 may grant funds for a multiyear project. All the money needed to

1 fund a multiyear project must be awarded in the state fiscal year
2 that the project is approved by the research and prevention
3 programs committee. The institute shall distribute only the money
4 that will be expended during that fiscal year. The remaining money
5 shall be maintained in an escrow account to be distributed by the
6 institute in subsequent years of the project.

7 Sec. 102.258. PREFERENCE FOR TEXAS SUPPLIERS. The
8 oversight committee shall establish standards to ensure that grant
9 recipients purchase goods and services from suppliers in this state
10 to the extent reasonably possible, in a good faith effort to achieve
11 a goal of more than 50 percent of such purchases from suppliers in
12 this state.

13 Sec. 102.259. HISTORICALLY UNDERUTILIZED BUSINESSES. The
14 oversight committee shall establish standards to ensure that grant
15 recipients purchase goods and services from historically
16 underutilized businesses as defined by Chapter 2161, Government
17 Code, and any other applicable state law.

18 Sec. 102.260. PEER REVIEW. The research and prevention
19 programs committee shall require a peer review progress oversight
20 review of each grant recipient to ensure compliance with the terms
21 of the award and to ensure the scientific merit of the research.
22 The research and prevention programs committee shall report to the
23 oversight committee any recommendations for subsequent actions.

24 Sec. 102.261. MEDICAL ETHICS. Any research project that
25 receives money under Subchapter E must:

26 (1) be conducted with full consideration for the
27 ethical and medical implications of the research; and

1 (2) comply with all federal and state laws regarding
2 the conduct of research.

3 ~~[Sec. 102.008. MEETINGS. (a) The council shall meet at the~~
4 ~~call of the presiding officer.~~

5 ~~[(b) The council shall develop and implement policies that~~
6 ~~provide the public with a reasonable opportunity to appear before~~
7 ~~the council and to speak on any issue under the jurisdiction of the~~
8 ~~council.~~

9 ~~[Sec. 102.009. POWERS AND DUTIES OF COUNCIL. (a) The~~
10 ~~council shall:~~

11 ~~[(1) work to implement the Texas Cancer Plan;~~

12 ~~[(2) continually monitor and revise the Texas Cancer~~
13 ~~Plan as necessary;~~

14 ~~[(3) promote the development and coordination of~~
15 ~~effective and efficient statewide public and private policies,~~
16 ~~programs, and services related to cancer; and~~

17 ~~[(4) encourage cooperative, comprehensive, and~~
18 ~~complementary planning among the public, private, and volunteer~~
19 ~~sectors involved in cancer research, prevention, detection, and~~
20 ~~treatment.~~

21 ~~[(b) The council may:~~

22 ~~[(1) employ an executive director;~~

23 ~~[(2) appoint advisory committees necessary to~~
24 ~~implement the Texas Cancer Plan and employ necessary staff to~~
25 ~~provide administrative support;~~

26 ~~[(3) monitor contracts and agreements for cancer~~
27 ~~programs authorized by this chapter;~~

1 ~~[(4) conduct necessary studies and surveys,~~

2 ~~[(5) accept, transfer, and spend funds made available~~
3 ~~by the federal or state government or by any other public or private~~
4 ~~source, subject to limitations and conditions prescribed by~~
5 ~~legislative appropriation; and~~

6 ~~[(6) use the existing staff of an appointed official~~
7 ~~or agency to assist the council in performing its duties under this~~
8 ~~chapter.~~

9 ~~[(c) The Texas Cancer Council and/or its contracted~~
10 ~~projects shall maintain for physicians a listing of available~~
11 ~~continuing medical education courses in pain treatment offered by~~
12 ~~accredited Texas medical and osteopathic schools, hospitals,~~
13 ~~health care facilities, or professional societies or associations~~
14 ~~for physicians.~~

15 ~~[Sec. 102.010. GRANT PROGRAM. (a) If funds are available,~~
16 ~~the council may establish a grant program to provide funds to public~~
17 ~~or private persons to implement the Texas Cancer Plan.~~

18 ~~[(b) The council shall adopt rules governing the submission~~
19 ~~and approval of grant requests and the cancellation of grants.~~

20 ~~[(c) To receive a grant, a person whose grant request is~~
21 ~~approved must execute an interagency agreement or a contract with~~
22 ~~the council. The contract must require the person receiving the~~
23 ~~grant to perform the services as stated in the approved grant~~
24 ~~request. The contract must contain appropriate provisions for~~
25 ~~program and fiscal monitoring.~~

26 ~~[Sec. 102.011. STANDARDS OF CONDUCT. The executive~~
27 ~~director or the executive director's designee shall provide to~~

1 ~~members of the council and to council employees, as often as~~
2 ~~necessary, information regarding the requirements for office or~~
3 ~~employment under this chapter, including information regarding a~~
4 ~~person's responsibilities under applicable laws relating to~~
5 ~~standards of conduct for state officers or employees.~~

6 ~~[Sec. 102.012. CANCER RESOURCE FUND. (a) The cancer~~
7 ~~resource fund is an account of the general revenue fund.~~

8 ~~[(b) The legislature may appropriate money deposited to the~~
9 ~~credit of the cancer resource fund only to the council for cancer~~
10 ~~prevention, cancer research, and medical care for cancer victims.~~

11 ~~[(c) The council shall develop a policy governing the award~~
12 ~~of funds for clinical research that follows scientific peer review~~
13 ~~and approval by the National Cancer Institute of the National~~
14 ~~Institutes of Health or that follows other review procedures that~~
15 ~~are designed to distribute those funds on the basis of scientific~~
16 ~~merit.~~

17 ~~[(d) Interest earned from the investment of the cancer~~
18 ~~resource fund shall be deposited to the credit of the fund.~~

19 ~~[Sec. 102.013. TRAINING. (a) A person who is appointed to~~
20 ~~and qualifies for office as a member of the council may not vote,~~
21 ~~deliberate, or be counted as a member in attendance at a meeting of~~
22 ~~the council until the person completes a training program that~~
23 ~~complies with this section.~~

24 ~~[(b) The training program must provide the person with~~
25 ~~information regarding:~~

26 ~~[(1) the legislation that created the council,~~

27 ~~[(2) the programs operated by the council,~~

1 ~~[(3) the role and functions of the council,~~

2 ~~[(4) the rules of the council, with an emphasis on the~~
3 ~~rules that relate to disciplinary and investigatory authority,~~

4 ~~[(5) the current budget for the council,~~

5 ~~[(6) the results of the most recent formal audit of the~~
6 ~~council,~~

7 ~~[(7) the requirements of:~~

8 ~~[(A) the open meetings law, Chapter 551,~~
9 ~~Government Code,~~

10 ~~[(B) the public information law, Chapter 552,~~
11 ~~Government Code,~~

12 ~~[(C) the administrative procedure law, Chapter~~
13 ~~2001, Government Code, and~~

14 ~~[(D) other laws relating to public officials,~~
15 ~~including conflict of interest laws, and~~

16 ~~[(8) any applicable ethics policies adopted by the~~
17 ~~council or the Texas Ethics Commission.~~

18 ~~[(c) A person appointed to the council is entitled to~~
19 ~~reimbursement, as provided by the General Appropriations Act, for~~
20 ~~the travel expenses incurred in attending the training program~~
21 ~~regardless of whether the attendance at the program occurs before~~
22 ~~or after the person qualifies for office.~~

23 ~~[Sec. 102.014. SEPARATION OF RESPONSIBILITIES. The council~~
24 ~~shall develop and implement policies that clearly separate the~~
25 ~~policymaking responsibilities of the council and the management~~
26 ~~responsibilities of the executive director and the staff of the~~
27 ~~council.~~

1 ~~[Sec. 102.015. COMPLAINTS. (a) The council shall maintain~~
2 ~~a file on each written complaint filed with the council. The file~~
3 ~~must include:~~

4 ~~[(1) the name of the person who filed the complaint;~~

5 ~~[(2) the date the complaint is received by the~~
6 ~~council;~~

7 ~~[(3) the subject matter of the complaint;~~

8 ~~[(4) the name of each person contacted in relation to~~
9 ~~the complaint;~~

10 ~~[(5) a summary of the results of the review or~~
11 ~~investigation of the complaint; and~~

12 ~~[(6) an explanation of the reason the file was closed,~~
13 ~~if the council closed the file without taking action other than to~~
14 ~~investigate the complaint.~~

15 ~~[(b) The council shall provide to the person filing the~~
16 ~~complaint and to each person who is a subject of the complaint a~~
17 ~~copy of the council's policies and procedures relating to complaint~~
18 ~~investigation and resolution.~~

19 ~~[(c) The council, at least quarterly until final~~
20 ~~disposition of the complaint, shall notify the person filing the~~
21 ~~complaint and each person who is a subject of the complaint of the~~
22 ~~status of the investigation unless the notice would jeopardize an~~
23 ~~undercover investigation.~~

24 ~~[Sec. 102.016. EQUAL EMPLOYMENT OPPORTUNITY. (a) The~~
25 ~~executive director or the executive director's designee shall~~
26 ~~prepare and maintain a written policy statement that implements a~~
27 ~~program of equal employment opportunity to ensure that all~~

1 ~~personnel decisions are made without regard to race, color,~~
2 ~~disability, sex, religion, age, or national origin.~~

3 ~~[(b) The policy statement must include:~~

4 ~~[(1) personnel policies, including policies relating~~
5 ~~to recruitment, evaluation, selection, training, and promotion of~~
6 ~~personnel, that show the intent of the council to avoid the unlawful~~
7 ~~employment practices described by Chapter 21, Labor Code, and~~

8 ~~[(2) an analysis of the extent to which the~~
9 ~~composition of the council's personnel is in accordance with state~~
10 ~~and federal law and a description of reasonable methods to achieve~~
11 ~~compliance with state and federal law.~~

12 ~~[(c) The policy statement must:~~

13 ~~[(1) be updated annually;~~

14 ~~[(2) be reviewed by the state Commission on Human~~
15 ~~Rights for compliance with Subsection (b)(1); and~~

16 ~~[(3) be filed with the governor's office.~~

17 ~~[Sec. 102.017. TEXANS CONQUER CANCER ACCOUNT. (a) The~~
18 ~~Texans Conquer Cancer account is a separate account in the general~~
19 ~~revenue fund. The account is composed of:~~

20 ~~[(1) money deposited to the credit of the account~~
21 ~~under Section 502.2735, Transportation Code, and~~

22 ~~[(2) gifts, grants, and donations.~~

23 ~~[(b) The council administers the account. The council may~~
24 ~~spend money credited to the account only to:~~

25 ~~[(1) make grants to nonprofit organizations that~~
26 ~~provide support services for cancer patients and their families;~~
27 ~~and~~

1 ~~[(2) defray the cost of administering the account.]~~

2 ~~[(c) The council:~~

3 ~~[(1) may accept gifts, donations, and grants from any~~
4 ~~source for the benefit of the account; and~~

5 ~~[(2) by rule shall establish guidelines for spending~~
6 ~~money credited to the account.]~~

7 ~~[Sec. 102.018. TEXANS CONQUER CANCER ADVISORY COMMITTEE.]~~

8 ~~(a) The council shall appoint a seven-member Texans Conquer Cancer~~
9 ~~advisory committee.]~~

10 ~~[(b) The committee shall:~~

11 ~~[(1) assist the council in establishing guidelines for~~
12 ~~the expenditure of money credited to the Texans Conquer Cancer~~
13 ~~account; and~~

14 ~~[(2) review and make recommendations to the council on~~
15 ~~applications submitted to the council for grants funded with money~~
16 ~~credited to the Texans Conquer Cancer account.]~~

17 ~~[(c) Members of the committee serve without compensation~~
18 ~~and are not entitled to reimbursement for expenses. Each member~~
19 ~~serves a term of four years, with the terms of three or four members~~
20 ~~expiring on January 31 of each odd-numbered year.]~~

21 ~~[(d) Section 2110.008, Government Code, does not apply to~~
22 ~~the committee.]~~

23 SECTION 5. Section 504.017, Labor Code, is amended to read
24 as follows:

25 Sec. 504.017. FEDERAL AND STATE FUNDED TRANSPORTATION
26 ENTITIES. An entity is eligible to participate under Section
27 504.016 or Chapter 791 or 2259, Government Code, if the entity

1 provides transportation subsidized in whole or in part by and
2 provided to clients of:

3 (1) the [~~Texas~~] Department of Assistive and
4 Rehabilitative Services [~~on Aging~~];

5 (2) the Department of State Health Services [~~Texas~~
6 ~~Commission on Alcohol and Drug Abuse~~];

7 (3) the Cancer Prevention and Research Institute of
8 Texas [~~the Texas Commission for the Blind~~];

9 (4) [~~the Texas Cancer Council~~];

10 [~~(5) the Texas Commission for the Deaf and Hard of~~
11 ~~Hearing~~];

12 [~~(6)~~] the Texas Department of Housing and Community
13 Affairs;

14 (5) [~~(7)~~] the Health and [~~Texas Department of~~] Human
15 Services Commission;

16 (6) [~~(8)~~] the [~~Texas~~] Department of Aging and
17 Disability Services [~~Mental Health and Mental Retardation~~];

18 [~~(9) the Texas Rehabilitation Commission~~]; or

19 (7) [~~(10)~~] the Texas Youth Commission.

20 SECTION 6. Section 504.620, Transportation Code, is amended
21 to read as follows:

22 Sec. 504.620. TEXANS CONQUER CANCER LICENSE PLATES. (a)
23 The department shall issue specialty license plates that include
24 the words "Texans Conquer Cancer." The department shall design the
25 license plates in consultation with the Cancer Prevention and
26 Research Institute of Texas [~~Cancer Council~~].

27 (b) After deduction of the department's administrative

1 costs, the remainder of the fee for issuance of the license plates
2 shall be deposited to the credit of the cancer prevention and
3 research fund [~~Texans Conquer Cancer account~~] established by
4 Section 102.201 [~~102.017~~], Health and Safety Code.

5 SECTION 7. Section 86.011(c), Health and Safety Code, is
6 repealed.

7 SECTION 8. (a) Not later than December 1, 2007, the
8 appropriate appointing authority shall appoint the members to the
9 Cancer Prevention and Research Institute of Texas Oversight
10 Committee as required by Section 102.101, Health and Safety Code,
11 as added by this Act. The oversight committee may not take action
12 until a majority of the appointed members have taken office.

13 (b) Not later than December 1, 2007, the governor and the
14 other appointing authorities specified by Section 102.151, Health
15 and Safety Code, as added by this Act, shall appoint the members to
16 the Cancer Prevention and Research Institute of Texas Scientific
17 Research and Prevention Programs Committee as required by that
18 section. The research and prevention programs committee may not
19 take action until a majority of the appointed members have taken
20 office.

21 SECTION 9. (a) On the date on which a majority of the
22 initial appointed members of the Cancer Prevention and Research
23 Institute of Texas Oversight Committee have taken office, the Texas
24 Cancer Council is dissolved and all powers, duties, obligations,
25 rights, contracts, leases, records, property, and unspent and
26 unobligated appropriations and other funds of the Texas Cancer
27 Council are transferred to the Cancer Prevention and Research

1 Institute of Texas.

2 (b) The reorganization of the Texas Cancer Council into the
3 Cancer Prevention and Research Institute of Texas does not affect
4 the validity of a right, privilege, or obligation accrued, a
5 contract or acquisition made, any liability incurred, a permit or
6 license issued, any penalty, forfeiture, or punishment assessed, a
7 rule adopted, a proceeding, investigation, or remedy begun, a
8 decision made, or other action taken by or in connection with the
9 Texas Cancer Council.

10 (c) All rules, policies, procedures, and decisions of the
11 Texas Cancer Council are continued in effect as rules, policies,
12 procedures, and decisions of the Cancer Prevention and Research
13 Institute of Texas until superseded by a rule or other appropriate
14 action of the Cancer Prevention and Research Institute of Texas.

15 (d) Any action or proceeding before the Texas Cancer Council
16 is transferred without change in status to the Cancer Prevention
17 and Research Institute of Texas, and the Cancer Prevention and
18 Research Institute of Texas assumes, without a change in status,
19 the position of the Texas Cancer Council in any action or proceeding
20 to which the Texas Cancer Council is a party.

21 (e) An employee of the Texas Cancer Council employed on the
22 effective date of this Act automatically becomes an employee of the
23 Cancer Prevention and Research Institute of Texas to exercise the
24 powers and perform the duties transferred under this section. The
25 executive director of the Texas Cancer Council serving on the
26 effective date of this Act does not automatically become the
27 executive director of the Cancer Prevention and Research Institute

1 of Texas. To become the executive director of the Cancer Prevention
2 and Research Institute of Texas, a person must apply for the
3 position and the person's employment in that capacity must be
4 approved by the oversight committee.

5 (f) A fund, foundation, or account administered by the Texas
6 Cancer Council is not considered to be abolished and re-created by
7 this Act but is considered to be transferred to the Cancer
8 Prevention and Research Institute of Texas.

9 (g) Until the date the Texas Cancer Council is reorganized
10 into the Cancer Prevention and Research Institute of Texas as
11 provided by Subsection (a) of this section, the Texas Cancer
12 Council shall continue to exercise the powers and perform the
13 duties assigned to the Texas Cancer Council under the law as it
14 existed immediately before the effective date of this Act or as
15 modified by another Act of the 80th Legislature, Regular Session,
16 2007, that becomes law, and the former law is continued in effect
17 for that purpose.

18 SECTION 10. On or after the effective date of this Act, any
19 amount remaining in or payable to the credit of the cancer resource
20 fund under Section 102.012, Health and Safety Code, and the Texans
21 Conquer Cancer account under Section 102.017, Health and Safety
22 Code, as those sections existed before repeal by this Act, shall be
23 transferred to the credit of the cancer prevention and research
24 fund established under Section 102.201, Health and Safety Code, as
25 added by this Act.

26 SECTION 11. This Act takes effect on the date on which the
27 constitutional amendment proposed by the 80th Legislature, Regular

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1 Session, 2007, establishing the Cancer Prevention and Research
2 Institute of Texas is approved by the voters. If that amendment is
3 not approved by the voters, this Act has no effect.