

1-1 By: Nelson, et al. S.B. No. 1292
1-2 (In the Senate - Filed March 7, 2007; March 19, 2007, read
1-3 first time and referred to Committee on Health and Human Services;
1-4 May 14, 2007, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; May 14, 2007,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1292 By: Nelson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to reorganizing certain state institutions that provide
1-11 financing for cancer research, including creating the Cancer
1-12 Prevention and Research Institute of Texas; granting authority to
1-13 issue bonds.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 SECTION 1. Subsection (b), Section 86.003, Health and
1-16 Safety Code, is amended to read as follows:

1-17 (b) The advisory council shall include at least one of each
1-18 of the following:

1-19 (1) a representative of a statewide nonprofit
1-20 organization that is an advocate for breast cancer patients;

1-21 (2) a representative of a statewide professional
1-22 organization representing the full spectrum of physicians;

1-23 (3) a physician associated with an institution of
1-24 higher education who specializes in the treatment of breast cancer;
1-25 and

1-26 (4) a representative of the Cancer Prevention and
1-27 Research Institute of Texas [~~Cancer Council~~].

1-28 SECTION 2. Chapter 102, Health and Safety Code, is amended
1-29 to read as follows:

1-30 CHAPTER 102. [~~TEXAS~~] CANCER PREVENTION AND RESEARCH INSTITUTE OF
1-31 TEXAS [~~COUNCIL~~]

1-32 SUBCHAPTER A. GENERAL PROVISIONS

1-33 Sec. 102.001. DEFINITIONS [~~DEFINITION~~]. In this chapter:

1-34 (1) "Institute" means the Cancer Prevention and
1-35 Research Institute of Texas.

1-36 (2) "Oversight committee" means the Cancer Prevention
1-37 and Research Institute of Texas Oversight Committee.

1-38 (3) "Research and prevention programs committee"
1-39 means the Cancer Prevention and Research Institute of Texas
1-40 Scientific Research and Prevention Programs Committee [~~,"council"~~
1-41 ~~means the Texas Cancer Council~~].

1-42 Sec. 102.002. PURPOSES [~~TEXAS CANCER COUNCIL~~]. The [~~Texas~~]
1-43 Cancer Prevention and Research Institute of Texas is established
1-44 to:

1-45 (1) create and expedite innovation in the area of
1-46 cancer research and in enhancing the potential for a medical or
1-47 scientific breakthrough in the prevention of cancer and cures for
1-48 cancer;

1-49 (2) attract, create, or expand research capabilities
1-50 of public or private institutions of higher education and other
1-51 public or private entities that will promote a substantial increase
1-52 in cancer research and in the creation of high-quality new jobs in
1-53 this state; and

1-54 (3) develop [~~Council shall develop~~] and [~~work to~~]
1-55 implement the Texas Cancer Plan.

1-56 Sec. 102.003. SUNSET PROVISION. The Cancer Prevention and
1-57 Research Institute of Texas [~~Cancer Council~~] is subject to Chapter
1-58 325, Government Code (Texas Sunset Act). Unless continued in
1-59 existence as provided by that chapter, the institute [~~council~~] is
1-60 abolished and this chapter expires September 1, 2021 [~~2009~~].

1-61 SUBCHAPTER B. POWERS AND DUTIES OF INSTITUTE

1-62 Sec. 102.051. POWERS AND DUTIES. (a) The institute may:

1-63 (1) make grants to provide funds to public or private

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

2-4 (A) peer reviewed research into the causes of and
 2-5 cures for all types of cancer in humans;

2-6 (B) facilities for use in research into the
 2-7 causes of and cures for cancer; and

2-8 (C) research, including translational research,
 2-9 to develop therapies, protocols, medical pharmaceuticals, or
 2-10 procedures for the cure or substantial mitigation of all types of
 2-11 cancer in humans;

2-12 (2) support institutions of learning and advanced
 2-13 medical research facilities and collaborations in this state in all
 2-14 stages in the process of finding the causes of all types of cancer
 2-15 in humans and developing cures, from laboratory research to
 2-16 clinical trials and including programs to address the problem of
 2-17 access to advanced cancer treatment;

2-18 (3) establish the appropriate standards and oversight
 2-19 bodies to ensure the proper use of funds authorized under this
 2-20 chapter for cancer research and facilities development;

2-21 (4) employ an executive director as determined by the
 2-22 oversight committee;

2-23 (5) employ necessary staff to provide administrative
 2-24 support; and

2-25 (6) monitor contracts and agreements authorized by
 2-26 this chapter.

2-27 (b) The institute shall work to implement the Texas Cancer
 2-28 Plan and continually monitor and revise the Texas Cancer Plan as
 2-29 necessary.

2-30 Sec. 102.052. ANNUAL PUBLIC REPORT. (a) The institute
 2-31 shall issue an annual public report outlining the institute's
 2-32 activities, grants awarded, grants in progress, research
 2-33 accomplishments, and future program directions. The report must
 2-34 include:

2-35 (1) the number and dollar amounts of research and
 2-36 facilities grants;

2-37 (2) identification of the grant recipients for the
 2-38 reported year;

2-39 (3) the institute's administrative expenses;

2-40 (4) an assessment of the availability of funding for
 2-41 cancer research from sources other than the institute;

2-42 (5) a summary of findings of research funded by the
 2-43 institute, including promising new research areas;

2-44 (6) an assessment of the relationship between the
 2-45 institute's grants and the overall strategy of its research
 2-46 program;

2-47 (7) a statement of the institute's strategic research
 2-48 and financial plans; and

2-49 (8) an estimate of how much cancer has cost the state
 2-50 during the year, including the amounts spent by the state relating
 2-51 to cancer by the child health program, the Medicaid program, the
 2-52 Teacher Retirement System of Texas, and the Employees Retirement
 2-53 System of Texas.

2-54 (b) The institute shall submit the annual public report to
 2-55 the governor and the legislature.

2-56 Sec. 102.053. INDEPENDENT FINANCIAL AUDIT FOR REVIEW BY
 2-57 COMPTROLLER. (a) The institute shall annually commission an
 2-58 independent financial audit of its activities from a certified
 2-59 public accounting firm. The institute shall provide the audit to
 2-60 the comptroller. The comptroller shall review and evaluate the
 2-61 audit and annually issue a public report of that review. The
 2-62 comptroller shall make recommendations concerning the institute's
 2-63 financial practices and performance.

2-64 (b) The oversight committee shall review the annual
 2-65 financial audit, the comptroller's report and evaluation of that
 2-66 audit, and the financial practices of the institute.

2-67 Sec. 102.054. GIFTS AND GRANTS. The institute may solicit
 2-68 and accept gifts and grants from any source for the purposes of this
 2-69 chapter.

3-1 Sec. 102.055. QUARTERLY MEETINGS. The oversight committee
3-2 shall hold a public meeting at least once in each quarter of the
3-3 calendar year, with appropriate notice and with a formal public
3-4 comment period.

3-5 SUBCHAPTER C. OVERSIGHT COMMITTEE

3-6 Sec. 102.101 [102.004]. COMPOSITION OF OVERSIGHT COMMITTEE
3-7 [COUNCIL]. (a) The Cancer Prevention and Research Institute of
3-8 Texas Oversight Committee is the governing body of the institute.

3-9 (b) The oversight committee [council] is composed of the
3-10 following 11 members:

3-11 (1) three members appointed by the governor [the
3-12 chairman of the Texas Board of Health, or a representative
3-13 appointed by the chairman, who serves as an ex officio nonvoting
3-14 member];

3-15 (2) three members appointed by the lieutenant [one
3-16 physician active in the treatment of cancer, appointed by the]
3-17 governor;

3-18 (3) three members appointed by the speaker of the
3-19 house of representatives [one physician active in the treatment of
3-20 cancer, appointed by the lieutenant governor];

3-21 (4) the comptroller or the comptroller's designee [one
3-22 physician active in the treatment of cancer, appointed by the
3-23 speaker of the house of representatives]; and

3-24 (5) the governor or the governor's designee [one
3-25 representative of a voluntary health organization interested in
3-26 cancer, appointed by the governor;

3-27 [6) one representative of a voluntary health
3-28 organization interested in cancer, appointed by the lieutenant
3-29 governor;

3-30 [7) one representative of a voluntary health
3-31 organization interested in cancer, appointed by the speaker of the
3-32 house of representatives;

3-33 [8) one representative of a licensed health care
3-34 facility that treats a significant number of cancer patients,
3-35 appointed by the governor;

3-36 [9) one representative of a licensed health care
3-37 facility that treats a significant number of cancer patients,
3-38 appointed by the lieutenant governor;

3-39 [10) one representative of a licensed health care
3-40 facility that treats a significant number of cancer patients,
3-41 appointed by the speaker of the house of representatives;

3-42 [11) one member of the public, appointed by the
3-43 governor;

3-44 [12) one member of the public, appointed by the
3-45 lieutenant governor;

3-46 [13) one member of the public, appointed by the
3-47 speaker of the house of representatives;

3-48 [14) one licensed health care professional active in
3-49 the treatment or control of cancer, other than a physician,
3-50 appointed by the governor;

3-51 [15) one licensed health care professional active in
3-52 the treatment or control of cancer, other than a physician,
3-53 appointed by the lieutenant governor; and

3-54 [16) one licensed health care professional active in
3-55 the treatment or control of cancer, other than a physician,
3-56 appointed by the speaker of the house of representatives].

3-57 (c) The members of the oversight committee must represent
3-58 the geographic and cultural diversity of the state.

3-59 (d) [(b)] In making appointments to the oversight committee
3-60 [council], the governor, lieutenant governor, and speaker of the
3-61 house of representatives should attempt to include cancer survivors
3-62 and family members of cancer patients if possible.

3-63 (e) [Sec. 102.0041. QUALIFICATIONS OF COUNCIL MEMBERS AND
3-64 EMPLOYEES. (a) In this section, "Texas trade association" means a
3-65 cooperative and voluntarily joined association of business or
3-66 professional competitors in this state designed to assist its
3-67 members and its industry or profession in dealing with mutual
3-68 business or professional problems and in promoting their common
3-69 interest. The term does not include a voluntary health

4-1 ~~organization.~~

4-2 ~~[(b)]~~ A person may not be a ~~[public]~~ member of the oversight

4-3 committee ~~[council]~~ if the person or the person's spouse:

4-4 (1) is employed by or participates in the management

4-5 of a business entity or other organization receiving money from the

4-6 institute ~~[council]~~;

4-7 (2) owns or controls, directly or indirectly, more

4-8 than a five ~~[10]~~ percent interest in a business entity or other

4-9 organization receiving money from the institute ~~[council]~~; or

4-10 (3) uses or receives a substantial amount of tangible

4-11 goods, services, or money from the institute ~~[council]~~, other than

4-12 ~~[compensation or]~~ reimbursement authorized by this chapter ~~[law]~~

4-13 for oversight committee ~~[council]~~ membership, attendance, or

4-14 expenses.

4-15 ~~[(c)]~~ A person may not be a member of the council and may not

4-16 be a council employee employed in a "bona fide executive,

4-17 administrative, or professional capacity," as that phrase is used

4-18 for purposes of establishing an exemption to the overtime

4-19 provisions of the federal Fair Labor Standards Act of 1938 (29

4-20 U.S.C. Section 201 et seq.) and its subsequent amendments if:

4-21 ~~[(1)]~~ the person is an officer, employee, or paid

4-22 consultant of a Texas trade association in the field of cancer

4-23 control; or

4-24 ~~[(2)]~~ the person's spouse is an officer, manager, or

4-25 paid consultant of a Texas trade association in the field of cancer

4-26 control.

4-27 ~~[(d)]~~ A person may not be a member of the council or act as

4-28 the general counsel to the council or the council's staff if the

4-29 person is required to register as a lobbyist under Chapter 305,

4-30 Government Code, because of the person's activities for

4-31 compensation on behalf of a profession related to the operation of

4-32 the council.

4-33 ~~[(e)]~~ Appointments to the council shall be made without

4-34 regard to the race, color, disability, sex, religion, age, or

4-35 national origin of the appointees.]

4-36 Sec. 102.102. REMOVAL. (a) ~~[(f)]~~ It is a ground for

4-37 removal from the oversight committee ~~[council]~~ that a member:

4-38 (1) ~~[(1)]~~ ~~[does not have at the time of taking office the~~

4-39 ~~qualifications required by Section 102.004;~~

4-40 ~~[(2)]~~ ~~[does not maintain during service on the council~~

4-41 ~~the qualifications required by Section 102.004;~~

4-42 ~~[(3)]~~ is ineligible for membership under Section

4-43 102.101(e) ~~[Subsections (b)-(d)]~~;

4-44 (2) ~~[(4)]~~ cannot, because of illness or disability,

4-45 discharge the member's duties for a substantial part of the member's

4-46 term; or

4-47 (3) ~~[(5)]~~ is absent from more than half of the

4-48 regularly scheduled oversight committee ~~[council]~~ meetings that

4-49 the member is eligible to attend during a calendar year without an

4-50 excuse approved by a majority vote of the committee ~~[council]~~.

4-51 (b) ~~[(g)]~~ The validity of an action of the oversight

4-52 committee ~~[council]~~ is not affected by the fact that it is taken

4-53 when a ground for removal of a committee ~~[council]~~ member exists.

4-54 (c) ~~[(h)]~~ If the executive director has knowledge that a

4-55 potential ground for removal exists, the executive director shall

4-56 notify the presiding officer of the oversight committee ~~[council]~~

4-57 of the potential ground. The presiding officer shall then notify

4-58 the appointing authority and the attorney general that a potential

4-59 ground for removal exists. If the potential ground for removal

4-60 involves the presiding officer, the executive director shall notify

4-61 the next highest ranking officer of the oversight committee

4-62 ~~[council]~~, who shall then notify the appointing authority and the

4-63 attorney general that a potential ground for removal exists.

4-64 Sec. 102.103 ~~[102.005]~~. TERMS; VACANCY. (a) Oversight

4-65 committee ~~[Except for the ex officio member of the council,~~

4-66 ~~council]~~ members appointed by the governor, lieutenant governor,

4-67 and speaker of the house serve four-year ~~[for staggered six-year]~~

4-68 ~~terms[, with the terms of five members expiring February 1 of each~~

4-69 ~~even-numbered year].~~

5-1 (b) Not later than the 30th day after the date an oversight
 5-2 committee member's term expires, the appropriate appointing
 5-3 authority shall appoint a replacement.

5-4 (c) If a vacancy occurs on the oversight committee, the
 5-5 appropriate appointing authority shall appoint a successor, in the
 5-6 same manner as the original appointment, [a person] to serve for the
 5-7 remainder of the unexpired term. The appropriate appointing
 5-8 authority shall appoint the successor not later than the 30th day
 5-9 after the date the vacancy occurs.

5-10 Sec. 102.104 [102.006]. OFFICERS. The governor shall
 5-11 designate a member of the oversight committee [council, other than
 5-12 the ex officio member,] as the presiding officer of the oversight
 5-13 committee [council] to serve in that capacity at the pleasure of the
 5-14 governor.

5-15 Sec. 102.105 [102.007]. EXPENSES [COMPENSATION]. [(a)] A
 5-16 member of the oversight committee [council] is not entitled to
 5-17 compensation but is entitled to reimbursement for actual and
 5-18 necessary expenses incurred in attending meetings of the committee
 5-19 or performing other official [council] duties authorized by the
 5-20 presiding officer.

5-21 [(b) A member of the legislature shall be reimbursed from
 5-22 the appropriate fund of the legislature. A representative of a
 5-23 state agency shall be reimbursed from the funds of the agency the
 5-24 person represents. Other members shall be reimbursed from council
 5-25 funds.]

5-26 Sec. 102.106. CONFLICT OF INTEREST. The oversight
 5-27 committee shall adopt conflict-of-interest rules, based on
 5-28 standards applicable to members of scientific review committees of
 5-29 the National Institutes of Health, to govern members of the
 5-30 oversight committee.

5-31 Sec. 102.107. POWERS AND DUTIES. The oversight committee
 5-32 shall hire an executive director.

5-33 SUBCHAPTER D. RESEARCH AND PREVENTION PROGRAMS COMMITTEE

5-34 Sec. 102.151. SCIENTIFIC RESEARCH AND PREVENTION PROGRAMS
 5-35 COMMITTEE. (a) The Cancer Prevention and Research Institute of
 5-36 Texas Scientific Research and Prevention Programs Committee is
 5-37 composed of the following 18 members:

5-38 (1) one voting member appointed by the governor who is
 5-39 a physician or licensed health care professional active in the
 5-40 treatment of cancer;

5-41 (2) one voting member appointed by the lieutenant
 5-42 governor who is a physician or licensed health care professional
 5-43 active in the treatment of cancer;

5-44 (3) one voting member appointed by the speaker of the
 5-45 house of representatives who is a physician or licensed health care
 5-46 professional active in the treatment of cancer;

5-47 (4) one voting member appointed by the governor who is
 5-48 a representative of a licensed health care facility that treats a
 5-49 significant number of cancer patients;

5-50 (5) one voting member appointed by the lieutenant
 5-51 governor who is a representative of a licensed health care facility
 5-52 that treats a significant number of cancer patients;

5-53 (6) one voting member appointed by the speaker of the
 5-54 house of representatives who is a representative of a licensed
 5-55 health care facility that treats a significant number of cancer
 5-56 patients;

5-57 (7) one voting member appointed by the governor who is
 5-58 a representative of a voluntary health organization interested in
 5-59 cancer;

5-60 (8) one voting member appointed by the lieutenant
 5-61 governor who is a representative of a voluntary health organization
 5-62 interested in cancer;

5-63 (9) one voting member appointed by the speaker of the
 5-64 house of representatives who is a representative of a voluntary
 5-65 health organization interested in cancer;

5-66 (10) two nonvoting members appointed by the governor
 5-67 representing private or independent institutions of higher
 5-68 education in this state that have demonstrated success and
 5-69 leadership in cancer research;

6-1 (11) two nonvoting ex officio members appointed by the
6-2 chancellor of The University of Texas System to represent:
6-3 (A) The University of Texas Southwestern Medical
6-4 Center at Dallas;
6-5 (B) The University of Texas Medical Branch at
6-6 Galveston;
6-7 (C) The University of Texas Health Science Center
6-8 at Houston;
6-9 (D) The University of Texas Health Science Center
6-10 at San Antonio;
6-11 (E) The University of Texas Health Center at
6-12 Tyler; or
6-13 (F) The University of Texas M. D. Anderson Cancer
6-14 Center;

6-15 (12) one nonvoting ex officio member appointed by the
6-16 chancellor of The Texas A&M University System to represent:

6-17 (A) The Texas A&M University System Health
6-18 Science Center; or

6-19 (B) the teaching hospital for The Texas A&M
6-20 Health Science Center College of Medicine;

6-21 (13) one nonvoting ex officio member appointed by the
6-22 chancellor of the Texas Tech University System to represent the
6-23 Texas Tech University Health Sciences Center;

6-24 (14) one nonvoting ex officio member appointed by the
6-25 chancellor of the University of Houston System to represent the
6-26 system;

6-27 (15) one nonvoting ex officio member appointed by the
6-28 chancellor of the Texas State University System to represent the
6-29 system; and

6-30 (16) one nonvoting ex officio member appointed by the
6-31 chancellor of the University of North Texas System to represent the
6-32 system.

6-33 (b) Individuals appointed to the research and prevention
6-34 programs committee may be residents of another state.

6-35 Sec. 102.152. TERMS OF RESEARCH AND PREVENTION PROGRAMS
6-36 COMMITTEE MEMBERS. Members of the research and prevention programs
6-37 committee serve four-year terms.

6-38 Sec. 102.153. EXPENSES. Members of the research and
6-39 prevention programs committee serve without compensation but are
6-40 entitled to reimbursement for actual and necessary expenses in
6-41 attending meetings of the committee or performing other official
6-42 duties authorized by the presiding officer.

6-43 SUBCHAPTER E. CANCER PREVENTION AND RESEARCH FUND
6-44 Sec. 102.201. CANCER PREVENTION AND RESEARCH FUND.

6-45 (a) The cancer prevention and research fund is a dedicated account
6-46 in the general revenue fund.

6-47 (b) The cancer prevention and research fund consists of:

6-48 (1) patent, royalty, and license fees and other income
6-49 received under a contract entered into as provided by Section
6-50 102.255;

6-51 (2) appropriations of money to the fund by the
6-52 legislature;

6-53 (3) gifts, grants, including grants from the federal
6-54 government, and other donations received for the fund; and

6-55 (4) interest earned on the investment of money in the
6-56 fund.

6-57 (c) The fund may be used only to pay for:

6-58 (1) grants for cancer research and for cancer research
6-59 facilities in this state to realize therapies, protocols, and
6-60 medical procedures for the cure or substantial mitigation of all
6-61 types of cancer in humans;

6-62 (2) the purchase, subject to approval by the
6-63 institute, of laboratory facilities by or on behalf of a state
6-64 agency or grant recipient;

6-65 (3) grants to public or private persons to implement
6-66 the Texas Cancer Plan; and

6-67 (4) the operation of the institute.

6-68 Sec. 102.202. ISSUANCE OF GENERAL OBLIGATION BONDS.

6-69 (a) The institute may request the Texas Public Finance Authority

7-1 to issue and sell general obligation bonds of the state as
7-2 authorized by Section 67, Article III, Texas Constitution.

7-3 (b) The Texas Public Finance Authority may not issue and
7-4 sell general obligation bonds authorized by this section before
7-5 September 1, 2009, and may not issue and sell more than \$300 million
7-6 in general obligation bonds authorized by this section in a state
7-7 fiscal year.

7-8 (c) The institute shall determine, and include in its
7-9 request for issuing bonds, the amount, exclusive of costs of
7-10 issuance, of the bonds to be issued and the preferred time for
7-11 issuing the bonds.

7-12 (d) The Texas Public Finance Authority shall issue the bonds
7-13 in accordance with and subject to Chapter 1232, Government Code,
7-14 and Texas Public Finance Authority rules. The bonds may be issued
7-15 in installments.

7-16 (e) Proceeds of the bonds issued under this section shall be
7-17 deposited in separate funds or accounts, in the state treasury, as
7-18 shall be set out in the proceedings authorizing the bonds.

7-19 (f) The proceeds of the bonds may be used only to:

7-20 (1) make grants authorized by Section 67, Article III,
7-21 Texas Constitution;

7-22 (2) purchase laboratory facilities approved by the
7-23 institute;

7-24 (3) pay costs of operating the institute; or

7-25 (4) pay the costs of issuing the bonds and related bond
7-26 administration costs of the Texas Public Finance Authority.

7-27 Sec. 102.203. AUTHORIZED USE OF FUNDS. (a) A person
7-28 awarded money from the cancer prevention and research fund or from
7-29 bond proceeds under this subchapter may use the money for research
7-30 consistent with the purpose of this chapter and in accordance with a
7-31 contract between the person and the institute.

7-32 (b) Except as otherwise provided by this section, money
7-33 awarded under this subchapter may be used for authorized expenses,
7-34 including honoraria, salaries and benefits, travel, conference
7-35 fees and expenses, consumable supplies, other operating expenses,
7-36 contracted research and development, capital equipment, and
7-37 construction or renovation of state or private facilities.

7-38 (c) A person receiving money under this subchapter may not
7-39 spend more than five percent of the money for indirect costs.

7-40 (d) Not more than 10 percent of the money awarded under this
7-41 subchapter may be used for facility construction purposes during
7-42 any year.

7-43 (e) Not more than five percent of the money awarded under
7-44 this subchapter may be used for cancer control programs during any
7-45 year.

7-46 SUBCHAPTER F. PROCEDURE FOR MAKING AWARDS

7-47 Sec. 102.251. DUTIES OF SCIENTIFIC RESEARCH AND PREVENTION
7-48 PROGRAMS COMMITTEE. (a) The research and prevention programs
7-49 committee shall review grant applications and make recommendations
7-50 to the oversight committee regarding the award of research, therapy
7-51 development, and clinical trial grants.

7-52 (b) The ex officio members of the research and prevention
7-53 programs committee may participate in the review and discussion of
7-54 grant applications but may not vote on recommendations to the
7-55 oversight committee. In making recommendations to the oversight
7-56 committee, the research and prevention programs committee shall
7-57 give priority to proposals that:

7-58 (1) could lead to immediate or long-term medical and
7-59 scientific breakthroughs in the area of cancer prevention or cures
7-60 for cancer;

7-61 (2) strengthen and enhance fundamental science in
7-62 cancer research;

7-63 (3) ensure a comprehensive coordinated approach to
7-64 cancer research;

7-65 (4) are interdisciplinary or interinstitutional;

7-66 (5) address federal or other major research sponsors'
7-67 priorities in emerging scientific or technology fields in the area
7-68 of cancer prevention or cures for cancer;

7-69 (6) are matched with funds available by a private or

8-1 nonprofit entity and institution or institutions of higher
 8-2 education;

8-3 (7) are collaborative between any combination of
 8-4 private and nonprofit entities, public or private agencies or
 8-5 institutions in this state, and public or private institutions
 8-6 outside this state;

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

8-9 (9) enhance research superiority at institutions of
 8-10 higher education in this state by creating new research
 8-11 superiority, attracting existing research superiority from
 8-12 institutions not located in this state and other research entities,
 8-13 or enhancing existing research superiority by attracting from
 8-14 outside this state additional researchers and resources; and

8-15 (10) expedite innovation and commercialization,
 8-16 attract, create, or expand private sector entities that will drive
 8-17 a substantial increase in high-quality jobs, and increase higher
 8-18 education applied science or technology research capabilities.

8-19 (c) A member of the research and prevention programs
 8-20 committee may not attempt to use the committee member's official
 8-21 position to influence a decision to approve or award a grant or
 8-22 contract to the committee member's employer.

8-23 Sec. 102.252. OVERRIDING RESEARCH AND PREVENTION PROGRAMS
 8-24 COMMITTEE RECOMMENDATIONS. The oversight committee must follow the
 8-25 funding recommendations of the research and prevention programs
 8-26 committee unless two-thirds of the members of the oversight
 8-27 committee vote to disregard a recommendation.

8-28 Sec. 102.253. MAXIMUM AMOUNT OF ANNUAL AWARDS. The
 8-29 oversight committee may not award more than \$300 million in grants
 8-30 under Subchapter E in a fiscal year.

8-31 Sec. 102.254. PERIOD FOR AWARDS. The oversight committee
 8-32 may not award money under Subchapter E before September 1, 2009, or
 8-33 after August 31, 2020.

8-34 Sec. 102.255. CONTRACT TERMS. (a) The oversight committee
 8-35 may negotiate on behalf of the state regarding awarding, by grant,
 8-36 money under this chapter. The negotiation may include
 8-37 consideration of the grant recipient's financial contribution, if
 8-38 any, to the proposal.

8-39 (b) Before awarding a grant under Subchapter E, the
 8-40 oversight committee shall enter into a written contract with the
 8-41 grant recipient. The contract may specify that:

8-42 (1) if all or any portion of the amount of the grant is
 8-43 used to build a capital improvement:

8-44 (A) the state retains a lien or other interest in
 8-45 the capital improvement in proportion to the percentage of the
 8-46 grant amount used to pay for the capital improvement; and

8-47 (B) the grant recipient shall, if the capital
 8-48 improvement is sold:

8-49 (i) repay to the state the grant money used
 8-50 to pay for the capital improvement, with interest at the rate and
 8-51 according to the other terms provided by the contract; and

8-52 (ii) share with the state a proportionate
 8-53 amount of any profit realized from the sale; and

8-54 (2) if, as of a date specified in the contract, the
 8-55 grant recipient has not used grant money awarded under Subchapter E
 8-56 for the purposes for which the grant was intended, the recipient
 8-57 shall repay that amount and any related interest applicable under
 8-58 the contract to the state at the agreed rate and on the agreed
 8-59 terms.

8-60 (c) The contract must include terms relating to
 8-61 intellectual property rights consistent with the standards
 8-62 developed by the oversight committee under Section 102.256.

8-63 Sec. 102.256. PATENT ROYALTIES AND LICENSE REVENUES PAID TO
 8-64 STATE. (a) The oversight committee shall establish standards that
 8-65 require all grant awards to be subject to an intellectual property
 8-66 agreement that allows the state to collect royalties, income, and
 8-67 other benefits realized as a result of projects undertaken with
 8-68 money awarded under Subchapter E.

8-69 (b) In determining the state's interest in any intellectual

9-1 property rights, the oversight committee shall balance the
 9-2 opportunity of the state to benefit from the patents, royalties,
 9-3 licenses, and other benefits that result from basic research,
 9-4 therapy development, and clinical trials with the need to ensure
 9-5 that essential medical research is not unreasonably hindered by the
 9-6 intellectual property agreement and that the agreement does not
 9-7 unreasonably remove the incentive on the part of the individual
 9-8 researcher, research team, or institution.

9-9 Sec. 102.257. MULTIYEAR PROJECTS. The oversight committee
 9-10 may grant funds for a multiyear project. All the money needed to
 9-11 fund a multiyear project must be awarded in the state fiscal year
 9-12 that the project is approved by the research and prevention
 9-13 programs committee. The institute shall distribute only the money
 9-14 that will be expended during that fiscal year. The remaining money
 9-15 shall be maintained in an escrow account to be distributed by the
 9-16 institute in subsequent years of the project.

9-17 Sec. 102.258. PREFERENCE FOR TEXAS SUPPLIERS. The
 9-18 oversight committee shall establish standards to ensure that grant
 9-19 recipients purchase goods and services from suppliers in this state
 9-20 to the extent reasonably possible, in a good faith effort to achieve
 9-21 a goal of more than 50 percent of such purchases from suppliers in
 9-22 this state.

9-23 Sec. 102.259. PEER REVIEW. The research and prevention
 9-24 programs committee shall require a peer review progress oversight
 9-25 review of each grant recipient to ensure compliance with the terms
 9-26 of the award and to ensure the scientific merit of the research.
 9-27 The research and prevention programs committee shall report to the
 9-28 oversight committee any recommendations for subsequent actions.

9-29 Sec. 102.260. MEDICAL ETHICS. Any research project that
 9-30 receives money under Subchapter E must:

- 9-31 (1) be conducted with full consideration for the
 9-32 ethical and medical implications of the research; and
- 9-33 (2) comply with all federal and state laws regarding
 9-34 the conduct of research.

9-35 ~~[Sec. 102.008. MEETINGS. (a) The council shall meet at~~
 9-36 ~~the call of the presiding officer.~~

9-37 ~~[(b) The council shall develop and implement policies that~~
 9-38 ~~provide the public with a reasonable opportunity to appear before~~
 9-39 ~~the council and to speak on any issue under the jurisdiction of the~~
 9-40 ~~council.~~

9-41 ~~[Sec. 102.009. POWERS AND DUTIES OF COUNCIL. (a) The~~
 9-42 ~~council shall:~~

- 9-43 ~~[(1) work to implement the Texas Cancer Plan;~~
- 9-44 ~~[(2) continually monitor and revise the Texas Cancer~~
 9-45 ~~Plan as necessary;~~
- 9-46 ~~[(3) promote the development and coordination of~~
 9-47 ~~effective and efficient statewide public and private policies,~~
 9-48 ~~programs, and services related to cancer; and~~
- 9-49 ~~[(4) encourage cooperative, comprehensive, and~~
 9-50 ~~complementary planning among the public, private, and volunteer~~
 9-51 ~~sectors involved in cancer research, prevention, detection, and~~
 9-52 ~~treatment.~~

9-53 ~~[(b) The council may:~~

- 9-54 ~~[(1) employ an executive director;~~
- 9-55 ~~[(2) appoint advisory committees necessary to~~
 9-56 ~~implement the Texas Cancer Plan and employ necessary staff to~~
 9-57 ~~provide administrative support;~~
- 9-58 ~~[(3) monitor contracts and agreements for cancer~~
 9-59 ~~programs authorized by this chapter;~~
- 9-60 ~~[(4) conduct necessary studies and surveys;~~
- 9-61 ~~[(5) accept, transfer, and spend funds made available~~
 9-62 ~~by the federal or state government or by any other public or private~~
 9-63 ~~source, subject to limitations and conditions prescribed by~~
 9-64 ~~legislative appropriation; and~~
- 9-65 ~~[(6) use the existing staff of an appointed official~~
 9-66 ~~or agency to assist the council in performing its duties under this~~
 9-67 ~~chapter.~~

9-68 ~~[(c) The Texas Cancer Council and/or its contracted~~
 9-69 ~~projects shall maintain for physicians a listing of available~~

~~continuing medical education courses in pain treatment offered by accredited Texas medical and osteopathic schools, hospitals, health care facilities, or professional societies or associations for physicians.~~

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

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

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

~~[Sec. 102.011. STANDARDS OF CONDUCT. The executive director or the executive director's designee shall provide to members of the council and to council employees, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.~~

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

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

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

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

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

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

- ~~[(1) the legislation that created the council,~~
- ~~[(2) the programs operated by the council,~~
- ~~[(3) the role and functions of the council,~~
- ~~[(4) the rules of the council, with an emphasis on the rules that relate to disciplinary and investigatory authority,~~
- ~~[(5) the current budget for the council,~~
- ~~[(6) the results of the most recent formal audit of the council,~~

- ~~[(7) the requirements of:~~
 - ~~[(A) the open meetings law, Chapter 551, Government Code,~~
 - ~~[(B) the public information law, Chapter 552, Government Code,~~
 - ~~[(C) the administrative procedure law, Chapter 2001, Government Code, and~~
 - ~~[(D) other laws relating to public officials, including conflict of interest laws, and~~

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

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

~~[Sec. 102.014. SEPARATION OF RESPONSIBILITIES. The council shall develop and implement policies that clearly separate the policymaking responsibilities of the council and the management~~

~~responsibilities of the executive director and the staff of the council.~~

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

~~[(1) the name of the person who filed the complaint;~~
~~[(2) the date the complaint is received by the council;~~

~~[(3) the subject matter of the complaint;~~
~~[(4) the name of each person contacted in relation to the complaint;~~

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

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

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

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

~~[Sec. 102.016. EQUAL EMPLOYMENT OPPORTUNITY. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(c) The council:~~

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

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

~~[Sec. 102.018. TEXANS CONQUER CANCER ADVISORY COMMITTEE. (a) The council shall appoint a seven-member Texans Conquer Cancer advisory committee.~~

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

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

12-1 ~~[(2) review and make recommendations to the council on~~
12-2 ~~applications submitted to the council for grants funded with money~~
12-3 ~~credited to the Texans Conquer Cancer account.~~

12-4 ~~[(c) Members of the committee serve without compensation~~
12-5 ~~and are not entitled to reimbursement for expenses. Each member~~
12-6 ~~serves a term of four years, with the terms of three or four members~~
12-7 ~~expiring on January 31 of each odd-numbered year.~~

12-8 ~~[(d) Section 2110.008, Government Code, does not apply to~~
12-9 ~~the committee.]~~

12-10 SECTION 3. Section 504.017, Labor Code, is amended to read
12-11 as follows:

12-12 Sec. 504.017. FEDERAL AND STATE FUNDED TRANSPORTATION
12-13 ENTITIES. An entity is eligible to participate under Section
12-14 504.016 or Chapter 791 or 2259, Government Code, if the entity
12-15 provides transportation subsidized in whole or in part by and
12-16 provided to clients of:

12-17 (1) the [Texas] Department of Assistive and
12-18 Rehabilitative Services [on Aging];

12-19 (2) the Department of State Health Services [Texas
12-20 Commission on Alcohol and Drug Abuse];

12-21 (3) the Cancer Prevention and Research Institute of
12-22 Texas [the Texas Commission for the Blind];

12-23 (4) ~~[the Texas Cancer Council,~~

12-24 ~~(5) the Texas Commission for the Deaf and Hard of~~
12-25 ~~Hearing;~~

12-26 ~~[(6)] the Texas Department of Housing and Community~~
12-27 ~~Affairs;~~

12-28 (5) ~~[(7)] the Health and [Texas Department of] Human~~
12-29 ~~Services Commission;~~

12-30 (6) ~~[(8)] the [Texas] Department of Aging and~~
12-31 ~~Disability Services [Mental Health and Mental Retardation];~~

12-32 ~~[(9) the Texas Rehabilitation Commission,] or~~

12-33 (7) ~~[(10)] the Texas Youth Commission.~~

12-34 SECTION 4. Section 504.620, Transportation Code, is amended
12-35 to read as follows:

12-36 Sec. 504.620. TEXANS CONQUER CANCER LICENSE PLATES.
12-37 (a) The department shall issue specialty license plates that
12-38 include the words "Texans Conquer Cancer." The department shall
12-39 design the license plates in consultation with the Cancer
12-40 Prevention and Research Institute of Texas [Cancer Council].

12-41 (b) After deduction of the department's administrative
12-42 costs, the remainder of the fee for issuance of the license plates
12-43 shall be deposited to the credit of the cancer prevention and
12-44 research fund [Texans Conquer Cancer account] established by
12-45 Section 102.201 [102.017], Health and Safety Code.

12-46 SECTION 5. Subsection (c), Section 86.011, Health and
12-47 Safety Code, is repealed.

12-48 SECTION 6. (a) Not later than December 1, 2007, the
12-49 appropriate appointing authority shall appoint the members to the
12-50 Cancer Prevention and Research Institute of Texas Oversight
12-51 Committee as required by Section 102.101, Health and Safety Code,
12-52 as added by this Act. The oversight committee may not take action
12-53 until a majority of the appointed members have taken office.

12-54 (b) Not later than December 1, 2007, the governor and the
12-55 other appointing authorities specified by Section 102.151, Health
12-56 and Safety Code, as added by this Act, shall appoint the members to
12-57 the Cancer Prevention and Research Institute of Texas Scientific
12-58 Research and Prevention Programs Committee as required by that
12-59 section. The research and prevention programs committee may not
12-60 take action until a majority of the appointed members have taken
12-61 office.

12-62 SECTION 7. (a) On the date on which a majority of the
12-63 initial appointed members of the Cancer Prevention and Research
12-64 Institute of Texas Oversight Committee have taken office, the Texas
12-65 Cancer Council is dissolved and all powers, duties, obligations,
12-66 rights, contracts, leases, records, property, and unspent and
12-67 unobligated appropriations and other funds of the Texas Cancer
12-68 Council are transferred to the Cancer Prevention and Research
12-69 Institute of Texas.

13-1 (b) The reorganization of the Texas Cancer Council into the
13-2 Cancer Prevention and Research Institute of Texas does not affect
13-3 the validity of a right, privilege, or obligation accrued, a
13-4 contract or acquisition made, any liability incurred, a permit or
13-5 license issued, any penalty, forfeiture, or punishment assessed, a
13-6 rule adopted, a proceeding, investigation, or remedy begun, a
13-7 decision made, or other action taken by or in connection with the
13-8 Texas Cancer Council.

13-9 (c) All rules, policies, procedures, and decisions of the
13-10 Texas Cancer Council are continued in effect as rules, policies,
13-11 procedures, and decisions of the Cancer Prevention and Research
13-12 Institute of Texas until superseded by a rule or other appropriate
13-13 action of the Cancer Prevention and Research Institute of Texas.

13-14 (d) Any action or proceeding before the Texas Cancer Council
13-15 is transferred without change in status to the Cancer Prevention
13-16 and Research Institute of Texas, and the Cancer Prevention and
13-17 Research Institute of Texas assumes, without a change in status,
13-18 the position of the Texas Cancer Council in any action or proceeding
13-19 to which the Texas Cancer Council is a party.

13-20 (e) An employee of the Texas Cancer Council employed on the
13-21 effective date of this Act automatically becomes an employee of the
13-22 Cancer Prevention and Research Institute of Texas to exercise the
13-23 powers and perform the duties transferred under this section. The
13-24 executive director of the Texas Cancer Council serving on the
13-25 effective date of this Act does not automatically become the
13-26 executive director of the Cancer Prevention and Research Institute
13-27 of Texas. To become the executive director of the Cancer Prevention
13-28 and Research Institute of Texas, a person must apply for the
13-29 position and the person's employment in that capacity must be
13-30 approved by the Cancer Prevention and Research Institute of Texas
13-31 Oversight Committee.

13-32 (f) A fund, foundation, or account administered by the Texas
13-33 Cancer Council is not considered to be abolished and re-created by
13-34 this Act but is considered to be transferred to the Cancer
13-35 Prevention and Research Institute of Texas.

13-36 (g) Until the date the Texas Cancer Council is reorganized
13-37 into the Cancer Prevention and Research Institute of Texas as
13-38 provided by Subsection (a) of this section, the Texas Cancer
13-39 Council shall continue to exercise the powers and perform the
13-40 duties assigned to the Texas Cancer Council under the law as it
13-41 existed immediately before the effective date of this Act or as
13-42 modified by another Act of the 80th Legislature, Regular Session,
13-43 2007, that becomes law, and the former law is continued in effect
13-44 for that purpose.

13-45 SECTION 8. On or after the effective date of this Act, any
13-46 amount remaining in or payable to the credit of the cancer resource
13-47 fund under Section 102.012, Health and Safety Code, and the Texans
13-48 Conquer Cancer account under Section 102.017, Health and Safety
13-49 Code, as those sections existed before repeal by this Act, shall be
13-50 transferred to the credit of the cancer prevention and research
13-51 fund established under Section 102.201, Health and Safety Code, as
13-52 added by this Act.

13-53 SECTION 9. This Act takes effect on the date on which the
13-54 constitutional amendment proposed by the 80th Legislature, Regular
13-55 Session, 2007, establishing the Cancer Prevention and Research
13-56 Institute of Texas is approved by the voters. If that amendment is
13-57 not approved by the voters, this Act has no effect.

13-58 * * * * *