

## **BILL ANALYSIS**

C.S.S.B. 149  
By: Nelson  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Texas voters approved a constitutional amendment to establish the Cancer Prevention and Research Institute of Texas (CPRIT) and authorized the state to issue bonds to fund groundbreaking cancer research and prevention programs and services in Texas. Interested parties note that there is a need to clarify and strengthen certain provisions governing CPRIT, including conflict-of-interest provisions, to ensure that all policies and regulations are strictly adhered to in order to allow CPRIT to focus on its goal of cancer research and prevention. C.S.S.B. 149 seeks to address these and other issues related to CPRIT.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Cancer Prevention and Research Institute of Texas Oversight Committee in SECTIONS 14, 17, and 29 and to the Cancer Prevention and Research Institute of Texas in SECTION 23 of this bill.

### **ANALYSIS**

C.S.S.B. 149 amends the Health and Safety Code to remove provisions authorizing the Cancer Prevention and Research Institute of Texas (CPRIT) to employ and requiring the CPRIT oversight committee to hire an executive director and instead requires the oversight committee to hire a chief executive officer (CEO). The bill requires the CEO to perform the duties required by provisions relating to CPRIT or designated by the oversight committee. The bill requires the CEO to have a demonstrated ability to lead and develop academic, commercial, and governmental partnerships and coalitions. The bill requires the CEO to hire one chief scientific officer; one chief operating officer; one chief product development officer; and one chief prevention officer. The bill requires the officers to report directly to the CEO and to assist the CEO in collaborative outreach to further cancer research and prevention. The bill specifies that nothing in provisions relating to CPRIT limits the authority of the state auditor under statutory provisions relating to the state auditor or under other law.

C.S.S.B. 149 requires, rather than authorizes, CPRIT to continuously monitor contracts and agreements authorized under provisions relating to CPRIT and requires CPRIT to ensure that each grant recipient complies with the terms and conditions of the grant contract. The bill requires CPRIT to ensure that all grant proposals comply with provisions and rules adopted under those provisions before the proposals are submitted to the oversight committee for approval and to establish procedures to document that CPRIT, its employees, and its appointed committee members comply with all laws and rules governing the peer review process and conflicts of interest.

C.S.S.B. 149 requires CPRIT to employ a chief compliance officer to monitor and report to the oversight committee regarding compliance with provisions relating to CPRIT and rules adopted under those provisions. The bill requires the chief compliance officer to ensure that all grant proposals comply with those provisions and rules adopted under those provisions before the proposals are submitted to the oversight committee for approval and to attend and observe the

meetings of the program integration committee to ensure compliance with those provisions and rules adopted under those provisions.

C.S.S.B. 149 requires CPRIT to establish a compliance program that operates under the direction of CPRIT's chief compliance officer, and the bill defines such a program as a process to assess and ensure compliance by CPRIT's committee members and employees with applicable laws, rules, and policies, including matters of ethics and standards of conduct, financial reporting, internal accounting controls, and auditing. The bill authorizes CPRIT to establish procedures, such as a telephone hotline, to allow private access to the compliance program office and to preserve the confidentiality of communications and the anonymity of a person making a compliance report or participating in a compliance investigation. The bill specifies that the following are confidential and not subject to disclosure under state public information law: information that directly or indirectly reveals the identity of an individual who made a report to CPRIT's compliance program office, sought guidance from the office, or participated in an investigation conducted under the compliance program; information that directly or indirectly reveals the identity of an individual who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the office if, after completing an investigation, the office determines the report to be unsubstantiated or without merit; and other information that is collected or produced in a compliance program investigation if releasing the information would interfere with an ongoing compliance investigation. The bill exempts from those confidentiality requirements information related to an individual who consents to disclosure of the information.

C.S.S.B. 149 authorizes information made confidential or excepted from public disclosure under the bill's provisions to be made available on request and in compliance with applicable laws and procedures to a law enforcement agency or prosecutor; to a governmental agency responsible for investigating the matter that is the subject of a compliance report, including the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission; or to a committee member or CPRIT employee who is responsible under institutional policy for a compliance program investigation or for a review of a compliance program investigation. The bill specifies that such a disclosure is not a voluntary disclosure for purposes of state public information law. The bill authorizes the oversight committee to conduct a closed meeting under the state's open meeting law to discuss an ongoing compliance investigation into issues related to fraud, waste, or abuse of state resources.

C.S.S.B. 149 requires CPRIT to establish a program integration committee composed of the CEO, the chief scientific officer, the chief product development officer, the commissioner of state health services, and the chief prevention officer. The bill specifies that the committee has the duties assigned under provisions relating to CPRIT and requires the CEO to serve as the presiding officer of the program integration committee.

C.S.S.B. 149 requires CPRIT, not later than January 31 of each year and in lieu of issuing an annual public report, to submit a report outlining CPRIT's activities, grants awarded, grants in progress, research accomplishments, and future program directions to the lieutenant governor, the speaker of the house of representatives, the governor, and the standing committee of each house of the legislature with primary jurisdiction over CPRIT matters and to post the report on CPRIT's Internet website. The bill requires the report to include, in addition to other specified information, a statement of CPRIT's compliance program activities, including any proposed legislation or other recommendations identified through the activities, and a list of conflict-of-interest waivers granted in the previous 12 months through the process established by the bill.

C.S.S.B. 149 requires CPRIT to maintain complete records of the review of each grant application submitted to CPRIT, including the score assigned to each grant application reviewed by a research and prevention programs committee in accordance with rules adopted under the bill, even if the grant application is not funded by CPRIT or is withdrawn after submission to CPRIT; each grant recipient's financial reports, including the amount of matching funds

dedicated to the research specified for the grant award; each grant recipient's progress reports; and CPRIT's review of the grant recipient's financial reports and progress reports. The bill requires CPRIT to have periodic audits made of any electronic grant management system used to maintain such records of grant applications and grant awards and requires CPRIT to timely address each weakness identified in such an audit.

C.S.S.B. 149 prohibits CPRIT from supplementing the salary of any CPRIT employee with a gift or grant received by CPRIT. The bill removes a provision authorizing CPRIT to supplement the salary of certain senior CPRIT staff members and instead authorizes CPRIT to supplement the salary of the chief scientific officer, funding for which may come only from legislative appropriations or bond proceeds. The bill prohibits CPRIT from supplementing the salary of the CEO and authorizes the salary of the CEO to be paid only from legislative appropriations. The bill prohibits a CPRIT employee from having an office in a facility owned by an entity receiving or applying to receive money from CPRIT.

C.S.S.B. 149 removes the comptroller of public accounts or the comptroller's designee and the attorney general or the attorney general's designee from the composition of the oversight committee, reducing the number of members on the oversight committee from 11 to nine. The bill requires the governor, lieutenant governor, and speaker of the house of representatives, in making appointments to the oversight committee, to each appoint at least one person who is a physician or a scientist with extensive experience in the field of oncology or public health. The bill prohibits a person from being a member of the oversight committee if the person or the person's spouse owns or controls any interest, rather than more than a five percent interest, in a business entity or other organization receiving money from CPRIT. The bill, in a provision providing for the appointment of oversight committee members by the governor, lieutenant governor, and speaker of the house for staggered six-year terms, adds the specification that those members serve at the pleasure of the appointing office.

C.S.S.B. 149 requires the oversight committee to elect, rather than select, a presiding officer and to elect an assistant presiding officer from among its members and specifies that the committee is required to make such elections every two years. The bill authorizes the committee to elect additional officers from among its members. The bill prohibits a presiding officer and assistant presiding officer from serving in the position to which the officer was elected for two consecutive terms. The bill requires the oversight committee to establish and approve duties and responsibilities for officers of the committee and to develop and implement policies that distinguish the responsibilities of the oversight committee and the committee's officers from the responsibilities of the CEO and CPRIT employees.

C.S.S.B. 149 specifies that the oversight committee's conflict-of-interest rules govern members of the program integration committee, members of the research and prevention programs committees, and CPRIT employees, in addition to members of the oversight committee. The bill requires a CPRIT employee, oversight committee member, program integration committee member, or research and prevention programs committee member to recuse himself or herself as provided by conflict-of-interest provisions if the employee or member, or a person who is related to the employee or member within the second degree of affinity or consanguinity, has a professional or financial interest in an entity receiving or applying to receive money from CPRIT. The bill establishes the circumstances under which a person has a professional or financial interest in an entity receiving or applying to receive money from CPRIT. The bill specifies that nothing in provisions relating to CPRIT limits the authority of the oversight committee to adopt additional conflict-of-interest standards.

C.S.S.B. 149 requires an oversight committee member or program integration committee member who has a conflict of interest regarding an application that comes before the member for review or other action to provide written notice to the CEO and the presiding officer of the oversight committee or the next ranking member of the committee if the presiding officer has the conflict of interest; to disclose the conflict of interest in an open meeting of the oversight

committee; and to recuse himself or herself from participating in the review, discussion, deliberation, and vote on the application and from accessing information regarding the matter to be decided. The bill requires a CPRIT employee who has a conflict of interest regarding an application that comes before the employee for review or other action to provide written notice to the CEO of the conflict of interest and recuse himself or herself from participating in the review of the application and be prevented from accessing information regarding the matter to be decided. The bill requires a research and prevention programs committee member who has a conflict of interest regarding an application that comes before the member's committee for review or other action, to provide written notice to the CEO of the conflict of interest and recuse himself or herself from participating in the review, discussion, deliberation, and vote on the application and from accessing information regarding the matter to be decided.

C.S.S.B. 149 authorizes an oversight committee member, program integration committee member, research and prevention programs committee member, or CPRIT employee with a conflict of interest to seek a waiver as provided by the bill's provisions. The bill specifies that such a committee member or employee who reports a potential conflict of interest or another impropriety or self-dealing of the member or employee and who fully complies with the recommendations of the general counsel and recusal requirements is considered in compliance with CPRIT's conflict-of-interest provisions and specifies that the committee member or employee is subject to other applicable laws, rules, requirements, and prohibitions. The bill specifies that such a committee member or employee who intentionally violates provisions relating to disclosure of conflicts of interest and recusal is subject to removal from further participation in CPRIT's grant review process.

C.S.S.B. 149 requires the oversight committee to adopt rules governing the waiver of the CPRIT's conflict-of-interest requirements under exceptional circumstances for an oversight committee member, program integration committee member, research and prevention programs committee member, or CPRIT employee. The bill requires the rules to:

- authorize the CEO or an oversight committee member to propose the granting of a waiver by submitting to the presiding officer of the oversight committee a written statement about the conflict of interest, the exceptional circumstance requiring the waiver, and any proposed limitations to the waiver;
- require a proposed waiver to be publicly reported at a meeting of the oversight committee;
- require a majority vote of the oversight committee members present and voting to grant a waiver;
- require any waiver granted to be reported annually to the lieutenant governor, the speaker of the house of representatives, the governor, and the standing committee of each house of the legislature with primary jurisdiction over CPRIT matters; and
- require CPRIT to retain documentation of each waiver granted.

C.S.S.B. 149 requires an oversight committee member, a program integration committee member, a research and prevention programs committee member, or a CPRIT employee who becomes aware of a potential conflict of interest that has not been reported to immediately notify the CEO of the potential conflict of interest and requires the CEO, on notification, to notify the presiding officer of the oversight committee and the general counsel, who is required to determine the nature and extent of any unreported conflict. The bill requires a grant applicant seeking an investigation regarding whether a prohibited conflict of interest was not reported to file a written request with CPRIT's CEO and requires the applicant to include in the request all facts regarding the alleged conflict of interest and to submit the request not later than the 30th day after the date the CEO presents final funding recommendations for the affected grant cycle to the oversight committee. The bill requires CPRIT's general counsel, on notification of such an alleged conflict of interest from a committee member, CPRIT employee, or grant applicant, to

investigate the matter and provide to the CEO and presiding officer of the oversight committee an opinion that includes a statement of facts, a determination of whether a conflict of interest or another impropriety or self-dealing exists and, if the opinion provides that a conflict of interest or another impropriety or self-dealing exists, recommendations for an appropriate course of action. The bill requires CPRIT's general counsel, if the conflict of interest, impropriety, or self-dealing involves the presiding officer of the oversight committee, to provide the opinion to the next ranking oversight committee member who is not involved with the conflict of interest, impropriety, or self-dealing. The bill requires the CEO, after receiving the opinion and consulting with the presiding officer of the oversight committee, to take action regarding the recusal of the individual from any discussion of or access to information related to the conflict of interest or other recommended action related to the impropriety or self-dealing and requires the presiding officer of the oversight committee to take actions regarding the recusal or other action if the alleged conflict of interest, impropriety, or self-dealing is held by, or is an act of, the CEO.

C.S.S.B. 149 requires the CEO, or, if applicable, the presiding officer of the oversight committee to make a determination regarding the existence of an unreported conflict of interest or other impropriety or self-dealing and requires the determination to specify any actions to be taken to address the conflict of interest, impropriety, or self-dealing, including reconsideration of the application or referral of the application to another research and prevention programs committee for review. The bill specifies that such a determination is considered final unless three or more oversight committee members request that the issue be added to the agenda of the oversight committee. The bill requires the CEO or, if applicable, the presiding officer of the oversight committee, to provide written notice of the final determination, including any further actions to be taken, to the grant applicant requesting the investigation. The bill specifies that the validity of an action taken on a grant application is not affected by the fact that an individual who failed to report a conflict of interest participated in the action unless specifically determined by the CEO or, if applicable, the presiding officer of the oversight committee, or the oversight committee.

C.S.S.B. 149 requires the oversight committee to annually set priorities as prescribed by the legislature for each grant program that receives money under provisions relating to CPRIT and to consider such priorities in awarding grants.

C.S.S.B. 149 requires the oversight committee to adopt a code of conduct applicable to each oversight committee member, program integration committee member, and CPRIT employee and establishes the prohibited conduct required to be included in the code of conduct, at a minimum, for the member, the employee, and spouse of the member or employee. The bill requires each member of the oversight committee to file with the chief compliance officer a verified financial statement complying with specified Government Code provisions relating to personal financial statements as required of a state officer.

C.S.S.B. 149 requires the oversight committee to establish research and prevention programs committees and specifies that the CEO is required to appoint as members of the committees qualified trained cancer patient advocates who meet the qualifications developed by rules adopted by the oversight committee. The bill removes a provision authorizing individuals appointed to the research and prevention programs committee to be residents of another state and instead requires CPRIT to adopt a written policy on in-state or out-of-state residency requirements for members of the committees. The bill requires the oversight committee to adopt rules regarding the qualifications required for an individual who will serve as a trained cancer patient advocate committee member for a research and prevention programs committee and requires the rules to require a trained cancer patient advocate to receive science-based training. The bill requires the CEO, in consultation with the oversight committee, to adopt a policy and document any change in the amount of honorarium paid to a member of a research and prevention programs committee, including information explaining the basis for changing the amount.

C.S.S.B. 149 requires a member appointed to a research and prevention programs committee to disclose in writing to the CEO if the member has a professional or financial interest in an entity that has a direct interest in a matter that comes before the member's committee, rather than if the member has an interest in such a matter or a substantial financial interest in an entity that has a direct interest in the matter, and removes a member of the university committee or any ad hoc committee from the application of that requirement. The bill specifies that a member of the committee who is required to recuse himself or herself from the committee's deliberations and actions on a matter because of a professional or financial interest is required to do so in the manner described by the bill's provisions. The bill prohibits a member appointed to a research and prevention programs committee from serving on the board of directors or other governing board of an entity receiving a grant from CPRIT or of a foundation or similar organization affiliated with the entity.

C.S.S.B. 149 removes from the contents of the cancer prevention and research fund patent, royalty, and license fees and other income received under a CPRIT contract. The bill prohibits appropriations of money to the fund from the legislature from including the proceeds from the issuance of bonds authorized by constitutional provisions relating to CPRIT and includes the payment of debt service on such bonds among the authorized uses of the fund.

C.S.S.B. 149 requires the oversight committee's rules regarding the procedure for awarding a grant to an applicant to require a research and prevention programs committee to score, rather than review, grant applications and to make recommendations to the program integration committee and the oversight committee regarding the award of cancer research and prevention grants. The bill requires a research and prevention programs committee's prioritized list ranking the grant applications for funding purposes to include information explaining how each grant application on the list meets the committee's standards for recommendation. The bill requires the oversight committee's rules regarding the procedure for awarding a grant to an applicant to require the program integration committee to submit to the oversight committee a list of grant applications the program integration committee by majority vote approved for recommendation that includes, among other requirements, documentation on the factors the program integration committee considered in making the grant recommendations, specifies that the list give priority to certain proposals that expedite innovation and product development, rather than innovation and commercialization, and requires the list to give priority to certain proposals that address the goals of the Texas Cancer Plan. The bill requires the oversight committee's rules regarding the procedure for awarding a grant to an applicant to require CPRIT's chief compliance officer to compare each grant application submitted to CPRIT to a list of donors from any nonprofit organization established to provide support to CPRIT compiled from public information made available under the bill's provisions before the application is submitted to a research and prevention programs committee for review and again before any grant is awarded to the applicant.

C.S.S.B. 149 requires the CEO to submit a written affidavit for each grant application recommendation included on the list submitted to the oversight committee by the program integration committee and requires the affidavit to contain all relevant information on the peer review process for the grant application, the application's peer review score assigned by the research and prevention programs committee, and, if applicable, the intellectual property and other due diligence reviews of the application. The bill prohibits a member of the program integration committee from discussing a grant application recommendation with a member of the oversight committee unless the CEO and the program integration committee have fulfilled the applicable requirements. The bill prohibits CPRIT from awarding a grant to an applicant who has made a gift or grant to CPRIT or a nonprofit organization established to provide support to CPRIT.

C.S.S.B. 149 requires two-thirds of the members of the oversight committee present and voting to vote to approve the funding recommendations of the program integration committee. The bill requires a statement explaining the reasons a funding recommendation was not followed to be

included in the minutes of the meeting if the oversight committee does not approve a funding recommendation of the program integration committee.

C.S.S.B. 149 authorizes a written contract between the oversight committee and a grant recipient required to be entered into by the parties before awarding a grant from the cancer research and prevention fund to authorize CPRIT, if the grant recipient fails to meet the terms and conditions of the contract, to terminate the contact using the written process prescribed in the contract and require the recipient to repay the grant money awarded from the fund and any related interest applicable under the contract to the state at the agreed rate and on the agreed terms. The bill removes the condition that a grant recipient who has not used grant money awarded from the fund for the grant's intended purposes has not used the money as of a date specified in the contract from the requirement that such a grant recipient repay the amount of the grant and any interest applicable under the contract. The bill requires a contract to require the grant recipient to dedicate an amount of matching funds equal to one-half the amount of the research grant awarded and to specify the amount of matching funds to be dedicated, the period in which the grant award is required to be spent, the name of the research project to which the matching funds are to be dedicated, and the specific deliverables of the project that is the subject of the grant proposal. The bill requires a grant recipient to certify that the recipient has an amount of funds equal to one-half of the grant and to dedicate those funds to the research that is the subject of the grant request, rather than requiring the recipient to have funds in such an amount dedicated to the research that is the subject of the grant proposal, before the oversight committee is authorized to make any grant for cancer research from any proceeds of the bonds issued under the cancer research and prevention fund.

C.S.S.B. 149 requires CPRIT to adopt a policy on advance payments to grant recipients. The bill requires CPRIT to adopt rules specifying how a grant recipient fulfills obligations under provisions relating to the procedure for making awards. The bill requires the rules, at a minimum to:

- allow a grant recipient that is a public or private institution of higher education to credit toward the recipient's matching funds the dollar amount equivalent to the difference between the indirect cost rate authorized by the federal government for research grants awarded to the recipient and the maximum five percent indirect cost rate authorized for use of money received from the cancer prevention and research fund;
- require that a grant recipient certify before the distribution of any money awarded under a grant for cancer research that encumbered funds equal to one-half of the amount of the total grant award are available and not yet expended for research that is the subject of the grant or, if the grant recipient is a public or private institution of higher education, the indirect cost rate authorized by the federal research grants awarded to the recipient;
- specify that a grant recipient receiving more than one grant award is authorized to provide matching funds certification at an institutional level, that the recipient of a multiyear grant award is authorized to certify matching funds on a yearly basis, and that grant funds may not be distributed to the grant recipient until the annual certification of the matching funds has been approved;
- specify that money used for purposes of certification may include federal funds, funds of this state, funds of other states, and nongovernmental funds;
- specify that in-kind costs, volunteer services furnished to a grant recipient, noncash contributions, income earned by the grant recipient that is not available at the time of the award, preexisting real estate of the grant recipient, deferred giving, or other items as may be determined by the oversight committee do not qualify for purposes of the required certification;
- require a grant recipient and CPRIT to include the certification in the grant award contract;
- specify that a grant recipient's failure to provide certification serves as grounds for

terminating the grant award contract;

- require a grant recipient to maintain adequate documentation supporting the source and use of the required funds and to provide documentation to CPRIT upon request; and
- require that CPRIT establish a procedure to conduct an annual review of the documentation supporting the source and use of funds reported in the required certification.

C.S.S.B. 149 requires CPRIT to establish and implement reporting requirements to ensure that each grant recipient complies with the terms and conditions in the grant contract, including verification of the amounts of matching funds dedicated to the research that is the subject of the grant award to the grant recipient. The bill requires CPRIT to implement a system to track the dates on which grant recipient reports are due and are received by CPRIT and to monitor the status of any required report that is not timely submitted to CPRIT by a grant recipient.

C.S.S.B. 149 requires the chief compliance officer to monitor compliance with provisions relating to grant evaluations and to at least annually inquire into and monitor the status of any required report that is not timely submitted to CPRIT by a grant recipient. The bill requires the chief compliance officer to notify the general counsel and the oversight committee of a grant recipient that has not maintained compliance with the reporting requirements or matching funds provisions of the grant contract to allow CPRIT to begin suspension or termination of the grant contract and specifies that these requirements do not limit other remedies available under the grant contract.

C.S.S.B. 149 establishes that the records of a nonprofit organization established to provide support to CPRIT are public information subject to state public information law. The bill requires CPRIT to post on its Internet website records that pertain specifically to any gift, grant, or other consideration provided by the organization to CPRIT, a CPRIT employee, or a member of a CPRIT committee and requires the posted information to include each donor's name and the amount and date of the donor's donation.

C.S.S.B. 149 establishes that the cancer prevention and research interest and sinking fund is a dedicated account in the general revenue fund that consists of patent, royalty, and license fees and other income received under a CPRIT contract and interest earned on the investment of money in the fund. The bill authorizes the fund to be used only to pay for debt service on bonds issued as authorized by constitutional provisions relating to CPRIT at a time and in a manner to be determined by the legislature in the General Appropriations Act.

C.S.S.B. 149 establishes that the terms of the members of the CPRIT oversight committee serving immediately before the bill's effective date expire on that date. The bill requires the governor, lieutenant governor, and speaker of house of representatives, as soon as practicable after the bill's effective date, to each appoint members to the CPRIT oversight committee as required by the bill and provides for the staggered expiration of the members' initial terms.

C.S.S.B. 149 requires the oversight committee to adopt rules, as soon as practicable after the bill's effective date, necessary to implement the bill's provisions. The bill requires CPRIT employees, oversight committee members, and members of other CPRIT committees to comply, not later than January 1, 2014, with the bill's provisions regarding the qualifications of the employees and committee members. The bill requires the oversight committee to employ, not later than December 1, 2013, a chief compliance officer and CEO and to establish the required compliance program as soon as practicable after the bill's effective date.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.



## COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.S.B. 149 may differ from the engrossed version in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the engrossed and committee substitute versions of the bill.

### SENATE ENGROSSED

SECTION 1. Section 102.001, Health and Safety Code, is amended.

No equivalent provision.

SECTION 2. Section 102.051, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The institute may:

(1) make grants to provide funds to public or private persons to implement the Texas Cancer Plan, and may make grants to institutions of learning and to advanced medical research facilities and collaborations in this state for:

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

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

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

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

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

(3) establish the appropriate standards and oversight bodies to ensure the proper use of funds authorized under this chapter for

### HOUSE COMMITTEE SUBSTITUTE

SECTION 1. Same as engrossed version.

SECTION 2. Subchapter A, Chapter 102, Health and Safety Code, is amended by adding Section 102.004 to read as follows:  
Sec. 102.004. STATE AUDITOR. Nothing in this chapter limits the authority of the state auditor under Chapter 321, Government Code, or other law.

SECTION 3. Section 102.051, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) The institute ~~may~~:

(1) may make grants to provide funds to public or private persons to implement the Texas Cancer Plan, and may make grants to institutions of learning and to advanced medical research facilities and collaborations in this state for:

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

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

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

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

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

(3) may establish the appropriate standards and oversight bodies to ensure the proper use of funds authorized under this chapter

cancer research and facilities development;

- (4) ~~[employ an executive director as determined by the oversight committee;~~  
~~[(5)]~~ employ necessary staff to provide administrative support; and  
(5) ~~[(6)]~~ monitor contracts and agreements authorized by this chapter.

(c) The institute shall employ a compliance officer, who, under the direction of the chief executive officer, shall ensure that:

(1) all grant proposals comply with this chapter and rules adopted under this chapter before the proposals are submitted to the oversight committee for approval;

(2) the institute, its employees, and its committee members appointed under this chapter comply with all laws and rules governing the peer review process and conflicts of interest; and

(3) each grant recipient complies with the terms of the grant contract.

SECTION 3. Subchapter B, Chapter 102, Health and Safety Code, is amended by adding Section 102.0511 to read as follows:  
Sec. 102.0511. CHIEF EXECUTIVE OFFICER; OTHER OFFICERS. (a) The oversight committee shall hire a chief executive officer. Under the direction of the oversight committee, the chief executive

for cancer research and facilities development;

- (4) may ~~[employ an executive director as determined by the oversight committee;~~  
~~[(5)]~~ employ necessary staff to provide administrative support; ~~[and]~~  
(5) shall continuously ~~[(6)]~~ monitor contracts and agreements authorized by this chapter and ensure that each grant recipient complies with the terms and conditions of the grant contract;  
(6) shall ensure that all grant proposals comply with this chapter and rules adopted under this chapter before the proposals are submitted to the oversight committee for approval; and  
(7) shall establish procedures to document that the institute, its employees, and its committee members appointed under this chapter comply with all laws and rules governing the peer review process and conflicts of interest.

(c) The institute shall employ a chief compliance officer to monitor and report to the oversight committee regarding compliance with this chapter and rules adopted under this chapter.

(d) The chief compliance officer shall:

(1) ensure that all grant proposals comply with this chapter and rules adopted under this chapter before the proposals are submitted to the oversight committee for approval; and

(2) attend and observe the meetings of the program integration committee to ensure compliance with this chapter and rules adopted under this chapter.

SECTION 4. Subchapter B, Chapter 102, Health and Safety Code, is amended by adding Section 102.0511 to read as follows:  
Sec. 102.0511. CHIEF EXECUTIVE OFFICER; OTHER OFFICERS. (a) The oversight committee shall hire a chief executive officer. The chief executive officer shall perform the duties required by

officer shall perform the duties required by this chapter or designated by the oversight committee.

(b) The chief executive officer must have a demonstrated ability to lead and develop academic, commercial, and governmental partnerships and coalitions.

(c) The chief executive officer shall hire:

(1) one chief scientific officer, who reports directly to the chief executive officer;

(2) one chief operating officer, who reports directly to the chief executive officer;

(3) one development officer, who reports directly to the chief executive officer and assists in collaborative outreach to further cancer research and prevention; and

(4) one chief prevention officer, who reports directly to the chief executive officer.

SECTION 4. Subsection (a), Section 102.052, Health and Safety Code, is amended to read as follows:

(a) The institute shall issue an annual public report outlining the institute's activities, grants awarded, grants in progress, research accomplishments, and future program directions. The report must include:

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

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

(3) the institute's administrative expenses;

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

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

(6) an assessment of the relationship between the institute's grants and the overall

this chapter or designated by the oversight committee.

(b) The chief executive officer must have a demonstrated ability to lead and develop academic, commercial, and governmental partnerships and coalitions.

(c) The chief executive officer shall hire:

(1) one chief scientific officer;

(2) one chief operating officer;

(3) one chief product development officer; and

(4) one chief prevention officer.

(d) The officers described by Subsections (c)(1)-(4) shall report directly to the chief executive officer and assist the chief executive officer in collaborative outreach to further cancer research and prevention.

SECTION 5. Section 102.052(a), Health and Safety Code, is amended to read as follows:

(a) ~~Not later than January 31 of each year, the institute shall submit to the lieutenant governor, the speaker of the house of representatives, the governor, and the standing committee of each house of the legislature with primary jurisdiction over institute matters and post on the institute's Internet website a report outlining [The institute shall issue an annual public report outlining]~~ the institute's activities, grants awarded, grants in progress, research accomplishments, and future program directions. The report must include:

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

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

(3) the institute's administrative expenses;

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

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

(6) an assessment of the relationship between the institute's grants and the overall

strategy of its research program;  
(7) a statement of the institute's strategic research and financial plans; [~~and~~]  
(8) an estimate of how much cancer has cost the state during the year, including the amounts spent by the state relating to cancer by the child health program, the Medicaid program, the Teacher Retirement System of Texas, and the Employees Retirement System of Texas; and  
(9) a statement of the institute's compliance program activities, including any proposed legislation or other recommendations identified through the activities.

SECTION 5. Subchapter B, Chapter 102, Health and Safety Code, is amended by adding Section 102.0535 to read as follows:  
Sec. 102.0535. RECORD OF GRANT APPLICATIONS. (a) The institute shall maintain a complete record of each grant application, including a grant application that is reviewed by a research and prevention programs committee or is withdrawn.  
(b) The institute shall ensure that the score assigned to a grant application by a research and prevention programs committee in accordance with rules adopted under Section 102.251(a)(1) is included in the record for the application.

(c) The institute shall have periodic audits made of any electronic grant management system used to maintain records of grant applications under this section. The institute shall address in a timely manner each weakness identified in an audit of the system.

SECTION 6. Section 102.056, Health and Safety Code, is amended to read as follows:

strategy of its research program;  
(7) a statement of the institute's strategic research and financial plans; [~~and~~]  
(8) an estimate of how much cancer has cost the state during the year, including the amounts spent by the state relating to cancer by the child health program, the Medicaid program, the Teacher Retirement System of Texas, and the Employees Retirement System of Texas;  
(9) a statement of the institute's compliance program activities, including any proposed legislation or other recommendations identified through the activities; and  
(10) a list of the waivers granted in the previous 12 months through the process established in Section 102.1062.

SECTION 6. Subchapter B, Chapter 102, Health and Safety Code, is amended by adding Section 102.0535 to read as follows:  
Sec. 102.0535. GRANT RECORDS. (a) The institute shall maintain complete records of:  
(1) the review of each grant application submitted to the institute, including the score assigned to each grant application reviewed by a research and prevention programs committee in accordance with rules adopted under Section 102.251(a)(1), even if the grant application is not funded by the institute or is withdrawn after submission to the institute;

(2) each grant recipient's financial reports, including the amount of matching funds dedicated to the research specified for the grant award;  
(3) each grant recipient's progress reports; and  
(4) the institute's review of the grant recipient's financial reports and progress reports.

(b) The institute shall have periodic audits made of any electronic grant management system used to maintain records of grant applications and grant awards under this section. The institute shall address in a timely manner each weakness identified in an audit of the system.

SECTION 7. Section 102.056, Health and Safety Code, is amended to read as follows:

Sec. 102.056. SALARY.

(a) The institute may supplement the salary of the chief executive officer ~~[director]~~ and other senior institute staff members. Funding for a salary supplement may come from gifts, grants, donations, or appropriations.

(b) Money received from a nonprofit organization established to provide support to the institute may be used only to supplement the salaries of the persons authorized to receive salary supplements under this section.

SECTION 7. Subchapter B, Chapter 102, Health and Safety Code, is amended by adding Sections 102.057 through 102.063 to read as follows:

Sec. 102.057. PROHIBITED OFFICE LOCATION.

Sec. 102.058. CONFLICT OF INTEREST REQUIRING RECUSAL.

No equivalent provision.

(a) An oversight committee member, program integration committee member, or institute employee shall disclose in writing to the chief executive officer if the member, the employee, or a person who is related to the member or employee within the second degree of affinity or consanguinity has a professional or financial interest in an entity

Sec. 102.056. SALARY. (a) The institute may not supplement the salary of any institute employee with a gift or grant received by the institute.

(b) The institute may supplement the salary of the chief scientific officer ~~[executive director and other senior institute staff members]~~. Funding for a salary supplement for the chief scientific officer may only come from legislative ~~[gifts, grants, donations, or]~~ appropriations or bond proceeds.

(c) The institute may not supplement the salary of the chief executive officer. The salary of the chief executive officer may only be paid from legislative appropriations.

SECTION 8. Subchapter B, Chapter 102, Health and Safety Code, is amended by adding Section 102.057 to read as follows:

Sec. 102.057. Same as engrossed version.

*(The following text was taken from SECTION 13 below.)*

Sec. 102.106. CONFLICT OF INTEREST.

(a) The oversight committee shall adopt conflict-of-interest rules, based on standards applicable to members of scientific review committees of the National Institutes of Health, to govern members of the oversight committee, the program integration committee, the research and prevention programs committees, and institute employees.

(b) An institute employee, oversight committee member, program integration committee member, or research and prevention programs committee member shall recuse himself or herself, as provided by Section 102.1061(a), (b), or (c) as applicable, if the employee or member, or a person who is related to the employee or

described by this section.

(b) The member or employee described by Subsection (a) shall recuse himself or herself from the institute's consideration of grant applications from the entity receiving or applying to receive money from the institute as provided by Section 102.062(a) or (b), as applicable.

(c) A person has a professional interest in an entity receiving or applying to receive money from the institute if the person:

*(Substantially the same as Subsec. (c-1) below.)*

(1) serves as an elected or appointed officer of the entity or of a foundation or similar organization affiliated with the entity;

(2) is an employee of or is negotiating future employment with the entity or with a foundation or similar organization affiliated with the entity;

(3) represents the entity or a foundation or similar organization affiliated with the entity;

(4) is a professional associate of a primary member of the entity's research or prevention program team;

(5) is, or within the preceding six years has been, a student, postdoctoral associate, or part of a laboratory research group for a primary member of the entity's research or prevention program team;

(6) is engaged or is actively planning to be engaged in collaboration with a primary member of the entity's research or prevention program team; or

(7) has long-standing scientific differences or disagreements with a primary member of the entity's research or prevention program team, and those differences:

(A) are known to the professional community; and

(B) could be perceived as affecting objectivity.

(c-1) A person has a professional interest in an entity applying to receive money from the institute if the person is a member of the board of directors, the other governing board, or any committee of the entity, or of a foundation or similar organization

member within the second degree of affinity or consanguinity, has a professional or financial interest in an entity receiving or applying to receive money from the institute.

(c) A person has a professional interest in an entity receiving or applying to receive money from the institute if the person:

(1) is a member of the board of directors, another governing board, or any committee of the entity, or of a foundation or similar organization affiliated with the entity, during the same grant cycle;

(2) serves as an elected or appointed officer of the entity or of a foundation or similar organization affiliated with the entity;

(3) is an employee of or is negotiating future employment with the entity or with a foundation or similar organization affiliated with the entity;

(4) represents the entity or a foundation or similar organization affiliated with the entity;

(5) is a professional associate of a primary member of the entity's research or prevention program team;

(6) is, or within the preceding six years has been, a student, postdoctoral associate, or part of a laboratory research group for a primary member of the entity's research or prevention program team;

(7) is engaged or is actively planning to be engaged in collaboration with a primary member of the entity's research or prevention program team; or

(8) has long-standing scientific differences or disagreements with a primary member of the entity's research or prevention program team, and those differences:

(A) are known to the professional community; and

(B) could be perceived as affecting objectivity.

*(Substantially the same as Subdiv.(1) above.)*

affiliated with the entity, during the same grant cycle.

(d) A person has a financial interest in an entity receiving or applying to receive money from the institute if the person:

(1) owns or controls, directly or indirectly, an ownership interest, including sharing in profits, proceeds, or capital gains, in an entity receiving or applying to receive money from the institute or in a foundation or similar organization affiliated with the entity; or

(2) could reasonably foresee that an action taken by a research and prevention programs committee, the institute, the program integration committee, or the oversight committee could result in a financial benefit to the person.

Sec. 102.059. STANDARDS OF CONDUCT.

No equivalent provision.

(a) An oversight committee member, program integration committee member, or institute employee may not:

(1) accept or solicit any gift, favor, or service that could reasonably influence the member or employee in the discharge of official duties or that the member or employee knows or should know is being offered with the intent to influence the member's or employee's official conduct;

(2) accept employment or engage in any business or professional activity that would reasonably require or induce the member or employee to disclose confidential information acquired in the member's or employee's official position;

(3) accept other employment or compensation that could reasonably impair

(d) A person has a financial interest in an entity receiving or applying to receive money from the institute if the person:

(1) owns or controls, directly or indirectly, an ownership interest, including sharing in profits, proceeds, or capital gains, in an entity receiving or applying to receive money from the institute or in a foundation or similar organization affiliated with the entity; or

(2) could reasonably foresee that an action taken by the institute, a research and prevention programs committee, the program integration committee, or the oversight committee could result in a financial benefit to the person.

(e) Nothing in this chapter limits the authority of the oversight committee to adopt additional conflict-of-interest standards.

*(The following text was taken from SECTION 16 below.)*

Sec. 102.109. CODE OF CONDUCT.

(a) The oversight committee shall adopt a code of conduct applicable to each oversight committee member, program integration committee member, and institute employee.

(b) The code of conduct at a minimum must include provisions prohibiting the member, the employee, or the member's or employee's spouse from:

(1) accepting or soliciting any gift, favor, or service that could reasonably influence the member or employee in the discharge of official duties or that the member, employee, or spouse of the member or employee knows or should know is being offered with the intent to influence the member's or employee's official conduct;

(2) accepting employment or engaging in any business or professional activity that would reasonably require or induce the member or employee to disclose confidential information acquired in the member's or employee's official position;

(3) accepting other employment or compensation that could reasonably impair

the member's or employee's independent judgment in the performance of official duties;

(4) make personal investments or have a financial interest that could reasonably create a substantial conflict between the member's or employee's private interest and the member's or employee's official duties;

(5) intentionally or knowingly solicit, accept, or agree to accept any benefit for exercising the member's official powers or performing the member's or employee's official duties in favor of another;

(6) lease, directly or indirectly, any property, capital equipment, employee, or service to any entity that receives a grant from the institute; or

*(See Subsec. (b)(1) below.)*

(7) serve on the board of directors of:

(A) a nonprofit organization established with a grant from the institute; or

(B) a grant recipient.

(b) Notwithstanding Section 102.058, an oversight committee member or the member's spouse may not:

(1) submit a grant application for funding by the institute;

(2) be employed by or participate in the management of an entity receiving money from the institute;

(3) own or control, directly or indirectly, a financial interest in an entity receiving money from the institute; or

(4) use or receive a substantial amount of tangible goods, services, or money from the institute other than reimbursement authorized for attendance or expenses.

(c) An oversight committee member, program integration committee member, institute employee, or individual related to the member or employee within the second degree of affinity or consanguinity may not serve on the board of directors or other governing board of a nonprofit organization established to provide support to the institute.

(d) An employee of a nonprofit organization established with a grant from the institute may not serve on the institute's development review council.

the member's or employee's independent judgment in the performance of official duties;

(4) making personal investments or having a financial interest that could reasonably create a substantial conflict between the member's or employee's private interest and the member's or employee's official duties;

(5) intentionally or knowingly soliciting, accepting, or agreeing to accept any benefit for exercising the member's official powers or performing the member's or employee's official duties in favor of another;

(6) leasing, directly or indirectly, any property, capital equipment, employee, or service to any entity that receives a grant from the institute;

(7) submitting a grant application for funding by the institute;

(8) serving on the board of directors of an organization established with a grant from the institute; or

(9) serving on the board of directors of a grant recipient.

*(See Subdiv. (7) above.)*



(e) The institute may not participate in a business decision of a nonprofit organization established with a grant from the institute.

Sec. 102.060. INVESTIGATION OF CONFLICTS OF INTEREST.

(a) An oversight committee member, a program integration committee member, a research and prevention programs committee member, or an institute employee shall immediately notify the chief executive officer of a conflict of interest, including a professional or financial interest described by Section 102.058 or 102.156. On notification, the chief executive officer shall notify the presiding officer of the oversight committee and the general counsel, who shall determine the nature and extent of any conflict.

(b) A grant applicant seeking an investigation regarding whether a prohibited conflict of interest was not reported shall file a written request with the institute's chief executive officer. The applicant must:  
(1) include in the request all facts regarding the alleged conflict of interest; and  
(2) submit the request not later than the 30th day after the date the chief executive officer presents final funding recommendations for the affected grant cycle to the oversight committee.

(c) On notification of an alleged conflict of interest under Subsection (a) or (b), the institute's general counsel shall:

(1) investigate the matter; and  
(2) provide to the chief executive officer and presiding officer of the oversight committee an opinion that includes:

(A) a statement of facts;  
(B) a determination of whether a conflict of interest or another impropriety or self-dealing exists; and  
(C) if the opinion provides that a conflict of interest or another impropriety or self-dealing exists, recommendations for an appropriate course of action.

(d) If the conflict of interest, impropriety, or self-dealing involves the presiding officer of the oversight committee, the institute's

*(The following text was taken from SECTION 14 below.)*

Sec. 102.1063. INVESTIGATION OF UNREPORTED CONFLICTS OF INTEREST.

(a) An oversight committee member, a program integration committee member, a research and prevention programs committee member, or an institute employee who becomes aware of a potential conflict of interest described by Section 102.106 that has not been reported shall immediately notify the chief executive officer of the potential conflict of interest. On notification, the chief executive officer shall notify the presiding officer of the oversight committee and the general counsel, who shall determine the nature and extent of any unreported conflict.

(b) A grant applicant seeking an investigation regarding whether a prohibited conflict of interest was not reported shall file a written request with the institute's chief executive officer. The applicant must:  
(1) include in the request all facts regarding the alleged conflict of interest; and  
(2) submit the request not later than the 30th day after the date the chief executive officer presents final funding recommendations for the affected grant cycle to the oversight committee.

(c) On notification of an alleged conflict of interest under Subsection (a) or (b), the institute's general counsel shall:

(1) investigate the matter; and  
(2) provide to the chief executive officer and presiding officer of the oversight committee an opinion that includes:

(A) a statement of facts;  
(B) a determination of whether a conflict of interest or another impropriety or self-dealing exists; and  
(C) if the opinion provides that a conflict of interest or another impropriety or self-dealing exists, recommendations for an appropriate course of action.

(d) If the conflict of interest, impropriety, or self-dealing involves the presiding officer of the oversight committee, the institute's

general counsel shall provide the opinion to the next ranking oversight committee member who is not involved with the conflict of interest, impropriety, or self-dealing.

(e) After receiving the opinion and consulting with the presiding officer of the oversight committee, the chief executive officer shall take action regarding the recusal of the individual from any discussion of or access to information related to the conflict of interest, impropriety, or self-dealing. If the alleged conflict of interest, impropriety, or self-dealing is held by, or is an act of, the chief executive officer, the presiding officer of the oversight committee shall take actions regarding the recusal.

Sec. 102.061. FINAL DETERMINATION OF CONFLICT OF INTEREST.

(a) The chief executive officer or, if applicable, the presiding officer of the oversight committee shall make a determination regarding the existence of a conflict of interest, impropriety, or self-dealing. The determination must specify any actions to be taken to address the conflict of interest, impropriety, or self-dealing, including:

- (1) reconsideration of the application; or
- (2) referral of the application to another research and prevention programs committee for review.

(b) The determination made under Subsection (a) is considered final unless three or more oversight committee members request that the issue be added to the agenda of the oversight committee.

(c) The chief executive officer, or, if applicable, the presiding officer of the oversight committee, shall provide written notice of the final determination, including any further actions to be taken, to the grant applicant requesting an investigation.

(d) Unless specifically determined by the chief executive officer, or, if applicable, the presiding officer of the oversight committee, or the oversight committee, the validity of

general counsel shall provide the opinion to the next ranking oversight committee member who is not involved with the conflict of interest, impropriety, or self-dealing.

(e) After receiving the opinion and consulting with the presiding officer of the oversight committee, the chief executive officer shall take action regarding the recusal of the individual from any discussion of or access to information related to the conflict of interest or other recommended action related to the impropriety or self-dealing. If the alleged conflict of interest, impropriety, or self-dealing is held by, or is an act of, the chief executive officer, the presiding officer of the oversight committee shall take actions regarding the recusal or other action.

*(The following text was taken from SECTION 14 below.)*

Sec. 102.1064. FINAL DETERMINATION OF UNREPORTED CONFLICT OF INTEREST.

(a) The chief executive officer or, if applicable, the presiding officer of the oversight committee shall make a determination regarding the existence of an unreported conflict of interest described by Section 102.1063 or other impropriety or self-dealing. The determination must specify any actions to be taken to address the conflict of interest, impropriety, or self-dealing, including:

- (1) reconsideration of the application; or
- (2) referral of the application to another research and prevention programs committee for review.

(b) The determination made under Subsection (a) is considered final unless three or more oversight committee members request that the issue be added to the agenda of the oversight committee.

(c) The chief executive officer or, if applicable, the presiding officer of the oversight committee, shall provide written notice of the final determination, including any further actions to be taken, to the grant applicant requesting the investigation.

(d) Unless specifically determined by the chief executive officer or, if applicable, the presiding officer of the oversight committee, or the oversight committee, the validity of

an action taken on a grant application is not affected by the fact that an individual who failed to report a conflict of interest participated in the action.

an action taken on a grant application is not affected by the fact that an individual who failed to report a conflict of interest participated in the action.

*(The following text was taken from SECTION 14 below.)*

Sec. 102.062. DISCLOSURE OF CONFLICT OF INTEREST.

(a) If an oversight committee member or program integration committee member has a conflict of interest, including a professional or financial interest described by Section 102.058, regarding an application that comes before the member for review or other action, the member shall:

(1) notify the chief executive officer, as provided by Section 102.058, and the presiding officer of the oversight committee, or the next ranking member of the committee if the presiding officer has the conflict of interest;

(2) disclose the conflict of interest in an open meeting of the oversight committee; and

(3) recuse himself or herself from participating in the review, discussion, deliberation, and vote on the application and from accessing information regarding the matter to be decided.

(b) If an institute employee has a conflict of interest, including a professional or financial interest described by Section 102.058, regarding an application that comes before the employee for review or other action, the employee shall:

(1) notify the chief executive officer of the conflict of interest; and

(2) recuse himself or herself from participating in the review of the application and be prevented from accessing information regarding the matter to be decided.

Sec. 102.1061. DISCLOSURE OF CONFLICT OF INTEREST; RECUSAL.

(a) If an oversight committee member or program integration committee member has a conflict of interest as described by Section 102.106 regarding an application that comes before the member for review or other action, the member shall:

(1) provide written notice to the chief executive officer and the presiding officer of the oversight committee or the next ranking member of the committee if the presiding officer has the conflict of interest;

(2) disclose the conflict of interest in an open meeting of the oversight committee; and

(3) recuse himself or herself from participating in the review, discussion, deliberation, and vote on the application and from accessing information regarding the matter to be decided.

(b) If an institute employee has a conflict of interest described by Section 102.106 regarding an application that comes before the employee for review or other action, the employee shall:

(1) provide written notice to the chief executive officer of the conflict of interest; and

(2) recuse himself or herself from participating in the review of the application and be prevented from accessing information regarding the matter to be decided.

(c) If a research and prevention programs committee member has a conflict of interest described by Section 102.106 regarding an application that comes before the member's committee for review or other action, the member shall:

(1) provide written notice to the chief executive officer of the conflict of interest; and

(2) recuse himself or herself from

participating in the review, discussion, deliberation, and vote on the application and from accessing information regarding the matter to be decided.

(d) An oversight committee member, program integration committee member, research and prevention programs committee member, or institute employee with a conflict of interest may seek a waiver as provided by Section 102.1062.

(c) An oversight committee member, program integration committee member, or institute employee who reports a potential conflict of interest or another impropriety or self-dealing of the member or employee and who fully complies with the recommendations of the general counsel and recusal is considered in compliance with the conflict-of-interest provisions of this chapter. The member or employee is subject to other applicable laws, rules, requirements, and prohibitions.

(d) An oversight committee member, program integration committee member, or institute employee who intentionally violates this section is subject to removal from further participation in the institute's grant review process.

(e) An oversight committee member, program integration committee member, research and prevention programs committee member, or institute employee who reports a potential conflict of interest or another impropriety or self-dealing of the member or employee and who fully complies with the recommendations of the general counsel and recusal requirements is considered in compliance with the conflict-of-interest provisions of this chapter. The member or employee is subject to other applicable laws, rules, requirements, and prohibitions.

(f) An oversight committee member, program integration committee member, research and prevention programs committee member, or institute employee who intentionally violates this section is subject to removal from further participation in the institute's grant review process.

Sec. 102.063. ADDITIONAL DUTIES OF COMPLIANCE OFFICER.

(a) The compliance officer shall adopt and implement a policy on in-state or out-of-state residency requirements for members of the institute's development review council.

(b) The compliance officer shall retain documentation relating to:

(1) each grant recipient's financial reports, including the amount of matching funds dedicated to the specific grant proposal;

(2) each grant recipient's progress reports; and

(3) institute reviews of the financial reports and progress reports.

(c) The compliance officer shall adopt and implement a system to track the date on which a grant recipient's report:

(1) is due; and

(2) is received by the institute.

No equivalent provision.

*(See SECTION 17, Sec. 102.151(b), below.)*

(d) The compliance officer shall inquire into and monitor the status of any required report that is not timely submitted to the institute by a grant recipient.

(e) The compliance officer shall develop and implement a policy on advance payments to grant recipients.

(f) The compliance officer annually shall:

(1) verify the amount of matching funds dedicated to the specific grant awarded to a grant recipient; and

(2) review each grant recipient to ensure that the grant recipient is in compliance with the terms and conditions of the grant recipient's contract with the institute.

(g) If the compliance officer determines that a grant recipient has not maintained compliance with the terms and conditions of the grant contract, the compliance officer shall recommend a remediation plan to the oversight committee to assist the grant recipient in complying with the contract. The oversight committee shall approve or disapprove a remediation plan submitted by the compliance officer. If approved, the compliance officer shall submit the approved remediation plan to the grant recipient.

(h) The compliance officer shall attend and observe the meetings of the program integration committee to ensure that the committee fulfills its duties under this chapter.

SECTION 8. Subsections (b) and (e), Section 102.101, Health and Safety Code, are amended to read as follows:

(b) The oversight committee is composed of the following nine [~~11~~] members:

(1) three members appointed by the governor;

(2) three members appointed by the lieutenant governor; and

(3) three members appointed by the speaker of the house of representatives[;

~~[(4) the comptroller or the comptroller's designee; and~~

~~[(5) the attorney general or the attorney general's designee].~~

SECTION 9. Sections 102.101(b), (d), and (e), Health and Safety Code, are amended to read as follows:

(b) The oversight committee is composed of the following nine [~~11~~] members:

(1) three members appointed by the governor;

(2) three members appointed by the lieutenant governor; and

(3) three members appointed by the speaker of the house of representatives[;

~~[(4) the comptroller or the comptroller's designee; and~~

~~[(5) the attorney general or the attorney general's designee].~~

(d) In making appointments to the oversight committee, the governor, lieutenant governor, and speaker of the house of

(e) A person may not be a member of the oversight committee if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving money from the institute;

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

(3) uses or receives a substantial amount of tangible goods, services, or money from the institute, other than reimbursement authorized by this chapter for oversight committee membership, attendance, or expenses.

SECTION 9. Subsection (c), Section 102.102, Health and Safety Code, is amended.

SECTION 10. Subsection (a), Section 102.103, Health and Safety Code, is amended to read as follows:

(a) Oversight committee members appointed by the governor, lieutenant governor, and speaker of the house serve at the pleasure of the appointing officer for staggered six-year terms, with the terms of three members expiring on January 31 of each odd-numbered year.

SECTION 11. Section 102.104, Health and Safety Code, is amended to read as follows:

Sec. 102.104. OFFICERS. (a) The oversight committee shall elect [select] a presiding officer and assistant presiding officer from among its members every two years. The oversight committee may elect additional officers from among its members.

representatives:

(1) must each appoint at least one person who is a physician or a scientist with extensive experience in the field of oncology or public health; and

(2) should attempt to include cancer survivors and family members of cancer patients if possible.

(e) A person may not be a member of the oversight committee if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving money from the institute;

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

(3) uses or receives a substantial amount of tangible goods, services, or money from the institute, other than reimbursement authorized by this chapter for oversight committee membership, attendance, or expenses.

SECTION 10. Same as engrossed version except for recitation.

SECTION 11. Section 102.103(a), Health and Safety Code, is amended to read as follows:

(a) Oversight committee members appointed by the governor, lieutenant governor, and speaker of the house serve at the pleasure of the appointing office for staggered six-year terms, with the terms of three members expiring on January 31 of each odd-numbered year.

SECTION 12. Section 102.104, Health and Safety Code, is amended to read as follows:

Sec. 102.104. OFFICERS. (a) The oversight committee shall elect [select] a presiding officer and assistant presiding officer from among its members every two years. The oversight committee may elect additional officers from among its members.

(b) The presiding officer and assistant presiding officer may not serve more than two years.

(c) The oversight committee shall:

(1) establish and approve duties and responsibilities for officers of the committee; and

(2) develop and implement policies that distinguish the responsibilities of the oversight committee and the committee's officers from the responsibilities of the chief executive officer and the employees of the institute.

*(See SECTION 7, Sec. 102.058, above.)*

(b) The presiding officer and assistant presiding officer may not serve in the position to which the officer was elected for two consecutive terms.

(c) The oversight committee shall:

(1) establish and approve duties and responsibilities for officers of the committee; and

(2) develop and implement policies that distinguish the responsibilities of the oversight committee and the committee's officers from the responsibilities of the chief executive officer and the employees of the institute.

SECTION 13. Section 102.106, Health and Safety Code, is amended to read as follows:

Sec. 102.106. CONFLICT OF INTEREST.

(a) The oversight committee shall adopt conflict-of-interest rules, based on standards applicable to members of scientific review committees of the National Institutes of Health, to govern members of the oversight committee, the program integration committee, the research and prevention programs committees, and institute employees.

(b) An institute employee, oversight committee member, program integration committee member, or research and prevention programs committee member shall recuse himself or herself, as provided by Section 102.1061(a), (b), or (c) as applicable, if the employee or member, or a person who is related to the employee or member within the second degree of affinity or consanguinity, has a professional or financial interest in an entity receiving or applying to receive money from the institute.

(c) A person has a professional interest in an entity receiving or applying to receive money from the institute if the person:

(1) is a member of the board of directors, another governing board, or any committee of the entity, or of a foundation or similar organization affiliated with the entity, during the same grant cycle;

(2) serves as an elected or appointed officer of the entity or of a foundation or similar organization affiliated with the entity;

(3) is an employee of or is negotiating future employment with the entity or with a foundation or similar organization affiliated

with the entity;

(4) represents the entity or a foundation or similar organization affiliated with the entity;

(5) is a professional associate of a primary member of the entity's research or prevention program team;

(6) is, or within the preceding six years has been, a student, postdoctoral associate, or part of a laboratory research group for a primary member of the entity's research or prevention program team;

(7) is engaged or is actively planning to be engaged in collaboration with a primary member of the entity's research or prevention program team; or

(8) has long-standing scientific differences or disagreements with a primary member of the entity's research or prevention program team, and those differences:

(A) are known to the professional community; and

(B) could be perceived as affecting objectivity.

(d) A person has a financial interest in an entity receiving or applying to receive money from the institute if the person:

(1) owns or controls, directly or indirectly, an ownership interest, including sharing in profits, proceeds, or capital gains, in an entity receiving or applying to receive money from the institute or in a foundation or similar organization affiliated with the entity; or

(2) could reasonably foresee that an action taken by the institute, a research and prevention programs committee, the program integration committee, or the oversight committee could result in a financial benefit to the person.

(e) Nothing in this chapter limits the authority of the oversight committee to adopt additional conflict-of-interest standards.

SECTION 14. Subchapter C, Chapter 102, Health and Safety Code, is amended by adding Sections 102.1061 through 102.1064 to read as follows:

*(See SECTION 7, Sec. 102.062, above.)*

Sec. 102.1061. DISCLOSURE OF CONFLICT OF INTEREST; RECUSAL.

(a) If an oversight committee member or program integration committee member has



a conflict of interest as described by Section 102.106 regarding an application that comes before the member for review or other action, the member shall:

(1) provide written notice to the chief executive officer and the presiding officer of the oversight committee or the next ranking member of the committee if the presiding officer has the conflict of interest;

(2) disclose the conflict of interest in an open meeting of the oversight committee; and

(3) recuse himself or herself from participating in the review, discussion, deliberation, and vote on the application and from accessing information regarding the matter to be decided.

(b) If an institute employee has a conflict of interest described by Section 102.106 regarding an application that comes before the employee for review or other action, the employee shall:

(1) provide written notice to the chief executive officer of the conflict of interest; and

(2) recuse himself or herself from participating in the review of the application and be prevented from accessing information regarding the matter to be decided.

(c) If a research and prevention programs committee member has a conflict of interest described by Section 102.106 regarding an application that comes before the member's committee for review or other action, the member shall:

(1) provide written notice to the chief executive officer of the conflict of interest; and

(2) recuse himself or herself from participating in the review, discussion, deliberation, and vote on the application and from accessing information regarding the matter to be decided.

(d) An oversight committee member, program integration committee member, research and prevention programs committee member, or institute employee with a conflict of interest may seek a waiver as provided by Section 102.1062.

(e) An oversight committee member, program integration committee member, research and prevention programs committee member, or institute employee who reports a potential conflict of interest or

another impropriety or self-dealing of the member or employee and who fully complies with the recommendations of the general counsel and recusal requirements is considered in compliance with the conflict-of-interest provisions of this chapter. The member or employee is subject to other applicable laws, rules, requirements, and prohibitions.

(f) An oversight committee member, program integration committee member, research and prevention programs committee member, or institute employee who intentionally violates this section is subject to removal from further participation in the institute's grant review process.

No equivalent provision.

Sec. 102.1062. EXCEPTIONAL CIRCUMSTANCES REQUIRING PARTICIPATION. The oversight committee shall adopt rules governing the waiver of the conflict-of-interest requirements of this chapter under exceptional circumstances for an oversight committee member, program integration committee member, research and prevention programs committee member, or institute employee. The rules must:

(1) authorize the chief executive officer or an oversight committee member to propose the granting of a waiver by submitting to the presiding officer of the oversight committee a written statement about the conflict of interest, the exceptional circumstance requiring the waiver, and any proposed limitations to the waiver;

(2) require a proposed waiver to be publicly reported at a meeting of the oversight committee;

(3) require a majority vote of the oversight committee members present and voting to grant a waiver;

(4) require any waiver granted to be reported annually to the lieutenant governor, the speaker of the house of representatives, the governor, and the standing committee of each house of the legislature with primary jurisdiction over institute matters; and

(5) require the institute to retain documentation of each waiver granted.

*(See SECTION 7, Sec. 102.060, above.)*

Sec. 102.1063. INVESTIGATION OF UNREPORTED CONFLICTS OF INTEREST. (a) An oversight committee member, a program integration committee

member, a research and prevention programs committee member, or an institute employee who becomes aware of a potential conflict of interest described by Section 102.106 that has not been reported shall immediately notify the chief executive officer of the potential conflict of interest. On notification, the chief executive officer shall notify the presiding officer of the oversight committee and the general counsel, who shall determine the nature and extent of any unreported conflict.

(b) A grant applicant seeking an investigation regarding whether a prohibited conflict of interest was not reported shall file a written request with the institute's chief executive officer. The applicant must:

(1) include in the request all facts regarding the alleged conflict of interest; and

(2) submit the request not later than the 30th day after the date the chief executive officer presents final funding recommendations for the affected grant cycle to the oversight committee.

(c) On notification of an alleged conflict of interest under Subsection (a) or (b), the institute's general counsel shall:

(1) investigate the matter; and

(2) provide to the chief executive officer and presiding officer of the oversight committee an opinion that includes:

(A) a statement of facts;

(B) a determination of whether a conflict of interest or another impropriety or self-dealing exists; and

(C) if the opinion provides that a conflict of interest or another impropriety or self-dealing exists, recommendations for an appropriate course of action.

(d) If the conflict of interest, impropriety, or self-dealing involves the presiding officer of the oversight committee, the institute's general counsel shall provide the opinion to the next ranking oversight committee member who is not involved with the conflict of interest, impropriety, or self-dealing.

(e) After receiving the opinion and consulting with the presiding officer of the oversight committee, the chief executive officer shall take action regarding the recusal of the individual from any discussion of or access to information related to the conflict of interest or other recommended action related to the

impropriety or self-dealing. If the alleged conflict of interest, impropriety, or self-dealing is held by, or is an act of, the chief executive officer, the presiding officer of the oversight committee shall take actions regarding the recusal or other action.

(See SECTION 7, Sec. 102.061, above.)

Sec. 102.1064. FINAL DETERMINATION OF UNREPORTED CONFLICT OF INTEREST. (a) The chief executive officer or, if applicable, the presiding officer of the oversight committee shall make a determination regarding the existence of an unreported conflict of interest described by Section 102.1063 or other impropriety or self-dealing. The determination must specify any actions to be taken to address the conflict of interest, impropriety, or self-dealing, including:

(1) reconsideration of the application; or  
(2) referral of the application to another research and prevention programs committee for review.

(b) The determination made under Subsection (a) is considered final unless three or more oversight committee members request that the issue be added to the agenda of the oversight committee.

(c) The chief executive officer or, if applicable, the presiding officer of the oversight committee, shall provide written notice of the final determination, including any further actions to be taken, to the grant applicant requesting the investigation.

(d) Unless specifically determined by the chief executive officer or, if applicable, the presiding officer of the oversight committee, or the oversight committee, the validity of an action taken on a grant application is not affected by the fact that an individual who failed to report a conflict of interest participated in the action.

SECTION 12. Section 102.107, Health and Safety Code, is amended to read as follows:  
Sec. 102.107. POWERS AND DUTIES.  
The oversight committee shall:

- (1) hire a chief [an] executive officer;
- (2) annually set priorities as prescribed by the legislature for each grant program and each category of funded research that receives money under this chapter; and
- (3) consider the priorities set under Subdivision (2) in awarding grants under

SECTION 15. Section 102.107, Health and Safety Code, is amended to read as follows:  
Sec. 102.107. POWERS AND DUTIES.  
The oversight committee shall:

- (1) hire a chief [an] executive officer;
- (2) annually set priorities as prescribed by the legislature for each grant program that receives money under this chapter; and
- (3) consider the priorities set under Subdivision (2) in awarding grants under

this chapter [director].

this chapter [director].

*(See SECTION 7, Sec. 102.059, above.)*

SECTION 16. Subchapter C, Chapter 102, Health and Safety Code, is amended by adding Sections 102.109 and 102.110 to read as follows:

Sec. 102.109. CODE OF CONDUCT. (a)

The oversight committee shall adopt a code of conduct applicable to each oversight committee member, program integration committee member, and institute employee.

(b) The code of conduct at a minimum must include provisions prohibiting the member, the employee, or the member's or employee's spouse from:

(1) accepting or soliciting any gift, favor, or service that could reasonably influence the member or employee in the discharge of official duties or that the member, employee, or spouse of the member or employee knows or should know is being offered with the intent to influence the member's or employee's official conduct;

(2) accepting employment or engaging in any business or professional activity that would reasonably require or induce the member or employee to disclose confidential information acquired in the member's or employee's official position;

(3) accepting other employment or compensation that could reasonably impair the member's or employee's independent judgment in the performance of official duties;

(4) making personal investments or having a financial interest that could reasonably create a substantial conflict between the member's or employee's private interest and the member's or employee's official duties;

(5) intentionally or knowingly soliciting, accepting, or agreeing to accept any benefit for exercising the member's official powers or performing the member's or employee's official duties in favor of another;

(6) leasing, directly or indirectly, any property, capital equipment, employee, or service to any entity that receives a grant from the institute;

(7) submitting a grant application for funding by the institute;

(8) serving on the board of directors of an organization established with a grant from the institute; or

(9) serving on the board of directors of a

No equivalent provision.

SECTION 13. Section 102.151, Health and Safety Code, is amended by amending Subsections (a-1) and (b) and adding Subsection (c) to read as follows:

(a-1) The oversight committee shall establish research and prevention programs committees. The chief executive officer [director], with approval by simple majority of the members of the oversight committee, shall appoint as members of [scientific] research and prevention programs committees experts in the field of cancer research and prevention.

(See SECTION 7, Sec. 102.063(a), above.)

~~(b) Individuals appointed to [the] research and prevention programs committees [committee] may be residents of this state or another state.~~

(c) The chief executive officer, in consultation with the oversight committee, shall implement a system to document any change in the amount of honorarium paid to a member of a research and prevention programs committee, including information explaining the basis for changing the amount.

grant recipient.

Sec. 102.110. FINANCIAL STATEMENT REQUIRED. Each member of the oversight committee shall file with the chief compliance officer a verified financial statement complying with Sections 572.022 through 572.0252, Government Code, as required of a state officer by Section 572.021, Government Code.

SECTION 17. Section 102.151, Health and Safety Code, is amended by amending Subsections (a-1) and (b) and adding Subsections (c) and (e) to read as follows:

(a-1) The oversight committee shall establish research and prevention programs committees. The chief executive officer [director], with approval by simple majority of the members of the oversight committee, shall appoint as members of [scientific] research and prevention programs committees experts in the field of cancer research and prevention, including qualified trained cancer patient advocates who meet the qualifications developed by rule as provided by Subsection (c).

~~(b) The institute shall adopt a written policy on in-state or out-of-state residency requirements for members of the research and prevention programs committees.~~

~~[Individuals appointed to the research and prevention programs committee may be residents of another state.]~~

(c) The oversight committee shall adopt rules regarding the qualifications required for an individual who will serve as a trained cancer patient advocate committee member for a research and prevention programs committee. The rules must require a trained cancer patient advocate to receive science-based training.

(e) The chief executive officer, in consultation with the oversight committee, shall adopt a policy and document any change in the amount of honorarium paid to a member of a research and prevention programs committee, including information explaining the basis for changing the amount.

SECTION 14. Section 102.152, Health and Safety Code, is amended.

SECTION 15. Section 102.156, Health and Safety Code, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows:

(a) A member of a research and prevention programs committee, the university advisory committee, or any ad hoc committee appointed under this subchapter shall disclose in writing to the chief executive officer [~~director~~] if the member has a professional [~~an interest in a matter that comes before the member's committee~~] or [~~has a substantial~~] financial interest in an entity that has a direct interest in a [the] matter that comes before the member's committee.

*(Same as Subsec. (e) below.)*

(c) A person has a [substantial] financial interest in an entity if the person:  
(1) is an employee, member, director, or officer of the entity; or  
(2) owns or controls, directly or indirectly, an [more than a five percent] interest in the entity.

(d) A person has a professional interest in an entity receiving or applying to receive money from the institute if the person:  
(1) is a member of the board of directors, the other governing board, or any committee of the entity during the same grant cycle;  
(2) serves as an elected or appointed officer of the entity;  
(3) is an employee of or is negotiating future employment with the entity;  
(4) represents the entity;

SECTION 18. Same as engrossed version.

SECTION 19. Sections 102.156(a), (b), and (c), Health and Safety Code, are amended to read as follows:

(a) A member of a research and prevention programs committee [~~the university advisory committee, or any ad hoc committee~~] appointed under this subchapter shall disclose in writing to the chief executive officer [~~director~~] if the member has a professional [~~an interest in a matter that comes before the member's committee~~] or [~~has a substantial~~] financial interest, as defined by Section 102.106, in an entity that has a direct interest in a [the] matter that comes before the member's committee.

(b) The member shall recuse himself or herself in the manner described by Section 102.1061 from the committee's deliberations and actions on the matter in Subsection (a) and may not participate in the committee's decision on the matter.

(c) A member of a research and prevention programs committee appointed under this chapter may not serve on the board of directors or other governing board of an entity receiving a grant from the institute or of a foundation or similar organization affiliated with the entity

~~[A person has a substantial financial interest in an entity if the person:~~  
(1) is an employee, member, director, or officer of the entity; or  
(2) owns or controls, directly or indirectly, ~~more than a five percent interest in the entity].~~

No equivalent provision.

(5) is a professional associate of a primary member of the entity's research or prevention program applicant's team;

(6) is, or within the preceding six years has been, a student, postdoctoral associate, or part of a laboratory research group for a primary member of the entity's research or prevention program applicant's team;

(7) is engaged or is actively planning to be engaged in collaboration with a primary member of the entity's research or prevention program applicant's team; or

(8) has long-standing scientific differences or disagreements with a primary member of the entity's research or prevention program applicant's team, and those differences:

(A) are known to the professional community; and

(B) could be perceived as affecting objectivity.

(e) A member of a research and prevention programs committee appointed under this chapter may not serve on the board of directors or other governing board of an entity receiving a grant from the institute or of a foundation or similar organization affiliated with the entity.

*(Same as Subsec. (c) above.)*

No equivalent provision.

SECTION 20. Sections 102.201(b) and (c), Health and Safety Code, are amended to read as follows:

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

(1) ~~[patent, royalty, and license fees and other income received under a contract entered into as provided by Section 102.255;~~ ~~[(2)]~~ appropriations of money to the fund by the legislature, except that the appropriated money may not include the proceeds from the issuance of bonds authorized by Section 67, Article III, Texas Constitution;

~~(2) [(3)]~~ gifts, grants, including grants from the federal government, and other donations received for the fund; and

~~(3) [(4)]~~ interest earned on the investment of money in the fund.

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

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



- (2) the purchase, subject to approval by the institute, of laboratory facilities by or on behalf of a state agency or grant recipient;
- (3) grants to public or private persons to implement the Texas Cancer Plan;
- (4) the operation of the institute; ~~[and]~~
- (5) grants for cancer prevention and control programs in this state to mitigate the incidence of all types of cancer in humans; and
- (6) debt service on bonds issued as authorized by Section 67, Article III, Texas Constitution.

SECTION 16. Section 102.251, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (c), (d), and (e) to read as follows:

(a) The oversight committee shall issue rules regarding the procedure for awarding grants to an applicant under this chapter. The rules must include the following procedures:

(1) a research and prevention programs committee shall score ~~[review]~~ grant applications and make recommendations to the program integration committee, established under Section 102.264, and the oversight committee ~~[executive director]~~ regarding the award of cancer research grants, including a prioritized list that:

(A) ranks the grant applications in the order the committee determines applications should be funded; and

(B) includes information explaining how each grant application on the list meets the research and prevention programs committee's standards for recommendation;

(2) the program integration committee ~~[executive director]~~ shall submit to the oversight committee a list of grant applications the program integration committee by majority vote approved for recommendation that:

(A) includes documentation on the factors the program integration committee considered in making the grant recommendations;

(B) ~~[that]~~ is substantially based on the list submitted by the research and prevention programs committee under Subdivision (1); and

SECTION 21. Section 102.251, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (c), (d), and (e) to read as follows:

(a) The oversight committee shall issue rules regarding the procedure for awarding grants to an applicant under this chapter. The rules must include the following procedures:

(1) a research and prevention programs committee shall score ~~[review]~~ grant applications and make recommendations to the program integration committee, established under Section 102.264, and the oversight committee ~~[executive director]~~ regarding the award of cancer research and prevention grants, including a prioritized list that:

(A) ranks the grant applications in the order the committee determines applications should be funded; and

(B) includes information explaining how each grant application on the list meets the research and prevention programs committee's standards for recommendation;

(2) the program integration committee ~~[executive director]~~ shall submit to the oversight committee a list of grant applications the program integration committee by majority vote approved for recommendation that:

(A) includes documentation on the factors the program integration committee considered in making the grant recommendations;

(B) ~~[that]~~ is substantially based on the list submitted by the research and prevention programs committee under Subdivision (1); and

(C) [;] to the extent possible, gives priority to proposals that:

(i) [(A)] could lead to immediate or long-term medical and scientific breakthroughs in the area of cancer prevention or cures for cancer;

(ii) [(B)] strengthen and enhance fundamental science in cancer research;

(iii) [(C)] ensure a comprehensive coordinated approach to cancer research;

(iv) [(D)] are interdisciplinary or interinstitutional;

(v) [(E)] address federal or other major research sponsors' priorities in emerging scientific or technology fields in the area of cancer prevention or cures for cancer;

(vi) [(F)] are matched with funds available by a private or nonprofit entity and institution or institutions of higher education;

(vii) [(G)] are collaborative between any combination of private and nonprofit entities, public or private agencies or institutions in this state, and public or private institutions outside this state;

(viii) [(H)] have a demonstrable economic development benefit to this state;

(ix) [(I)] enhance research superiority at institutions of higher education in this state by creating new research superiority, attracting existing research superiority from institutions not located in this state and other research entities, or enhancing existing research superiority by attracting from outside this state additional researchers and resources; and

(x) [(J)] expedite innovation and development [commercialization], attract, create, or expand private sector entities that will drive a substantial increase in high-quality jobs, and increase higher education applied science or technology research capabilities; and

(3) the institute's chief scientific officer and development officer shall compare each grant application submitted to the institute to a list of donors from any nonprofit organization established to provide support to the institute compiled from information made available under Section 102.262(c) before the application is submitted to a research and prevention programs

(C) [;] to the extent possible, gives priority to proposals that:

(i) [(A)] could lead to immediate or long-term medical and scientific breakthroughs in the area of cancer prevention or cures for cancer;

(ii) [(B)] strengthen and enhance fundamental science in cancer research;

(iii) [(C)] ensure a comprehensive coordinated approach to cancer research;

(iv) [(D)] are interdisciplinary or interinstitutional;

(v) [(E)] address federal or other major research sponsors' priorities in emerging scientific or technology fields in the area of cancer prevention or cures for cancer;

(vi) [(F)] are matched with funds available by a private or nonprofit entity and institution or institutions of higher education;

(vii) [(G)] are collaborative between any combination of private and nonprofit entities, public or private agencies or institutions in this state, and public or private institutions outside this state;

(viii) [(H)] have a demonstrable economic development benefit to this state;

(ix) [(I)] enhance research superiority at institutions of higher education in this state by creating new research superiority, attracting existing research superiority from institutions not located in this state and other research entities, or enhancing existing research superiority by attracting from outside this state additional researchers and resources; [and]

(x) [(J)] expedite innovation and product development [commercialization], attract, create, or expand private sector entities that will drive a substantial increase in high-quality jobs, and increase higher education applied science or technology research capabilities; and

(xi) address the goals of the Texas Cancer Plan; and

(3) the institute's chief compliance officer shall compare each grant application submitted to the institute to a list of donors from any nonprofit organization established to provide support to the institute compiled from information made available under Section 102.262(c) before the application is submitted to a research and prevention programs committee for review and again

committee for review and again before any grant is awarded to the applicant.

(c) The chief executive officer shall submit a written affidavit for each grant application recommendation included on the list submitted to the oversight committee under Subsection (a)(2). The affidavit must contain all relevant information on:

(1) the peer review process for the grant application;

(2) the application's peer review score assigned by the research and prevention programs committee;

(3) the ~~pre-grant~~ due diligence reviews of the application; and

(4) if applicable, the intellectual property reviews of the application.

(d) A member of the program integration committee may not discuss a grant applicant recommendation with a member of the oversight committee unless the chief executive officer and the program integration committee have fulfilled the requirements of Subsections (a)(2) and (c), as applicable.

(e) The institute may not award a grant to an applicant who has made a gift or grant to the institute or a nonprofit organization established to provide support to the institute.

SECTION 17. Section 102.252, Health and Safety Code, is amended to read as follows:  
Sec. 102.252. FUNDING [OVERRIDING] RECOMMENDATIONS. (a) Two-thirds of the members of the [The] oversight committee must vote to approve [follow] the funding recommendations of the program integration committee

~~[executive director in the order the executive director submits the applications to the oversight committee unless two thirds of the members of the oversight committee vote to disregard a recommendation].~~

before any grant is awarded to the applicant.

(c) The chief executive officer shall submit a written affidavit for each grant application recommendation included on the list submitted to the oversight committee under Subsection (a)(2). The affidavit must contain all relevant information on:

(1) the peer review process for the grant application;

(2) the application's peer review score assigned by the research and prevention programs committee; and

(3) if applicable, the intellectual property and other due diligence reviews of the application.

(d) A member of the program integration committee may not discuss a grant applicant recommendation with a member of the oversight committee unless the chief executive officer and the program integration committee have fulfilled the requirements of Subsections (a)(2) and (c), as applicable.

(e) The institute may not award a grant to an applicant who has made a gift or grant to the institute or a nonprofit organization established to provide support to the institute.

SECTION 22. Section 102.252, Health and Safety Code, is amended to read as follows:  
Sec. 102.252. FUNDING [OVERRIDING] RECOMMENDATIONS. Two-thirds of the members of the [The] oversight committee ~~present and voting~~ must vote to approve each [follow the] funding recommendation [recommendations] of the program integration committee.

If the oversight committee does not approve a funding recommendation of the program integration committee, a statement explaining the reasons a funding recommendation was not followed must be included in the minutes of the meeting

~~[executive director in the order the executive director submits the applications to the oversight committee unless two thirds of the members of the oversight committee vote to disregard a recommendation].~~

(b) The oversight committee by majority vote may remove a grant application from the funding recommendations submitted to the committee by the program integration committee.

SECTION 18. Subsections (b), (c), and (d), Section 102.255, Health and Safety Code, are amended to read as follows:

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

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

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

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

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

(ii) share with the state a proportionate amount of any profit realized from the sale; ~~[and]~~

(2) if ~~[, as of a date specified in the contract,]~~ the grant recipient has not used grant money awarded under Subchapter E for the purposes for which the grant was intended, the recipient shall repay that amount and any related interest applicable under the contract to the state at the agreed rate and on the agreed terms; and

(3) if, as a result of an annual review required under Section 102.063, the compliance officer determines the grant recipient has not complied with the terms and conditions of the grant contract and refuses to comply with a remediation plan approved by the oversight committee, the recipient shall repay the grant money awarded under Subchapter E and any related interest applicable under the contract to this state at the agreed rate and on the agreed terms.

(c) The contract must:

(1) include terms relating to intellectual property rights consistent with the standards

SECTION 23. Section 102.255, Health and Safety Code, is amended by amending Subsections (b), (c), and (d) and adding Subsection (e) to read as follows:

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

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

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

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

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

(ii) share with the state a proportionate amount of any profit realized from the sale; ~~[and]~~

(2) if ~~[, as of a date specified in the contract,]~~ the grant recipient has not used grant money awarded under Subchapter E for the purposes for which the grant was intended, the recipient shall repay that amount and any related interest applicable under the contract to the state at the agreed rate and on the agreed terms; and

(3) if the grant recipient fails to meet the terms and conditions of the contract, the institute may terminate the contract using the written process prescribed in the contract and require the recipient to repay the grant money awarded under Subchapter E and any related interest applicable under the contract to this state at the agreed rate and on the agreed terms.

(c) The contract must:

(1) include terms relating to intellectual property rights consistent with the standards

developed by the oversight committee under Section 102.256;

(2) require, in accordance with Subsection (d), the grant recipient to dedicate an amount of matching funds equal to one-half of the amount of the grant awarded; and

(3) specify:

(A) the amount of matching funds to be dedicated under Subdivision (2);

(B) the period in which the grant award must be spent;

(C) the name of the **specific** project to which matching funds are to be dedicated; and

(D) the specific deliverables of the **research** that is the subject of the grant proposal.

(d) Before the oversight committee may make for cancer research any grant of any proceeds of the bonds issued under Subchapter E, the recipient of the grant must have an amount of funds equal to one-half of the grant and dedicate those funds [~~dedicated~~] to the **specific** research that is the subject of the grant request.

**No equivalent provision.**

developed by the oversight committee under Section 102.256;

(2) require, in accordance with Subsection (d), the grant recipient to dedicate an amount of matching funds equal to one-half of the amount of the **research** grant awarded; and

(3) specify:

(A) the amount of matching funds to be dedicated under Subdivision (2);

(B) the period in which the grant award must be spent;

(C) the name of the **research** project to which matching funds are to be dedicated; and

(D) the specific deliverables of the **project** that is the subject of the grant proposal.

(d) Before the oversight committee may make for cancer research any grant of any proceeds of the bonds issued under Subchapter E, the recipient of the grant must certify that the recipient has [~~have~~] an amount of funds equal to one-half of the grant and dedicate those funds [~~dedicated~~] to the research that is the subject of the grant request.

The institute shall adopt rules specifying how a grant recipient fulfills obligations under this subchapter. At a minimum, the rules must:

(1) allow a grant recipient that is a public or private institution of higher education, as defined by Section 61.003, Education Code, to credit toward the recipient's matching funds the dollar amount equivalent to the difference between the indirect cost rate authorized by the federal government for research grants awarded to the recipient and the indirect cost rate authorized by Section 102.203(c);

(2) require that a grant recipient certify before the distribution of any money awarded under a grant for cancer research:

(A) that encumbered funds equal to one-half of the amount of the total grant award are available and not yet expended for research that is the subject of the grant; or

(B) if the grant recipient is a public or private institution of higher education, the indirect cost rate authorized by the federal research grants awarded to the recipient;

(3) specify that:

(A) a grant recipient receiving more than one grant award may provide matching

funds certification at an institutional level;  
(B) the recipient of a multiyear grant award may certify matching funds on a yearly basis; and  
(C) grant funds may not be distributed to the grant recipient until the annual certification of the matching funds has been approved;  
(4) specify that money used for purposes of certification may include:  
(A) federal funds, including funds provided under the American Recovery and Reinvestment Act of 2009 (Pub. L. No. 111-5) and the fair market value of drug development support provided to the recipient by the National Cancer Institute or other similar programs;  
(B) funds of this state;  
(C) funds of other states; and  
(D) nongovernmental funds, including private funds, foundation grants, gifts, and donations;  
(5) specify that the following items do not qualify for purposes of the certification required by this subsection:  
(A) in-kind costs;  
(B) volunteer services furnished to a grant recipient;  
(C) noncash contributions;  
(D) income earned by the grant recipient that is not available at the time of the award;  
(E) preexisting real estate of the grant recipient, including buildings, facilities, and land;  
(F) deferred giving, including a charitable remainder annuity trust, a charitable remainder unitrust, or a pooled income fund;  
or  
(G) other items as may be determined by the oversight committee;  
(6) require a grant recipient and the institute to include the certification in the grant award contract;  
(7) specify that a grant recipient's failure to provide certification shall serve as grounds for terminating the grant award contract;  
(8) require a grant recipient to maintain adequate documentation supporting the source and use of the funds required by this subsection and to provide documentation to the institute upon request; and  
(9) require that the institute establish a procedure to conduct an annual review of the documentation supporting the source and use of funds reported in the required

No equivalent provision.

SECTION 19. Subsections (b) and (c), Section 102.260, Health and Safety Code, are amended to read as follows:

(b) The chief executive officer [~~director~~] shall determine the grant review process under this section. The chief executive officer [~~director~~] may terminate grants that do not meet contractual obligations.

(c) The chief executive officer [~~director~~] shall report at least annually to the oversight committee on the progress and continued merit of each research program funded by the institute.

No equivalent provision.

No equivalent provision.

No equivalent provision.

certification.

(e) The institute shall adopt a policy on advance payments to grant recipients.

SECTION 24. Section 102.260, Health and Safety Code, is amended by amending Subsections (b) and (c) and adding Subsections (d), (e), and (f) to read as follows:

(b) The chief executive officer [~~director~~] shall determine the grant review process under this section. The chief executive officer [~~director~~] may terminate grants that do not meet contractual obligations.

(c) The chief executive officer [~~director~~] shall report at least annually to the oversight committee on the progress and continued merit of each research program funded by the institute.

(d) The institute shall establish and implement reporting requirements to ensure that each grant recipient complies with the terms and conditions in the grant contract, including verification of the amounts of matching funds dedicated to the research that is the subject of the grant award to the grant recipient.

(e) The institute shall implement a system to:

(1) track the dates on which grant recipient reports are due and are received by the institute; and

(2) monitor the status of any required report that is not timely submitted to the institute by a grant recipient.

(f) The chief compliance officer shall monitor compliance with this section and at least annually shall inquire into and monitor the status of any required report that is not timely submitted to the institute by a grant recipient. The chief compliance officer shall notify the general counsel and the oversight committee of a grant recipient that has not maintained compliance with the reporting requirements or matching funds provisions of the grant contract to allow the institute to begin suspension or termination of the grant contract under Subsection (b). This subsection does not limit other remedies available under the grant contract.

SECTION 20. Section 102.262, Health and Safety Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) The records of the institute and of a nonprofit organization established to provide support to the institute shall,

to the extent the records pertain specifically to any gift, grant, or other consideration provided by the organization to the institute, an employee of the institute, or a member of a committee of the institute, be made available to the public.

A record that is available under this subsection is public information subject to Chapter 552, Government Code.

(d) The institute shall post the records described by Subsection (c) on the institute's Internet website.

*(See Subsec. (c) above.)*

The information posted on the website must include each donor's name and the amount and date of the donation.

SECTION 21. Subchapter F, Chapter 102, Health and Safety Code, is amended by adding Sections 102.263 and 102.264 to read as follows:

Sec. 102.263. COMPLIANCE PROGRAM.

(a) In this section, "compliance program" means a process to assess and ensure compliance by the institute's committee members and employees with applicable laws, rules, and policies, including matters of:

- (1) ethics and standards of conduct;
- (2) financial reporting;
- (3) internal accounting controls; and
- (4) auditing.

(b) The institute shall establish a compliance program that operates under the direction of the institute's compliance officer. The institute may establish procedures, such as a telephone hotline, to

SECTION 25. Section 102.262, Health and Safety Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) The records of a nonprofit organization established to provide support to the institute

*(See Subsec. (d) below.)*

are public information subject to Chapter 552, Government Code.

(d) The institute shall post on the institute's Internet website records that

pertain specifically to any gift, grant, or other consideration provided to the institute, an institute employee, or a member of an institute committee.

The posted information must include each donor's name and the amount and date of the donor's donation.

SECTION 26. Subchapter F, Chapter 102, Health and Safety Code, is amended by adding Sections 102.263, 102.2631, and 102.264 to read as follows:

Sec. 102.263. COMPLIANCE PROGRAM.

(a) In this section, "compliance program" means a process to assess and ensure compliance by the institute's committee members and employees with applicable laws, rules, and policies, including matters of:

- (1) ethics and standards of conduct;
- (2) financial reporting;
- (3) internal accounting controls; and
- (4) auditing.

(b) The institute shall establish a compliance program that operates under the direction of the institute's chief compliance officer. The institute may establish procedures, such as a telephone hotline, to



allow private access to the compliance program office and to preserve the confidentiality of communications and the anonymity of a person making a compliance report or participating in a compliance investigation.

(c) The following are confidential:

(1) information that directly or indirectly reveals the identity of an individual who made a report to the institute's compliance program office, sought guidance from the office, or participated in an investigation conducted under the compliance program; and

(2) information that directly or indirectly reveals the identity of an individual who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the office if, after completing an investigation, the office determines the report to be unsubstantiated or without merit.

(d) Subsection (c) does not apply to information related to an individual who consents to disclosure of the information.

(e) Information is excepted from disclosure under Chapter 552, Government Code, if it is collected or produced in a compliance program investigation and releasing the information would interfere with an ongoing compliance investigation.

(f) Information made confidential or excepted from public disclosure by this section may be made available to the following on request in compliance with applicable law and procedure:

(1) a law enforcement agency or prosecutor;

(2) a governmental agency responsible for investigating the matter that is the subject of a compliance report, including the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission; or

(3) a committee member or institute employee who is responsible under

allow private access to the compliance program office and to preserve the confidentiality of communications and the anonymity of a person making a compliance report or participating in a compliance investigation.

(c) The following are confidential and are not subject to disclosure under Chapter 552, Government Code:

(1) information that directly or indirectly reveals the identity of an individual who made a report to the institute's compliance program office, sought guidance from the office, or participated in an investigation conducted under the compliance program;

(2) information that directly or indirectly reveals the identity of an individual who is alleged to have or may have planned, initiated, or participated in activities that are the subject of a report made to the office if, after completing an investigation, the office determines the report to be unsubstantiated or without merit; and

(3) other information that is collected or produced in a compliance program investigation if releasing the information would interfere with an ongoing compliance investigation.

(d) Subsection (c) does not apply to information related to an individual who consents to disclosure of the information.

(e) Information made confidential or excepted from public disclosure by this section may be made available to the following on request in compliance with applicable laws and procedures:

(1) a law enforcement agency or prosecutor;

(2) a governmental agency responsible for investigating the matter that is the subject of a compliance report, including the Texas Workforce Commission civil rights division or the federal Equal Employment Opportunity Commission; or

(3) a committee member or institute employee who is responsible under

institutional policy for a compliance program investigation or for a review of a compliance program investigation.

(g) A disclosure under Subsection (f) is not a voluntary disclosure for purposes of Section 552.007, Government Code.

No equivalent provision.

Sec. 102.264. PROGRAM INTEGRATION COMMITTEE. (a) The institute shall establish a program integration committee. The committee is composed of the following five members:

- (1) the chief executive officer;
  - (2) the chief scientific officer;
  - (3) the development officer;
  - (4) the commissioner of state health services; and
  - (5) the chief prevention officer.
- (b) The committee has the duties assigned under this chapter.
- (c) The chief executive officer shall serve as the presiding officer of the program integration committee.

SECTION 22. (a) As soon as practicable after the effective date of this Act, the Cancer Prevention and Research Institute of Texas Oversight Committee shall adopt the rules necessary to implement the changes in law made by this Act.

(b) The changes in law made by this Act apply only to a grant application submitted to the Cancer Prevention and Research Institute of Texas on or after the effective date of this Act. A grant application submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and that law is continued in effect for that purpose.

(c) Not later than January 1, 2014, employees, oversight committee members, and members of other committees of the Cancer Prevention and Research Institute of Texas must comply with the changes in law made by this Act regarding the qualifications of the employees and

institutional policy for a compliance program investigation or for a review of a compliance program investigation.

(f) A disclosure under Subsection (e) is not a voluntary disclosure for purposes of Section 552.007, Government Code.

Sec. 102.2631. COMPLIANCE MATTERS; CLOSED MEETING. The oversight committee may conduct a closed meeting under Chapter 551, Government Code, to discuss an ongoing compliance investigation into issues related to fraud, waste, or abuse of state resources.

Sec. 102.264. PROGRAM INTEGRATION COMMITTEE. (a) The institute shall establish a program integration committee. The committee is composed of the following five members:

- (1) the chief executive officer;
  - (2) the chief scientific officer;
  - (3) the chief product development officer;
  - (4) the commissioner of state health services; and
  - (5) the chief prevention officer.
- (b) The committee has the duties assigned under this chapter.
- (c) The chief executive officer shall serve as the presiding officer of the program integration committee.

SECTION 29. Substantially the same as engrossed version.

members.

(d) Not later than December 1, 2013, the Cancer Prevention and Research Institute of Texas Oversight Committee shall employ a compliance officer and a chief executive officer as required by Subsection (c), Section 102.051, and Section 102.0511, Health and Safety Code, as added by this Act.

(e) As soon as practicable after the effective date of this Act, the Cancer Prevention and Research Institute of Texas Oversight Committee shall establish a compliance program as required by Section 102.263, Health and Safety Code, as added by this Act.

No equivalent provision.

SECTION 27. Chapter 102, Health and Safety Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. CANCER PREVENTION AND RESEARCH INTEREST AND SINKING FUND

Sec. 102.270. ESTABLISHMENT OF FUND. (a) The cancer prevention and research interest and sinking fund is a dedicated account in the general revenue fund.

(b) The fund consists of:

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

(2) interest earned on the investment of money in the fund.

(c) The fund may be used only to pay for debt service on bonds issued as authorized by Section 67, Article III, Texas Constitution, at a time and in a manner to be determined by the legislature in the General Appropriations Act.

No equivalent provision.

SECTION 28. (a) The terms of the members of the Cancer Prevention and Research Institute of Texas Oversight Committee serving immediately before the effective date of this Act expire on the effective date of this Act.

(b) As soon as practicable after the effective date of this Act, the governor, lieutenant governor, and speaker of the house of representatives shall each appoint members to the Cancer Prevention and Research

Institute of Texas Oversight Committee as required by Section 102.101, Health and Safety Code, as amended by this Act. In making the initial appointments under that section, each appointing office shall designate one member for a term expiring January 31, 2015, one member for a term expiring January 31, 2017, and one member for a term expiring January 31, 2019.

SECTION 23. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

SECTION 30. Same as engrossed version.