

By: Nelson, et al. S.B. No. 149
(Keffer, Thompson of Harris, S. Davis of Harris, Morrison,
Martinez Fischer, et al.)

Substitute the following for S.B. No. 149:

By: Laubenberg C.S.S.B. No. 149

A BILL TO BE ENTITLED

AN ACT

relating to the Cancer Prevention and Research Institute of Texas.

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

SECTION 1. Section 102.001, Health and Safety Code, is amended by adding Subdivision (2-a) and amending Subdivision (3) to read as follows:

(2-a) "Program integration committee" means the Cancer Prevention and Research Institute of Texas Program Integration Committee.

(3) "Research and prevention programs committee" means a ~~the~~ Cancer Prevention and Research Institute of Texas Scientific Research and Prevention Programs committee ~~committees~~ appointed by the chief executive officer ~~director~~.

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

1 grants to institutions of learning and to advanced medical research
2 facilities and collaborations in this state for:

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

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

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

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

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

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

23 (4) may ~~employ an executive director as determined by~~
24 ~~the oversight committee;~~

25 [~~5~~] employ necessary staff to provide
26 administrative support; [~~and~~]

27 (5) shall continuously [~~6~~] monitor contracts and

1 agreements authorized by this chapter and ensure that each grant
2 recipient complies with the terms and conditions of the grant
3 contract;

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

8 (7) shall establish procedures to document that the
9 institute, its employees, and its committee members appointed under
10 this chapter comply with all laws and rules governing the peer
11 review process and conflicts of interest.

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

15 (d) The chief compliance officer shall:

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

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

22 SECTION 4. Subchapter B, Chapter 102, Health and Safety
23 Code, is amended by adding Section 102.0511 to read as follows:

24 Sec. 102.0511. CHIEF EXECUTIVE OFFICER; OTHER OFFICERS. (a)
25 The oversight committee shall hire a chief executive officer. The
26 chief executive officer shall perform the duties required by this
27 chapter or designated by the oversight committee.

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

4 (c) The chief executive officer shall hire:

5 (1) one chief scientific officer;

6 (2) one chief operating officer;

7 (3) one chief product development officer; and

8 (4) one chief prevention officer.

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

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

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

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

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

1 (3) the institute's administrative expenses;

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

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

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

9 (7) a statement of the institute's strategic research
10 and financial plans; ~~and~~

11 (8) an estimate of how much cancer has cost the state
12 during the year, including the amounts spent by the state relating
13 to cancer by the child health program, the Medicaid program, the
14 Teacher Retirement System of Texas, and the Employees Retirement
15 System of Texas;

16 (9) a statement of the institute's compliance program
17 activities, including any proposed legislation or other
18 recommendations identified through the activities; and

19 (10) a list of the waivers granted in the previous 12
20 months through the process established in Section 102.1062.

21 SECTION 6. Subchapter B, Chapter 102, Health and Safety
22 Code, is amended by adding Section 102.0535 to read as follows:

23 Sec. 102.0535. GRANT RECORDS. (a) The institute shall
24 maintain complete records of:

25 (1) the review of each grant application submitted to
26 the institute, including the score assigned to each grant
27 application reviewed by a research and prevention programs

1 committee in accordance with rules adopted under Section
2 102.251(a)(1), even if the grant application is not funded by the
3 institute or is withdrawn after submission to the institute;

4 (2) each grant recipient's financial reports,
5 including the amount of matching funds dedicated to the research
6 specified for the grant award;

7 (3) each grant recipient's progress reports; and

8 (4) the institute's review of the grant recipient's
9 financial reports and progress reports.

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

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

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

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

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

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

3 Sec. 102.057. PROHIBITED OFFICE LOCATION. An institute
4 employee may not have an office in a facility owned by an entity
5 receiving or applying to receive money from the institute.

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

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

10 (1) three members appointed by the governor;

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

13 (3) three members appointed by the speaker of the
14 house of representatives[+]

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

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

19 (d) In making appointments to the oversight committee, the
20 governor, lieutenant governor, and speaker of the house of
21 representatives:

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

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

27 (e) A person may not be a member of the oversight committee

1 if the person or the person's spouse:

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

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

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

12 SECTION 10. Section 102.102(c), Health and Safety Code, is
13 amended to read as follows:

14 (c) If the chief executive officer [~~director~~] has knowledge
15 that a potential ground for removal exists, the chief executive
16 officer [~~director~~] shall notify the presiding officer of the
17 oversight committee of the potential ground. The presiding officer
18 shall then notify the appointing authority and the attorney general
19 that a potential ground for removal exists. If the potential ground
20 for removal involves the presiding officer, the chief executive
21 officer [~~director~~] shall notify the next highest ranking officer of
22 the oversight committee, who shall then notify the appointing
23 authority and the attorney general that a potential ground for
24 removal exists.

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

27 (a) Oversight committee members appointed by the governor,

1 lieutenant governor, and speaker of the house serve at the pleasure
2 of the appointing office for staggered six-year terms, with the
3 terms of three members expiring on January 31 of each odd-numbered
4 year.

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

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

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

14 (c) The oversight committee shall:

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

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

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

23 Sec. 102.106. CONFLICT OF INTEREST. (a) The oversight
24 committee shall adopt conflict-of-interest rules, based on
25 standards applicable to members of scientific review committees of
26 the National Institutes of Health, to govern members of the
27 oversight committee, the program integration committee, the

1 research and prevention programs committees, and institute
2 employees.

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

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

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

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

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

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

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

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

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

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

11 (A) are known to the professional community; and

12 (B) could be perceived as affecting objectivity.

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

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

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

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

27 SECTION 14. Subchapter C, Chapter 102, Health and Safety

1 Code, is amended by adding Sections 102.1061 through 102.1064 to
2 read as follows:

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

4 (a) If an oversight committee member or program integration
5 committee member has a conflict of interest as described by Section
6 102.106 regarding an application that comes before the member for
7 review or other action, the member shall:

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

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

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

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

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

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

25 (c) If a research and prevention programs committee member
26 has a conflict of interest described by Section 102.106 regarding
27 an application that comes before the member's committee for review

1 or other action, the member shall:

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

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

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

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

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

25 Sec. 102.1062. EXCEPTIONAL CIRCUMSTANCES REQUIRING
26 PARTICIPATION. The oversight committee shall adopt rules governing
27 the waiver of the conflict-of-interest requirements of this chapter

1 under exceptional circumstances for an oversight committee member,
2 program integration committee member, research and prevention
3 programs committee member, or institute employee. The rules must:

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

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

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

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

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

21 Sec. 102.1063. INVESTIGATION OF UNREPORTED CONFLICTS OF
22 INTEREST. (a) An oversight committee member, a program
23 integration committee member, a research and prevention programs
24 committee member, or an institute employee who becomes aware of a
25 potential conflict of interest described by Section 102.106 that
26 has not been reported shall immediately notify the chief executive
27 officer of the potential conflict of interest. On notification,

1 the chief executive officer shall notify the presiding officer of
2 the oversight committee and the general counsel, who shall
3 determine the nature and extent of any unreported conflict.

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

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

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

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

16 (1) investigate the matter; and

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

20 (A) a statement of facts;

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

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

26 (d) If the conflict of interest, impropriety, or
27 self-dealing involves the presiding officer of the oversight

1 committee, the institute's general counsel shall provide the
2 opinion to the next ranking oversight committee member who is not
3 involved with the conflict of interest, impropriety, or
4 self-dealing.

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

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

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

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

1 committee.

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

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

12 SECTION 15. Section 102.107, Health and Safety Code, is
13 amended to read as follows:

14 Sec. 102.107. POWERS AND DUTIES. The oversight committee
15 shall:

16 (1) hire a chief ~~an~~ executive officer;

17 (2) annually set priorities as prescribed by the
18 legislature for each grant program that receives money under this
19 chapter; and

20 (3) consider the priorities set under Subdivision (2)
21 in awarding grants under this chapter ~~[director]~~.

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

25 Sec. 102.109. CODE OF CONDUCT. (a) The oversight committee
26 shall adopt a code of conduct applicable to each oversight
27 committee member, program integration committee member, and

1 institute employee.

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

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

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

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

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

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

26 (6) leasing, directly or indirectly, any property,
27 capital equipment, employee, or service to any entity that receives

1 a grant from the institute;

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

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

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

8 Sec. 102.110. FINANCIAL STATEMENT REQUIRED. Each member of
9 the oversight committee shall file with the chief compliance
10 officer a verified financial statement complying with Sections
11 572.022 through 572.0252, Government Code, as required of a state
12 officer by Section 572.021, Government Code.

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

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

24 (b) The institute shall adopt a written policy on in-state
25 or out-of-state residency requirements for members of the research
26 and prevention programs committees. [Individuals appointed to the
27 research and prevention programs committee may be residents of

1 ~~another state.]~~

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

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

12 SECTION 18. Section 102.152, Health and Safety Code, is
13 amended to read as follows:

14 Sec. 102.152. TERMS OF RESEARCH AND PREVENTION PROGRAMS
15 COMMITTEE MEMBERS. Members of a research and prevention programs
16 committee serve for terms as determined by the chief executive
17 officer [~~director~~].

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

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

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

5 (c) A member of a research and prevention programs committee
6 appointed under this chapter may not serve on the board of directors
7 or other governing board of an entity receiving a grant from the
8 institute or of a foundation or similar organization affiliated
9 with the entity [~~A person has a substantial financial interest in an~~
10 ~~entity if the person:~~

11 [~~(1) is an employee, member, director, or officer of~~
12 ~~the entity; or~~

13 [~~(2) owns or controls, directly or indirectly, more~~
14 ~~than a five percent interest in the entity]~~.

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

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

18 (1) [~~patent, royalty, and license fees and other~~
19 ~~income received under a contract entered into as provided by~~
20 ~~Section 102.255,~~

21 [~~(2)] appropriations of money to the fund by the~~

22 legislature, except that the appropriated money may not include the
23 proceeds from the issuance of bonds authorized by Section 67,
24 Article III, Texas Constitution;

25 (2) [(3)] gifts, grants, including grants from the
26 federal government, and other donations received for the fund; and

27 (3) [(4)] interest earned on the investment of money

1 in the fund.

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

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

7 (2) the purchase, subject to approval by the
8 institute, of laboratory facilities by or on behalf of a state
9 agency or grant recipient;

10 (3) grants to public or private persons to implement
11 the Texas Cancer Plan;

12 (4) the operation of the institute; ~~and~~

13 (5) grants for cancer prevention and control programs
14 in this state to mitigate the incidence of all types of cancer in
15 humans; and

16 (6) debt service on bonds issued as authorized by
17 Section 67, Article III, Texas Constitution.

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

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

24 (1) a research and prevention programs committee shall
25 score ~~review~~ grant applications and make recommendations to the
26 program integration committee, established under Section 102.264,
27 and the oversight committee ~~executive director~~ regarding the

1 award of cancer research and prevention grants, including a
2 prioritized list that:

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

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

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

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

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

18 (C) [~~7~~] to the extent possible, gives priority to
19 proposals that:

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

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

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

27 (iv) [~~(D)~~] are interdisciplinary or

1 interinstitutional;

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

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

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

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

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

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

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

27 (3) the institute's chief compliance officer shall

1 compare each grant application submitted to the institute to a list
2 of donors from any nonprofit organization established to provide
3 support to the institute compiled from information made available
4 under Section 102.262(c) before the application is submitted to a
5 research and prevention programs committee for review and again
6 before any grant is awarded to the applicant.

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

- 11 (1) the peer review process for the grant application;
12 (2) the application's peer review score assigned by
13 the research and prevention programs committee; and
14 (3) if applicable, the intellectual property and other
15 due diligence reviews of the application.

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

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

24 SECTION 22. Section 102.252, Health and Safety Code, is
25 amended to read as follows:

26 Sec. 102.252. FUNDING [~~OVERRIDING~~] RECOMMENDATIONS.
27 Two-thirds of the members of the [~~The~~] oversight committee present

1 and voting must vote to approve each [~~follow the~~] funding
2 recommendation [~~recommendations~~] of the program integration
3 committee. If the oversight committee does not approve a funding
4 recommendation of the program integration committee, a statement
5 explaining the reasons a funding recommendation was not followed
6 must be included in the minutes of the meeting [~~executive director~~
7 ~~in the order the executive director submits the applications to the~~
8 ~~oversight committee unless two-thirds of the members of the~~
9 ~~oversight committee vote to disregard a recommendation~~].

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

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

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

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

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

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

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

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

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

13 (c) The contract must:

14 (1) include terms relating to intellectual property
15 rights consistent with the standards developed by the oversight
16 committee under Section 102.256;

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

20 (3) specify:

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

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

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

27 (D) the specific deliverables of the project that

1 is the subject of the grant proposal.

2 (d) Before the oversight committee may make for cancer
3 research any grant of any proceeds of the bonds issued under
4 Subchapter E, the recipient of the grant must certify that the
5 recipient has ~~have~~ an amount of funds equal to one-half of the
6 grant and dedicate those funds ~~dedicated~~ to the research that is
7 the subject of the grant request. The institute shall adopt rules
8 specifying how a grant recipient fulfills obligations under this
9 subchapter. At a minimum, the rules must:

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

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

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

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

26 (3) specify that:

27 (A) a grant recipient receiving more than one

1 grant award may provide matching funds certification at an
2 institutional level;

3 (B) the recipient of a multiyear grant award may
4 certify matching funds on a yearly basis; and

5 (C) grant funds may not be distributed to the
6 grant recipient until the annual certification of the matching
7 funds has been approved;

8 (4) specify that money used for purposes of
9 certification may include:

10 (A) federal funds, including funds provided
11 under the American Recovery and Reinvestment Act of 2009 (Pub. L.
12 No. 111-5) and the fair market value of drug development support
13 provided to the recipient by the National Cancer Institute or other
14 similar programs;

15 (B) funds of this state;

16 (C) funds of other states; and

17 (D) nongovernmental funds, including private
18 funds, foundation grants, gifts, and donations;

19 (5) specify that the following items do not qualify
20 for purposes of the certification required by this subsection:

21 (A) in-kind costs;

22 (B) volunteer services furnished to a grant
23 recipient;

24 (C) noncash contributions;

25 (D) income earned by the grant recipient that is
26 not available at the time of the award;

27 (E) preexisting real estate of the grant

1 recipient, including buildings, facilities, and land;

2 (F) deferred giving, including a charitable
3 remainder annuity trust, a charitable remainder unitrust, or a
4 pooled income fund; or

5 (G) other items as may be determined by the
6 oversight committee;

7 (6) require a grant recipient and the institute to
8 include the certification in the grant award contract;

9 (7) specify that a grant recipient's failure to
10 provide certification shall serve as grounds for terminating the
11 grant award contract;

12 (8) require a grant recipient to maintain adequate
13 documentation supporting the source and use of the funds required
14 by this subsection and to provide documentation to the institute
15 upon request; and

16 (9) require that the institute establish a procedure
17 to conduct an annual review of the documentation supporting the
18 source and use of funds reported in the required certification.

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

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

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

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

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

9 (e) The institute shall implement a system to:

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

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

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

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

27 (c) The records of a nonprofit organization established to

1 provide support to the institute are public information subject to
2 Chapter 552, Government Code.

3 (d) The institute shall post on the institute's Internet
4 website records that pertain specifically to any gift, grant, or
5 other consideration provided to the institute, an institute
6 employee, or a member of an institute committee. The posted
7 information must include each donor's name and the amount and date
8 of the donor's donation.

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

12 Sec. 102.263. COMPLIANCE PROGRAM. (a) In this section,
13 "compliance program" means a process to assess and ensure
14 compliance by the institute's committee members and employees with
15 applicable laws, rules, and policies, including matters of:

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

20 (b) The institute shall establish a compliance program that
21 operates under the direction of the institute's chief compliance
22 officer. The institute may establish procedures, such as a
23 telephone hotline, to allow private access to the compliance
24 program office and to preserve the confidentiality of
25 communications and the anonymity of a person making a compliance
26 report or participating in a compliance investigation.

27 (c) The following are confidential and are not subject to

1 disclosure under Chapter 552, Government Code:

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

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

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

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

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

21 (1) a law enforcement agency or prosecutor;

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

26 (3) a committee member or institute employee who is
27 responsible under institutional policy for a compliance program

1 investigation or for a review of a compliance program
2 investigation.

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

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

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

- 12 (1) the chief executive officer;
13 (2) the chief scientific officer;
14 (3) the chief product development officer;
15 (4) the commissioner of state health services; and
16 (5) the chief prevention officer.

17 (b) The committee has the duties assigned under this
18 chapter.

19 (c) The chief executive officer shall serve as the presiding
20 officer of the program integration committee.

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

23 SUBCHAPTER G. CANCER PREVENTION AND RESEARCH INTEREST AND SINKING

24 FUND

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

1 (b) The fund consists of:

2 (1) patent, royalty, and license fees and other income
3 received under a contract entered into as provided by Section
4 102.255; and

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

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

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

15 (b) As soon as practicable after the effective date of this
16 Act, the governor, lieutenant governor, and speaker of the house of
17 representatives shall each appoint members to the Cancer Prevention
18 and Research Institute of Texas Oversight Committee as required by
19 Section 102.101, Health and Safety Code, as amended by this Act. In
20 making the initial appointments under that section, each appointing
21 office shall designate one member for a term expiring January 31,
22 2015, one member for a term expiring January 31, 2017, and one
23 member for a term expiring January 31, 2019.

24 SECTION 29. (a) As soon as practicable after the effective
25 date of this Act, the Cancer Prevention and Research Institute of
26 Texas Oversight Committee shall adopt the rules necessary to
27 implement the changes in law made by this Act.

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

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

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

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

22 SECTION 30. This Act takes effect immediately if it
23 receives a vote of two-thirds of all the members elected to each
24 house, as provided by Section 39, Article III, Texas Constitution.
25 If this Act does not receive the vote necessary for immediate
26 effect, this Act takes effect September 1, 2013.