

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

2ND CONFERENCE COMMITTEE
SUBSTITUTE FOR ENGROSSED
SENATE BILL NO. 1042

By: Williams (Penny), Monson,
Shedrick, Weedn, Brown,
Robinson, Dickerson and
Horner of the Senate

and

Boyd (Betty) and Boyd
(Laura) of the House

2ND CONFERENCE COMMITTEE SUBSTITUTE

An Act relating to state government and public health; stating legislative findings and support thereof; providing short title; enacting the Oklahoma Breast Cancer Act; creating the Oklahoma Breast Cancer Prevention and Treatment Advisory Committee; providing for membership, appointments, qualifications, terms, officers, meetings, subcommittees, reimbursement and staff of such Committee; providing for certain powers and duties of such relating to the contracting for certain services by the Oklahoma Center for the Advancement of Science and Technology; requiring certain reports; specifying such reports; creating the Oklahoma Breast Cancer Act Revolving Fund; stating purposes; providing for budgeting and expenditure from such fund, and providing for procedures related thereto; amending 74 O.S. 1991, Sections 5060.4, as amended by Section 3, Chapter 230, O.S.L. 1992 and 5060.14 (74 O.S. Supp. 1993, Section 5060.4), which relate to the Oklahoma Center for the Advancement of Science and Technology; modifying definitions; authorizing certain uses of the Breast Cancer Research Account; requesting Board of Regents of University of Oklahoma to establish Center for Women's Health; providing for responsibilities and duties thereof; providing for codification; providing for noncodification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. A. The purpose of the Oklahoma Breast Cancer Act is to establish programs in the State of Oklahoma that will make a meaningful and significant scientific contribution in determining the causes of breast cancer and will lead to finding a cure or more effective prevention and treatment strategies for those who are afflicted with breast cancer.

B. The Oklahoma Legislature hereby finds that breast cancer is a major public health problem in Oklahoma that devastates those who are afflicted with the disease and those family members and others who care for the persons afflicted with the disease. This finding is based on the following facts:

1. In 1992, five hundred ten women died from breast cancer in Oklahoma. Of these five hundred ten women, three hundred were less than seventy (70) years of age;

2. In 1992, one thousand five hundred eighty women in Oklahoma were diagnosed with breast cancer;

3. Approximately one out of eight women in Oklahoma are projected to have breast cancer during their lifetime, with predictions that in the future one out of six women in Oklahoma will need treatment for breast cancer as that population's life expectancy increases;

4. Only sixty-one percent (61%) of women in Oklahoma over the age of forty (40) have ever had a mammogram, and only forty percent (40%) of these women have routine mammograms, which is considered the most effective first line of defense in the detection of breast cancer; and

5. Projections are that ninety-eight thousand seven hundred women in Oklahoma between the ages of forty (40) and sixty-four (64) are in need of mammography screening but are not being screened because their insurance does not cover mammograms or they are uninsured.

C. Statistically, the Legislature finds that if the state developed an adequate public education program regarding breast cancer and that if ninety percent (90%) of all women between the ages of forty (40) and sixty-four (64) in Oklahoma received routine age-specific mammograms and performed breast self-evaluations, the mortality rate from breast cancer would be reduced by thirty-five percent (35%) without any improvement in treatment.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3315 of Title 74, unless there is created a duplication in numbering, reads as follows:

Sections 2 through 5 of this act shall be known and may be cited as the "Oklahoma Breast Cancer Act".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5060.9b of Title 74, unless there is created a duplication in numbering, reads as follows:

A. There is hereby created the "Oklahoma Breast Cancer Prevention and Treatment Advisory Committee" within the Oklahoma Center for the Advancement of Science and Technology. The Committee shall consist of fifteen (15) members and be advisory to the Oklahoma Center for the Advancement of Science and Technology.

B. Members of the Committee shall be appointed as follows:

1. Five members appointed by the Governor, of which four members shall represent organizations which are at the time of the appointment advocating statewide for the enhanced prevention or treatment or early detection of breast cancer in Oklahoma;

2. Five members appointed by the Speaker of the House of Representatives, of which two members shall be breast cancer survivors and one shall be a medical director of a multi-disciplinary breast center in Oklahoma; and

3. Five members appointed by the President Pro Tempore of the Senate, of which two members shall have been married to or children of persons who have died of breast cancer or conditions related to breast cancer and one shall be a medical director of a multi-disciplinary breast center in Oklahoma.

The remaining appointees to the Committee shall be medical professionals who specialize in the detection, prevention or treatment of breast cancer. Appointments to the Committee shall be made to provide the Committee with a geographically, economically, and ethnically diverse composition. Associations and advocacy groups may provide appointing authorities lists from which they may select appointments.

C. Members of the Committee shall serve a four-year term and may be reappointed. The Committee shall elect from among its members a chair, vice-chair, and any other officers that the Committee determines are necessary.

D. The President of the Oklahoma Center for the Advancement of Science and Technology shall call the first meeting of the Committee by February 15, 1995. The Committee shall meet at least once each quarter.

E. The Committee may appoint subcommittees as it deems necessary.

F. Members of the Committee shall not receive a salary for duties performed for the Committee. Reimbursement for necessary travel expenses incurred in the performance of their official duties as members of the Committee shall be made in accordance with the State Travel Reimbursement Act.

G. For purposes of determining a quorum for the Committee, a majority of members serving shall be required.

H. The Oklahoma Center for the Advancement of Science and Technology shall provide staff assistance for the Committee.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5060.9c of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Oklahoma Breast Cancer Prevention and Treatment Advisory Committee shall advise the Oklahoma Center for the Advancement of Science and Technology regarding the contracting on the following statewide services related to breast cancer, including but not limited to:

1. Mammography screening of women for breast cancer as early detection health care measures provided by facilities accredited by national organizations which have formed coalitions to issue national cancer screening guidelines;

2. Medical referral of screened persons with abnormal findings for definitive diagnosis and, to the extent practical, additional services or assistance for such persons;

3. Education and training programs for health care professionals to improve the detection and control of breast cancer, and communication with breast cancer patients after diagnosis;

4. Annual public education awareness campaigns to improve the knowledge and health care practices of all Oklahoma women with respect to breast cancer;

5. Epidemiological trend studies utilizing the data from the Oklahoma Central Cancer Registry for incidence, prevalence and survival of breast cancer victims; and

6. Outreach to groups with high proportions of uninsured and underinsured women.

B. The contracts for services specified in this section shall provide appropriate requirements resulting in:

1. Enhancement of quality control standards within facilities which perform diagnostic cancer screening for breast cancer; and

2. Establishment of fees for breast cancer screening and diagnostic tests at the accepted Medicare/Medicaid rate and a sliding fee schedule to encourage self-responsibility.

C. The Oklahoma Breast Cancer Prevention and Treatment Advisory Committee shall make annual reports to the Governor, Speaker of the House of Representatives and President Pro Tempore of the Senate by October 1 of each year. The annual reports shall report activities pursuant to the Oklahoma Breast Cancer Act during the prior fiscal year, including the funding for related activities. The report shall account for research and breast cancer screenings for uninsured and underinsured women. The report shall also recommend additional funding, if necessary, to provide screenings and treatment for breast cancer for uninsured and underinsured women.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5060.9d of Title 74, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Oklahoma Center for the Advancement of Science and Technology to be designated the "Breast Cancer Act Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies apportioned to the fund and gifts or donations to the fund. All monies apportioned or accruing to the credit of the fund are hereby

appropriated and may be budgeted and expended by the Oklahoma Center for the Advancement of Science and Technology for the purposes specified in the Oklahoma Breast Cancer Act including but not limited to the compensation of staff and other expenses associated with the implementation of the Oklahoma Breast Cancer Act. Fifty percent (50%) of all monies apportioned to the credit of said fund are hereby transferred to the Breast Cancer Prevention and Treatment Account hereby established and shall be used to carry out the purposes specified in Section 4 of this act. Fifty percent (50%) of all monies apportioned to the fund shall be transferred to the Breast Cancer Research Account hereby established and shall be budgeted and expended by the Oklahoma Center for the Advancement of Science and Technology for breast cancer research. Expenditures from the fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 5060.4, as amended by Section 3, Chapter 230, O.S.L. 1992 (74 O.S. Supp. 1993, Section 5060.4), is amended to read as follows:

Section 5060.4 As used in the Oklahoma Center for the Advancement of Science and Technology Act:

1. "Applied research" means those research activities occurring at institutions of higher education, nonprofit research foundations, and in private enterprises which have potential commercial application;

2. "Basic research" means any original investigation for the advancement of scientific knowledge not having a specific commercial objective, but having potential long-range value to commercial interests;

3. "Center" means the Oklahoma Center for the Advancement of Science and Technology;

4. "Enterprise" means a firm with its principal place of business in Oklahoma;

5. "Health research project" means a specific examination, experimentation or investigation, or initiative to provide

research resources oriented principally toward basic, applied, and developmental scientific inquiry related to the causes, diagnosis, prevention, and treatment of human diseases and disabilities and mental health and emotional disorders, and the rehabilitation of persons afflicted with such diseases, disabilities, and disorders; new knowledge, better understanding, and innovative methods to improve the processes by which health care services are made available and how they may be provided more efficiently, more effectively and at a lower cost, for all the citizens of this state; and the development of new products and services which shall form the basis of new high-technology health research and care industry for this state;

6. "Industrial Extension System" means a coordinated network of public and private manufacturing modernization resources, the purpose of which is to stimulate the competitiveness of Oklahoma small and medium-sized manufacturing firms;

7. "Institutional Review Board" means a committee composed of investigators, lay representatives, and legal counsel, which is established at each institution of higher learning and each nonprofit research institution receiving funds from the Health Research Account, for the express purpose of determining the appropriateness of any research involving human subjects;

8. "Institutions of higher education" means public and private colleges and universities in the state;

9. "Investigator" means a person who proposes research projects and is primarily responsible for the execution of the proposed projects and is employed by or affiliated with an institution of higher education, a nonprofit research institution in this state, or a private enterprise;

10. "New technology" means methods, products, processes and procedures developed through science or research;

11. "Nonprofit research institution" means any not-for-profit public or private facility in this state which has the capabilities for research projects and which is not a subsidiary of any corporation, partnership, or association organized for

profit, nor is its stock or assets owned or controlled by a corporation, partnership, or association organized for profit;

12. "OAME" means the Oklahoma Alliance for Manufacturing Excellence, Inc., a corporation to be formed pursuant to the provisions of Title 18 of the Oklahoma Statutes and Section ~~6 of~~ this act 5060.26 of this title;

13. "Person" means any individual, partnership, corporation or joint venture carrying on business or proposing to carry on business within the state;

14. "Product" means any outcome, device, technique or process, which is or may be developed or marketed commercially and which has advanced beyond the theoretical stage and is in a prototype or practice stage;

15. "Professional service contract" means a written agreement providing funds for the performance of a research project; for salaries and fringe benefits of personnel associated with research programs; for research equipment; for operating expenses associated with a research program; or for services provided in connection with the evaluation of applications submitted to the Center;

16. "Qualified security" means any public or private financial arrangement, involving any note, security, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, preorganization certificate or subscription, transferable security, investment contract, certificate of deposit for a security, certificate of interest or participation in a patent or application therefor, or in royalty or other payments under such a patent or application, or, in general, any interest or instrument commonly known as a "security" or any certificate for, receipt for, guarantee of, or option, warrant or right to subscribe to or purchase any of the foregoing to the extent allowed by law;

17. "Seed-capital" means financing that is provided for the development, refinement and commercialization of a product, process or innovation, whether for the startup of a new firm or the expansion or the restructuring of a small firm; and

18. "Technology transfer" means a two-way process by which ideas or inventions for processes or products (developed in research programs usually on a laboratory or pilot-plant scale) are converted to commercial use.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 5060.14, is amended to read as follows:

Section 5060.14 A. The Center may use the Health Research Account of the Research Support Revolving Fund and the Breast Cancer Research Account of the Breast Cancer Act Revolving Fund to carry out the purposes of this act by awarding competitive health research funds, through professional service contracts, to institutions of higher education, nonprofit research foundations and private enterprises of special importance to the Oklahoma economy. Monies from the Breast Cancer Research Account shall be used only to support the awarding of professional service contracts for breast cancer research.

B. There is hereby created within the Oklahoma Center for the Advancement of Science and Technology, the Oklahoma Health Research Committee to be appointed by the Governor which shall consist of nine (9) members, no more than five nor less than three of whom shall be physicians licensed pursuant to the laws of this state. For the initial Committee, three members shall be appointed for a term of two (2) years; three members shall be appointed for a term of four (4) years; and three members shall be appointed for a term of six (6) years. Thereafter members shall be appointed for a term of six (6) years. At all times the Committee shall be composed of at least:

1. One member from the clergy or who has an advanced degree in philosophy from an accredited institution of higher learning;

2. Five members who shall be basic health research scientists each having an established record of basic health science research accomplishment and a demonstrated interest in public service to represent the following areas: Epidemiology, public health or biometrics or psychology; biochemistry, anatomy or nutrition; microbiology, immunology or molecular biology; genetics, pathology, or pharmacology; biology or physiology; and

3. Three members who shall be clinical research scientists having an established record of clinical biomedical science research accomplishment and a demonstrated interest in public service to represent the clinical research disciplines.

The Health Research Committee as constituted prior to the effective date of this act shall be re-created within the Oklahoma Center for the Advancement of Science and Technology. Members of the Committee, formerly within the Oklahoma Department of Commerce, serving terms upon the effective date of this act shall continue to serve such terms.

Upon expiration of any term of office of the Health Research Committee, in making appointments to the Committee appropriate consideration shall be given to representation upon the Committee by race, gender and geographical area.

C. Any vacancy on the Committee shall be filled for the unexpired term within thirty (30) days after the vacancy occurs.

D. No more than three members of the Committee shall have the same primary affiliation with an institution of higher learning or a nonprofit research institution.

E. A basic health research scientist or clinical research scientist shall not be eligible to become a member of the Committee unless said scientist is the inventor of one or more products which have earned more than Two Hundred Thousand Dollars (\$200,000.00) in royalties or other profit within the fifteen (15) years immediately preceding appointment or is the principal investigator for research grants awarded by national health research organizations for at least five (5) years during the fifteen (15) years immediately preceding appointment. Contractual commitments which have been made for a product or products shall qualify in meeting the royalty or profit requirement. Tentative commitments for future funding from national health research organizations shall satisfy the research grant requirement. Research grants awarded by the National Science Foundation, the National Institutes of Health, the American Heart Association, the Lung Association, the American Cancer Society, the Arthritis Foundation, the March of Dimes, and such other organizations that

hold a peer-reviewed national competition for the distribution of research funds that the Committee deems acceptable from time to time shall satisfy the research grant requirement. Research grants which only may be awarded to investigators in this state shall not be used to satisfy the research grant time of support requirement. Service contracts or other grants which do not require submission of a research project or which are not funded competitively on the basis of scientific merit of the research project shall not satisfy the research grant time of support requirement.

F. Members of the Committee shall be reimbursed for expenses incurred in the performance of their duties as provided by the board of directors of the Center.

G. The Committee shall elect from its membership a chairman to serve a two-year term and such other officers from its membership as deemed necessary for the performance of the duties of the Committee. The Committee shall hold regular meetings not less than once a quarter and such additional meetings as called by the chairman as may be required for the proper discharge of the duties of the Committee. Any action by the Committee shall require the affirmative vote of a majority of its members present. Five members shall constitute a quorum.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3316 of Title 70, unless there is created a duplication in numbering, reads as follows:

The Oklahoma State Legislature requests the Board of Regents of the University of Oklahoma to establish a Center for Women's Health within the College of Medicine at the University of Oklahoma Health Sciences Center in Oklahoma City which would be responsible for expanding the knowledge and understanding of women's health needs. The Center for Women's Health should:

1. Utilize the interdisciplinary approach which combines all areas of women's health care delivery in one location;
2. Develop extramural resources to support and carry out the highest quality clinical and basic research devoted to women's health issues;
3. Identify and develop effective health practices for women;

4. Provide demonstration projects directly related to the field of women's health; and

5. Disseminate information on women's health.

SECTION 9. The provisions of Section 1 of this act shall not be codified in the Oklahoma Statutes.

SECTION 10. This act shall become effective July 1, 1994.

SECTION 11. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

44-2-2743

LKT