

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 5693**

Chapter 384, Laws of 1999  
(partial veto)

56th Legislature  
1999 Regular Session

DEVELOPMENTAL DISABILITIES ENDOWMENT TRUST FUND

EFFECTIVE DATE: 7/25/99

Passed by the Senate April 25, 1999  
YEAS 49 NAYS 0

BRAD OWEN  
President of the Senate

Passed by the House April 25, 1999  
YEAS 96 NAYS 0

CLYDE BALLARD  
Speaker of the  
House of Representatives

FRANK CHOPP  
Speaker of the  
House of Representatives

Approved May 18, 1999, with the  
exception of sections 3 and 6, which  
are vetoed.

GARY LOCKE  
Governor of the State of Washington

CERTIFICATE

I, Tony M. Cook, Secretary of the  
Senate of the State of Washington, do  
hereby certify that the attached is  
**ENGROSSED SUBSTITUTE SENATE BILL 5693**  
as passed by the Senate and the House  
of Representatives on the dates hereon  
set forth.

TONY M. COOK  
Secretary

FILED

May 18, 1999 - 3:16 p.m.

Secretary of State  
State of Washington

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**ENGROSSED SUBSTITUTE SENATE BILL 5693**

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Passed Legislature - 1999 Regular Session

**State of Washington**

**56th Legislature**

**1999 Regular Session**

**By** Senate Committee on Health & Long-Term Care (originally sponsored by Senators Wojahn, McDonald, Deccio, Thibaudeau, Roach, Winsley, Oke, Rasmussen, Prentice and Costa)

Read first time 03/03/1999.

1       AN ACT Relating to establishing a public/private endowment for  
2 developmental disabilities services; amending RCW 43.79A.040; and  
3 adding new sections to chapter 43.330 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       NEW SECTION.     **Sec. 1.**     LEGISLATIVE INTENT.     The legislature  
6 recognizes that the main and most enduring support for persons with  
7 developmental disabilities, along with public resources, is their  
8 immediate and extended families. The legislature recognizes that these  
9 families are searching for ways to provide for the long-term continuing  
10 care of their disabled family member when the family can no longer  
11 provide that care. It is the intent of the legislature to encourage  
12 and assist families to engage in long-range financial planning and to  
13 contribute to the lifetime care of their disabled family member. To  
14 further these objectives, this chapter is enacted to finance long-term  
15 care for persons with developmental disabilities through an endowment  
16 funded jointly by the investment of public funds and dedicated family  
17 contributions.

18       The establishment of this endowment is not intended to diminish the  
19 state's responsibility for funding services currently available to

1 future endowment participants, subject to available funding, nor is it  
2 the intent of the legislature, by the creation of this public/private  
3 endowment, to impose additional, unintended financial liabilities on  
4 the public.

5 NEW SECTION. **Sec. 2. DEVELOPMENTAL DISABILITIES ENDOWMENT TRUST**  
6 **FUND.** (1) The developmental disabilities endowment trust fund is  
7 created in the custody of the state treasurer. Expenditures from the  
8 fund may be used only for the purposes of the developmental  
9 disabilities endowment established under this chapter. Only the  
10 developmental disabilities endowment governing board or the board's  
11 designee may authorize expenditures from the fund. The fund shall  
12 retain its interest earnings in accordance with RCW 43.79A.040.

13 (2) The developmental disabilities endowment governing board shall  
14 deposit in the fund all money received for the program, including state  
15 appropriations and private matching contributions. With the exception  
16 of investment and operating costs associated with the investment of  
17 money by the state treasurer and the investment board paid under RCW  
18 43.08.190, 43.79A.040, 43.33A.160, and 43.84.160, the fund shall be  
19 credited with all investment income earned by the fund. Disbursements  
20 from the fund are exempt from appropriations and the allotment  
21 provisions of chapter 43.88 RCW. However, money used for program  
22 administration is subject to the allotment and budgetary controls of  
23 chapter 43.88 RCW, and an appropriation is required for these  
24 expenditures.

25 \*NEW SECTION. **Sec. 3. INVESTMENT OF FUNDS.** (1) *The state*  
26 *investment board has the full power to invest, reinvest, manage,*  
27 *contract, sell, or exchange investment money in the developmental*  
28 *disabilities endowment trust fund. All investment and operating costs*  
29 *associated with the investment of money shall be paid under RCW*  
30 *43.08.190, 49.79A.040, 43.33A.160, and 43.84.160. With the exception*  
31 *of these expenses, the earnings from the investment of the money shall*  
32 *be retained by the fund.*

33 (2) *All investments made by the state investment board shall be*  
34 *made with the exercise of that degree of judgment and care under RCW*  
35 *43.33A.140 and the investment policy established by the state*  
36 *investment board.*

1 (3) As deemed appropriate by the investment board, money in the  
2 fund may be commingled for investment with other funds subject to  
3 investment by the board.

4 (4) The authority to establish all policies relating to the fund,  
5 other than the investment policies as set forth in subsections (1)  
6 through (3) of this section, resides with the developmental  
7 disabilities endowment governing board acting in accordance with the  
8 principles set forth in section 5 of this act. With the exception of  
9 expenses of the state treasurer and the investment board set forth in  
10 subsection (1) of this section, disbursements from the fund shall be  
11 made only on the authorization of the developmental disabilities  
12 endowment governing board or the board's designee, and money in the  
13 fund may be spent only for the purposes of the developmental  
14 disabilities endowment program as specified in this chapter.

15 (5) The investment board shall routinely consult and communicate  
16 with the developmental disabilities endowment governing board on the  
17 investment policy, earnings of the trust, and related needs of the  
18 program.

19 \*Sec. 3 was vetoed. See message at end of chapter.

20 NEW SECTION. **Sec. 4.** DEVELOPMENTAL DISABILITIES ENDOWMENT  
21 GOVERNING BOARD. The developmental disabilities endowment governing  
22 board is established to design and administer the developmental  
23 disabilities endowment. To the extent funds are appropriated for this  
24 purpose, the director of the department of community, trade, and  
25 economic development shall provide staff and administrative support to  
26 the governing board.

27 (1) The governing board shall consist of seven members as follows:

28 (a) Three of the members, who shall be appointed by the governor,  
29 shall be persons who have demonstrated expertise and leadership in  
30 areas such as finance, actuarial science, management, business, or  
31 public policy.

32 (b) Three members of the board, who shall be appointed by the  
33 governor, shall be persons who have demonstrated expertise and  
34 leadership in areas such as business, developmental disabilities  
35 service design, management, or public policy, and shall be family  
36 members of persons with developmental disabilities.

1 (c) The seventh member of the board, who shall serve as chair of  
2 the board, shall be appointed by the remaining six members of the  
3 board.

4 (2) Members of the board shall serve terms of four years and may be  
5 appointed for successive terms of four years at the discretion of the  
6 appointing authority. However, the governor may stagger the terms of  
7 the initial six members of the board so that approximately one-fourth  
8 of the members' terms expire each year.

9 (3) Members of the board shall be compensated for their service  
10 under RCW 43.03.240 and shall be reimbursed for travel expenses as  
11 provided in RCW 43.03.050 and 43.03.060.

12 (4) The board shall meet periodically as specified by the call of  
13 the chair, or a majority of the board.

14 NEW SECTION. **Sec. 5.** ENDOWMENT PRINCIPLES. The design,  
15 implementation, and administration of the developmental disabilities  
16 endowment shall be governed by the following principles:

17 (1) The design and operation of the endowment should reward  
18 families who set aside resources for their child's future care and  
19 provide incentives for continued caregiving by the family.

20 (2) The endowment should encourage financial planning and reward  
21 caregiving by a broad range of families, not just those who have  
22 substantial financial resources.

23 (3) Families should not feel compelled to contribute to the  
24 endowment in order to meet the needs of continuing care for their  
25 child.

26 (4) All families should have equal access to developmental  
27 disabilities services not funded through the endowment regardless of  
28 whether they contribute to the endowment.

29 (5) Services funded through the endowment should be stable,  
30 ongoing, of reasonable quality, and respectful of individual and family  
31 preferences.

32 (6) Endowment resources should be expended economically in order to  
33 benefit as many families as possible.

34 (7) Endowment resources should be managed prudently so that  
35 families can be confident that their agreement with the endowment on  
36 behalf of their child will be honored.

1 (8) The private financial contribution on behalf of each person  
2 receiving services from the endowment shall be at least equal to the  
3 state's contribution to the endowment.

4 (9) In order to be matched with funding from the state's  
5 contribution to the endowment, the private contribution on behalf of a  
6 beneficiary must be sufficient to support the beneficiary's approved  
7 service plan for a significant portion of the beneficiary's anticipated  
8 remaining lifetime.

9 (10) The rate that state appropriations to the endowment are used  
10 to match private contributions shall be such that each legislative  
11 appropriation to the developmental disabilities endowment trust fund,  
12 including principal and investment income, is not depleted in a period  
13 of less than five years.

14 (11) Private contributions made on behalf of a particular  
15 individual, and the associated state match, shall only be used for  
16 services provided upon that person's behalf.

17 ***\*NEW SECTION. Sec. 6. PROPOSED OPERATING PLAN. To the extent***  
18 ***funds are appropriated for this purpose, the developmental disabilities***  
19 ***endowment governing board shall contract with an appropriate***  
20 ***organization for the development of a proposed operating plan for the***  
21 ***developmental disabilities endowment program. The proposed operating***  
22 ***plan shall be consistent with the endowment principles specified in***  
23 ***section 5 of this act. The plan shall address at least the following***  
24 ***elements:***

25 (1) *The recommended types of services to be available through the*  
26 *endowment program and their projected average costs per beneficiary;*

27 (2) *An assessment of the number of people likely to apply for*  
28 *participation in the endowment under alternative rates of matching*  
29 *funds, minimum service year requirements, and contribution timing*  
30 *approaches;*

31 (3) *An actuarial analysis of the number of disabled beneficiaries*  
32 *who are likely to be supported under alternative levels of public*  
33 *contribution to the endowment, and the length of time the beneficiaries*  
34 *are likely to be served, under alternative rates of matching funds,*  
35 *minimum service year requirements, and contribution timing approaches;*

36 (4) *Recommended eligibility criteria for participation in the*  
37 *endowment program;*

1       (5) *Recommended policies regarding withdrawal of private*  
2 *contributions from the endowment in cases of movement out of state,*  
3 *death of the beneficiary, or other circumstances;*

4       (6) *Recommended matching rate of public and private contributions*  
5 *and, for each beneficiary, the maximum annual and lifetime amount of*  
6 *private contributions eligible for public matching funds;*

7       (7) *The recommended minimum years of service on behalf of a*  
8 *beneficiary that must be supported by private contributions in order*  
9 *for the contributions to qualify for public matching funds from the*  
10 *endowment;*

11       (8) *The recommended schedule according to which lump sum or*  
12 *periodic private contributions should be made to the endowment in order*  
13 *to qualify for public matching funds;*

14       (9) *A recommended program for educating families about the*  
15 *endowment, and about planning for their child's long-term future; and*

16       (10) *Recommended criteria and procedure for selecting an*  
17 *organization or organizations to administer the developmental*  
18 *disabilities endowment program, and projected administrative costs.*

19 \*Sec. 6 was vetoed. See message at end of chapter.

20       NEW SECTION.   **Sec. 7.**   PROGRAM IMPLEMENTATION AND ADMINISTRATION.

21 Based on the proposed operating plan under section 6 of this act, and  
22 to the extent funds are appropriated for this purpose, the  
23 developmental disabilities endowment governing board shall implement  
24 and administer, or contract for the administration of, the  
25 developmental disabilities endowment program under the principles  
26 specified in section 5 of this act. By October 1, 2000, and prior to  
27 implementation, the final program design shall be submitted to the  
28 appropriate committees of the legislature.

29       The secretary of the department of social and health services shall  
30 seek to maximize federal reimbursement and matching funds for  
31 expenditures made under the endowment program, and shall seek waivers  
32 from federal requirements as necessary for the receipt of federal  
33 funds.

34       The governing board may receive gifts, grants, and endowments from  
35 public or private sources as may be made from time to time, in trust or  
36 otherwise, for the use and benefit of the purposes of the endowment  
37 program and may expend the gifts, grants, and endowments according to  
38 their terms.

1       **Sec. 8.** RCW 43.79A.040 and 1998 c 268 s 1 are each amended to read  
2 as follows:

3       (1) Money in the treasurer's trust fund may be deposited, invested,  
4 and reinvested by the state treasurer in accordance with RCW 43.84.080  
5 in the same manner and to the same extent as if the money were in the  
6 state treasury.

7       (2) All income received from investment of the treasurer's trust  
8 fund shall be set aside in an account in the treasury trust fund to be  
9 known as the investment income account.

10       (3) The investment income account may be utilized for the payment  
11 of purchased banking services on behalf of treasurer's trust funds  
12 including, but not limited to, depository, safekeeping, and  
13 disbursement functions for the state treasurer or affected state  
14 agencies. The investment income account is subject in all respects to  
15 chapter 43.88 RCW, but no appropriation is required for payments to  
16 financial institutions. Payments shall occur prior to distribution of  
17 earnings set forth in subsection (4) of this section.

18       (4)(a) Monthly, the state treasurer shall distribute the earnings  
19 credited to the investment income account to the state general fund  
20 except under (b) and (c) of this subsection.

21       (b) The following accounts and funds shall receive their  
22 proportionate share of earnings based upon each account's or fund's  
23 average daily balance for the period: The Washington advanced college  
24 tuition payment program account, the agricultural local fund, the  
25 American Indian scholarship endowment fund, the Washington  
26 international exchange scholarship endowment fund, the developmental  
27 disabilities endowment trust fund, the energy account, the fair fund,  
28 the game farm alternative account, the grain inspection revolving fund,  
29 the rural rehabilitation account, the stadium and exhibition center  
30 account, the youth athletic facility grant account, the self-insurance  
31 revolving fund, the sulfur dioxide abatement account, and the  
32 children's trust fund. However, the earnings to be distributed shall  
33 first be reduced by the allocation to the state treasurer's service  
34 fund pursuant to RCW 43.08.190.

35       (c) The following accounts and funds shall receive eighty percent  
36 of their proportionate share of earnings based upon each account's or  
37 fund's average daily balance for the period: The advanced right of way  
38 revolving fund, the advanced environmental mitigation revolving  
39 account, the federal narcotics asset forfeitures account, the high



1 occupancy vehicle account, the local rail service assistance account,  
2 and the miscellaneous transportation programs account.

3 (5) In conformance with Article II, section 37 of the state  
4 Constitution, no trust accounts or funds shall be allocated earnings  
5 without the specific affirmative directive of this section.

6 NEW SECTION. **Sec. 9.** CAPTIONS NOT LAW. Captions used in this  
7 chapter are not any part of the law.

8 NEW SECTION. **Sec. 10.** Sections 1 through 7 and 9 of this act are  
9 each added to chapter 43.330 RCW.

Passed the Senate April 25, 1999.

Passed the House April 25, 1999.

Approved by the Governor May 18, 1999, with the exception of  
certain items that were vetoed.

Filed in Office of Secretary of State May 18, 1999.

1 Note: Governor's explanation of partial veto is as follows:

2 "I am returning herewith, without my approval as to sections 3 and  
3 6, Engrossed Substitute Senate Bill No. 5693 entitled:

4 "AN ACT relating to establishing a public/private endowment for  
5 developmental disabilities services;"

6 Engrossed Substitute Senate Bill No. 5693 creates a developmental  
7 disabilities fund that is funded through private contributions and  
8 state appropriations. Its intent is to encourage and assist families  
9 engaging in long-range financial planning for the lifetime care of  
10 family members with disabilities by seeking private contributions to a  
11 state managed endowment.

12 While I agree with this intent and understand the desire of parents  
13 to make sure that they have planned for the lifetime care of a family  
14 member with disabilities, there are many fundamental policy issues  
15 unanswered in this bill: