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**SUBSTITUTE SENATE BILL 6081**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senate Committee on Ways & Means (originally sponsored by Senator McDonald; by request of Department of Community, Trade, and Economic Development)

READ FIRST TIME 03/08/01.

1 AN ACT Relating to developmental disabilities endowment;  
2 amending RCW 43.330.195, 43.330.200, 43.330.205, 43.330.210, and  
3 43.330.220; adding new sections to chapter 43.330 RCW; and adding  
4 new sections to chapter 43.131 RCW.

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

6 **Sec. 1.** RCW 43.330.195 and 2000 c 120 s 2 are each amended to read  
7 as follows:

8 The definitions in this section apply throughout RCW 43.330.200  
9 through 43.330.230.

10 (1) "Developmental disability" has the meaning in RCW  
11 71A.10.020(3).

12 (2) "Developmental disabilities endowment trust fund" means the  
13 fund established in the custody of the state treasurer in RCW  
14 43.330.200, comprised of private, public, or private and public  
15 sources, to finance services for persons with developmental  
16 disabilities. All moneys in the fund, all property and rights  
17 purchased from the fund, and all income attributable to the fund,  
18 shall be held in trust by the state investment board, as provided

1 in RCW 43.33A.030, for the exclusive benefit of fund  
2 beneficiaries. The principal and interest of the endowment fund  
3 must be maintained until such time as the governing board policy  
4 specifies except for the costs and expenses of the state treasurer  
5 and the state investment board otherwise provided for in chapter  
6 120, Laws of 2000.

7 (3) "Disbursement trustee" means the person designated by the  
8 governing board to make disbursement decisions for expenditures on  
9 behalf of named individual beneficiaries. The term "person" may be  
10 construed to mean a for-profit corporation, a nonprofit  
11 corporation, a state or local governmental entity, or an  
12 individual. The disbursement trustee functions must be performed  
13 either directly by the governing board or through a contractor.

14 (4) "Governing board" means the developmental disabilities  
15 endowment governing board in RCW 43.330.205.

16 (~~(4)~~) (5) "Individual trust account" means accounts  
17 established within the endowment trust fund for each individual  
18 named beneficiary for the benefit of whom contributions have been  
19 made to the fund. The money in each of the individual accounts is  
20 held in trust as provided for in subsection (2) of this section,  
21 and shall not be considered state funds or revenues of the  
22 state. The governing board serves as administrator, manager, and  
23 recordkeeper for the individual trust accounts for the benefit of  
24 the individual beneficiaries. The policies governing the  
25 disbursements, and the qualifying services for the trust accounts,  
26 shall be established by the governing board. Individual trust  
27 accounts are separate accounts within the developmental  
28 disabilities endowment trust fund, and are invested for the  
29 beneficiaries through the endowment trust fund.

30 (6) "Operational fees" means fees assessed to individuals or to  
31 individual trust accounts. These may be related to existing  
32 accounts or to accounts that are being established. These fees may  
33 support direct or indirect costs associated with operating the  
34 individual trust accounts. Fees may be imposed by the department,  
35 under the direction of the governing board.

36 **Sec. 2.** RCW 43.330.200 and 2000 c 120 s 3 are each amended to  
37 read as follows:

1 (1) The developmental disabilities endowment trust fund is  
2 created in the custody of the state treasurer. Expenditures from  
3 the fund may be used only for the purposes of the developmental  
4 disabilities endowment established under this chapter, except for  
5 expenses of the state investment board and the state treasurer as  
6 specified in subsection (2) of this section. Only the developmental  
7 disabilities endowment governing board or the (~~board's designee~~)  
8 disbursement trustee may authorize expenditures from the fund. The  
9 fund shall retain its interest earnings in accordance with RCW  
10 43.79A.040.

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

25 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.330  
26 RCW to read as follows:

27 (1) As the developmental disabilities endowment trust fund  
28 grows in total dollar size, the percentage of total funds used for  
29 program administration must decrease.

30 (2) If the developmental disabilities endowment trust fund  
31 reaches ten million dollars or more, the annual administrative  
32 budget must not exceed the following percentages of the total  
33 amount of funds managed:

34 (a) Five percent of ten million dollars or more, but less than  
35 twenty million dollars;

36 (b) Three and four-tenths percent of twenty million dollars or  
37 more, but less than thirty million dollars;

1 (c) Two and five-tenths percent of thirty million dollars or  
2 more, but less than fifty million dollars;

3 (d) Two percent of fifty million dollars or more, but less than  
4 one hundred million dollars; and

5 (e) One and four-tenths percent of one hundred million dollars  
6 or more.

7 **Sec. 4.** RCW 43.330.205 and 2000 c 120 s 4 are each amended to read  
8 as follows:

9 (1) The state investment board has the full power to invest,  
10 reinvest, manage, contract, sell, or exchange investment money in  
11 the developmental disabilities endowment trust fund. All investment  
12 and operating costs associated with the investment of money shall  
13 be paid under RCW 43.33A.160 and 43.84.160. With the exception of  
14 these expenses, the earnings from the investment of the money  
15 shall be retained by the fund.

16 (2) All investments made by the state investment board shall be  
17 made with the exercise of that degree of judgment and care under  
18 RCW 43.33A.140 and the investment policy established by the state  
19 investment board.

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

23 (4) The authority to establish all policies relating to the  
24 fund, other than the investment policies as set forth in  
25 subsections (1) through (3) of this section, resides with the  
26 governing board acting in accordance with the principles set forth  
27 in RCW 43.330.220. With the exception of expenses of the state  
28 treasurer in RCW 43.330.200 and the investment board set forth in  
29 subsection (1) of this section, disbursements from the fund shall  
30 be made only on the authorization of the governing board or the  
31 ((~~board's designee~~)) disbursement trustee, and money in the fund  
32 may be spent only for the purposes of the developmental  
33 disabilities endowment program as specified in this chapter.

34 (5) The investment board shall routinely consult and  
35 communicate with the governing board on the investment policy,  
36 earnings of the trust, and related needs of the program.

37

1        NEW SECTION.    **Sec. 5.**    A new section is added to chapter 43.330  
2    RCW to read as follows:

3        The department, under the direction of the governing board, may  
4    impose and assess operational fees against individual trust  
5    accounts.    These fees must be deposited in the developmental  
6    disabilities endowment trust fund.

7        **Sec. 6.**    RCW 43.330.210 and 2000 c 120 s 5 are each amended to  
8    read as follows:

9        The developmental disabilities endowment governing board is  
10    established to design and administer the developmental  
11    disabilities endowment.    To the extent funds are appropriated for  
12    this purpose, the director of the department of community, trade,  
13    and economic development shall provide staff and administrative  
14    support to the governing board.    To the extent that state general  
15    fund appropriations are made to the department for administrative  
16    expenses of the governing board during the 2001-2003 fiscal  
17    biennium, the amount shall be repaid to the general fund by the  
18    developmental disabilities endowment program by June 30, 2005.

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

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

25        (b) Three members of the board, who shall be appointed by the  
26    governor, shall be persons who have demonstrated expertise and  
27    leadership in areas such as business, developmental disabilities  
28    service design, management, or public policy, and shall be family  
29    members of persons with developmental disabilities.

30        (c) The seventh member of the board, who shall serve as chair  
31    of the board, shall be appointed by the remaining six members of  
32    the board.

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

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

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

6 (5) Members of the governing board and the state investment  
7 board shall not be considered an insurer of the funds or assets of  
8 the endowment trust fund or the individual trust accounts. Neither  
9 of these two boards or their members shall be liable for the  
10 action or (~~(inactions-[inaction])~~) inaction of the other.

11 (6) Members of the governing board and the state investment  
12 board are not liable to the state, to the fund, or to any other  
13 person as a result of their activities as members, whether  
14 ministerial or discretionary, except for willful dishonesty or  
15 intentional violations of law. The department and the state  
16 investment board, respectively, may purchase liability insurance  
17 for members.

18 **Sec. 7.** RCW 43.330.220 and 2000 c 120 s 6 are each amended to read  
19 as follows:

20 The design, implementation, and administration of the  
21 developmental disabilities endowment shall be governed by the  
22 following principles:

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

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

29 (3) Families should not feel compelled to contribute to the  
30 endowment in order to meet the needs of continuing care for their  
31 child.

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

35 (5) Services funded through the endowment should be stable,  
36 ongoing, of reasonable quality, and respectful of individual and  
37 family preferences.

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

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

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

9 ~~(9) ((In order to be matched with funding from the state's  
10 contribution to the endowment, the private contribution on behalf  
11 of a beneficiary must be sufficient to support the beneficiary's  
12 approved service plan for a significant portion of the  
13 beneficiary's anticipated remaining lifetime.~~

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

19 ~~((11))~~ (10) Private contributions made on behalf of a  
20 particular individual, and the associated state match, shall only  
21 be used for services provided upon that person's behalf.

22 ~~((12))~~ (11) State funds contributed to the developmental  
23 disabilities endowment trust fund are to support the individual  
24 trust accounts established by individual private contributions  
25 made by families or other interested persons for named individual  
26 beneficiaries.

27 ~~((13))~~ (12) The governing board shall explore methods to  
28 solicit private donations. The governing board shall explore  
29 mechanisms to support individuals with developmental disabilities  
30 who do not have individual private contributions made on their  
31 behalf. The governing board shall establish policies for the use of  
32 any private donations.

33 ~~((14))~~ (13) Types of services funded by money managed through  
34 the developmental disabilities endowment trust fund shall be  
35 approved by the governing board or its designee.

36 NEW SECTION. Sec. 8. A new section is added to chapter 43.131  
37 RCW to read as follows:

1       The developmental disabilities endowment trust fund  
2 administrative budget limitations under section 3 of this act and  
3 the fee authority under section 5 of this act shall expire June  
4 30, 2007.

5       NEW SECTION.   **Sec. 9.** A new section is added to chapter 43.131  
6 RCW to read as follows:

7       The following acts or parts of acts, as now existing or  
8 hereafter amended, are each repealed, effective June 30, 2008:

- 9       (1) Section 3 of this act; and  
10       (2) Section 5 of this act.

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