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SENATE BILL 6233

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State of Washington

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2000 Regular Session

By Senators Wojahn, McDonald, Loveland, Deccio, Snyder, Spanel, Winsley, Rasmussen, Gardner, Costa, Hale, McAuliffe and Kline

Read first time 01/11/2000. Referred to Committee on Health & Long-Term Care.

1 AN ACT Relating to the developmental disabilities endowment trust  
2 fund; amending RCW 43.330.200, 43.330.210, 43.330.220, and 43.330.230;  
3 amending 1999 c 384 s 1 (uncodified); adding new sections to chapter  
4 43.330 RCW; and adding a new section to chapter 43.33A RCW.

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

6 **Sec. 1.** 1999 c 384 s 1 (uncodified) is amended to read as follows:

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

1       The establishment of this endowment is not intended to diminish the  
2 state's responsibility for funding services currently available to  
3 future endowment participants, subject to available funding, nor is it  
4 the intent of the legislature, by the creation of this public/private  
5 endowment, to impose additional, unintended financial liabilities on  
6 the public.

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

9       The definitions in this section apply throughout RCW 43.330.200  
10 through 43.330.230 and sections 4 and 7 of this act.

11       (1) "Developmental disability" has the meaning in RCW  
12 71A.10.020(3).

13       (2) "Developmental disabilities endowment trust fund" means the  
14 fund established in the custody of the state treasurer in section 3 of  
15 this act, comprised of private, public, or private and public sources,  
16 to finance services for persons with developmental disabilities. All  
17 moneys in the fund, all property and rights purchased from the fund,  
18 and all income attributable to the fund, shall be held in trust by the  
19 state investment board, as provided in RCW 43.33A.030, for the  
20 exclusive benefit of fund beneficiaries. The principal and interest of  
21 the endowment fund must be maintained until such time as the governing  
22 board policy specifies.

23       (3) "Governing board" means the developmental disabilities  
24 endowment governing board in section 4 of this act.

25       (4) "Individual trust account" means an account set up through  
26 which the developmental disabilities endowment governing board serves  
27 as trustee and holds title to assets for the benefit of a named  
28 individual beneficiary. The money in these accounts is held in trust  
29 for the beneficiaries, and is not considered state funds or revenues of  
30 the state. The policies governing the management, disbursement, and  
31 qualifying services of the trust accounts shall be established by the  
32 governing board. Individual trust accounts are separate accounts  
33 within the developmental disabilities endowment trust fund, and are  
34 invested for the beneficiaries through the endowment trust fund.

35       **Sec. 3.** RCW 43.330.200 and 1999 c 384 s 2 are each amended to read  
36 as follows:

1 (1) The developmental disabilities endowment trust fund is created  
2 in the custody of the state treasurer. Expenditures from the fund may  
3 be used only for the purposes of the developmental disabilities  
4 endowment established under this chapter, except for expenses of the  
5 state investment board and the state treasurer as specified in  
6 subsection (2) of this section. Only the developmental disabilities  
7 endowment governing board or the board's designee may authorize  
8 expenditures from the fund. The fund shall retain its interest  
9 earnings in accordance with RCW 43.79A.040. Expenses and operating  
10 costs of the state treasurer shall be paid under RCW 43.08.190 and  
11 43.79A.040.

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

25 NEW SECTION. Sec. 4. A new section is added to chapter 43.330 RCW  
26 to read as follows:

27 (1) The state investment board has the full power to invest,  
28 reinvest, manage, contract, sell, or exchange investment money in the  
29 developmental disabilities endowment trust fund. All investment and  
30 operating costs associated with the investment of money shall be paid  
31 under RCW 43.33A.160 and 43.84.160. With the exception of these  
32 expenses, the earnings from the investment of the money shall be  
33 retained by the fund.

34 (2) All investments made by the state investment board shall be  
35 made with the exercise of that degree of judgment and care under RCW  
36 43.33A.140 and the investment policy established by the state  
37 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 governing board acting in  
7 accordance with the principles set forth in RCW 43.330.220. With the  
8 exception of expenses of the state treasurer in RCW 43.330.200 and the  
9 investment board set forth in subsection (1) of this section,  
10 disbursements from the fund shall be made only on the authorization of  
11 the governing board or the board's designee, and money in the fund may  
12 be spent only for the purposes of the developmental disabilities  
13 endowment program as specified in this chapter.

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

17 **Sec. 5.** RCW 43.330.210 and 1999 c 384 s 4 are each amended to read  
18 as follows:

19 The developmental disabilities endowment governing board is  
20 established to design and administer the developmental disabilities  
21 endowment. To the extent funds are appropriated for this purpose, the  
22 director of the department of community, trade, and economic  
23 development shall provide staff and administrative support to the  
24 governing board.

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

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

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

35 (c) The seventh member of the board, who shall serve as chair of  
36 the board, shall be appointed by the remaining six members of the  
37 board.

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

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

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

11 (5) Members of the governing board shall not be considered an  
12 insurer of the funds or assets of the endowment trust fund or the  
13 individual trust accounts.

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

19 **Sec. 6.** RCW 43.330.220 and 1999 c 384 s 5 are each amended to read  
20 as follows:

21 The design, implementation, and administration of the developmental  
22 disabilities endowment shall be governed by the 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 reward  
27 caregiving by a broad range of families, not just those who have  
28 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 of  
34 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 family  
37 preferences.

1 (6) Endowment resources should be expended economically in order to  
2 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 on  
5 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 the  
8 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 of a  
11 beneficiary must be sufficient to support the beneficiary's approved  
12 service plan for a significant portion of the beneficiary's anticipated  
13 remaining lifetime.

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

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

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

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

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

34 NEW SECTION. Sec. 7. A new section is added to chapter 43.330 RCW  
35 to read as follows:

36 To the extent funds are appropriated for this purpose, the  
37 governing board shall contract with an appropriate organization for the  
38 development of a proposed operating plan for the developmental

1 disabilities endowment program. The proposed operating plan shall be  
2 consistent with the endowment principles specified in RCW 43.330.220.  
3 The plan shall address at least the following elements:

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

6 (2) An assessment of the number of people likely to apply for  
7 participation in the endowment under alternative rates of matching  
8 funds, minimum service year requirements, and contribution timing  
9 approaches;

10 (3) An actuarial analysis of the number of disabled beneficiaries  
11 who are likely to be supported under alternative levels of public  
12 contribution to the endowment, and the length of time the beneficiaries  
13 are likely to be served, under alternative rates of matching funds,  
14 minimum service year requirements, and contribution timing approaches;

15 (4) Recommended eligibility criteria for participation in the  
16 endowment program;

17 (5) Recommended policies regarding withdrawal of private  
18 contributions from the endowment in cases of movement out of state,  
19 death of the beneficiary, or other circumstances;

20 (6) Recommended matching rate of public and private contributions  
21 and, for each beneficiary, the maximum annual and lifetime amount of  
22 private contributions eligible for public matching funds;

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

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

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

32 (10) Recommended criteria and procedure for selecting an  
33 organization or organizations to administer the developmental  
34 disabilities endowment program, and projected administrative costs.

35 **Sec. 8.** RCW 43.330.230 and 1999 c 384 s 7 are each amended to read  
36 as follows:

37 Based on the proposed operating plan under section ((6)) 7 of this  
38 act, and to the extent funds are appropriated for this purpose, the

1 developmental disabilities endowment governing board shall implement  
2 and administer, or contract for the administration of, the  
3 developmental disabilities endowment program under the principles  
4 specified in RCW 43.330.220. By (~~October~~) December 1, 2000, and  
5 prior to implementation, the final program design shall be submitted to  
6 the appropriate committees of the legislature.

7 The secretary of the department of social and health services shall  
8 seek to maximize federal reimbursement and matching funds for  
9 expenditures made under the endowment program, and shall seek waivers  
10 from federal requirements as necessary for the receipt of federal  
11 funds.

12 The governing board may receive gifts, grants, and endowments from  
13 public or private sources as may be made from time to time, in trust or  
14 otherwise, for the use and benefit of the purposes of the endowment  
15 program and may expend the gifts, grants, and endowments according to  
16 their terms.

17 NEW SECTION. **Sec. 9.** A new section is added to chapter 43.330 RCW  
18 to read as follows:

19 The department of community, trade, and economic development shall  
20 adopt rules for the implementation of policies established by the  
21 governing board in RCW 43.330.200 through 43.330.230 and sections 4 and  
22 7 of this act.

23 NEW SECTION. **Sec. 10.** A new section is added to chapter 43.33A  
24 RCW to read as follows:

25 The state investment board has the power and authority regarding  
26 the developmental disabilities endowment trust fund provided in section  
27 4 of this act.

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