

# HOUSE BILL REPORT

## HB 2063

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**As Reported by House Committee On:**  
Early Learning & Human Services  
Appropriations

**Title:** An act relating to the creation of the Washington achieving a better life experience program.

**Brief Description:** Creating an investment program for individuals with disabilities.

**Sponsors:** Representatives Kilduff, Kagi, Jinkins, Springer, Hunter, Ormsby, Tharinger and Tarleton.

**Brief History:**

**Committee Activity:**

Early Learning & Human Services: 2/18/15, 2/20/15 [DPS];

Appropriations: 2/26/15, 2/27/15 [DP2S(w/o sub ELHS)].

**Brief Summary of Second Substitute Bill**

- Requires the State Treasurer's Office to convene an Achieving a Better Life Experience program design workgroup and provide an implementation report to the Governor and Legislature by November 1, 2015.

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### HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Kagi, Chair; Walkinshaw, Vice Chair; Walsh, Ranking Minority Member; Dent, Hawkins, Kilduff, Ortiz-Self, Sawyer and Senn.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Scott, Assistant Ranking Minority Member; McCaslin.

**Staff:** Luke Wickham (786-7146).

**Background:**

Achieving a Better Life Experience Act.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Congress passed the Achieving a Better Life Experience (ABLE) Act in December 2014. The law amended the Internal Revenue Code to exempt from taxation qualified ABLE savings programs established by states. Individuals can contribute to savings accounts for eligible people with disabilities.

Individuals are able to invest up to \$14,000 per year in ABLE accounts. Withdrawals from the account will not be taxed provided that the money is spent on qualified expenses, such as housing, education, transportation, health care, and rehabilitation. The complete description of qualified expenses and other parameters of these accounts are expected to become available in the summer or fall of 2015 when the Secretary of the United States Treasury issues regulations.

An individual generally cannot have more than \$2,000 in savings or other assets for means-tested federal programs such as Medicaid or Supplemental Security Income (SSI). However, investments up to \$100,000 in 529A accounts will be disregarded as assets for purposes of Medicaid or SSI eligibility.

#### Other States.

There is legislation pending in North Dakota, Minnesota, and Kansas that would establish ABLE account programs.

#### Developmental Disabilities Endowment Trust.

The Washington Developmental Disabilities Endowment Trust (Endowment Trust) was established by the Legislature in 1999. This Endowment Trust is governed by a seven-person governing board, six of the members of this board are appointed by the Governor. The Department of Commerce (DOC) provides support to the governing board when funds are appropriated for that purpose.

The Endowment Trust is available to individuals under age 65 with a qualifying developmental disability originating before age 18. An individual must be eligible for services provided by the Developmental Disability Administration to be eligible for the Endowment Trust.

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#### **Summary of Substitute Bill:**

The ABLE program is created in the DOC. The DOC is authorized to administer, manage, promote, and market the ABLE program, which must allow for the creation of savings accounts for eligible individuals with disabilities. The DOC shall adopt rules to implement the ABLE program and take any action required to keep the program in compliance with federal law and regulations.

The DOC must annually report to the Legislature regarding the progress made in implementing the program. This report must include a discussion of the feasibility and relative cost-benefit of using an agency or instrumentality other than the State Investment Board or contracting with another state to invest ABLE program moneys.

The ABLE account (account) is created and would retain its interest. The account must consist of payments received from contributors to individual ABLE program accounts. The assets of the account may be spent without appropriation for the purpose of making payments to individual account holders.

The State Investment Board has the power to invest, reinvest, manage, contract, sell, or exchange investment money in the ABLE account.

The ABLE advisory board (board) is established consisting of 7 members who have demonstrated expertise and leadership in areas such as finance, actuarial science, management, business, or public policy. At least 2 of these members must be either eligible for ABLE accounts or relatives of eligible individuals. The role of the board is to advise the Department of Commerce and other agencies in development and operation of the ABLE program. The board is compensated and provided travel reimbursement.

**Substitute Bill Compared to Original Bill:**

The substitute bill specifies that the report submitted to the Legislature by the DOC must include a discussion of the feasibility and relative cost-benefit of using an agency or instrumentality other than the State Investment Board or contracting with another state to invest ABLE program moneys.

The substitute bill also creates an ABLE advisory board consisting of 7 members who have demonstrated expertise and leadership in areas such as finance, actuarial science, management, business, or public policy. At least 2 of these members must be either eligible for ABLE accounts or relatives of eligible individuals. The role of the board is to advise the DOC and other agencies in development and operation of the ABLE program. The board is compensated and provided travel reimbursement.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This bill allows Washington to take advantage of the federal ABLE law. If this bill is enacted, individuals won't have to spend down to poverty. The federal ABLE Act was a broad, bipartisan bill that took years of effort. This whole bill started as an idea from a father. For so many, this is another significant tool for individuals with disabilities to set aside money for education, housing, and other qualified expenses. Many parents with children who have disabilities are told not to put anything in their child's name for fear of not becoming eligible for benefits. This bill allows individuals to put money in the name of an individual with disabilities without fearing about his or her eligibility for benefits. There are

more than 200 postsecondary educational opportunities for individuals with cognitive disabilities. Thanks to the ABLE Act, an individual can begin saving for educational opportunities without jeopardizing his or her eligibility for federal benefits. Many individuals with disabilities are unable to save more than \$2,000 without becoming ineligible for federal benefits. The ABLE program along with the Endowment Trust give individuals with disabilities savings choices. This bill will allow more individuals to save for the future and realize their dreams. The federal regulations have not been established on this yet, and are expected later this year. These regulations will establish many of the details regarding qualified expenses, among other things. It is a civil rights issue that many individuals with disabilities are not able to save and are forced to live in poverty. This bill allows individuals with disabilities to save. If this bill is passed, individuals may save up to \$100,000 and maintain eligibility for federal benefits. Washington needs to take action on this bill and take advantage of the federal law. There are differences between the Endowment Trust and this bill, namely that this bill would allow savings for individuals with any kind of disability, whereas the Endowment Trust is just available to individuals with developmental disabilities. The only concern about this bill is that investment control rests with the state, and there should be flexibility for individuals to invest money themselves. Many individuals struggle to keep their assets under \$2,000 to maintain federal benefit eligibility.

(Opposed) None.

**Persons Testifying:** Representative Kilduff, prime sponsor; Cathy McMorris Rogers; Amy and Emma Patterson, Down Syndrome Association of Snohomish County; Emily Rogers and Ed Holen, Developmental Disabilities Council; Ivanova Smith, People First of Washington; George Adams, Self Advocates of Washington; Tom Hert; Rosanna Fladd; Margaret-Lee Thompson, Arc of United States; Bill Cole, Washington State Department of Commerce; Karma Phillips; and Jack de Leon.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Early Learning & Human Services. Signed by 31 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Carlyle, Cody, Condotta, Dent, Dunshee, Fagan, Haler, Hansen, Hudgins, S. Hunt, Jenkins, Kagi, Lytton, MacEwen, Magendanz, Pettigrew, Sawyer, Schmick, Senn, Springer, Stokesbary, Sullivan, Tharinger, Van Werven and Walkinshaw.

**Minority Report:** Do not pass. Signed by 2 members: Representatives G. Hunt and Taylor.

**Staff:** Derek Rutter (786-7157).

**Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Early Learning & Human Services:**

The second substitute bill:

- replaces the creation of the Achieving a Better Life Experience (ABLE) program with the requirement that the State Treasurer's Office convene an ABLE program design workgroup;
- the work group includes representatives from: (1) the Department of Commerce; (2) the State Investment Board; (3) the Washington Advanced College Tuition Payment Program; (4) The Department of Social and Health Services; (5) the Developmental Disability Endowment Governing Board; and (6) the disability community; and
- the work group must provide a report to the Governor and the Legislature by November 1, 2015, that includes recommendations regarding program implementation.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 23, 2015.

**Effective Date of Second Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) This truly is an extraordinary opportunity to provide individuals with disabilities a chance to plan, save, and, in the case of Social Security Insurance (SSI) and Medicaid recipients, not have to spend down into poverty by availing themselves of an ABLE account. Interest earnings in the account would accrue tax-free, which is beneficial. An ABLE is also complementary to the Disability Endowment Trust Fund; it does not poach individuals from that route, but is another available option. The proposed second substitute poses a de minimis cost to the state to get the ball rolling while federal regulations are being finalized.

This is not only a bill for people with disabilities, but also families of those individuals who want to save on that person's behalf. These savings can be used not just for education, but also for transportation or medicine. Prior to Congress passing the ABLE Act, it felt as though people with disabilities were not expected to get an education and were destined for poverty, which was discriminatory.

The ABLE is needed now, and should not be delayed as it would be in the proposed second substitute. Restrictions under SSI disallow family from buying individuals with disabilities basic necessities like haircuts. Keeping individuals in poverty does not need to be studied in a work group.

(Opposed) None.

**Persons Testifying:** Representative Kilduff, prime sponsor; John Rossi; and Lynne Tucker, Seattle Special Education.

**Persons Signed In To Testify But Not Testifying:** None.