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SENATE BILL 6210

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State of Washington

64th Legislature

2016 Regular Session

By Senators Dammeier, O'Ban, Fain, Darneille, Rivers, Becker, Conway, and Hargrove

Read first time 01/13/16. Referred to Committee on Health Care.

1 AN ACT Relating to the creation of the Washington achieving a  
2 better life experience program; amending RCW 43.33A.190; reenacting  
3 and amending RCW 43.79A.040; adding new sections to chapter 43.330  
4 RCW; and providing an expiration date.

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

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

8 The definitions in this section apply throughout sections 2  
9 through 6 of this act unless the context clearly indicates otherwise.

10 (1) "Eligible individual" means individuals entitled to benefits  
11 based on blindness or disability under 42 U.S.C. Sec. 401 or 1381 et  
12 seq. as amended, and such blindness or disability occurred before the  
13 date the individual turned age twenty-six or an individual who has  
14 filed a disability certification to the satisfaction of the secretary  
15 of the United States treasury.

16 (2) "Governing board" means the achieving a better life  
17 experience program governing board in section 4 of this act.

18 (3) "Individual Washington achieving a better life experience  
19 program account" means an account established by or for an eligible  
20 individual and owned by the eligible individual pursuant to the  
21 Washington achieving a better life experience program.

1 (4) "Washington achieving a better life experience program" means  
2 a savings or investment program that establishes individual  
3 Washington achieving a better life experience program accounts  
4 pursuant to section 529A of the federal internal revenue code of  
5 1986, as amended.

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

8 (1) The Washington achieving a better life experience program  
9 account is created in the custody of the state treasurer.  
10 Expenditures from the account may be used only for the purposes of  
11 the achieving a better life experience program established under this  
12 chapter, except for expenses of the state investment board and the  
13 state treasurer as specified in this section. The account must be a  
14 discrete nontreasury account retaining its interest earnings in  
15 accordance with RCW 43.79A.040.

16 (2) The account must be self-sustaining and consist of payments  
17 received from contributors to individual Washington achieving a  
18 better life experience program accounts. All payments contributed to  
19 the Washington achieving a better life experience program are held in  
20 trust and must be deposited in the account. With the exception of  
21 investment and operating costs associated with the investment of  
22 money by the investment board paid under RCW 43.33A.160 and  
23 43.84.160, the account must be credited with all investment income  
24 earned by the account. Disbursements from the account are exempt from  
25 appropriations and the allotment provisions of chapter 43.88 RCW. An  
26 appropriation is not required for expenditures.

27 (3) The assets of the account may be spent without appropriation  
28 for the purpose of making payments to individual Washington achieving  
29 a better life experience program account holders. Only the achieving  
30 a better life experience governing board or the board's designee may  
31 authorize expenditures from the account.

32 (4) With regard to the assets of the account, the state acts in a  
33 fiduciary, not ownership, capacity. Therefore, the assets of the  
34 account are not considered state money, common cash, or revenue to  
35 the state.

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

1 (1) The governing board may elect to have the state investment  
2 board invest the money in the Washington achieving a better life  
3 experience program account. If the governing board so elects, the  
4 state investment board created in RCW 43.33A.020 has the full power  
5 to invest, reinvest, manage, contract, sell, or exchange investment  
6 money in the Washington achieving a better life experience program  
7 account. All investment and operating costs associated with the  
8 investment of money by the state investment board must be paid  
9 pursuant to RCW 43.33A.160 and 43.84.160. With the exception of these  
10 expenses, the earnings from the investment of the money must be  
11 retained by the account.

12 (2)(a) After consultation with the governing board, the state  
13 investment board may elect to invest any self-directed accounts  
14 associated with the Washington achieving a better life experience  
15 program. The state investment board has full authority to invest all  
16 self-directed investment moneys in accordance with this section and  
17 RCW 43.84.150. In carrying out this authority the state investment  
18 board, after consultation with the governing board regarding any  
19 recommendations, shall provide a set of options for eligible  
20 individuals to choose from for self-directed investment.

21 (b) All investment and operating costs of the state investment  
22 board associated with making self-directed investments must be paid  
23 by eligible individuals and recovered under procedures agreed to by  
24 the governing board and the state investment board pursuant to the  
25 principles set forth in RCW 43.33A.160. All other expenses caused by  
26 self-directed investments must be paid by the eligible individual in  
27 accordance with rules established by the governing board. With the  
28 exception of these expenses, all earnings from self-directed  
29 investments shall accrue to the eligible individual's Washington  
30 achieving a better life experience program account.

31 (c)(i) The governing board shall keep or cause to be kept full  
32 and adequate accounts and records of each eligible individual  
33 Washington achieving a better life experience program account. The  
34 governing board shall account for and report on the investment of  
35 self-directed assets or may enter into an agreement with the state  
36 investment board for such accounting and reporting under this  
37 chapter.

38 (ii) The governing board's duties related to eligible individual  
39 Washington achieving a better life experience program accounts  
40 include conducting the activities of trade instruction, settlement

1 activities, and direction of cash movement and related wire transfers  
2 with the custodian bank and outside investment firms.

3 (iii) The governing board has sole responsibility for contracting  
4 with any recordkeepers for individual Washington achieving a better  
5 life experience program accounts and shall manage the performance of  
6 recordkeepers under those contracts.

7 (iv) The state investment board has sole responsibility for  
8 contracting with outside investment firms to provide investment  
9 management for the individual Washington achieving a better life  
10 experience program accounts and shall manage the performance of  
11 investment managers under those contracts.

12 (v) The department has sole responsibility for contracting with  
13 any recordkeepers for individual participant accounts and shall  
14 manage the performance of recordkeepers under those contracts.

15 (d)(i) Nothing in this section limits the authority of the state  
16 investment board to conduct its responsibilities for asset management  
17 and balancing of the deferred compensation funds.

18 (e) The state treasurer shall designate and define the terms of  
19 engagement for the custodial banks.

20 (3) All investments made by the state investment board must be  
21 made with the exercise of that degree of judgment and care pursuant  
22 to RCW 43.33A.140 and the investment policy established by the state  
23 investment board.

24 (4) As deemed appropriate by the state investment board, money in  
25 the account may be commingled for investment with other funds subject  
26 to investment by the state investment board.

27 (5) The authority to establish all policies relating to the  
28 account, other than the investment policies, resides with the  
29 governing board acting to implement, design, and manage the achieving  
30 a better life experience savings program that allows eligible  
31 individuals to create and maintain savings accounts. The moneys in  
32 the account may be spent only for the purposes of the achieving a  
33 better life experience program.

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

37 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.330  
38 RCW to read as follows:

1       The achieving a better life experience program is established and  
2 the governing board is authorized to design and administer the  
3 achieving a better life experience program. To the extent funds are  
4 appropriated for this purpose, the director of the department shall  
5 provide staff and administrative support to the governing board. The  
6 department shall consult with the governing board regarding the  
7 staffing and administrative support needs before selecting any staff  
8 pursuant to this section. To the extent practicable, the achieving a  
9 better life experience program must be colocated with the  
10 developmental disabilities endowment governing board established  
11 under this chapter.

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

14       (a) The state treasurer or his or her designee;

15       (b) The program director for the committee on advanced tuition  
16 payment established in RCW 28B.95.020;

17       (c) The director of the office of financial management or his or  
18 her designee; and

19       (d) Four members with demonstrated financial, legal, or  
20 disability program experience, appointed by the governor.

21       (2) The board shall select the chair of the board from among the  
22 seven board members identified in subsection (1) of this section.

23       (3) Members of the board who are appointed by the governor shall  
24 serve four-year terms and may be appointed for successive four-year  
25 terms at the discretion of the governor. The governor may stagger the  
26 terms of the appointed members.

27       (4) Members of the board must be compensated for their service  
28 under RCW 43.03.240 and must be reimbursed for travel expenses as  
29 provided in RCW 43.03.050 and 43.03.060.

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

32       (6) Members of the governing board and the state investment board  
33 shall not be considered an insurer of the funds or assets of the  
34 achieving a better life experience program account or the individual  
35 program accounts. Neither of these two boards are liable for the  
36 action or inaction of the other.

37       (7) Members of the governing board and the state investment board  
38 are not liable to the state, to the fund, or to any other person as a  
39 result of their activities as members, whether ministerial or  
40 discretionary, except for willful dishonesty or intentional

violations of law. The department and the state investment board may purchase liability insurance for members.

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

(1) The Washington achieving a better life experience program governing body is authorized to design, administer, manage, promote, and market the Washington achieving a better life experience program. The governing body is further authorized to contract with other organizations to administer, manage, promote, or market the Washington achieving a better life experience program. This program must allow for the creation of savings or investment accounts for eligible individuals with disabilities and the funds must be invested.

(2) The governing body may consult with the office of the state treasurer, the department of social and health services, and the state investment board in implementing the Washington achieving a better life experience program. The governing body is authorized to formulate and adopt any policies and rules necessary to implement and operate the Washington achieving a better life experience program consistent with this act.

(3) The governing body shall take any action required to keep the program in compliance with requirements of this chapter and as required to qualify as a "qualified ABLE program" as defined in section 529A of the federal internal revenue code of 1986, as amended, or any rules and regulations adopted by the secretary of the United States treasury pursuant to that act.

NEW SECTION. **Sec. 6.** A new section is added to chapter 43.330 RCW to read as follows:

(1) The governing body shall implement the Washington achieving a better life experience program by July 1, 2017. The governing body must submit a semiannual report to the appropriate committees of the legislature describing the progress toward program implementation. These reports must also include any recommendations regarding legislative changes that are necessary to implement the program and an estimate regarding the timeline for implementing the program.

(2) This section expires July 1, 2018.

1       **Sec. 7.** RCW 43.79A.040 and 2013 c 251 s 5 and 2013 c 88 s 1 are  
2 each reenacted and amended to read as follows:

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

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

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

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

22       (b) The following accounts and funds must receive their  
23 proportionate share of earnings based upon each account's or fund's  
24 average daily balance for the period: The Washington promise  
25 scholarship account, the Washington advanced college tuition payment  
26 program account, the accessible communities account, the Washington  
27 achieving a better life experience program account, the community and  
28 technical college innovation account, the agricultural local fund,  
29 the American Indian scholarship endowment fund, the foster care  
30 scholarship endowment fund, the foster care endowed scholarship trust  
31 fund, the contract harvesting revolving account, the Washington state  
32 combined fund drive account, the commemorative works account, the  
33 county enhanced 911 excise tax account, the toll collection account,  
34 the developmental disabilities endowment trust fund, the energy  
35 account, the fair fund, the family leave insurance account, the food  
36 animal veterinarian conditional scholarship account, the fruit and  
37 vegetable inspection account, the future teachers conditional  
38 scholarship account, the game farm alternative account, the GET ready  
39 for math and science scholarship account, the Washington global  
40 health technologies and product development account, the grain

1 inspection revolving fund, the industrial insurance rainy day fund,  
2 the juvenile accountability incentive account, the law enforcement  
3 officers' and firefighters' plan 2 expense fund, the local tourism  
4 promotion account, the multiagency permitting team account, the  
5 pilotage account, the produce railcar pool account, the regional  
6 transportation investment district account, the rural rehabilitation  
7 account, the stadium and exhibition center account, the youth  
8 athletic facility account, the self-insurance revolving fund, the  
9 children's trust fund, the Washington horse racing commission  
10 Washington bred owners' bonus fund and breeder awards account, the  
11 Washington horse racing commission class C purse fund account, the  
12 individual development account program account, the Washington horse  
13 racing commission operating account, the life sciences discovery  
14 fund, the Washington state heritage center account, the reduced  
15 cigarette ignition propensity account, the center for childhood  
16 deafness and hearing loss account, the school for the blind account,  
17 the Millersylvania park trust fund, the public employees' and  
18 retirees' insurance reserve fund, and the radiation perpetual  
19 maintenance fund.

20 (c) The following accounts and funds must receive eighty percent  
21 of their proportionate share of earnings based upon each account's or  
22 fund's average daily balance for the period: The advanced right-of-  
23 way revolving fund, the advanced environmental mitigation revolving  
24 account, the federal narcotics asset forfeitures account, the high  
25 occupancy vehicle account, the local rail service assistance account,  
26 and the miscellaneous transportation programs account.

27 (d) Any state agency that has independent authority over accounts  
28 or funds not statutorily required to be held in the custody of the  
29 state treasurer that deposits funds into a fund or account in the  
30 custody of the state treasurer pursuant to an agreement with the  
31 office of the state treasurer shall receive its proportionate share  
32 of earnings based upon each account's or fund's average daily balance  
33 for the period.

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

37 **Sec. 8.** RCW 43.33A.190 and 2000 c 247 s 701 are each amended to  
38 read as follows:



1 Pursuant to RCW 41.34.130 and section 3 of this act, the state  
2 investment board shall invest all self-directed investment moneys  
3 under teachers' retirement system plan 3, the school employees'  
4 retirement system plan 3, ~~((and))~~ the public employees' retirement  
5 system plan 3, and the Washington achieving a better life experience  
6 program with full power to establish investment policy, develop  
7 investment options, and manage self-directed investment funds.

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