S-1300.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5734**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Braun, Keiser, Lovelett, Trudeau, Warnick, Wellman, and J. Wilson

AN ACT Relating to encouraging achieving a better life experience accounts; amending RCW 43.330.464; adding a new section to chapter 43.330 RCW; creating a new section; and making an appropriation.

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

NEW SECTION. **Sec.**  The legislature finds that:

(1) In 2016, legislation was enacted to implement the Washington achieving a better life experience (ABLE) program to allow persons with qualifying disabilities to create tax-advantaged savings accounts known as ABLE accounts. Eligible individuals currently include persons with significant physical, behavioral, developmental, or military disabilities with an age of onset of disability before turning 26 years of age. Eligible individuals can contribute their own earnings to their ABLE accounts as well as accept contributions from family members and employers. ABLE accounts can be used to fund a wide range of expenses related to the eligible individual's disability without risking eligibility for means-tested public benefits such as medicaid and supplemental security income.

(2) Washington currently has 3,569 ABLE accounts, but participation could be higher. Increasing participation in the ABLE program helps the individual by increasing self-reliance, encouraging employment, and improving quality of life, and helps the program by keeping account fees low. Recognizing the benefits of the ABLE program, congress recently enacted the ABLE age adjustment act that would raise the threshold for the onset of a qualifying disability to age 46 beginning January 2026. The purpose of this act is to encourage participation in the ABLE program by providing funding for program promotion, reducing individual account fees, and to contribute funding to ABLE accounts.

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

(1) The encouraging achieving a better life experience account, also known as the ENABLE account, is created in the custody of the state treasurer. Moneys from legislative appropriations and transfers, federal funds, public or private donations, gifts, and grants, and any other lawful source may be deposited into the account. Expenditures from the account may be used only for the following purposes in the following priority:

(a) Up to $250,000 or 0.25 percent of the balance of the account on July 1st of each fiscal year, whichever is less, may be used for administrative and promotional expenses for that fiscal year;

(b) Reducing or eliminating fees charged against individual Washington achieving a better life experience program accounts to administer or invest moneys in each account, up to a maximum of $50 annually per account;

(c) Depositing $1,000 into each individual Washington achieving a better life experience program account in existence on July 1, 2023; and

(d) Depositing $1,000 into each new individual Washington achieving a better life experience program account opened in Washington state after July 1, 2023, or an existing account rolled over into an individual Washington achieving a better life experience program account after July 1, 2023.

(2) Only the director of the Washington achieving a better life experience governing board or the board's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. If any deposit from the ENABLE account into an individual Washington achieving a better life experience program account would result in the individual exceeding the contribution limit allowed under internal revenue service regulations, the individual may defer the ENABLE deposit for up to two years to prevent exceeding the limit.

**Sec.**  RCW 43.330.464 and 2018 c 76 s 3 are each amended to read as follows:

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

(2)(a) After consultation with the governing board, the state investment board or investment manager may elect to invest any self-directed accounts associated with the Washington achieving a better life experience program. The state investment board or investment manager has full authority to invest all self-directed investment moneys in accordance with this section and RCW 43.84.150. In carrying out this authority the state investment board or investment manager, after consultation with the governing board regarding any recommendations, shall provide a set of options for eligible individuals to choose from for self-directed investment. Any self-directed investment options provided must comply with section 529A of the federal internal revenue code of 1986, as amended.

(b) ((~~All~~)) Except as provided in section 2(1)(b) of this act, all investment and operating costs of the state investment board or investment manager associated with making self-directed investments must be paid by eligible individuals and recovered under procedures agreed to by the governing board and the state investment board or investment manager consistent with the principles set forth in RCW 43.33A.160. ((~~All~~)) Except as provided in section 2(1)(b) of this act, all other expenses caused by self-directed investments must be paid by the eligible individual in accordance with rules established by the governing board. With the exception of these expenses, all earnings from self-directed investments shall accrue to the eligible individual's Washington achieving a better life experience program account.

(c)(i) The governing board shall keep or cause to be kept full and adequate accounts and records of each eligible individual Washington achieving a better life experience program account.

(ii) The governing board shall account for and report on the investment of self-directed assets or may enter into an agreement with the recordkeepers for such accounting and reporting under this chapter.

(iii) The governing board's duties related to eligible individual Washington achieving a better life experience program accounts include conducting((~~[,]~~)), or causing to be conducted, the activities of trade instruction, settlement activities, and direction of cash movement and related wire transfers with the custodian bank and outside investment firms.

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

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

(vi) The governing board must contract with an organization to promote and encourage eligible individuals to open individual Washington achieving a better life experience program accounts as well as making contributions to existing or rolled over individual accounts. If the recordkeeper or outside investment firm contracted by the governing board under (c)(iv) or (v) of this subsection can perform this function, the governing board may revise any existing contract for this purpose without engaging in a competitive process required under chapter 39.26 RCW.

(d) The governing board shall designate and define the terms of engagement for the custodial banks under authority that the state treasurer shall delegate pursuant to RCW 43.08.015 with the concurrence of the office of financial management.

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

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

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

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

NEW SECTION. **Sec.**  The sum of $10,000,000 is appropriated for the fiscal year ending June 30, 2024, from the general fund—state for expenditure into the encouraging achieving a better life experience account created in section 2 of this act.

**--- END ---**