

SSB 6210 - H COMM AMD
By Committee on Appropriations

1 Strike everything after the enacting clause and insert the
2 following:

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

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

7 (1) "Eligible individual" means an individual eligible for the
8 Washington achieving a better life experience program pursuant to
9 section 529A of the federal internal revenue code of 1986, as
10 amended.

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

13 (3) "Individual Washington achieving a better life experience
14 program account" means an account established by or for an eligible
15 individual and owned by the eligible individual pursuant to the
16 Washington achieving a better life experience program. Any moneys
17 placed in these accounts or achieving a better life experience
18 program accounts established in other states shall not be counted as
19 assets for purposes of state or local means tested program
20 eligibility or levels of state means tested program eligibility.

21 (4) "Washington achieving a better life experience program" means
22 a savings or investment program that establishes individual
23 Washington achieving a better life experience program accounts
24 pursuant to section 529A of the federal internal revenue code of
25 1986, as amended.

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

28 (1) The Washington achieving a better life experience program
29 account is created in the custody of the state treasurer.
30 Expenditures from the account may be used only for the purposes of
31 the Washington achieving a better life experience program established

1 under this chapter, except for expenses of the state investment board
2 and the state treasurer as specified in this section. The account
3 must be a discrete nontreasury account retaining its interest
4 earnings in accordance with RCW 43.79A.040.

5 (2) The account must be self-sustaining and consist of payments
6 received from contributors to individual Washington achieving a
7 better life experience program accounts. All payments contributed to
8 the Washington achieving a better life experience program are held in
9 trust and must be deposited in the account. With the exception of
10 investment and operating costs associated with the investment of
11 money paid under RCW 43.08.190, 43.33A.160, and 43.84.160, the
12 account must be credited with all investment income earned by the
13 account. Disbursements from the account are exempt from
14 appropriations and the allotment provisions of chapter 43.88 RCW. An
15 appropriation is not required for expenditures.

16 (3) The assets of the account may be spent without appropriation
17 for the purpose of making payments to individual Washington achieving
18 a better life experience program account holders. Only the Washington
19 achieving a better life experience governing board or the board's
20 designee may authorize expenditures from the account.

21 (4) With regard to the assets of the account, the state acts in a
22 fiduciary, not ownership, capacity. Therefore, the assets of the
23 account are not considered state money, common cash, or revenue to
24 the state.

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

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

38 (2)(a) After consultation with the governing board, the state
39 investment board may elect to invest any self-directed accounts

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

10 (b) All investment and operating costs of the state investment
11 board associated with making self-directed investments must be paid
12 by eligible individuals and recovered under procedures agreed to by
13 the governing board and the state investment board pursuant to the
14 principles set forth in RCW 43.33A.160. All other expenses caused by
15 self-directed investments must be paid by the eligible individual in
16 accordance with rules established by the governing board. With the
17 exception of these expenses, all earnings from self-directed
18 investments shall accrue to the eligible individual's Washington
19 achieving a better life experience program account.

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

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

27 (iii) The governing board's duties related to eligible individual
28 Washington achieving a better life experience program accounts
29 include conducting the activities of trade instruction, settlement
30 activities, and direction of cash movement and related wire transfers
31 with the custodian bank and outside investment firms.

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

36 (v) If selected by the governing board to invest the money in the
37 Washington achieving a better life experience program account, the
38 state investment board will have sole responsibility for contracting
39 with outside investment firms to provide investment management for
40 the individual Washington achieving a better life experience program

1 accounts and shall manage the performance of investment managers
2 under those contracts.

3 (vi) The department has sole responsibility for contracting with
4 any recordkeepers for individual participant accounts and shall
5 manage the performance of recordkeepers under those contracts.

6 (d) The state treasurer shall designate and define the terms of
7 engagement for the custodial banks.

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

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

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

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

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

27 The Washington achieving a better life experience program is
28 established and the governing board is authorized to design and
29 administer the Washington achieving a better life experience program
30 in the best interests of eligible individuals. To the extent funds
31 are appropriated for this purpose, the director of the department
32 shall provide staff and administrative support to the governing
33 board. The department shall consult with the governing board
34 regarding the staffing and administrative support needs before
35 selecting any staff pursuant to this section. To the extent
36 practicable, the Washington achieving a better life experience
37 program must be colocated with the developmental disabilities
38 endowment governing board established under this chapter.

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

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

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

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

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

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

12 (3) Members of the board who are appointed by the governor shall
13 serve four-year terms and may be appointed for successive four-year
14 terms at the discretion of the governor. The governor may stagger the
15 terms of the appointed members.

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

19 (5) The board shall meet periodically as specified by the chair,
20 or a majority of the board, and may allow members to participate in
21 meetings remotely.

22 (6) The board may appoint advisory committees to support the
23 design or administration of the Washington achieving a better life
24 experience program. Individuals serving on advisory committees must
25 serve staggered terms and may be reimbursed for travel expenses as
26 provided in RCW 43.03.050 and 43.03.060, but may not be compensated
27 for their service.

28 (7) The board may execute interagency agreements that authorize
29 other state agencies such as the committee on advanced tuition
30 payment established in RCW 28B.95.020 to perform administrative
31 functions necessary to carry out the Washington achieving a better
32 life experience program.

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

38 (9) Members of the governing board and the state investment board
39 are not liable to the state, to the fund, or to any other person as a
40 result of their activities as members, whether ministerial or

1 discretionary, except for willful dishonesty or intentional
2 violations of law. The department and the state investment board may
3 purchase liability insurance for members.

4 (10) If the governing board establishes a web site or develops
5 any promotional materials for the Washington achieving a better life
6 experience program, it must include on that web site or promotional
7 materials the notice permitted by federal law which allows Washington
8 residents to enroll in the Washington achieving a better life
9 experience program or any achieving a better life experience program
10 offered by another state.

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

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

22 (2) The governing board may consult with the office of the state
23 treasurer, the department of social and health services, and the
24 state investment board in implementing the Washington achieving a
25 better life experience program. The governing board is authorized to
26 formulate and adopt any policies and rules necessary to implement and
27 operate the Washington achieving a better life experience program
28 consistent with this act. The governing board is further authorized
29 to establish a reasonable fee structure for Washington achieving a
30 better life experience program account holders.

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

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

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

8 (2) This section expires July 1, 2018.

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

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

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

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

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

30 (b) The following accounts and funds must receive their
31 proportionate share of earnings based upon each account's or fund's
32 average daily balance for the period: The Washington promise
33 scholarship account, the Washington advanced college tuition payment
34 program account, the accessible communities account, the Washington
35 achieving a better life experience program account, the community and
36 technical college innovation account, the agricultural local fund,
37 the American Indian scholarship endowment fund, the foster care
38 scholarship endowment fund, the foster care endowed scholarship trust
39 fund, the contract harvesting revolving account, the Washington state

1 combined fund drive account, the commemorative works account, the
2 county enhanced 911 excise tax account, the toll collection account,
3 the developmental disabilities endowment trust fund, the energy
4 account, the fair fund, the family leave insurance account, the food
5 animal veterinarian conditional scholarship account, the fruit and
6 vegetable inspection account, the future teachers conditional
7 scholarship account, the game farm alternative account, the GET ready
8 for math and science scholarship account, the Washington global
9 health technologies and product development account, the grain
10 inspection revolving fund, the industrial insurance rainy day fund,
11 the juvenile accountability incentive account, the law enforcement
12 officers' and firefighters' plan 2 expense fund, the local tourism
13 promotion account, the multiagency permitting team account, the
14 pilotage account, the produce railcar pool account, the regional
15 transportation investment district account, the rural rehabilitation
16 account, the stadium and exhibition center account, the youth
17 athletic facility account, the self-insurance revolving fund, the
18 children's trust fund, the Washington horse racing commission
19 Washington bred owners' bonus fund and breeder awards account, the
20 Washington horse racing commission class C purse fund account, the
21 individual development account program account, the Washington horse
22 racing commission operating account, the life sciences discovery
23 fund, the Washington state heritage center account, the reduced
24 cigarette ignition propensity account, the center for childhood
25 deafness and hearing loss account, the school for the blind account,
26 the Millersylvania park trust fund, the public employees' and
27 retirees' insurance reserve fund, and the radiation perpetual
28 maintenance fund.

29 (c) The following accounts and funds must receive eighty percent
30 of their proportionate share of earnings based upon each account's or
31 fund's average daily balance for the period: The advanced right-of-
32 way revolving fund, the advanced environmental mitigation revolving
33 account, the federal narcotics asset forfeitures account, the high
34 occupancy vehicle account, the local rail service assistance account,
35 and the miscellaneous transportation programs account.

36 (d) Any state agency that has independent authority over accounts
37 or funds not statutorily required to be held in the custody of the
38 state treasurer that deposits funds into a fund or account in the
39 custody of the state treasurer pursuant to an agreement with the
40 office of the state treasurer shall receive its proportionate share

1 of earnings based upon each account's or fund's average daily balance
2 for the period.

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

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

8 Pursuant to RCW 41.34.130 and section 3 of this act, the state
9 investment board shall invest all self-directed investment moneys
10 under teachers' retirement system plan 3, the school employees'
11 retirement system plan 3, ~~((and))~~ the public employees' retirement
12 system plan 3, and the Washington achieving a better life experience
13 program with full power to establish investment policy, develop
14 investment options, and manage self-directed investment funds.

15 NEW SECTION. **Sec. 9.** If specific funding for the purposes of
16 this act, referencing this act by bill or chapter number, is not
17 provided by June 30, 2016, in the omnibus appropriations act, this
18 act is null and void."

19 Correct the title.

EFFECT: The amendment modifies the bill in the following ways:

(1) Requires that if the ABLE governing board establishes a web site or develops promotional materials, that web site or other promotional materials must include the notice permitted by federal law which allows residents to enroll in a Washington ABLE program or an ABLE program offered by another state; and

(2) Makes the bill null and void if funding for the bill is not provided in the operating budget.

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