

# SENATE BILL REPORT

## SB 6210

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As of February 4, 2016

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

**Brief Description:** Creating the Washington achieving a better life experience program.

**Sponsors:** Senators Dammeier, O'Ban, Fain, Darneille, Rivers, Becker, Conway and Hargrove.

**Brief History:**

**Committee Activity:** Health Care: 1/19/16, 1/25/16 [DPS-WM].

Ways & Means: 2/02/16.

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### SENATE COMMITTEE ON HEALTH CARE

**Majority Report:** That Substitute Senate Bill No. 6210 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Becker, Chair; Dammeier, Vice Chair; Cleveland, Ranking Minority Member; Angel, Bailey, Baumgartner, Brown, Conway, Frockt, Jayapal, Keiser, Parlette and Rivers.

**Staff:** Kathleen Buchli (786-7488)

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### SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Sandy Stith (786-7710)

**Background:** Achieving a Better Life Experience Act. 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 these savings accounts for eligible people with disabilities that originated before age 26.

Individuals are able to invest up to \$14,000 per year in ABLE accounts. Withdrawals from these accounts will not be taxed so long as the money is spent on qualified expenses such as housing, education, transportation, health care, and rehabilitation. An individual generally cannot have more than \$2,000 in savings or other assets to be eligible for means-tested federal programs such as Medicaid or Supplemental Security Income (SSI). However,

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investments up to \$100,000 in ABLE accounts will be disregarded as assets for purposes of Medicaid or SSI eligibility.

The United States Treasury Department and the Internal Revenue Service released proposed regulations regarding qualified ABLE programs in June 2015 and received comments on those regulations, but the final regulations have not yet been issued.

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-member 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 specified funds are appropriated.

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 Disabilities Administration to be eligible for the Endowment Trust.

ABLE Workgroup. Last year, the Legislature enacted Second Substitute House Bill 2063, which required the Washington Office of the Treasurer to convene a workgroup with recommendations regarding implementation of the ABLE Act in Washington. This report was published in November 2015. The report makes the following recommendations:

- Washington should create and run its own ABLE program instead of contracting with another state or collaborating with other states.
- The Washington ABLE program should be overseen by a seven-member governing board with certain membership and authority.
- The ABLE board should be co-located with the Endowment Trust and hosted by the DOC.
- The State Investment Board should handle investments for the ABLE program.

The report also estimates that 35,000-50,000 individuals in Washington would be eligible ABLE participants with sufficient resources to make use of the ABLE program.

**Summary of Bill (Recommended Substitute):** The ABLE Governing Board (Board) is established. The Board consists of seven members as follows: the state treasurer or his or her designee; the program director for the committee on advanced tuition payment; the director of the Office of Financial Management or his or her designee; and four members with financial, legal, or disability program experience, appointed by the Governor. To the extent funds are appropriated for this purpose, the DOC must provide staff and administrative support to the Board. If practicable, the Board shall be co-located with the Developmental Disabilities Endowment Trust.

The Board may design, administer, manage, promote, and market the Washington ABLE Program (Program) or may contract with other agencies to do so. In implementing the Program, the Board may consult with the Office of the State Treasurer (Treasurer), the Department of Social and Health Services, and the State Investment Board. The Program must allow for the creation of savings or investment accounts for eligible individuals with disabilities. The Program must be implemented by July 1, 2017, and the Board must report

semiannually on its progress until Program implementation. The Board must allow for remote participation of members and may appoint advisory committees to support the design or administration of the Program and may execute interagency agreements that authorize other state agencies to perform administrative functions. The Board may establish a reasonable fee structure for Account holders.

The ABLE Account (Account) is created in the custody of the Treasurer. Expenditures from the Account may only be used for Program purposes and for investment and operating costs of the State Investment Board related to investing Account funds. The Account must be self-sustaining and 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. Expenditures may only be authorized by the Board or the Board's designee.

The Board may elect to have the State Investment Board invest, manage, contract, sell or exchange investment money in the Account. The State Investment Board may invest any self-directed accounts associated with the Program so long as it provides a set of options for eligible individuals to choose from for self-directed investment. Costs associated with self-directed investments must be paid by the eligible individuals.

**EFFECT OF CHANGES MADE BY HEALTH CARE COMMITTEE (Recommended Substitute):** Eligible individuals who may apply to the Program are those found eligible according to 529A of the Internal Revenue Code. Monies placed in the Account may not be counted as assets for purposes of state or local means tested program eligibility. The Board must allow for remote participation of members and may appoint advisory committees to support the design or administration of the Program. The Board may execute interagency agreements that authorize other state agencies to perform administrative functions and may establish a reasonable fee structure for Account holders.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill (Health Care):** PRO: Parents who have adult children with developmental disabilities are concerned about what will happen to those children when they pass on. This is a tool for parents and families to plan for the long-term care and support for people with developmental disabilities. It is a great tool and should be implemented as soon as possible. People who are not clients of the Developmental Disability Administration need ABLE Accounts so they can save money for their emergencies and living arrangements. I would choose to spend my money on speech therapy. Eligible people will be able to hold their own money and it would not impact their eligibility for Supplemental Security Income. This is providing people with an opportunity to acquire resources for their own expenses. It allows people to become self-reliant and it will impact many people who have disabilities. People with disabilities live in a cycle of

poverty and are in the position of having to turn down money or not work because they cannot maintain more than \$2000 in savings. People with disabilities want to go to college and save money so they are able to plan for their future. People want a life of self-determination and more choices for education, work, and other life activities. A large group of people do not qualify for the Developmental Disabilities Endowment Trust; this helps those people and will enhance the quality of their lives.

**Persons Testifying on Original Bill (Health Care):** PRO: Senator Dammeier, prime sponsor; Brittany Stadden, People First of Pierce County; Diana Stadden, The Arc of WA State; Liz Reeves; Michelle Reeves; Emily Rogers, Developmental Disabilities Council; Noah Seidel, Self Advocates in Leadership; Eric Matthes, Self Advocates in Leadership; Emma Patterson, Amy Patterson, Down Syndrome Association of Snohomish County; Patti Bell, The Arc of Washington State; Margaret Lee Thompson, Developmental Disabilities Endowment Trust Board Chair.

**Persons Signed In To Testify But Not Testifying on Original Bill:** No one.

**Staff Summary of Public Testimony on First Substitute (Ways & Means):** PRO: The ABLE program allows families to provide support to their family members by recognizing the value and humanity of all citizens. Similar to the GET tuition program and the Developmental Disabilities Endowment Trust, a savings program is provided for affected families, while reducing dependency on state programs. This is a wise investment in the future of disabled persons where no private savings options are available. The self-sufficiency of disabled persons is promoted and encouraged, without losing eligibility for federal services. Disabled persons are provided greater personal independence and quality of life. This is a cost-effective method of meeting expenses for education, housing, and medical care.

**Persons Testifying on First Substitute (Ways & Means):** PRO: Sen. Dammeier, prime sponsor; Emily Rogers, Developmental Disabilities Council, Margaret Lee Thompson, Developmental Disabilities Endowment Trust Fund; Noah Seidel, Self Advocates in Leadership; Emma Patterson, Amy Patterson, Sonya Smith-Pratt, Elizabeth Reeves, citizens.

**Persons Signed In To Testify But Not Testifying on First Substitute:** No one.