



PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (October 2017)
(Implements RCW 34.05.310)**

Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: July 24, 2019

TIME: 9:13 AM

WSR 19-15-149

Agency: Washington State Department of Commerce

Subject of possible rule making: Amending chapter 365-220 WAC, relating to the development disabilities endowment trust fund program, to align rules with program governing documents.

Statutes authorizing the agency to adopt rules on this subject: [Statutory Authority: RCW 43.330.437.]

Reasons why rules on this subject may be needed and what they might accomplish: The Department of Commerce on behalf of the developmental disabilities endowment trust fund governing board proposes amending chapter 365-220 WAC to better conform such chapter to: (1) master trust agreement and joinder agreement revisions and (2) current program practices regarding reversion of state match and its earnings upon closing an account.

Three WACs cover the reversion of the state match contributions and earnings back to the program upon death, transfer or ineligibility of the beneficiary but the wording is not consistent between them. The program's record keeping software Individual Trust Account Reporting System (ITARS) was not originally built with the logic to account for the reversions of funds in all cases because the developer at that time reported the WACs did not specify it. The WACs use different words although arguably the intent of those words was intended to be the same.

The governing board at the June 6, 2019 meeting confirmed the intent was that all unexpended state match and earnings would revert to the program when an individual account closed. In order to make the intent obvious, the special AAG strengthened the language in Article 5 in the master trust agreements and cited it throughout the document. To make the WACs obvious, word changes are required. The special AAG provided draft rules to make the WACs consistent. AAG Adix approved those changes.

Commerce information technology staff will need to correct the ITARS logic after / parallel to the rulemaking effort.

The amended master trust agreements were approved June 6, 2019. They are being mailed out to current trust account holders. The WACs and amended master trust agreements wording difference puts the program at risk for potential litigation should an account close before the WACs are updated regarding who receives the unused state match contributions and earnings.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies: None.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe)


Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting:

(If necessary)

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Additional comments: Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Written comments or inquiries may be directed to Leslie Wolff, Rules Coordinator, P.O. Box 42525, Olympia, WA 98504-2525, (360) 725-2817, e-mail Leslie.Wolff@commerce.wa.gov.

Date: 7..24.19	Signature: 
Name: Leslie Wolff	
Title: Rules Coordinator	