

From: Rep.Subeck <Rep.Subeck@legis.wisconsin.gov>

Sent: Friday, January 17, 2020 3:56 PM

To: *Legislative All Assembly <ALLASM@legis.wisconsin.gov>; *Legislative All Senate <ALLSEN@legis.wisconsin.gov>

Cc: The-Wheeler-Report <wheeler@thewheelerreport.com>; staff@wispolitics.com

Subject: Co-Sponsorship Memo for LRB-3165/1 & LRB-5380/1: Achieving a Better Life Experience (ABLE) Accounts

TO: All Legislators

FROM: Representative Lisa Subeck &
Senator André Jacque

DATE: Friday, January 17, 2020

RE: Co-Sponsorship Memo for LRB-3165/1 & LRB-5380/1: **Achieving a Better Life Experience (ABLE)**

Accounts

DEADLINE: Friday, January 24, 2020

Under current federal law, states may create a 529A *Achieving a Better Life Experience* (ABLE) program. This program allows an individual classified with having a disability before age 26 to have a tax-exempt savings account set up in their name to cover certain expenses. These expenses include education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, and funeral and burial expenses. Enrollment in this program does not affect eligibility for Supplemental Security Income (SSI) or Medicaid.

In 2016, Wisconsin passed ABLE tax legislation but chose not to establish its own state ABLE program, instead allowing Wisconsinites to open accounts in other states. Uptake on ABLE accounts in Wisconsin has been slow, perhaps because Wisconsin does not host an ABLE webpage or promote ABLE officially. Wisconsin is one of just nine states that does not operate an ABLE program, and ABLE use in other states is estimated by financial planners to be significantly higher.

This bill requires DFI to implement and administer a qualified ABLE program, either directly or by entering into an agreement with another state or alliance of states. Under the bill, DFI must determine whether implementing the ABLE program directly or by entering into an agreement is the best option for this state's residents. The bill also requires DFI to publicize information about ABLE accounts on its website, including information about each state that currently offers ABLE accounts. These duties will be administered by existing DFI employees.

It is important to note that this bill does not undo the 2016 law allowing Wisconsinites to take advantage of other states' ABLE programs. The bill will make ABLE accounts more accessible for Wisconsin families and advance the Legislature's continuing efforts to empower individuals with disabilities.

This legislation was developed with the input of disability advocates and organizations who lobbied for this change during their lobby days earlier in the legislative session. The following groups have all publicly stated their support for a Wisconsin ABLE program: The Arc Wisconsin, The Arc Dane County, The Arc of Dodge County, The Arc of Dunn County, Inc., The Arc Fond du Lac, The Arc Greater Columbia County, The Arc-Green County, The Arc of Racine County, Richland County Arc, The Arc of Southwestern Wisconsin, Inc., The Waupaca County Arc, Alianza Latina Aplicando Soluciones, Autism Society of Greater Wisconsin, Autism Society of South Central Wisconsin, Autism Society of Southeastern Wisconsin, CUNA Mutual Group, Disability Rights Wisconsin, Down Syndrome Association of Wisconsin, Inc., Elder Law and Special Needs Section of the State Bar, Family Voices of Wisconsin, Madison Area Down Syndrome Society, Respite Care Association of Wisconsin, Save IRIS, Survival Coalition of

Wisconsin Disability Organizations, Wisconsibs, Inc., Wisconsin Board for People with Developmental Disabilities, Wisconsin Chapter of NAELA (National Academy of Elder Law Attorneys), Wisconsin Coalition of Independent Living Centers, Inc., Wisconsin FACETS, Wisconsin Down Syndrome Advocacy Coalition, Wisconsin Upside Down, and Wispact Inc.

To add your name as a co-sponsor, please respond to this email or call the Subeck office at 6-7521 by Friday, January 24, 2020.

Analysis by the Legislative Reference Bureau

This bill requires the Department of Financial Institutions to implement a qualified ABLE program under section 529A of the Internal Revenue Code allowing tax-exempt accounts for qualified expenses incurred by individuals with disabilities.

Under current federal law, states may create a qualified Achieving a Better Life Experience program under which an individual may establish a tax-exempt savings account to pay for qualified expenses, such as education, housing, and transportation costs, for a beneficiary who is an individual with disabilities, as defined under federal law. Although these accounts, commonly referred to as “ABLE accounts” or “section 529A accounts,” cannot be established under this state's law, they can be established under another state's law, and if so established, withdrawals from these accounts for payment of qualified disability expenses for the account beneficiary are exempt from taxation in this state.

This bill requires DFI to implement and administer a qualified ABLE program, either directly or by entering into an agreement with another state or alliance of states to establish an ABLE program or otherwise administer ABLE program services for the residents of this state. DFI must, within approximately six months, determine whether implementing the ABLE program directly or by entering into an agreement is the best option for this state's residents. If DFI enters into an agreement, the agreement may require the party contracting with DFI to do any of the following: 1) develop and implement an ABLE program in accordance with all requirements under federal law and modify the ABLE program as necessary for participants to qualify for federal income tax benefits; 2) contract for professional and technical assistance and advice in developing marketing plans and promotional materials to publicize the ABLE program; 3) work with organizations with expertise in supporting people with disabilities and their families in administering the agreement and ensuring accessibility of the ABLE program for people with disabilities; or 4) take any other action necessary to implement and administer the ABLE program. The bill also requires DFI to provide on its Internet site and in written materials certain information concerning ABLE accounts.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.