

FINAL BILL REPORT

ESHB 2323

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Synopsis as Enacted

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

Sponsors: House Committee on Early Learning & Human Services (originally sponsored by Representatives Kilduff, Walsh, Stanford, Kagi, Robinson, McBride, Bergquist, Jinkins and Pollet).

House Committee on Early Learning & Human Services
House Committee on Appropriations
Senate Committee on Health Care
Senate Committee on Ways & Means

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 may not 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, 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 in 1999. This Endowment Trust is governed by a seven-member governing

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board; six of the members of this board are appointed by the Governor. The Department of Commerce (COM) provides support to the governing board when 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.

Achieving a Better Life Workgroup.

In 2015 the Office of the State Treasurer was required 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 COM.
- The State Investment Board should handle investments for the ABLE program.

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

Summary:

A governing board may design and implement the ABLE program by July 1, 2017 in the best interest of eligible individuals. The ABLE program must allow for the creation of savings or investment accounts for eligible individuals with disabilities. The governing board consists of seven members including:

- 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.

The ABLE governing board may:

- allow its members to participate in meetings remotely;
- appoint advisory committees to support the design or administration of the ABLE program;
- execute interagency agreements authorizing other state agencies to perform administrative functions necessary to carry out the ABLE program; and
- establish a reasonable fee structure for ABLE account holders.

Individuals are eligible for the Washington ABLE program if eligible pursuant to federal law.

Any moneys placed in ABLE accounts may not be counted as assets for purposes of state or local means tested programs or for determining levels of state means tested program eligibility.

To the extent funds are appropriated for this purpose, the COM must provide staff and administrative support to the governing board. If practicable, the governing board must be co-located with the Endowment Trust.

The governing board must submit a semi-annual report to the Legislature regarding progress toward program implementation and include recommendations regarding legislative changes necessary to implement the program.

The ABLE Account (Account) is created and would retain its own interest. The Account must 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.

The State Investment Board may invest, reinvest, manage, contract, sell, or exchange investment money in the Account.

Votes on Final Passage:

House	83	13
Senate	48	0

Effective: June 9, 2016