

SENATE BILL REPORT

ESHB 2323

As of February 28, 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: House Committee on Early Learning & Human Services (originally sponsored by Representatives Kilduff, Walsh, Stanford, Kagi, Robinson, McBride, Bergquist, Jinkins and Pollet).

Brief History: Passed House: 2/10/16, 83-13.
Committee Activity: Ways & Means: 2/29/16.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Steve Jones (786-7440)

Background: Achieving a Better Life Experience Act. Congress enacted the Achieving a Better Life Experience (ABLE) Act in 2014. The law exempted from federal 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 are not taxed if 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, investments up to \$100,000 in ABLE accounts will be disregarded as assets for purposes of Medicaid and SSI eligibility.

Developmental Disabilities Endowment Trust. The 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 provides support to the governing board.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

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 Legislature directed the State Treasurer to convene a workgroup to develop recommendations to implement of the ABLE Act in Washington. The workgroup's November 2015 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 in the Department of Commerce.
- 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 of Bill: A governing board is authorized to design and implement the ABLE program by July 1, 2017. 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 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 ABLE program if eligible pursuant to federal law, which currently provides that individuals are eligible with certain disabilities that originated before age 26. Any moneys placed in ABLE accounts are not 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 Department of Commerce shall provide staff and administrative support to the governing board. If practicable, the governing board shall be co-located with the Developmental Disabilities Endowment Trust.

The governing board is required to 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 is created and retains its own interest. The account consists 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 has the power to invest, reinvest, manage, contract, sell, or exchange investment money in the account.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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