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December 1, 2015

The Honorable Lawrence J. Hogan, Jr., Governor
The Honorable Thomas V. Mike Miller, Jr., President of the Senate
The Honorable Michael E. Busch, Speaker of the House of Delegates
Members of the General Assembly

Governor Hogan, President Miller, Speaker Busch, and members of the General Assembly:

The Task Force on the Maryland ABLE Program, established under Senate Bill 761 of the 2015 session of the Maryland General Assembly, presents this report as you consider legislation to establish an ABLE Program for the citizens of Maryland.

The Achieving a Better Life Experience (ABLE) Act is a federal law enacted in December 2014 by an overwhelming bi-partisan vote in both houses of Congress. The ABLE Act allows people with disabilities to save money without sacrificing eligibility for benefits. The Act amends the Internal Revenue Code by adding Section 529A, allowing people with disabilities to save tax-deferred funds for qualified expenses, while earning important tax benefits and maintaining access to means-tested public benefits and supports.

The Task Force held six meetings throughout the State, as well as two webinars. We also solicited input on the Maryland Department of Disabilities website, and we welcomed to our meetings members of the public, several of whom shared their views with the Task Force. The process was inclusive and transparent, resulting in a well-informed report.

The legislation establishing the Task Force had several specific charges, and we have addressed them in the accompanying document. We have made recommendations on the program's structure; what role the State should play in operating the program; staffing and funding needs; identifying potential sources of start-up funding; determining a governance structure and tax benefits available to participants; and potential legislation for the 2016 session of the General Assembly.

On behalf of all of the members, I express our gratitude to you for having been given the opportunity to serve our fellow citizens – especially those who are disabled and their families – in this important manner.

Sincerely,

A handwritten signature in cursive script that reads "William J. Frank".

William J. Frank
Chairman, Task Force on Maryland's ABLE Program

Report of the Task Force on Maryland's ABLE Program

(SB 761 / Chapter 382)

Submitted December 1, 2015

Task Force on Maryland’s ABLE Program: Executive Summary

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- The Task Force on Maryland’s ABLE Program was established by SB 761 (2015). Its charge is to develop recommendations for a Maryland ABLE Program.
- SB 761 was passed in response to the signing of the federal ABLE Act in 2014, which adds section 529A to the Internal Revenue Code of 1986 to allow people with disabilities to create tax-exempt accounts to save funds for disability-related expenses without losing access to federal means-tested benefits.

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- Under the federal law, ABLE accounts will be available to people who developed qualifying disabilities prior to the age of 26. Only the qualified person with a disability or that person’s power of attorney or legal guardian may open and manage the account. People may have only one account, and must open that account in their state of residency (or a contracting state if their state does not have its own ABLE program.) The funds in the accounts are exempt from federal income tax provided they are used for “qualified disability expenses.”
- Federal regulations have not yet been finalized by the United States Department of Treasury and the Internal Revenue Service and no state to date has an operational ABLE program, but states have been instructed that programs will likely need the following components: (1) oversight by a State instrumentality; (2) a system to certify eligibility on the basis of disability and residency; (3) safeguards to ensure that beneficiaries have only one account; (4) a system for returning contributions to the accounts that exceed federally-mandated limits; and (5) a mechanism for distributing funds upon the death of an account holder.

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- It is estimated that between 31,500 and 53,600 Marylanders may take advantage of an ABLE Program. Demand for the program is strong, as it creates new incentives for people with disabilities to seek employment, save money and supplement disability-related expenses without fear of losing access to important benefits and supports. Upon the death of an ABLE account holder, Medicaid will be able to collect funds left in the account as reimbursement for Medicaid benefits paid while the individual was an ABLE account holder.
- Stakeholder input indicated a strong preference for Maryland’s ABLE Program to: pose a minimal administrative burden to both the account holder and program administrators; allow people immediate access to funds; provide high quality customer service; and balance flexibility with fraud prevention. Interim guidance issued from the Internal Revenue Service supports a reduced administrative burden.

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- *Maryland should establish the Maryland ABLE Program to allow people with disabilities or their families to establish accounts to pay qualified disability expenses as authorized under the federal ABLE Act.*
- *College Savings Plans of Maryland should be the lead agency responsible for the development and implementation of the Maryland ABLE Program.*
- *A seat should be added to the existing College Savings Plans of Maryland Board for the Secretary of the Department of Disabilities.*
- *College Savings Plans of Maryland should have the flexibility to contract with third parties as needed.*
- *In addition to any allocations available from the State budget, College Savings Plans of Maryland should be allowed to charge reasonable administrative fees and identify alternative sources of funding.*
- *Contributors to ABLE accounts should receive comparable tax benefits as 529 accounts holders.*
- *Local and State means-tested programs should be required to exclude ABLE funds when considering applicants' eligibility or level of benefit.*
- *Language should be included in the legislation that gives Maryland discretion in contracting with states to provide ABLE program services to residents in other states.*
- *ABLE enabling legislation should be effective July 1, 2016, with a target operational date of October 1, 2017.*

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- *Create a program that minimizes administrative burden on the program administrator and the consumer.*
- *Pay close attention to customer needs when constructing a program.*

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The Task Force on Maryland's ABLE Programs

Maryland's Senate Bill 761 (2015) established the Task Force on Maryland's ABLE Program. SB 761 was passed in response to the enactment of the federal Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 (ABLE Act) in December 2014. The federal ABLE Act adds section 529A to the Internal Revenue Code of 1986 to: (1) encourage and assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities to maintain health, independence and quality of life; and (2) provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, the Medicaid program, the Supplemental Security Income program, the beneficiary's employment and other sources.

SB 761 indicated the General Assembly's intent to create a Maryland ABLE program and directed the Task Force to:

- develop a plan for implementing the Maryland ABLE program;
- study issues related to the Maryland ABLE program, including: (1) what the structure of the program should be; (2) whether the program should be State-sponsored or privately run; and (3) if State-sponsored, whether the program should be operated by the College Savings Plans of Maryland or another State agency;
- determine the staffing and funding needs of the program;
- identify potential sources of start-up funding prior to the program becoming self-supporting;
- determine the membership of the board that will oversee the program, the duties of the board, and the board's governance structure;
- determine the State tax benefits or treatment of contributions to and withdrawals from ABLE accounts;
- hold public hearings for public input to inform the deliberations of the Task Force; and
- recommend legislation to be introduced in the 2016 session of the General Assembly that implements the recommendations of the Task Force.

This report reflects the work done by the Task Force between June 1, 2015 and December 1, 2015, and contains its recommendations for legislation and implementation.

General Requirements of ABLE Programs

The federal ABLE Act authorizes states to create and make available to qualified persons with disabilities a tax-advantaged savings program, referred to in this report as an “ABLE program.” Money earned on ABLE accounts is exempt from federal income tax. The funds are also exempt from consideration of the individual’s eligibility for federal means-tested programs up to \$100,000, at which point eligibility for Supplemental Security Income would be suspended but not terminated; an individual’s Medicaid benefits would not be affected by this limit.

Section 529A of the Internal Revenue Code, the proposed federal regulations (issued on June 22, 2015 and pending finalization) and U.S. Department of Treasury interim guidance (issued November 20, 2015) provide guidance on the requirements a state program must satisfy in order to be a qualified ABLE program. In addition to other requirements, a program must:

- **Be established and maintained by a state or a state's agency or instrumentality.** A program must be “established” by a state through statute or regulation, or by an act of a state official or agency. A program is considered “maintained” by a state (or its agency or instrumentality) if it has set all the terms and conditions of the program and is actively involved on an ongoing basis in the administration of the program.
- **Permit the establishment of an ABLE account only for a designated beneficiary who is an eligible individual.** Eligibility is limited to individuals with significant disabilities² which began prior to age 26 (individuals older than age 26 may establish an account, but need documented proof of the onset of disability prior to age 26). It should be noted that only the “designated beneficiary” – the eligible individual or the designated beneficiary’s agent under power of attorney or legal guardian - may exercise signature authority over the account. States have been given discretion in developing a system for verifying that individuals have a qualifying disability.
- **Permit funds in an ABLE account to be used to pay for the qualified disability expenses of the account's designated beneficiary.** Funds in ABLE accounts may only be used for “qualified disability expenses,” which are defined in the proposed regulations as those used “for the benefit of that designated beneficiary in maintaining or improving his or her health, independence, or quality of life.” These include education, housing, transportation, employment training and support, assistive technology and related services, health, prevention and wellness, financial and administrative services, and other related expenses. Funds used for something other than a qualified disability expense will be subject to tax liabilities and penalties. As with disability certification, it has been left to

² “Significant disabilities” includes individuals entitled to Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) based on blindness or disability or a disability certification accepted by the Secretary of the Treasury that states that the individual is blind or has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of at least 12 months.

the states' discretion to develop safeguards to ensure that funds are being used appropriately.

- **Permit the establishment of an ABLÉ account only for a designated beneficiary who is a resident of that state, or a state contracting with that state for purposes of the ABLÉ Program.** If a state does not establish and maintain its own qualified ABLÉ program, it may enter into a contract with another state in order to provide its residents with access to a qualified ABLÉ program. If a designated beneficiary moves after starting an ABLÉ account, he or she can continue to maintain an ABLÉ account in the original state of residence, but cannot start a new account in the new state of residence unless the other account is closed.
- **Limit a designated beneficiary to only one ABLÉ account, wherever located.** This aspect of the ABLÉ Act requires that states obtain verification from potential account holders that they have only one ABLÉ account. If someone attempts to open up additional accounts, the accounts may not be regarded as ABLÉ accounts, meaning that the account holder will be subject to income tax on account earnings and may jeopardize access to means-tested programs.
- **Limit the nature and amount of contributions that can be made to an ABLÉ account.** Anyone, in addition to the designated beneficiary, may contribute to an ABLÉ account. The contributions must be made in cash³ and annual contributions from all sources are limited to the federal annual gift tax exclusion (currently \$14,000) for each ABLÉ account. Programs must ensure that excess contributions are returned to the contributor.
- **Have the expertise needed to manage the accounts.** The ABLÉ Act provides for a number of technical financial requirements and allowances for the ABLÉ accounts which must be thoroughly understood by the program manager. These include: maintaining separate accounting; handling rollovers or program-to-program transfers; limiting investment direction; and understanding tax rules.
- **Have mechanisms for disbursing funds after the death of account holders.** The program manager must be able to disburse funds after the death of account holders. Upon the death of an ABLÉ account holder, any outstanding debts for qualified disability expenses must be paid. After those debts have been cleared, state Medicaid programs may file claims for reimbursement for Medicaid payments made on behalf of the individual while he or she was an ABLÉ account holder.
- **Fulfill reporting requirements.** State programs are required to report to the individual account holders and provide them with information needed for tax returns. States must also make monthly reports on distributions and account balances to the Commissioner of

³ A qualified ABLÉ program may allow cash contributions to be made in the form of a check, money order, credit card, electronic transfer, or similar method.

Social Security and report annually on distributions and other aggregated information to the Secretary of the Treasury.

Absence of Final Federal Regulations

The federal ABLE Act required the Secretary of the Treasury to issue regulations or other guidance to implement Section 529A by June 19, 2015. A Notice of Proposed Rulemaking was released on June 22, 2015; comments were accepted until September 21, 2015 and a public hearing was held on October 14, 2015. Interim guidance on certain aspects of the IRS regulations was released on November 20, 2015. It is unknown when the final regulations will be issued. Some states have elected to delay implementation until final guidance is issued.

According to guidance released by the Internal Revenue Service in March 2015: “The Treasury Department and the IRS do not want the lack of guidance to discourage states from enacting their enabling legislation and creating their ABLE programs, which could delay the ability of the families of disabled individuals or others to begin to fund ABLE accounts for those disabled individuals.” In order to encourage states to move forward with program implementation, the Treasury Department and the IRS have assured states that, assuming they have created an ABLE program in accordance with Section 529A of the Internal Revenue Code; (1) individuals establishing ABLE accounts in these plans will receive the benefits of Section 529A even if parts of the program do not fully comport with the final guidance; and (2) state programs will receive “transition relief” if it becomes necessary to change their programs to meet final requirements. Therefore, the Task Force supports the formation of a Maryland ABLE program prior to the issuing of the final regulations if necessary.

Absence of Best Practices

Despite the absence of final regulations, a number of state legislatures currently are in the process of enacting legislation to implement ABLE programs. As of the drafting of this report, 34 states, including Maryland, had enacted legislation pertaining to the ABLE Act. However, it should be noted that to date, ABLE accounts are not yet available in any state. Of those states that have passed legislation, a few specifically instruct the designated lead agency to wait for the final regulations before making accounts available.

Florida, Ohio, North Dakota, Texas and Nebraska appear to be the closest to having operational programs. The Task Force suggests that those charged with implementing the Maryland ABLE program pay special attention to the activities in these states, as they may offer guidance and best practices.

Demand for an ABLÉ Program in Maryland

According to a preliminary analysis by the Task Force, Maryland can expect to have between 31,500 and 53,600 ABLÉ accounts when the program has fully matured.⁴ Based on stakeholder feedback, interest in the ABLÉ Program in Maryland is very strong.

People with disabilities who receive means-tested benefits such as Supplemental Security Income or Medicaid live in poverty. Accumulating more than \$2,000 in assets will disqualify individuals from Supplemental Security Income and other programs, even if the amount they accumulate does not actually make them financially independent. This resource limit, unchanged since the 1980's, creates a disincentive to save for one's future, and does not allow family members to offer financial support to their loved ones with disabilities. People with disabilities have very little safety net for emergencies and no ability to save money for worthwhile purposes.

ABLE programs will allow people with disabilities to save money without sacrificing eligibility for benefits. Section 103 of the ABLÉ Act specifies that federal means-tested programs must "disregard" funds in the ABLÉ account, including contributions and disbursements, when determining an individual's eligibility for the program. There are two exceptions to this guarantee: disbursements made for housing may be considered income by the Supplemental Security Income program; and during any period that an individual has more than \$100,000 in an ABLÉ account, Supplemental Security Income benefits will be suspended, but not terminated. This limitation does not apply to eligibility for Medicaid benefits.

It should be noted that some means-tested programs apply several standards for eligibility and level of benefit, including income as well as accumulated saved assets. ABLÉ only allows people to have money they have saved in an ABLÉ account to be exempted. Income is not protected by an ABLÉ account. A person – regardless of whether they have an ABLÉ account - could still lose eligibility for some means-tested benefits if his or her monthly or annual income is above the benefits program's income limits.

Legislative Recommendations

The Task Force on Maryland's ABLÉ program recommends that legislation be adopted to enable the implementation of a Maryland ABLÉ Program. The Task Force recommends that the following be incorporated in this enabling legislation:

⁴ The National Disability Institute estimated that nationally, between 2.6 and 4 million children and 4.1 – 8 million adults will be eligible for ABLÉ accounts – meaning that they meet the criteria of having developed a qualifying disability prior to the age of 26. Within that population, the National Disability institute estimates that approximately 575,000 – 880,000 children and 1 – 1.8 million adults will open accounts. Maryland has a slightly below-median population but a slightly higher-than-average disability population. Extrapolating from the numbers provided by the National Disability Institute, the Task Force estimates that the potential pool of ABLÉ beneficiaries is: 31,500 – 53,600 (11,500 – 17,600 children and 20,000 – 36,000 adults).

1. Maryland should establish the Maryland ABLE Program to allow people with disabilities or their families to establish accounts to pay qualified disability expenses as authorized under the federal ABLE Act.

Rationale

The Task Force confirms the General Assembly’s intent in SB 761 to create a Maryland ABLE Program, which, for all the reasons identified above, will enhance independence and self-sufficiency for people with disabilities by allowing them to save for the future. The recommendations below lay out the Task Force’s recommendations for critical components of such a program.

2. College Savings Plans of Maryland should be the lead agency responsible for the development and implementation of the Maryland ABLE program.

Rationale

The federal ABLE Act requires that states’ ABLE programs be “established and maintained by a State, or agency, or instrumentality,” meaning that at least one state agency must be involved in some or all aspects of the Maryland ABLE Program. In a review of other states’ legislation, the most common agencies selected to be the lead agencies of their ABLE programs were Offices of the Treasurer (13), 529 College Savings Programs (7), and Health & Human Services agencies (6). Some states have chosen to have multiple agencies work in cooperation.

The Task Force identified College Savings Plans of Maryland as the most logical choice for the lead agency.⁶ College Savings Plans of Maryland, established by statute in 1997, is an independent State agency that is run by a 10-member board. It manages tax-deferred investment or savings accounts that can be used to pay for qualified education expenses as authorized by Section 529 of the Internal Revenue Code. The College Savings Plans of Maryland Board currently operates two plans established in State law: the Maryland Prepaid College Trust and the Maryland College

⁶ The Task Force considered both the Office of the State Treasurer and the Department of Disabilities as potential lead agencies. It was determined by the Task Force that the Office of the State Treasurer lacks the staff, infrastructure and marketing expertise, as well as the familiarity with direct disability services required by an ABLE program. The Department of Disabilities, while familiar with disability services, does not currently have the investment and financial infrastructure or expertise needed by a lead ABLE agency. No other State agency presented itself as a potential lead agency.

Investment Plan.⁷ At the end of fiscal year 2015, the assets of both operating plans totaled \$5.2 billion across 188,900 accounts. College Savings Plans of Maryland belongs to the College Savings Plan Network/National Association of State Treasurers, which will be a source of information sharing, technical assistance and best practices as other states' 529 College Savings programs and Treasurers' Offices develop ABLE programs.

As part of its normal operations, College Savings Plans of Maryland has experience with the following activities that are relevant to the ABLE program:

- tax-deferred investments;
- the program manager relationship and the process for soliciting a program manager;
- the collection and deposit of administrative fees from accounts;
- the mechanics of account roll-overs and transfers;
- distributing funds;
- marketing financial programs;
- the legal issues surrounding financial instruments and reporting requirements; and
- compliance with relevant State and federal laws and regulations.

The Task Force also suggests that while adding ABLE-related language to the statutes affecting College Savings Plans of Maryland, the name of the agency be changed to "Maryland 529" since the agency will no longer be exclusive to college savings programs.

The Task Force recognizes that College Savings Plans of Maryland does not have in-house expertise regarding interacting with the disability community and providing information on disability-related benefits –functions that will likely be required of the Maryland ABLE program. The Task Force proposes that College Savings Plans of Maryland collaborate with the Maryland Department of Disabilities to ensure that these additional program requirements are met. The Department of Disabilities was established in 2004 to serve as a coordinating agency for State disability policy.

The Department of Disabilities' expertise and skill set complement the strengths of College Savings Plans of Maryland. These strengths include:

- knowledge of disability issues and disability benefits;
- knowledge of the disability certification processes;
- experience with data collection on disability issues; and
- experience providing customer service and outreach to the disability community.

⁷ Chapter 548 of 2008 authorized the College Savings Plan of Maryland Board to establish a third plan, the Maryland Broker-Dealer College Investment Plan, but the board has yet to do so.

3. A seat should be added to the existing College Savings Plans of Maryland Board for the Secretary of the Department of Disabilities.

Rationale

Boards are not addressed in the federal ABLÉ Act. Other states are equally split between having boards and not having boards (although some may opt to have boards that are not defined in their legislation). Of the programs that have boards outlined in statute, they are nearly equally split between serving in a purely advisory or oversight capacity and being able to implement, administer and contract on behalf of their ABLÉ programs.

The Task Force determined that creating a separate ABLÉ board was unwieldy and inefficient given that College Savings Plans of Maryland already has in place a board that provides valuable financial guidance for its programs. The Task Force recommends utilizing the existing College Savings Plans of Maryland Board for oversight of the ABLÉ program, adding one seat for the Secretary of the Department of Disabilities, and making no other changes to the board's membership, duties and governance.⁸ This approach will create a formal relationship between the two agencies without disrupting College Savings Plans of Maryland's current operations.

The Secretary of the Department of Disabilities should have close involvement with the development of the program and assist with the selection of any third parties needed to administer the program. If additional input from the disability community would be necessary for technical assistance during program startup or program maintenance, the Department of Disabilities could assist through the convening of a stakeholder advisory council or other public outreach efforts.

4. College Savings Plans of Maryland should have the flexibility to contract with third parties as needed.

Rationale

The requirement that qualified ABLÉ programs be established and maintained by a state instrumentality precludes a purely private model for the Maryland ABLÉ program, but does not prohibit Maryland's program from contracting with third parties for some or all of the program features, so long as appropriate oversight is maintained. Some states are prepared to contract out

⁸ The membership of the College Savings Board is outlined in Education § 18-1904, and currently includes the following ten members: the Secretary of the Maryland Higher Education Commission, the State Superintendent of Schools, the State Treasurer, the State Comptroller, the Chancellor of the University System of Maryland, and five members of the public appointed by the Governor to serve four-year terms. Education §18-1905 provides that Board members are unpaid, and that the chair of the Board shall be selected through a vote of its members.

some or all of the program administration to third parties with state oversight. Several states, such as Nebraska and Ohio, have issued Requests for Proposals seeking third party program managers for their ABLÉ programs.

College Savings Plans of Maryland has the authority to enter into contracts for its 529 programs, and it should have this same authority to enter into contracts for the ABLÉ program. It currently contracts with a third party, T. Rowe Price, which acts as the program manager for the College Investment Plan. T. Rowe Price services the accounts, provides the mutual fund investment options, contributes money to the marketing efforts, and provides College Savings Plans of Maryland with a program manager fee. The College Savings Plans of Maryland Board sets and monitors performance measures for customer service and policies that dictate the type of investments T. Rowe Price can include in the College Investment Plan's mutual funds offerings.

5. In addition to any allocations available from the State budget, College Savings Plans of Maryland should be allowed to charge reasonable administrative fees and identify alternative sources of funding.

Rationale

The ABLÉ Act currently has no funding from the federal government, and the implicit expectation is that states will assume the costs of developing and implementing programs. Estimates from states about start-up costs vary from \$0 to \$2 million. The novelty of the program makes it challenging to estimate start-up costs and staffing needs. Since no states have functioning programs, it is not possible to extrapolate best practices from other states.

The Task Force identified the following start-up costs and staffing needs:

- Start-up costs can generally be broken into the following categories: *staffing*, including salaries and benefits; *technology*, including software development and all necessary hardware needed for new or additional tracking and reporting; and *marketing*, including printing, advertising, and website design; and
- Staffing needs for College Savings Plans of Maryland as it develops and implements a program, as well as carries out routine program operations once the program is operational. These staffing needs will include, at a minimum, staff to provide: program leadership; and oversight of the development of financial processes, legal support, marketing and customer service.

Once the program is operational, the costs of administration can be offset through reasonable fees. Nothing in the federal ABLÉ Act precludes states from charging administrative fees, and these fees will become an important source of revenue for the ABLÉ program once account holders are enrolled. College Savings Plans of Maryland already charges administrative fees for its 529 plans and should have the same option for the ABLÉ Program.

Additionally, College Savings Plans of Maryland is currently given the authority to seek grants, funds, donations and contributions from public and private sources in addition to general funds to help cover the costs of operations and administration for its 529 plans. It should have the same authority to seek funding to support the ABLE program.

6. Contributors to ABLE accounts should receive comparable tax benefits as 529 accounts holders.

Rationale

Per the federal law, earnings on contributions to ABLE accounts grow tax-free, and *withdrawals* from ABLE accounts are also tax-free, as long as they are used for “qualified disability expenses.” On the federal level, contributions *to* ABLE accounts are not tax-deductible; however, nothing precludes states from adding state income tax deductions for contributions to an ABLE account. Six states have passed legislation to do so.

There are tax benefits associated with both of College Savings Plans of Maryland’s plans (the Maryland Prepaid College Trust and the Maryland College Investment Plan.) Tax benefits vary between the plans; however, in any tax year, an individual is eligible for both a deduction for prepaid contributions and a deduction for contributions to the investment plans. For the Maryland Prepaid College Trust, an individual may subtract up to \$2,500 per year, per prepaid contract, from Maryland taxable income for contributions to the plan. For the Maryland College Investment Plan, an individual may subtract up to \$2,500 per year, per qualified beneficiary, from Maryland taxable income for contributions to the plan. For the investment plan, each spouse on an account holder joint tax return is treated separately for this limited purpose. For each of the plans, account holder contributions exceeding \$2,500 may be carried over for successive tax years (up to 10 years for the investment plan, and no limit for the prepaid plan); if an account holder contributes \$10,000, he or she can deduct \$2,500 from taxable income every subsequent tax year until he or she has deducted a total of \$10,000. Earnings on money invested in college savings plans are not subject to State or federal taxes as long as the funds are used for qualified expenses.

With 529 accounts, the tax deduction is only available to the account holder. Currently, individuals contributing to a 529 account held by another individual do not enjoy these tax benefits. However, there is no limit on the number of 529 accounts that may exist for the benefit of one individual. That is different for ABLE accounts, which are limited to one account per qualified individual. Therefore, the Task Force recommends that any individual contributing to that single ABLE account receive a tax deduction for that contribution, up to the same limit for 529 college savings accounts as outlined in Tax-General Article 10-208(n) and (o) (currently \$2,500) and be eligible for the same carry over for deductions for the same number of subsequent tax years.

The Task Force recognizes that affording such tax benefits will cause a decrease in tax revenues to the State over time. However, the program will need to rely either partially or solely on revenues generated by administrative fees; using tax benefits to create incentives for participation will help promote the sustainability of the program. Additionally, the overall cost of the ABLE program will be offset in other important ways: the ABLE program will create an incentive for a whole new population of Maryland residents to seek employment and save money; and, while there are no projections available as to how much Maryland's State Medicaid programs will recoup, the provision allowing it to seek reimbursement from decedents' accounts will also generate revenue.

7. Local and State means-tested programs should be required to exclude ABLE funds when considering applicants' eligibility or level of benefit.

Rationale

Section 103 of the ABLE Act requires that funds in ABLE accounts not be counted against eligibility and level benefit for federal means-tested programs such as SSI or Medicaid. The Task Force recommends that any legislative proposal should specify that local and State means-tested programs exempt ABLE funds when considering applicants' eligibility or level of benefit.

It is important to exempt ABLE funds for all local and State means-tested programs – in addition to federal programs – to preserve the intent of the ABLE Act. ABLE accounts cannot be an effective savings vehicle if all of the money is then consumed in paying for local or State disability services, or results in the loss of supports. The ABLE Act clearly indicates that the funds are to *supplement*, not *supplant* benefits. Also, since many disability and public programs braid local, State and federal resources, for purely administrative purposes, issuing a blanket prohibition that ABLE funds cannot impact *any* of these programs will prevent confusion during eligibility determinations.

8. Language should be included in the legislation giving Maryland discretion to contract with other states to provide an ABLE program to residents of other states.

Rationale

The federal ABLE Act legislation allows states that decide not to have their own ABLE programs to contract with other states to provide ABLE accounts to their residents. The Task Force strongly believes that at this time, Maryland should have a program of its own. This presents the best opportunity for Marylanders to access a local program, to simplify account holders' tax obligations, and to ensure that the State can directly control program quality.

The Task Force also recognizes the benefits of making Maryland’s ABLÉ program – once it is operational – available to residents of other states. Since the long-term success and financial sustainability of the Maryland ABLÉ program may depend on enrollment, creating opportunities to increase the number of potential Maryland ABLÉ program enrollees could be beneficial. While it should not be required that the Maryland ABLÉ program contract with other states to provide ABLÉ account services, the Task Force recommends that language be included in Maryland’s legislation that would give the Maryland ABLÉ program the authority to enter into agreements with other states, making the Maryland ABLÉ program available to residents in other states that do not have their own programs.

***9. ABLÉ enabling legislation should be effective July 1, 2016,
with a target operational date of October 1, 2017.***

Rationale

The Task Force was also instructed to make suggestions about implementation of the ABLÉ program. The Task Force recommends that the legislation authorizing the development and implementation of an ABLÉ program be effective as of July 1, 2016, with a target operational date of October 1, 2017.

As noted above, while a few states have elected to wait until the issuance of final guidance, a greater number of states have decided that public policy is best served by moving forward with the information currently available. Many states have set mid-2016 to mid-2017 as a goal for having an operational program. The Task Force recognizes that the absence of final federal regulations may pose a barrier to certain aspects of program development and implementation, and, should it need to solicit a program manager, College Savings Plans of Maryland is obligated to certain timelines under the State procurement process. The Task Force recommends that College Savings develop an ABLÉ program in Maryland beginning in July 1, 2016 to the best of its ability, and with the understanding that the federal government is offering transition relief should final regulations change critical components of the program.

Once the enabling legislation goes into effect, College Savings Plans of Maryland shall submit quarterly status reports to the General Assembly on its progress towards implementation.

Implementation Recommendations

The Task Force on Maryland’s ABLÉ Program recommends that the following be taken into consideration when the ABLÉ program is being developed and implemented:

1. Create a program that minimizes administrative burden on the program administrator and the consumer.

Rationale

The ABLE Program will need to require two kinds of verifications from participants: (1) that they are a qualified individual with a disability and a resident of the State; and (2) that the funds being used from the ABLE accounts are being used for qualified disability expenses. These issues were of particular concern to stakeholders who are already burdened with paperwork and certification processes for other disability-related programs. The proposed federal regulations allow states to develop their own certification processes and safeguards for both of these requirements.

Interim guidance issued by the U.S. Treasury Department on November 20, 2015, indicates that the federal government will accept a system of self-certification for both disability status and use of funds for qualified disability expenses. This would require account holders to take the responsibility for making their own determinations as to the appropriateness of expenditures and saving records or receipts of these expenditures in case of IRS audit. It would also presumably require account holders to swear, under penalty of perjury, that they are qualified to open an account and that they are using the account funds for qualified expenses.

The Task Force recommends that program developers adopt a system of self-certification in order to make both processes as easy and customer-friendly as possible for account holders, while also minimizing the burden on the administrators. Keeping administrative burdens at a minimum will reduce the number of staff needed to administer the program. It will also reduce the amount of confidential documents program administrators must store and protect.

Additionally, the Task Force encourages the future ABLE program to adopt any standard forms created by the federal government to document disability for the purposes of ABLE eligibility or for qualified disability expenses.

2. Pay close attention to customer needs when constructing a program.

Rationale

Stakeholders advised the Task Force that they believe that marketing the program to the disability community is critical, and urged that the program pay special attention to marketing the program to lower-income individuals and families. Marketing will be an essential piece of the program if it is going to rely on fees to recoup costs. Ensuring consistent marketing and consumer education of the ABLE program reduces the possibility for fraud.

Customer service will also be critical to the success of the ABLE program, since poor customer service could reduce enrollment in the program. Stakeholders requested that customer service be as streamlined as possible and culturally competent to work with the disability community. Customer service providers should be trained in disability benefits as well as the technical aspects of the ABLE program. It is also important to ensure that all materials sent to prospective and current ABLE consumers are available in a variety of accessible formats.

The Task Force also encourages program developers to consider ways to include or partner with entities that provide benefits counseling and/or financial literacy and make this information available to the public. ABLE account holders will have many questions about the impact of ABLE funds on disability benefits and taxes. It is also likely that many people who open ABLE accounts will not have filed taxes before (because they were not, prior to the ABLE Act, able to earn enough money to incur tax liabilities). Providing this information, either directly as part of the ABLE Program or as part of an information and referral system, will help reduce the possibility of accidental misuse of funds and help ensure that there are not unintended negative consequences of individuals' ABLE accounts, such as a loss of benefits.

The Task Force recommends that the program developers weigh considerations of program flexibility against fraud prevention. The Task Force also recommends that as other states develop their programs, a review of best practices for fraud prevention should be conducted. If Maryland's ABLE program is able to apply a system of self-certification for disability and qualified disability expenses, it should ensure that it also has a system in place for enforcing perjury violations. Taking an aggressive approach such as Florida's may be a way of discouraging fraud, but may also increase the administrative burdens and potential legal liabilities of the program.

Membership, Meetings & Public Engagement

The membership of the Task Force on Maryland's ABLE Program was outlined in statute. The Task Force consisted of the following members:

- William J. Frank, chairman, designee of the Secretary of the Department Disabilities;
- Hisham Amin, designee of the Attorney General;
- Susanne Brogan, designee of the State Treasurer;
- Del. Eric Bromwell, appointed by the Speaker of the House of Delegates;
- Sen. Brian Feldman, appointed by the President of the Senate;
- Angela Fox, appointed by the Governor to represent individuals with disabilities;
- Renee Gordon, appointed by the Governor to represent family members of individuals with disabilities;
- Mary O'Byrne, appointed by the Governor to represent people with relevant financial expertise

- Dinah Pyles, appointed by the Governor to represent community-based organizations that support or advocate for people with disabilities;
- Heather Sachs, appointed by the Governor to represent community-based organizations that support or advocate for people with disabilities;
- Patricia Sastoque, designee of the Secretary of the Department of Health and Mental Hygiene;
- Sen. Andrew Serafini, appointed by the President of the Senate;
- Lauren Shipley, Acting Executive Director of the College Savings Board;
- Stuart Spielman, appointed by the Governor to represent people with relevant financial expertise; and
- Del. Craig Zucker, appointed by the Speaker of the House of Delegates.

A total of six meetings were held in compliance with Maryland's Open Meetings Act:

- June 29 at the MDOT headquarters in Hanover;
- July 20 at the MDOT headquarters in Hanover;
- August 17 at the SEEC Center in Silver Spring;
- September 21 at MDOT headquarters in Hanover;
- October 20 at the SEEC Center in Silver Spring; and
- November 17 at the MDOT headquarters in Hanover.

In addition to the expertise of its members, the Task Force benefitted from an exceptional group of guest speakers who presented on a wide array of topics. All presentation and handout materials are available at the Maryland Department of Disabilities' website.

The Task Force actively solicited stakeholder and citizen feedback in several important ways. First, we encouraged members of the public to attend our meetings and offer their input on a Maryland ABLE Program. Citizens were in attendance at five of the six public meetings and were given the opportunity to express their views. Second, the Task Force posted to the Maryland Department of Disabilities' website the agendas and dates of upcoming meetings, minutes of meetings and related materials. And finally, the Task Force conducted two webinars on October 22; the 12 pm webinar attracted 117 attendees, while the 7 pm webinar attracted an additional 35. MDOD staff presented information on the ABLE Act, provided updates on the Task Force's progress and answered questions.

References

ABLE Act of 2014, Division B of Public Law 113-295 (available at: <https://www.congress.gov/bill/113th-congress/house-bill/647>)

Internal Revenue Tax Code of 1986, 26 U.S. §529A (available at: <http://uscode.house.gov/view.xhtml?req=%28title:26%20section:529A%20edition:prelim%29>)

Proposed Treasury Regulations §1.529A-1, et. Seq., 80 Federal Register 119, 35610- (June 22, 2015) (available at: <http://www.gpo.gov/fdsys/pkg/FR-2015-06-22/pdf/2015-15280.pdf>)

Internal Revenue Service Notice 2015-18, 2015-12 IRB 765 (March 23, 2015) (available at: <http://www.irs.gov/pub/irs-drop/n-15-18.pdf>)

Internal Revenue Service Notice 2015-81, “Section 529A Interim Guidance Regarding Certain Provisions of Proposed Regulations Relating to Qualified ABLE Programs.” (November 20, 2015) (available at: <https://www.irs.gov/pub/irs-drop/n-15-81.pdf>)

Materials shared during the Task Force on Maryland’s ABLE Program meetings are available at the Maryland Department of Disabilities’ website: mdod.maryland.gov

Appendix

State ABLA Laws: Passage & Structure

Courtesy: Heather Sachs, NDSS Vice President of Advocacy & Public Policy

E-mail: hsachs@ndss.org; Tel: 301-580-8005



State	Bill #	Effect	Status	Administrator
Alabama	SB 226	Establishes ABLA program	Enacted 6/9/15	Treasurer, rolled into existing 529 plan administration via a board.
Arkansas	HB 1239	Establishes ABLA program	Enacted 4/8/15	Joint Committee, Treasurer staffs
California	SB 324, AB 449	Establishes ABLA program	Enacted 10/11/15 (both SB 324 and AB 449)	Treasurer is chair of California ABLA Act Board. Treasurer shall appoint an Executive Director. AB 449: The purposes, powers, and duties of the California ABLA Program Trust are vested in, and shall be exercised by, the [California ABLA Act Board].... The Treasurer shall, on behalf of the board, appoint an executive director, who shall not be a member of the board and who shall serve at the pleasure of the board. The Treasurer shall determine the duties of the executive director and other staff as necessary and set his or her compensation. The board may authorize the executive director to enter into contracts on behalf of the board or conduct any business necessary for the efficient operation of the board.
Colorado	HB 1359	Establishes ABLA program	Enacted 6/3/15	Department of Higher Education (Collegeinvest). "Authority" means collegeinvest, transferred to Dept. of Higher Ed and existing as a division of that dept. pursuant to section 23-3.1-203. "Manager" means a financial institution under contract with the authority to serve as an administrator of the program and recipient of contributions on behalf of the program.
Connecticut	HB 6738	Establishes ABLA program	Enacted 6/19/15	Treasurer: For the purposes of the program, there is established within the Office of the State Treasurer the Connecticut Achieving A Better Life Experience Trust.
Delaware	HB 60	Establishes ABLA program	Enacted 6/10/15	ABLA Board, staffed by Treasurer
DC	B21-0252	Establishes ABLA Program Trust	Enacted on a temporary basis by Mayor on 10/16/15. The law will expire on 1/13/2016. Permanent legislation is pending in the DC Council.	The Chief Financial Officer of the District of Columbia, or the CFO's designee, shall serve as the trustee of the Trust.... The Chief Financial Officer shall take the action necessary to implement the ABLA Program Trust, promulgate regulations, and enter into ABLA Account Savings Agreements.
Florida	CS/SB 642, CS/CS/SB 644, CS/CS/SB 646	Establishes ABLA program	Enacted 5/21/15	Florida Prepaid College Board must establish a not-for-profit organization known as Florida ABLA, Inc.; Florida ABLA, Inc. administers the Florida ABLA Program through a Board of Directors; Chair of Florida Prepaid College Board is Chair of BOD. The Florida ABLA Program Trust Fund is created within the State Board of Administration
Hawaii	HB 119 HD2 SD1 CD1	Establishes ABLA program	Enacted 7/2/15	Director of Finance. The Director may implement the program through use of financial organizations as account depositories and managers. The Director may enter into contracts and agreements with a financial organization or organizations necessary to implement this chapter.
Illinois	SB 1383	Establishes ABLA program	Enacted 7/27/15	Treasurer, working with the Illinois State Board of Investment. The State Treasurer shall administer the plan, including ... the appointment of an account administrator.... In designing and establishing the plan's requirements and in negotiating or entering into contracts with 3rd parties under this Section, the State Treasurer shall consult with the Board of Investment.
Iowa	SF 505	Establishes ABLA program	Enacted 7/2/15	Treasurer

Kansas	HB 2216	Establishes ABLÉ program	Enacted 4/15/15	Treasurer The treasurer may implement the program through use of financial organizations as account depositories and managers.
Louisiana	HB 833 (2014) HB 598 (Revises pre-federal legislation)	Establishes ABLÉ program	HB 833 was enacted 5/16/14 HB 598, revising pre-fed legislation, was enacted on 7/1/15	HB 598: ABLE Account Authority placed within the Department of Education. HB 833: ABLE Account Authority placed within the Department of Health and Hospitals.
Maryland	SB 761	Establishes task force	Enacted 5/12/15	Department of Disabilities staffs task force with support from Legislative Services and in consultation with the Treasurer and Comptroller. The task force consists of: 2 members of the Senate; 2 members of the House; Treasurer or designee; Atty General or designee; Sec. of Disabilities or designee; Sec. of Health & Mental Hygiene or designee; ED of College Savings Plans of MD Board or designee; and the following 6 members, appointed by the Governor: 2 two members with experience in actuarial analysis, finance, accounting, investment management, or other relevant areas; 1 individual with a disability; 1 family member of an individual with a disability; and 2 representatives of community-based organizations that support or advocate for individuals with disabilities.
Massachusetts	HB 4047 (Chapter 226 of the Acts of 2014)	Establishes ABLÉ program	Enacted 8/5/14 H 3753 that will revise pre-federal legislation is now in Rules	Massachusetts Educational Finance Authority (college savings plans and direct student loans). The Authority may designate a corporation to administer ABLÉ accounts.
Michigan	HB 4542, 4543, 4544	Establishes ABLÉ program	Enacted 10/28/15	Treasurer HB 4542: (1) The Michigan ABLÉ savings program is established in the department of treasury. The program shall consist of more than 1 program manager and shall provide multiple savings plans.... (4) The state treasurer shall administer the Michigan ABLÉ savings program and shall be the trustee for the funds of the Michigan ABLÉ savings program. (5) The treasurer may employ or contract with personnel and contract for services necessary for the administration of each savings plan under the program and the investment of the assets of each savings plan under the program including, but not limited to, managerial, professional, legal, clerical, technical, and administrative personnel or services.
Minnesota	SF 1458	Establishes ABLÉ program	Enacted 5/22/15 Note: In 2014, MN passed a bill to fund ABLÉ but additional legislation was needed to establish the program.	Commissioner of the Department of Human Services. State Board of Investment must invest the money deposited in the accounts. The Commissioner may contract with one or more third parties to carry out some or all ... administrative duties.... The State Board of Investment and the Commissioner may jointly contract with 3rd-party providers ... for administration and investment management.

Missouri	SB 174	Establishes ABLÉ program	Enacted 6/29/15	Missouri ABLÉ Board. Treasurer is Chairman. Other members: Director of the Dept. of Health & Senior Services or designee; Commissioner of Office of Administration or designee; Director of the Dept. of Econ. Development or designee; 2 persons having expertise in finance or investment and management of public funds and 1 having expertise in banking or deposit rate determination and placement of depository certificates of deposit or other deposit investments. The Board shall have the power to enter into agreements with any financial institution, or any state or federal agency or entity as required for the operation of the ABLÉ program.
Montana	SB 399	Authorizes establishment of ABLÉ program	Enacted 5/5/15	Department of Public Health and Human Services: The dept. may contract with an independent service provider as program administrator, in consultation with the committee. It must consider each prospective provider's prior experience with disabled..., along with other qualifications. If the dept. appoints one of its employees to act as program administrator, the dept. may contract with independent service providers to provide services including but not limited to establishing accounts, providing info about investment choices, meeting notice requirements, providing account statements, and other services typically utilized by investment and savings plans.
Nebraska	LB 591	Requires creation of ABLÉ program or contract with another state to participate in program.	Enacted 5/27/15	Treasurer The Treasurer may retain a "Designated administrator", which is a corporation or other entity whose powers and privileges are provided for in any general or special law, whether for profit or not, designated or retained by the State Treasurer for the purpose of administering, subject to the ongoing supervision of the State Treasurer, all or any portion of the investment, marketing, recordkeeping, administrative, or other functions of the program.
Nevada	SB 419	Establishes ABLÉ program	Enacted 5/29/15	Treasurer, in cooperation with the Aging & Disability Services Division of the Dept. of Health & Human Services. The Treasurer may delegate any of its administrative powers and duties.... The Treasurer may use any administrative or investment agreements or arrangements used for the Nevada College Savings Program ... without soliciting separate proposals for assistance with the management of all or part of the Nevada ABLÉ Savings Program.
New York	S 4472-D, A 7767-B (identical bills)	Establishes ABLÉ program	Passed both houses as of 6/18/15; awaiting Governor's signature	Comptroller (which also administers state and local retirement system and is sole trustee of the retirement fund), in consultation with the Commissioners of the Office for People with Developmental Disabilities, the Office of Mental Health, the Department of Health, and the Office of Temporary and Disability Assistance. THE COMPTROLLER MAY IMPLEMENT THE NY ABLÉ SAVINGS ACCOUNT PROGRAM THROUGH USE OF 3rd PARTY VENDORS AS ADMINISTRATORS OF SUCH ACCOUNTS, AND FINANCIAL ORGANIZATIONS AS ACCOUNT DEPOSITORIES AND MANAGERS.
North Carolina	HB 556	Establishes ABLÉ program	Enacted 8/11/15	State Treasurer. The Board of Trustees is authorized to: (1) Delegate the authority to the State Treasurer to develop and perform all functions necessary and desirable to (i) administer the ABLÉ Program Trust in such a manner as to meet and comply with the requirements of the federal ABLÉ Act and federal regulations under the Act, (ii) implement the investment strategy of the Board, and (iii) provide other services as the Board shall deem necessary to facilitate participation in the ABLÉ Program Trust.
North Dakota	HB 1373	Establishes ABLÉ program. Gives authority to Bank of ND to work out all details.	Enacted 4/1/15	The Bank of North Dakota (A state-owned bank; it's unique) The Bank of North Dakota shall adopt rules to administer, manage, promote, and market the North Dakota ABLÉ plan.

Ohio	HB 155	Establishes ABLÉ program	Enacted 7/16/15	Treasurer The Treasurer shall solicit proposals from financial organizations to act as depositories and managers of the program.
Oregon	SB 777 D	Establishes ABLÉ program	Enacted 8/12/15	Oregon 529 Savings Board (Treasurer provides staff for the board)
Rhode Island	SB 465 Sub A, HB 5564 Sub A	Establishes ABLÉ program	Enacted 7/9/15	Administered jointly by the executive office of Health & Human Services in conjunction with the State Investment Commission (SIC)
Tennessee	SB 1162 (Com-panion HB 999)	Authorizes establishment of ABLÉ program	Enacted 5/18/15	Treasurer
Texas	SB 1664	Establishes ABLÉ program	Enacted 6/19/15	Prepaid Higher Education Tuition Board (housed in the Office of the Comptroller of Public Accounts, which also performs Treasurer functions) The Board may delegate to duly appointed financial institutions authority to act on behalf of the board in the investment and reinvestment of all or part of the funds.... and to serve as plan manager
Utah	SB 292	Establishes ABLÉ program, and requires study to determinebest approach for imple-mention of ABLÉ.	Enacted 3/31/15	Department of Workforce Services The department shall: (a) serve as the account administrator; or (b) designate another person to serve as the account administrator in accordance with Title 63G, Chapter 6a, Utah Procurement Code. During the 2015 interim, the department shall study the implementation of the state ABLÉ Program. The study shall include: ... an evaluation of whether the department should designate a person other than the department to be the account administrator....
Vermont	SB 138	Authorizes establishment of ABLÉ program. Creates ABLÉ Task Force w/in Office of the Treasurer to advise on the design and implementation of the Program.	Enacted 6/3/15	Treasurer or designee The Treasurer or designee may solicit proposals from financial organizations to implement the Program as account depositories and managers.
Virginia	HB 2306 SB 1404 (Identical)	Establishes ABLÉ program	Enacted 3/17/15	Virginia College Savings Plan (administers pre-paid tuition contracts, college savings trust accounts, and ABLÉ savings trust accounts)
Washington	HB 2063	Creates work group with the purpose of designing an ABLÉ program.	Enacted 5/1/15	Treasurer's office must convene work group including representatives from: (a) The Dept. of Commerce; (b) The State Investment Board; (c) The Washington Advanced College Tuition Payment Program; (d) The Dept. of Social and Health Services; (e) The Developmental Disability Endowment Governing Board; and (f) The disability community. The work group shall provide a report to the Governor and the appropriate committees of the legislature by November 1, 2015, that includes the following: A recommendation of the appropriate lead agency for the ABLÉ program...
West Virginia	HB 2902	Establishes ABLÉ program	Enacted 3/31/15	Treasurer The Treasurer may implement the program through use of financial organizations as account depositories and managers.

Wisconsin	SB 21	Establishes ABL program	ABLE was added to executive budget bill, SB 21, and enacted on 7/12/15	Department of Administration
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State ABLÉ Laws: Boards & Contracting Power

Courtesy: Heather Sachs, NDSS Vice President of Advocacy & Public Policy

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State	Bill #	Advisory Committee	Contracting Power
Alabama	SB 226	Savings Board has 11 members: 1) Lt. Governor or designee. 2) Executive Director of Alabama Commission on Higher Ed (ACHE), or designee. 3) State Treasurer. 4) Chancellor of Alabama Dept. of Postsecondary Ed or designee. 5) One person appointed by the Council of College & University Presidents. 6) One person appointed by Speaker of House of Reps 7) One person appointed by Lt. Governor. 8) One person appointed by State Treasurer. 9) Two persons appointed by Governor. 10) One person appointed by State Treasurer who has experience in health and disability related matters.	In addition to the powers granted by any other provision of this chapter, the Savings Board and PACT board shall have, as agents of the State of Alabama, the powers ... including, but not limited to, the following express powers: ...To contract with other states to participate under the rules of another state's qualified ABLÉ Program or to authorize the participation of a contracting state in the Alabama ABLÉ Program.
Arkansas	HB 1239	This chapter shall be administered by the ABLÉ Program Committee, which shall be composed of: 1) The Director of the Department of Human Services, or his or her designee; 2) The Director of Arkansas Rehabilitation Services of the Department of Career Education, or his or her designee; and 3) The Treasurer of State, or his or her designee. The Treasurer of State shall provide office space, staff, and materials for the committee.	An ABLÉ account may be established only for a designated beneficiary who is a resident of Arkansas or a resident of a contracting state.... ("Contracting state" means a state without a qualified ABLÉ program that has entered into a contract with Arkansas to provide residents of the contracting state access to a qualified ABLÉ program.)
California	SB 324, AB 449	SB 324: There is hereby created the California ABLÉ Act Board that consists of the Treasurer, the Director of Finance, the Controller, the Director of Developmental Services, the Chairperson of the State Council on Developmental Disabilities, the Director of Rehabilitation, and the Chair of the State Independent Living Council, or their designees. The Treasurer shall serve as chair of the board.	SB 324: The ABLÉ account may only be established for a designated beneficiary who is a resident of California. (No mention of contracting with other states.)

Colorado	HB 1359		(3) IF PERMITTED UNDER FEDERAL LAW, THE AUTHORITY MAY: (a) CONTRACT WITH A STATE THAT DOES NOT HAVE A QUALIFIED ABLE SAVINGS PROGRAM PURSUANT TO SECTION 529A OF THE INTERNAL REVENUE CODE TO PROVIDE RESIDENTS OF THAT STATE ACCESS TO COLORADO'S ABLE SAVINGS PROGRAM; AND (b) CONTRACT WITH A STATE THAT HAS A QUALIFIED ABLE SAVINGS PROGRAM TO PROVIDE RESIDENTS OF COLORADO ACCESS TO THAT STATE'S PROGRAM.
Connecticut	HB 6738		"Contracting state" means a state without a qualified ABLE program that has entered into a contract with the State Treasurer or other officer of this state to provide residents of the contracting state with access to qualified ABLE programs.
Delaware	HB 60	The ABLE Program will be overseen by a Board composed of 7 members: a chair appointed by Governor, State Treasurer, Secretary of the Dept. of Health & Social Services, a current member of the Board which oversees Delaware's 529 plans, a public member appointed by the Speaker of the House of Reps, a public member appointed by President Pro Tempore of the Senate, and a person with a disability appointed by the Governor. The Office of the State Treasurer shall provide support to the Board in carrying out its functions.	"Contracting state" means a state that does not have a program compliant with the federal ABLE act and which has entered into a contract with the State of Delaware to provide residents of the other state access to Delaware's Achieving a Better Life Experience Program.
DC	B21-0252		

Florida	CS/SB 642, CS/CS/SB 644, CS/CS/SB 646	The board of directors of Florida ABLE, Inc., shall consist of: a. The chair of the Florida Prepaid College Board, who shall serve as the chair of the board of directors of Florida ABLE, Inc. b. One individual who possesses knowledge, skill, and experience in the areas of accounting, risk management, or investment management, who shall be appointed by the Florida Prepaid College Board. A current member of the Florida Prepaid College Board, other than the chair, may be appointed. c. One individual who possesses knowledge, skill, and experience in the areas of accounting, risk management, or investment management, who shall be appointed by the Governor. d. Two individuals who are advocates of persons with disabilities, one of whom shall be appointed by the President of the Senate and one of whom shall be appointed by the Speaker of the House of Representatives. At least one of the individuals appointed under this sub-subparagraph must be an advocate of persons with developmental disabilities, as that term is defined in s. 393.063.	“Contracting state” means a state that has entered into a contract with Florida ABLE, Inc., to provide residents of Florida or that state with access to a qualified ABLE program.
Hawaii	HB 119 HD2 SD1 CD1	The Director of Finance shall have the authority and responsibility to: Engage the services of consultants on a contract basis for rendering professional and technical assistance and advice.	The Director may enter into agreements with other states to either allow residents of the State to participate in a comparable program operated by another state or allow residents of other states to participate in the Hawaii ABLE savings program.
Illinois	SB 1383		The State Treasurer may enter into agreements with other states to either allow Illinois residents to participate in a plan operated by another state or to allow residents of other states to participate in the Illinois ABLE plan.
Iowa	SF 505	The Treasurer may engage personnel as necessary, including consultants, actuaries, managers, legal counsel, and auditors for the purpose of rendering professional, managerial, and technical assistance and advice ... regarding trust administration and operation.	The Treasurer may enter into agreements with contracting states to permit residents of the contracting state to participate in the Iowa ABLE savings plan trust. The Treasurer ... may defer implementation of the qualified ABLE program under the trust and alternatively cause this state to become a contracting state by entering into an agreement with another state with a qualified ABLE program to provide Iowa residents access to that state's qualified ABLE program.
Kansas	HB 2216		The treasurer may enter into agreements with other states to either allow Kansas residents to participate in a plan operated by another state or to allow residents of other states to participate in the Kansas ABLE program.

Louisiana	<p>HB 833 (2014)</p> <p>HB 598 (Revises pre-federal legislation)</p>	<p>HB 598: The membership of the authority shall consist of the following persons: (a) The chairperson of the Louisiana Developmental Disabilities Council or his designee. (b) The executive director of the governor's office of disability affairs or his designee. (c) The executive director of The Arc of Louisiana or his designee. (d) The executive director of People First of Louisiana or his designee. (e) A person with a disability selected by the executive director of People First of Louisiana. (f) A parent or family member of a person with a disability selected by the chairperson of the Louisiana Developmental Disabilities Council. (g) One member who is affiliated with Louisiana Rehabilitation Services or the Disability Navigator Program, or any successors of these, appointed by the executive director of the Louisiana Workforce Commission. (h) An officer of a bank in Louisiana who is a member of the Louisiana Bankers Association and who is nominated by the association. (i) One member of the House of Representatives appointed by the speaker.</p> <p>HB 833: The membership of the ABLA Account authority shall consist of the following seven 6 persons: (a) The chairperson of the Louisiana Developmental Disabilities Council or his designee. (b) The executive director of the governor's office of disability affairs or his designee. (c) One member who is affiliated with Louisiana Rehabilitation Services or the Disability Navigator Program, or any successors of these, appointed by the executive director of the</p>	
Maryland	SB 761	The task force shall ... determine the membership of the Board that will oversee the program, the duties of the Board, and the Board's governance structure.	
Massachusetts	<p>HB 4047</p> <p>(Chapter 226 of the Acts of 2014)</p>		

Michigan	HB 4542, 4543, 4544		HB 4542: "Contracting state" means a state without a qualified ABLÉ program that has entered into a contract with this state to provide its residents access to the Michigan ABLÉ program. HB 4542: Any individual who is a resident of this state or a resident of a contracting state may open an ABLÉ savings account to save money to pay the qualified disability expenses of the designated beneficiary.
Minnesota	SF 1458	Commissioner of the Department of Human Services must consult with State Board of Investment and the Office of Higher Education in designing and establishing plan requirements.	The designated beneficiary of an ABLÉ account must be a resident of Minnesota, or the resident of a state that has entered into a contract with Minnesota to provide its residents access to the Minnesota ABLÉ plan.
Missouri	SB 174	The Board may delegate to duly appointed investment counselors authority to act in place of the board in the investment and reinvestment of all or part of the moneys and may also delegate to such counselors the authority to act in place of the board in the holding, purchasing, selling, assigning, transferring, or disposing of any or all of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys.	The Board shall have the power to: Enter into agreements with other states to allow residents of that state to participate in the Missouri ABLÉ program.
Montana	SB 399	If the Dept. of Public Health and Human Services creates the program, it must establish a program oversight committee. Committee includes director of the department (or designee), director of the Department of Administration (or designee) and three members of the general public appointed by the Governor, one of whom possesses knowledge, skill, and experience in accounting, risk management, or investment management or as an actuary and two of whom have experience working on behalf of disabled individuals. The committee shall recommend financial institutions for approval by the department to act as the managers of accounts.	The department may implement the program by contracting with another state to allow Montana residents access to the other state's program. If the department creates the Montana achieving a better life experience program, the department may contract with other states to allow the residents of those states access to the program.

Nebraska	LB 591	<p>The State Treasurer and any designated administrator shall provide investment options for the investment of amounts contributed to an account, except that the state investment officer shall have fiduciary responsibility to make all decisions regarding the investment of the money.... The Nebraska Investment Council may adopt and promulgate rules and regulations to provide for the prudent investment of the assets of the program. The council or its designee also has the authority to select and enter into agreements with individuals and entities to provide investment advice and management of the assets held by the program, establish investment guidelines, objectives, and performance standards with respect to the assets held by the program, and approve any fees, commissions, and expenses, which directly or indirectly affect the return on assets.... The State Treasurer and Accounting Administrator of the Department of Administrative Services shall determine the state fund types necessary to comply with section 529A and state policy. The money in the funds shall be invested by the state investment officer pursuant to policies established by the Nebraska Investment Council.</p>	<p>The State Treasurer shall either establish the ABLÉ program as provided in sections 3 to 9 of this act or contract with another state with a qualified program. The State Treasurer may enter into a contract with any contracting state to allow any resident of the contracting state to participate in the program established by the State Treasurer.</p>
Nevada	SB 419		<p>In carrying out the provisions of ... this act, the State Treasurer may contract with one or more other states to: (a) Provide for the administration of all or part of the Nevada ABLÉ Savings Program by another state; (b) Authorize the State Treasurer to administer all or part of a qualified ABLÉ program of another state; or (c) Jointly administer the Nevada ABLÉ Savings Program with a qualified ABLÉ program of one or more other states.</p>

New York	S 4472-D, A 7767-B (identical bills)	THE NY ABLE ACCOUNT ADVISORY COUNCIL IS HEREBY ESTABLISHED AND SHALL CONSIST OF THE FOLLOWING PERSONS OR THEIR DESIGNEES: THE COMPTROLLER, THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH, THE COMMISSIONER OF THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, THE COMMISSIONER OF THE DEPARTMENT OF HEALTH, THE SUPERINTENDENT OF THE DEPARTMENT OF FINANCIAL SERVICES, THE COMMISSIONER OF THE DEPARTMENT OF TAXATION AND FINANCE, THE COMMISSIONER OF THE OFFICE OF TEMPORARY DISABILITY ASSISTANCE, THREE INDIVIDUALS APPOINTED BY THE GOVERNOR, AND TWO INDIVIDUALS EACH BY THE TEMPORARY PRESIDENT OF THE SENATE AND BY THE SPEAKER OF THE ASSEMBLY. SUCH EXECUTIVE AND LEGISLATIVE APPOINTEES SHALL HAVE KNOWLEDGE, SKILL AND EXPERTISE IN ISSUES RELATING TO INDIVIDUALS WITH DISABILITIES; EXPERTISE IN SERVICES TO PERSONS WITH DISABILITIES; OR KNOWLEDGE IN MANAGEMENT AND SUPPORT OF THE FISCAL AFFAIRS OF SUCH DISABILITIES.	A DESIGNATED BENEFICIARY SHALL BE A RESIDENT OF NEW YORK STATE OR A RESIDENT OF A STATE THAT: (A) DOES NOT HAVE A QUALIFIED ABLE PROGRAM RECOGNIZED UNDER SECTION 529-A OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; AND (B) HAS ENTERED INTO A CONTRACT WITH NEW YORK STATE TO PROVIDE RESIDENTS OF THE CONTRACTING STATE WITH ACCESS TO NEW YORK STATE'S ABLE PROGRAM.
North Carolina	HB 556	There is established a Board of Trustees to provide oversight of the general administration and proper operation of the ABLE Program and to determine the appropriate investment strategy for the ABLE Program Trust. The Board of Trustees shall consist of the following six members: (1) The State Treasurer, ex officio, or the State Treasurer's designee, as chair. (2) The Commissioner of Banks, ex officio, or the Commissioner of Banks' designee. (3) The Secretary of the North Carolina Department of Health and Human Services, ex officio, or the Secretary's designee. (4) A person appointed by the Governor having experience in investments and finance. H556 [Ratified] Page 3 (5) A person appointed by the President Pro Tempore of the Senate having experience in advocacy for the disabled. (6) A person appointed by the Speaker of the House of Representatives that is an immediate family member of an eligible individual or a guardian of an eligible individual.	An ABLE account may be established only for a designated beneficiary who is a resident of North Carolina or a resident of a contracting state. Contracting state. – A state without a qualified ABLE program that has entered into a contract with North Carolina to provide residents of the contracting state access to a qualified ABLE program. With consent of the State Treasurer, the Board may enter into agreements with other states to either (i) allow North Carolina residents to participate in a plan operated by a contracting state with a qualified ABLE program or (ii) allow residents of other states to participate in the qualified North Carolina ABLE Program Trust.
North Dakota	HB 1373		

Ohio	HB 155	<p>There is hereby created the ABLE account program advisory board, consisting of nine members, composed of the following:</p> <p>(1) The director of developmental disabilities or the director's designee; (2) One member of the house of representatives appointed by the speaker of the house of representatives; (3) One member of the senate appointed by the president of the senate; (4) One member appointed by the governor who is a representative of an intellectual or developmental disability advocacy organization; (5) One member appointed by the governor who is a representative of a service provider for individuals with disabilities; (6) One member appointed by the governor who is the parent of a child with a disability and who has significant experience with disability issues; (7) One member appointed by the governor who is a person with a disability and who has significant experience with disability issues; (8) Two members appointed by the governor who have significant experience in finance, accounting, investment management, or other areas that may assist the board in carrying out its duties.</p>	<p>The Treasurer may enter into agreements with other states to either allow residents of this state to participate in an ABLE account plan operated by another state or to allow residents of other states to participate in the program.</p>
Oregon	SB 777 D	<p>Oregon 529 Savings Board ... shall consist of:</p> <p>(a) The State Treasurer or a designee of the State Treasurer; (b) A representative of persons with intellectual disabilities or other developmental disabilities, who shall be appointed by the State Treasurer;</p> <p>(c) A representative of accredited private colleges and universities located in this state, who shall be appointed by the State Treasurer; and</p> <p>(d) Two public members, who by reason of their education and experience are qualified to serve, and who shall be appointed by the State Treasurer....</p> <p>(5) The State Treasurer shall provide staff and assistance to the board in the administration of the Oregon 529 Savings Network, including the qualified ABLE program established under section 2 of this 2015 Act, as directed by the board.</p>	<p>“Contracting state” means a state without a qualified ABLE program that has entered into a contract with this state to provide residents of the contracting state access to the qualified ABLE program of this state.</p> <p>The Oregon 529 Savings Board shall establish by rule and maintain a qualified ABLE program in accordance with the requirements of the ABLE Act. (2) The rules must: ... Allow for the establishment of an ABLE account only for a designated beneficiary who is a resident of this state or a resident of a contracting state....</p>

Rhode Island	SB 465 Sub A, HB 5564 Sub A		<p>"Contracting state" means a state that has entered into a contract with the executive office to provide residents of Rhode Island or that state with access to a qualified ABLE program.</p> <p>The designated beneficiary of an ABLE account shall be a resident of this state or of a contracting state.</p>
Tennessee	SB 1162 (Companion HB 999)	<p>Program trustees: Commissioner of Finance & Administration; the Chair of the Finance, Ways & Means Committee of the Senate; the Chair of the Finance, Ways & Means Committee of the House of Reps; and the State Treasurer shall serve as trustees for a qualified ABLE program that may be established pursuant to this act.</p> <p>If the Treasurer establishes a qualified ABLE program, s/he shall develop a plan that shall include provisions for the implementation, administration, operation, marketing, investment options, customer service, and investment management services for the plan, which shall be approved by the remaining trustees. The Treasurer may modify the terms of the plan with the concurrence of the Commissioner of Finance and Administration.</p>	<p>Treasurer may enter into a contract with another state that has a qualified ABLE program as a contracting state in order to provide similar benefits to Tennessee residents, or allow residents of other states to participate in a Tennessee qualified ABLE program.</p>
Texas	SB 1664	<p>ABLE Program Advisory Committee: The comptroller shall appoint at least five and not more than seven members to the advisory committee, including at least one member from each of the following groups: 1. Persons with a disability who qualify for the program; 2. Family members of a person with a disability who qualifies for the program; 3. Representatives of disability advocacy organizations; and 4. Representatives of the financial community.</p>	<p>The Board has ... the power to: ... contract with another state that administers a qualified ABLE program as authorized by Section 529A, Internal Revenue Code, to provide residents of this state with access to a qualified ABLE program.</p>
Utah	SB 292		<p>"Contracting state" means a state that: (a) does not have an ABLE program that meets the requirements to be a qualified ABLE program under the federal ABLE Act; and (b) has entered into a contract with this state to provide residents of the other state access to the state ABLE Program.</p> <p>During the 2015 interim, the department shall study the implementation of the state ABLE Program. The study shall include: ... whether the state should enter into agreements with: (i) other contracting states; or (ii) other states that provide a qualified ABLE program under the federal ABLE Act....</p>

Vermont	SB 138	The State Treasurer shall convene a Vermont ABLÉ Task Force to include representatives of the Department of Disabilities, Aging and Independent Living, the Vermont Developmental Disabilities Council, Vermont Center for Independent Living; Green Mountain Self-Advocates, and other stakeholders with relevant expertise to provide recommendations on or before January 15, 2016 ... on planning and delivery of the ABLÉ Savings Program including: ... the composition and charge of an ABLÉ Advisory Board.	The Program ... allows for the establishment of an ABLÉ account only for a designated beneficiary who is a resident of Vermont or a resident of a contracting state....
Virginia	HB 2306 SB 1404 (Identical)	The Plan shall be administered by an 11-member Board, as follows: the Director of the State Council of Higher Education for Virginia or his designee; the Chancellor of the Virginia Community College System or his designee; the State Treasurer or his designee; the State Comptroller or his designee; and seven nonlegislative citizen members, four to be appointed by the Governor, one to be appointed by the Senate Committee on Rules and two to be appointed by the Speaker of the House of Delegates, with significant experience in finance, accounting, law, or investment management.	The Board shall have the power to: ... Enter into contractual agreements, including contracts for legal, actuarial, financial, and consulting services and contracts with other states to provide savings trust accounts for residents of contracting states....
Washington	HB 2063	The work group's report shall include: ... A recommendation regarding the composition, purpose, role, and responsibilities of an ABLÉ advisory board	The work group's report shall include: ... An analysis of the appropriate instrumentality to invest the ABLÉ program account moneys including the relative cost-benefit of using: (i) An agency or instrumentality allowed by federal law and regulation other than the state investment board; (ii) The state investment board; or (iii) Contracting with another state.
West Virginia	HB 2902	In order to implement and administer the program, the Treasurer may: (1) Engage the services of consultants on a contract basis for rendering professional and technical assistance and advice; (2) Seek rulings and other guidance from the secretary of the U.S. Treasury and the federal Internal Revenue Service relating to the program....	The Treasurer may enter into agreements with other states to either allow West Virginia residents to participate in a plan operated by another state or to allow residents of other states to participate in the West Virginia ABLÉ program.
Wisconsin	SB 21		



State ABLÉ Laws: Tax Treatment

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State	Bill #	Tax Treatment	ABLE tax deduction? Amount?	Who gets the deduction?
Alabama	SB 226	The following exemptions from income taxation shall be allowed to every individual resident taxpayer: ... (11) Beginning January 1, 2016, all income, interest, dividends, gains or benefits of any kind received from ABLÉ savings accounts administered under Title 16, Chapter 33C, are exempt from all income taxation by the state and by all of its political subdivisions to the extent that the amounts remain on deposit in the ABLÉ Trust Fund, or are used to pay the designated beneficiary's qualified disability expenses as defined in Section 529A of the Internal Revenue Code of 1986, as amended, or are refunded under such terms as would not carry a penalty under Section 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law.	No.	
Arkansas	HB 1239	Funds exempt from tax. (a) Except as otherwise indicated in this chapter, interest, dividends, and capital gains from funds invested in the ABLÉ Program are exempt from Arkansas income taxes. (b)(1) A qualified distribution from a disability savings account established under the program is exempt from Arkansas income tax with respect to the designated beneficiary's income. (2)(A) Nonqualified distributions from a disability savings account established under the program are subject to Arkansas income tax. (B) The nonqualified distribution is taxable to the party, account owner, or designated beneficiary who actually makes the withdrawal. (c) Earnings on a contribution that are included in a refund are subject to Arkansas income tax if an account owner receives a refund of contributions to a disability savings account established under the program because of either: (1) The death or disability of the designated beneficiary; or (2) A scholarship, allowance, or payment described in 26 U.S.C. § 135(d)(1)(B) or (d)(1)(C) as in effect on January 1, 2014, received by the designated beneficiary.	No.	

California	SB 324, AB 449	<p>AB 449 and SB 324: Existing federal law, the Stephen Beck Jr., Achieving a Better Life Experience Act of 2014 (ABLE Act), for taxable years beginning on or after January 1, 2015, encourages and assists individuals and families to save private funds for the purpose of supporting persons with disabilities to maintain their health, independence, and quality of life by excluding from gross income distributions used for qualified disability expenses by a beneficiary of a Qualified ABLE Program established and maintained by a state, as specified. This bill would, for taxable years beginning on or after January 1, 2016, conform to these federal income tax law provisions relating to the ABLE Act under the Corporation Tax Law, as provided.</p> <p>For taxable years beginning on or after January 1, 2016, Section 529A of the Internal Revenue Code, relating to qualified ABLE programs, added by Section 102 of Division B of Public Law 113-295, shall apply, except as otherwise provided.</p>	No.	
Colorado	HB 1359	This bill would, for taxable years beginning on or after January 1, 2016, conform to these federal income tax law provisions relating to the ABLE Act under the Corporation Tax Law, as provided.	No.	
Connecticut	HB 6738	Sec. 6. (NEW) (Effective October 1, 2015) The property of the trust and the earnings on the trust shall be exempt from taxation by the state and political subdivisions of the state.	No.	
Delaware	HB 60	This bill creates an ABLE Program in Delaware, to implement federal legislation enabling the creation of savings accounts with tax advantages similar to 529 accounts, designed to be used by persons with disabilities to save for qualifying disability and education related expenses.	No.	
DC	B21-0252	Exempts from income taxation the earnings on deposits made to an ABLE Program Trust by an eligible individual to assist the individual with certain expenses related to the individual's blindness or disability.	No.	
Florida	CS/SB 642, CS/CS/SB 644, CS/CS/SB 646	It is the intent of the Legislature to establish a qualified ABLE program in this state which will encourage and assist the saving of private funds in tax-exempt accounts in order to pay for the qualified disability expenses of eligible individuals with disabilities.	Not applicable. Florida does not have a personal income tax.	

Hawaii	HB 119 HD2 SD1 CD1	It is the intent and purpose of the legislature to establish a qualified tax exempt savings program....	No.	
Illinois	SB 1383	The assets of ABLÉ accounts and their income and operation shall be exempt from all taxation by the State of Illinois and any of its subdivisions to the extent exempt from federal income taxation. The accrued earnings on investments in an ABLÉ account once disbursed on behalf of a designated beneficiary shall be similarly exempt from all taxation by the State of Illinois and its subdivisions to the extent exempt from federal income taxation, so long as they are used for qualified expenses.	No.	

Iowa	SF 505	<p>For federal income tax purposes, the Iowa ABLE savings plan trust shall be considered a qualified ABLE program exempt from taxation pursuant to section 529A of the Internal Revenue Code and shall be operated so that it meets the requirements of section 529A of the Internal Revenue Code.</p> <p>State income tax treatment of the Iowa ABLE savings plan trust shall be as provided in section 422.7, subsections 34 and 34A. (34 says, "Subtract the amount contributed during the tax year...." 34A says, "Subtract, to the extent included, income from interest and earnings received from the Iowa ABLE savings plan trust...")</p> <p>State inheritance tax treatment of interests in Iowa ABLE savings plans shall be as provided in section 450.4, subsection 9.</p> <p>The maximum amount that may be deducted per year for Iowa income tax purposes by an individual for contributions on behalf of any one designated beneficiary that is a resident of this state shall not exceed the maximum deductible amount determined for the year pursuant to section 12D.3, subsection 1, paragraph "a".</p>	<p>Yes. The ABLE bill says, "Deductions shall not exceed the maximum deductible amount determined for the year pursuant to section 12D.3, subsection 1, paragraph 'a'." This paragraph, provided below, governs Iowa 529s. So, the maximum deduction seems to be the same as for 529 accounts. The maximum is adjusted every year for inflation and, for 2015, is \$3,163 per beneficiary for an individual, and \$6,326 per beneficiary for married taxpayers filing jointly who each make their own contributions.12D.3 PARTICIPATION AGREEMENTS FOR [IOWA EDUCATIONAL SAVINGS PLAN] TRUST. The trust may enter into participation agreements with participants on behalf of beneficiaries pursuant to the following terms and</p>	<p>An individual who contributes on behalf of any one designated beneficiary that is a resident of this state.</p>
Kansas	HB 2216	<p>The treasurer shall ... make changes to the program required for the participants in the program to obtain the federal income tax benefits or treatment provided by section 529A of the federal internal revenue code of 1986, as amended.</p>	<p>No.</p>	

Louisiana	HB 833 (2014) HB 598 (Revises pre-federal legislation)	HB 598: For tax years beginning on and after January 1, 2016, amounts deposited in an ABLÉ Account on behalf of any designated beneficiary may be excluded from tax table income for purposes of Louisiana income tax if authorized by the provisions of R.S. 47:293(9)(a).	ABLE bill allows for a deduction but tax code does not currently permit it.	
Maryland	SB 761	The task force shall ... determine the State tax benefits or treatment of contributions to and withdrawals from ABLÉ accounts.	Task force will determine this.	
Massachusetts	HB 4047 (Chapter 226 of the Acts of 2014)		No mention of this in pre-federal legislation.	

Michigan	HB 4542, 4543, 4544	<p>HB 4542: (4) Any person may make contributions to an account after the account is opened, subject to the limitations imposed by section 529A of the internal revenue code or any rules and regulations promulgated by the treasurer pursuant to this act.</p> <p>Sec. 16. (1) Contributions to and interest earned on an ABLE savings account are exempt from taxation as provided in section 30 of the income tax act of 1967, 1967 PA 281, MCL 206.30. (2) Withdrawals made from ABLE savings accounts are taxable as provided in section 30 of the income tax act of 1967, 1967 PA 281, MCL 206.30.HB 4543: (x) For tax years that begin after December 31, 2015, deduct, to the extent not deducted in determining adjusted gross income, both of the following: (i) Contributions made by the taxpayer in the tax year less qualified withdrawals made in the tax year from an ABLE savings account, pursuant to the Michigan ABLE savings program act, not to exceed a total deduction of \$5,000.00 for a single return or \$10,000.00 for a joint return per tax year. The amount calculated under this subparagraph for an ABLE savings account shall not be less than zero. (ii) For tax years that begin after December 31, 2015, deduct, to the extent not deducted in determining adjusted gross income, interest earned in the tax year on the contributions to the taxpayer's ABLE savings account if the contributions were deductible under subparagraph (i). (iii) For tax years that begin after December 31, 2015, deduct, to the extent included in adjusted gross income, distributions that are qualified withdrawals from an ABLE savings account to the designated beneficiary of that ABLE savings account. (y) Add, to the extent not included in adjusted gross income, the amount of money withdrawn by the taxpayer in the tax year from an ABLE savings account, not to exceed the total amount deducted under subdivision (x) in the</p>	Yes. Deduction of up to \$5,000.00 for a single return or \$10,000.00 for a joint return per tax year.	Michigan taxpayer who contributes.
Minnesota	SF 1458		No.	

<p>Missouri</p>	<p>SB 174</p>	<p>The assets of the ABLÉ program ... and the assets of any ABLÉ account and any income therefrom shall be exempt from all taxation by the state or any of its political subdivisions. Income earned or received from an ABLÉ account or deposit shall not be subject to state income tax imposed pursuant to chapter 143. The exemption from taxation pursuant to this section shall apply only to assets and income maintained, accrued, or expended pursuant to the requirements of the ABLÉ program established pursuant to sections 166.600 to 166.645, and no exemption shall apply to assets and income expended for any other purposes. Annual contributions made to the ABLÉ program held by the board up to and including \$8K per participating taxpayer, and up to \$16K for married individuals filing a joint tax return, shall be subtracted in determining Missouri adjusted gross income pursuant to section 143.121.</p> <p>If any deductible contributions to or earnings from any such program referred to in this section are distributed and not used to pay qualified disability expenses or are not held for the minimum length of time established by the appropriate Missouri Board, the amount so distributed shall be added to the Missouri adjusted gross income of the participant, or, if the participant is not living, the designated beneficiary.</p>	<p>Yes. Annual contributions made to the ABLÉ program ... up to and including \$8000 per participating taxpayer, and up to \$16,000 for married individuals filing a joint tax return, shall be subtracted in determining Missouri adjusted gross income pursuant to section 143.121.</p>	<p>Participant, as defined below.</p> <p>(9) "Participant", a person who has entered into a participation agreement pursuant to sections 166.600 to 166.645 for the advance payment of qualified disability expenses on behalf of a designated beneficiary. Unless otherwise permitted under Section 529A of the Internal Revenue Code the participant shall be the designated beneficiary of the ABLÉ Account, except that if the designated beneficiary of the account is a minor or has a custodian or other fiduciary appointed for the purpose of managing his or her financial affairs, the parent or custodian or</p>
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Montana	SB 399	Savings accounts are tax-exempt plus:Deductions for contributions. An individual who contributes to one or more accounts in a tax year is entitled to reduce the individual's adjusted gross income, in accordance with 15-30-2110(12), by the total amount of the contributions, but not more than \$3,000. The contribution must be made to an account owned by the contributor, the contributor's spouse, or the contributor's child or stepchild if the contributor's child or stepchild is a Montana resident.Tax on certain withdrawals of deductible contributions. There is a recapture tax at a rate equal to the highest rate of tax provided in 15-30-2103 on the recapturable [nonqualified] withdrawal of amounts that reduced adjusted gross income under 15-30-2110(12).	Yes. Up to \$3000. See Column E.	Person who contributes, which must be account owner, account owner's spouse, or account owner's parent or stepparent.
Nebraska	LB 591	Federal adjusted gross income or, for corporations and fiduciaries, federal taxable income shall be reduced by any contributions as a participant in the Nebraska educational savings plan trust of in the achieving a better life experience program as provided in sections 1 to 9 of this act, to the extent not deducted for federal income tax purposes, but not to exceed \$5000 per married filing separate return or \$10,000 for any other return. With respect to a qualified rollover within the meaning of section 529 of the Internal Revenue Code from another state's plan, any interest, earnings, and state contributions received from the other state's educational savings plan which is qualified under section 529 of the code shall qualify for the reduction provided in this subdivision. For contributions by a custodian of a custodial account including rollovers from another custodial account, the reduction shall only apply to funds added to the custodial account after January 1, 2014. Federal adjusted gross income ... shall be increased by the amount resulting from the cancellation of a participation agreement refunded to the taxpayer as a participant in the ... ABLE program....	Yes. Up to \$5000 per married filing separate return or \$10,000 for any other return.	Participant or custodian for a custodial account. "Participant" is not defined in the ABLE bill. In the Nebraska 529 documentation, "participant" is defined as the account owner who opens an account for a beneficiary (p. 55 of http://cdn.unite529.com/jcdn/files/NED/pdfs/progr amdescription.pdf).
Nevada	SB 419	Money deposited is tax exempt.	Not applicable. Nevada does not have a personal income tax.	

New York	S 4472-D, A 7767-B (identical bills)	<p>S 4. Subsection (b) of section 612 of the tax law is amended by adding a new paragraph 42 to read as follows: [There shall be added to federal adjusted gross income:] (42) DISTRIBUTIONS RECEIVED DURING THE TAXABLE YEAR BY A DESIGNATED BENEFICIARY OF A NY ABLE ACCOUNT ESTABLISHED UNDER THE NY ABLE SAVINGS ACCOUNT ACT PROVIDED FOR UNDER ARTICLE 84 OF THE MENTAL HYGIENE LAW, TO THE EXTENT SUCH DISTRIBUTIONS ARE NONQUALIFIED WITHDRAWALS WITHIN THE MEANING OF SUBDIVISION SIX OF SECTION 84.03 OF SUCH LAW.</p> <p>S 5. Subsection (c) of section 612 of the tax law is amended by adding two new paragraphs 42 and 43 to read as follows: [There shall be subtracted from federal adjusted gross income:] (42) CONTRIBUTIONS MADE DURING THE TAXABLE YEAR BY AN ACCOUNT OWNER TO ONE OR MORE NY ABLE ACCOUNTS ESTABLISHED UNDER ARTICLE 84 OF THE MENTAL HYGIENE LAW, PROVIDED, HOWEVER THAT SUCH EXCLUSION SHALL BE AVAILABLE ONLY TO THE ACCOUNT OWNER AND NOT TO ANY OTHER PERSON. (43) DISTRIBUTIONS FOR QUALIFIED EXPENSES OF A DESIGNATED BENEFICIARY FROM A NY ABLE ACCOUNT ESTABLISHED UNDER ARTICLE 84 OF THE MENTAL HYGIENE LAW, TO THE EXTENT INCLUDIBLE IN GROSS INCOME FOR FEDERAL INCOME TAX PURPOSES.</p>	Yes. Amount is not specified.	<p>Account owner, which is defined as a person who opens a savings account pursuant to the provisions of this article. The account owner may also be the designated beneficiary of the account.</p> <p>A NY ABLE account may be opened by any person who desires to save money for the payment of qualified living expenses of a designated beneficiary. Such person who opens a NY ABLE account shall be considered the account owner set forth in this article.</p>
North Carolina	HB 556		No.	
North Dakota	HB 1373	The Bank shall ensure that the North Dakota ABLE plan is maintained in compliance with internal revenue service standards for qualified state disability expense programs.	The Bank of North Dakota will decide.	
Ohio	HB 155	Act requires the Treasurer to create a program offering federally tax-advantaged savings accounts used to pay for a person's qualified disability expenses.	No.	

Oregon	SB 777 D	<p>Section 3: There shall be subtracted from federal taxable income: ...</p> <p>(i) If included in taxable income for federal tax purposes, any distributions from an ABLÉ account that do not exceed the qualified disability expenses of the designated beneficiary as provided in sections 1 and 2 of this 2015 Act and rules adopted by the Oregon 529 Savings Board.</p> <p>There shall be added to federal taxable income: ...</p> <p>(k) If the taxpayer makes a distribution from an ABLÉ account that is not a qualified disability expense of the designated beneficiary as provided in sections 1 and 2 of this 2015 Act and rules adopted by the Oregon 529 Savings Board, the amount of the distribution that is attributable to contributions that were subtracted from federal taxable income under ORS 316.699.</p> <p>Section 5: ORS 316.699 is amended to read:</p> <p>316.699. (1) There shall be subtracted from federal taxable income the amount contributed to:</p> <p>(a) A [college] savings network account for higher education established under ORS 348.841 to 348.873; or</p> <p>(b) An ABLÉ account established under section 2 of this 2015 Act and rules adopted by the Oregon 529 Savings Board, when the contribution is made before the designated beneficiary of the account attains 21 years of age.</p> <p>(2) Notwithstanding subsection (1) of this section, a subtraction under this section may not exceed the lesser of: (a) \$4,000 for the tax year if the taxpayer files a joint return, or \$2,000 for the tax year if the taxpayer files a return other than a joint return; and (b) If an amount is carried forward to a succeeding tax year under subsection (4) of this section,</p>	Yes, for contributions made before the designated beneficiary of the account is 21. Regarding amount, it seems that ABLÉ accounts are the same as college savings accounts (see column H).	Person making the contribution before the designated beneficiary is 21.
Rhode Island	SB 465 Sub A, HB 5564 Sub A	For state income tax purposes, annual earnings of the ABLÉ program shall be exempt from tax, and shall not be included in the Rhode Island income of the designated beneficiary until withdrawn or distributed from it, and then in accordance with chapter 30 of title 44.	No.	

Tennessee	SB 1162 (Companion HB 999)	Notwithstanding any other law to the contrary, all assets, income, and distributions of qualified ABLE programs as defined by the code, this act, or the laws of another state are exempt from any state, county, or municipal tax.... This exemption shall include a qualified ABLE program defined in § 529A of the Internal Revenue - 9 - 003007 Code, codified in 26 U.S.C. § 529A, and shall include any properly authorized payments made to or by such funds.	Not applicable. Tennessee does not have a personal income tax.	
Texas	SB 1664	The Board shall ... make changes to the program as necessary for the participants in the program to obtain or maintain federal income tax benefits or treatment provided by Section 529A, Internal Revenue Code, and exemptions under federal securities laws.	Not applicable. Texas does not have a personal income tax.	

Utah	SB 292	<p>Provides tax credits for contributions to accounts created under the program.</p> <p>Nonrefundable tax credit for contribution to state Achieving A Better Life Experience Program account.</p> <p>(1) As used in this section: (a) "Account" means the same as that term is defined in Section 35A-12-102. (b) "Account administrator" means the same as that term is defined in Section 35A-12-102. (c) "Contributor" means a claimant, estate, or trust [or corporation] that: (i) makes a contribution to an account; and (ii) receives a statement from the account administrator in accordance with Section 35A-12-304 itemizing the contribution. (d) "State Achieving a Better Life Experience Program" means the same as that term is defined in Section 35A-12-102.</p> <p>(2) A contributor to an account created under the state Achieving a Better Life Experience Program may claim a nonrefundable tax credit as provided in this section.</p> <p>(3) Subject to the other provisions of this section, the tax credit is equal to the product of: (a) 5%; and (b) the total amount of contributions: (i) the contributor makes for the taxable year; and (ii) for which the contributor receives a statement from the account administrator in accordance with Section 35A-12-304 itemizing the contributions.</p> <p>(4) A contributor may not claim a tax credit under this section: (a) for an amount of excess contribution that is returned to the contributor in accordance with Section 35A-12-302; or (b) with respect to an amount the contributor deducts on a federal income tax return.</p> <p>(5) A tax credit under this section may not be carried forward or carried back.</p>	Tax credit. 5% of total contributions.	A Utah taxpayer who contributes to an ABLE account can claim a 5 % Utah state income tax credit on his or her annual contribution. Note: The Utah tax credit goes to the Utah contributor, regardless of whether the contributor is also the account owner. (Source: Utah Educational Savings Plan webpage on ABLE accounts - http://www.uesp.org/Resources-FAQs/ABLE-Accounts.aspx)
Vermont	SB 138	No.		

Virginia	HB 2306 SB 1404 (Identical)	<p>Earnings on contributions to ABLE savings trust accounts are exempt from federal income tax. Because Virginia conforms to the federal income tax laws, earnings on contributions to ABLE savings trust accounts will also be excluded from Virginia taxable income.</p> <p>To the extent included in federal adjusted gross income, there shall be subtracted: ... For taxable years beginning on and after January 1, 1997, any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.</p>	No.	
Washington	HB 2063		Not applicable. Washington does not have a personal income tax.	
West Virginia	HB 2902	The Treasurer may: ... Make changes to the program required for the participants in the program to obtain the federal income tax benefits or treatment provided by Section 529a of the federal 12 Internal Revenue Code of 1986, as amended....	No.	

Wisconsin	SB 21	<p>The provision authorizing a deduction is section 71.05(6)(b)52: Subject to the limits under s. 16.643 (3) (c) 1. and 2., any amount that is deposited by an account owner or any other person into an account described under s. 16.643, and any interest, dividends, or other gain that accrues in the account if the interest, dividends, or other gain is redeposited into the account.</p> <p>Summary says: Specify that amounts deposited in ABLÉ accounts by the account owner or other individuals may be deducted from federal adjusted gross income and are not subject to taxation under the state individual income tax, and exclude any interest, dividends, or other gain that accrues in an ABLÉ account and are redeposited in the account from taxation under the state individual income tax. Specify that amounts withdrawn from accounts are subject to taxation under the state individual income tax if the withdrawal is for any reason other than the payment of qualified expenses. Specify that any amount in an account that is returned to an account owner or an account owner's estate upon the termination of an account is subject to taxation under the state individual income tax. Exclude amounts withdrawn from ABLÉ accounts and used to pay unreimbursed expenses from the calculation of the itemized deduction credit under the state individual income tax to the extent that the amounts were included in the deduction for unreimbursed medical expenses for federal tax purposes. Extend these provisions beginning in tax year 2015, except that if the general effective date of the biennial budget act is after July 31, extend the provisions beginning in tax year 2016. (p. 240 of http://legis.wisconsin.gov/lfb/publications/budget/2015-17%20Budget/Documents/Joint%20Finance/Entire%20Document.pdf)</p>	Yes. Says "any amount".	Account owner or other individuals. Defines "account owner" as the individual who establishes and owns the account and is the beneficiary of the account or a parent or guardian of the beneficiary, provided the beneficiary is a minor or otherwise incapable of handling his or her affairs.
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