



State of Wisconsin  
2015 - 2016 LEGISLATURE

LRB-4270/1  
MES:ahc

## 2015 ASSEMBLY BILL 731

January 15, 2016 – Introduced by Representative MACCO, cosponsored by Senator MARKLEIN. Referred to Committee on Ways and Means. Referred to Joint Survey Committee on Tax Exemptions.

1     **AN ACT** *to amend* 71.05 (6) (a) 27., 71.05 (6) (a) 28., 71.05 (6) (b) 52. and 71.07  
2           (5) (a) 9.; and *to repeal and recreate* 16.643 of the statutes; **relating to:**  
3           repealing the authority to create ABLE accounts in this state and creating tax  
4           benefits for contributions to ABLE accounts in other states.

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### *Analysis by the Legislative Reference Bureau*

This bill makes changes to the laws in this state related to the federal Achieving a Better Life Experience Act of 2014. Under federal law, an eligible resident of this state may participate in a qualified ABLE program of another state and establish an ABLE account. The proceeds of an ABLE account may be used to pay for qualified expenses, such as education, housing, and transportation costs, for a beneficiary who is an individual with disabilities, as defined under federal law.

2015 Wisconsin Act 55, the state budget bill, authorized the creation of ABLE accounts in this state. Generally, contributions to such an account could be subtracted from the contributor's federal adjusted gross income in the calculation of the taxpayer's Wisconsin taxes. This bill repeals the provisions which authorized the creation of ABLE accounts in this state, although contributions to another state's ABLE account continue to be tax-advantaged.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 16.643 of the statutes, as created by 2015 Wisconsin Act 55, is  
2 repealed and recreated to read:

3           **16.643 Support accounts for persons with disabilities.** Upon the death  
4 of an account owner whose account is part of a qualified ABLE program under section  
5 529A of the Internal Revenue Code, the account shall terminate, and upon such  
6 termination any amount remaining in the account shall be recoverable by the state  
7 under s. 49.849 as property of a decedent that is recoverable under that statute. Any  
8 amount that remains in the account following such recovery under s. 49.849 shall be  
9 paid to the account owner's estate. Recovery authorized under this subsection may  
10 relate only to public assistance received by a beneficiary on and after the date on  
11 which an account is established under the terms of a contract between this state and  
12 another state as described under sub. (1).

13           **SECTION 2.** 71.05 (6) (a) 27. of the statutes, as created by 2015 Wisconsin Act  
14 55, is amended to read:

15           71.05 (6) (a) 27. Except as provided in subd. 28., any accumulated interest,  
16 dividends, or other gain that accrues from an account ~~described under s. 16.643~~  
17 established under a qualified ABLE program, as described under section 529A (b) (1)  
18 of the Internal Revenue Code, during the taxable year in which a withdrawal occurs  
19 from such an account if any amount of the money or other assets in the account is  
20 withdrawn by, or at the direction of, an account owner for any reason other than the

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1 payment of qualified disability expenses, as defined in s. ~~16.643 (1) (e)~~ section 529A  
2 (e) (5) of the Internal Revenue Code, for the account beneficiary.

3 **SECTION 3.** 71.05 (6) (a) 28. of the statutes, as created by 2015 Wisconsin Act  
4 55, is amended to read:

5 71.05 (6) (a) 28. Upon the termination of an account as described under s.  
6 16.643 (3) (d), any amount in the account that is returned to ~~an account owner, or an~~  
7 account owner's estate.

8 **SECTION 4.** 71.05 (6) (b) 52. of the statutes, as created by 2015 Wisconsin Act  
9 55, is amended to read:

10 71.05 (6) (b) 52. Subject to the limits under s. ~~16.643 (3) (e) 1. and 2.~~ section  
11 529A (b) (2) of the Internal Revenue Code, any amount that is deposited by an  
12 account owner or any other person into an ABLE account described under s. ~~16.643~~  
13 section 529A (b) (1) of the Internal Revenue Code, and any interest, dividends, or  
14 other gain that accrues in the account if the interest, dividends, or other gain is  
15 redeposited into the account.

16 **SECTION 5.** 71.07 (5) (a) 9. of the statutes, as created by 2015 Wisconsin Act 55,  
17 is amended to read:

18 71.07 (5) (a) 9. The amount claimed as a deduction for unreimbursed medical  
19 expenses under section 213 (a) of the Internal Revenue Code to the extent that the  
20 funds used to pay for the unreimbursed expenses for which the deduction was  
21 claimed were withdrawn from an ABLE account described under s. ~~16.643~~ section  
22 529A (b) (1) of the Internal Revenue Code.

23 **SECTION 6. Initial applicability.**

24 (1) The treatment of sections 71.05 (6) (a) 27. and 28. and (b) 52. and 71.07 (5)  
25 (a) 9. of the statutes first applies to taxable years beginning on January 1 of the year

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**SECTION 6**

1 in which this subsection takes effect, except that if this subsection takes effect after  
2 July 31, the treatment of sections 71.05 (6) (a) 27. and 28. and (b) 52. and 71.07 (5)  
3 (a) 9. of the statutes first applies to taxable years beginning on January 1 of the year  
4 following the year in which this subsection takes effect.

5 (END)