Jeff Mursau

State Representative • 36th Assembly District

Assembly Committee on Financial Institutions
AB 121- Creating ABLE Savings Account Program

April 12, 2023

Chairperson Duchow and Committee Members:

Thank you for the opportunity to testify in support of Assembly Bill 121, which would require the Department of Financial Institutions to implement a qualified 529A ABLE Savings Program in Wisconsin.

ABLE stands for "Achieving a Better Life Experience" and it's a program established under federal law that allows an individual with a disability under the age of 46 to have a tax exempt savings account set up in their name to cover certain expenses. It's similar to a 529 college savings account, like EdVest.

I became aware of ABLE accounts when a constituent of mine visited my office a few years ago and explained how he wanted to save money for certain expenses like: education, housing, transportation, and other costs associated with his on-going care and independence. He explained that Wisconsin allows residents to claim a deduction from their federal gross income for the amount they deposit into their ABLE account in another state, but he'd really like to participate in a Wisconsin ABLE program but Wisconsin doesn't offer one. In fact, Wisconsin is the only state that doesn't have an ABLE program or designated a public entity to help residents open and use ABLE accounts.

Since I've been working on this issue it's become clear to me how burdensome, challenging, and time-consuming it is to gather all the information about programs that are run in other states and try to decipher which one is the right one to invest in. Many families find the information overwhelming and just want to talk to someone locally who can help explain one program and help get them signed up.

Last session, Senator Jacque and I introduced bipartisan legislation directing DFI to study and report on the feasibility of creating a Wisconsin qualified ABLE program. The study examined the pros and cons of either: 1) establishing and administering a WI ABLE program for state residents; or 2) allowing DFI to enter into an agreement with another

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state, or with an entity representing an alliance of states to establish and administer the ABLE program. The report was released last fall and among its recommendations is that **the Legislature should authorize DFI to establish a qualified ABLE program**.

I think it's important to also mention that since this report came out, the federal government made changes to the federal law extending the age of eligibility from 26 years of age to 46 years of age. This means that a completely new group of people will now be eligible to create an ABLE account. This program would be a great opportunity for so many Wisconsin families.

There are some folks who've asked if DFI is the appropriate agency to oversee the program? As noted in the report, the Office of Financial Capability within DFI is appropriate because "…the Office also manages the state's college savings program under section 529 of the Internal Revenue Code. There are some structural similarities between the programs, and other states typically assign the same office jurisdiction over section 529 college savings and section 529A ABLE programs".

Among the many organizations supporting the bill include: Disability Rights Wisconsin, The ARC Wisconsin, the Wisconsin Credit Union League, State Bar of Wisconsin, Wisconsin Insurance Alliance, and Wisconsin Manufacturers and Commerce.

Last month, the Senate companion bill (SB 122) passed the Senate Committee on Licensing, Constitution and Federalism on a 5-0 vote. I hope to have the same support in the Assembly.

Once again, thank you for holding a public hearing on this important piece of legislation. I am happy to answer any questions you may have.

REPRESENTATIVE
Lisa Subeck

To: Assembly Committee on Financial Institutions
From: Representative Lisa Subeck
Date: April 12, 2023
Subject: Testimony supporting Assembly Bill 121 - Relating to: requiring the Department of Financial Institutions to implement a section 529A ABLE savings account program and granting rule-making authority.

Chairwoman Duchow and members of the Committee on Financial Institutions,

Thank you for the opportunity to testify on Assembly Bill 121, which requires the Department of Financial Institutions to implement a section 529A *Achieving a Better Life Experience* (ABLE) savings account program.

Last session, 2021 Act 119 was enacted through a bipartisan effort that required the Department of Financial Institutions to study and report on establishing a section 529A ABLE savings account program. The results of that study recommended that the Legislature authorize the state through the Department of Financial Institutions to "implement and administer an ABLE program, either directly or by entering into a formal agreement with another state, or with an entity representing an alliance of states, to establish an ABLE program or otherwise administer ABLE program services for the residents of this state."

Assembly Bill 121, which was previously introduced in 2019, builds upon the recommendations of the study so Wisconsin's qualifying individuals currently classified with having a disability before age 26 and their families can finally have easier access to and take advantage of the tax-exempt savings account set up in their name to cover certain expenses. These expenses can include education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, and funeral and burial expenses. Enrollment in this program does not affect Supplemental Security Income (SSI) or Medicaid eligibility. Thanks to the ABLE Age Adjustment Act passed by Congress last year, beginning in 2026 ABLE program eligibility will include an estimated 6 million more Americans, one million of whom are veterans, when the age limit increases from 26 to 46.

As part of the 2015-16 budget, Wisconsin enabled the creation of an ABLE program but then passed legislation that prevented establishing our state's own ABLE program and repealed the language included in the budget. Instead, a bill passed that provided tax deductibility for ABLE contributions to accounts Wisconsin residents open in other states.

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

ABLE account usage in other states is relatively high, but Wisconsin lags behind the rest of the country on accessibility and use of ABLE accounts since it is one of only four states that does not operate its own program or collaborate with another state to do so. However, with so many states ahead of us on this program, we now have the benefit of utilizing their data, expertise, existing collaborations, and established investment portfolios with minimal risk.

Thank you again for your time and consideration of Assembly Bill 121. I would be happy to answer any questions.

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JOHN J. MACCO

STATE REPRESENTATIVE • 88TH ASSEMBLY DISTRICT

To: Assembly Committee on Financial Institutions

From: Representative John Macco

Date: Wednesday, April 12th, 2023

In Favor of AB 121

As I begin, I want to thank Representative Mursau and Senator Jacque for seeing the importance of this issue and offering AB 121 for your consideration. I support this effort and hope to see it signed into law.

Back in December of 2014, after my first election win, but before I was sworn in, I happened to be having dinner with then Congressman Reid Ribble in Washington DC. Coincidently, Congresswoman Cathy Mc Morris Rodgers of Washington State, herself the mother of a special needs child, walked up to our table. She was ecstatic telling her colleague that she was successful in passing 529A legislation that day! Although a completely unheard-of line of the IRS code to most everyone, I immediately knew the ramifications of what she was saying. As founder and president of the Macco Financial Group, I had helped hundreds of families in dozens of states set up college, estate and financial planning for themselves and their children. For those families with special needs children the planning process was particularly arduous. Now if a family had a significant amount of assets a special needs trust would provide the financial safety and security families sought. But for families with more modest needs, and for individuals with the ability to manage some of their own affairs, the 529A legislation was very much needed. I will humbly say, Madam Chairwoman, I believe it was providence that I would have happened upon that conversation, on the night, in that place, and instantly comprehend the relief this new federal program could yield.

So in working with Representative Mc Morris Rodgers staff in Washington State and DC, the first bill I passed in the Assembly when taking office in January 2015 was to authorize 529A ABLE accounts. It remains one of only two pieces of legislation that I have displayed in my office. My bill granted Wisconsin families access to ABLE accounts from across the country- giving them the power to pick the best program for their needs while still reaping the benefits of Wisconsin tax treatment.

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Though I generally support this bill, there are two issues I would like to make known on record and request the authors look into so we can pass sound and smart legislation.

First, when dealing with new legislation I believe the goal should be for effective government, not to just check off a box, to support a concern or to simply appease one constituent group or another, but rather, we should put forth some effort to make the facilitation of our legislation logical, effective and efficient. I believe we have a stewardship responsibility to create good government, not just more government. Under AB 121, the proposed new state run 529A ABLE accounts are to be administered under the Department of Financial Institutions, while at the same time traditional 529 accounts are already administered under the Department of Administration.

Section 529 in the IRS code creates what we know as 529 accounts for our kids' education- 529A accounts are just a subsection under that same tax code. They operate essentially the same with a few specializations for their targeted demographics. Keep in mind that Wisconsin not now nor with this bill actually run any kind of investment arm. In both the case of the existing 529 and with this new 529A, we simply contract it all out to other states and other money managers. It makes little sense for two different departments to be running two different websites and to issue two different RFPs. Now sure, there may be two contracts issued, but wouldn't it be smarter and more competitive if they were being handled collectively? Therefore, I request that AB 121 be amended to simply house both 529 and 529A ABLE accounts under the same department, and that would most likely be DOA. It is in the disabled community's best interest and Wisconsin's taxpayers and administrators' best interest to have experienced employees driving this new program.

Secondly, my original 529A legislation granted the same tax treatment of the ABLE accounts no matter what state you set your account up in. There is absolutely no benefit to the taxpayers of Wisconsin for a state-run program versus a non-state run program. Assets are not domiciled in any particular state, investments are not made in any particular state and in fact due to the fiduciary responsibility of the fund managers, all sub accounts are invested much in the same way any mutual fund is that you may own. There is no fiscal effect on Wisconsin if a resident has an account run by Wisconsin or run out of, say Virginia, the largest and best run program in the nation. Therefore, our only objective ought to be to incentivize career and community ready kids to have sufficient funds for secondary education, or in the case of ABLE, other authorized uses. Our intention is simply to encourage self-sufficiency. I felt at that time that the consumer would have far better choices if they had nothing encumbering them to buy the best plan for their needs; that as a legislator I wanted them to get the tax incentive and save. With this new Badger 529A, qualified special needs investors will have the flexibility to buy either a WI run program or any program in the entire country that fits their needs, and we encourage that by allowing the tax exemption.

This effort to augment my original 2015 529A bill brings a full spectrum of options to the special needs community and does a great job in creating an online portal and marketing for families to gain valuable information and administrative help should they want an ABLE account. With this bill ABLE accounts would have the option of a state run account, or, any account they choose, all with the same tax treatment.

Regular 529's, however, don't have that same flexibility. Tax exemption is only given if the resident chooses the Wisconsin option. Should they prefer, say that Virginia account, they can do so, but will not get the tax benefit. We literally hold Wisconsinite's hostage in choosing the right college funding program for their children. With this bill, 529A will be far more flexible and better than regular 529s.

So let's finish the job, let provide complete parity between 529A ABLE accounts and regular 529s. Let's give 529s the same tax benefits as the ABLE accounts get. Let's do what the original bill did, let's give consumers every impetus to open a regular 529 too! With so much talked about college debt and with the efforts that my Democratic Colleague Representative Goyke and I have done on this topic, I would suggest a second change to this bill that would grant the same tax treatment to any regular 529 account no matter what state you have an account through. There is no reason why 529s should not have the same tax treatment as 529A ABLE accounts do.

Let's do this once and let's do it right. Let's bring complete parity to both programs, for non-special needs kids as well as special needs kids, for 529s and 529A. Let's not limit their choices and hold them hostage to one program over the others. Let's have a Wisconsin branded plan for each and let's have an online portal for each and let's allow the same tax treatment for each.

I am willing to offer my decades long experience working with 529A ABLE accounts to the authors and would appreciate making these small changes to clean up the bill and do our best work for the disabled community and for college readiness.

Thank you for your consideration.

John J. Macco
Representative
88th Assembly District

ANDRÉ JACQUE
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Testimony before the Assembly Committee on Financial Institutions

Senator André Jacque

April 12, 2023

Thank you Madam Chair and Members for holding this hearing on Assembly Bill 121, which would create a Wisconsin ABLE savings account program.

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

An estimated 142,150 Wisconsinites would be eligible for participation in ABLE. But surprisingly, Wisconsin is currently just one of four states that do not have their own ABLE account program (although state residents may open accounts in one of the other 46 and the District of Columbia that do).

As summarized by a Wisconsin financial advisor, "For an individual with a disability to have an account like this that allows them to protect benefits, work, earn money, and put away in an account that they can use to pay for housing and other essential expenses or invest for the long term, it can be life changing. The ability to create a practical tool for people with a disability to have a place to build their savings and feel less stress surrounding low benefit asset limits, takes away a lot of the anxiety and encourages good saving habits. Its impact can't be understated."

Assembly Bill 121 is identical to 2019 SB 776 / AB 912. It requires DFI to implement and administer a qualified ABLE program, either directly or by entering into an agreement with another state or alliance of states. Under the bill, DFI must determine whether implementing the ABLE program directly or by entering into an agreement is the best option for this state's residents. The bill also requires DFI to publicize information about ABLE accounts on its website, including information about each state that currently offers ABLE accounts. These duties will be administered by existing DFI employees.

In 2016, Wisconsin passed ABLE tax legislation but chose not to establish its own state ABLE program, instead allowing Wisconsinites to open accounts in other states. Uptake on ABLE accounts in Wisconsin has been extremely slow, perhaps because Wisconsin does not host an ABLE webpage or promote ABLE officially; data suggests a five- to tenfold lower participation rate among the ABLE-eligible population in Wisconsin than in neighboring states that offer ABLE programs.

In fact, Wisconsin is the only state that has neither established an ABLE program nor tasked a public agency or other public body with helping residents open and utilize ABLE accounts. Additional fees can also be imposed on Wisconsinites who open accounts through out-of-state ABLE programs. Ten states have established single-state programs, while 36 states operate their program as part of a collaboration of states that coordinate efforts. Three other states (Idaho and the Dakotas) have not established ABLE programs, but each has designated a public entity or council to provide resources or technical assistance to help ABLE-eligible residents open ABLE accounts administered by other states.

It is important to note that states no longer need to incur the risks and costs of developing independent, proprietary ABLE plans from scratch. They can join one of the now-existing collaborations of states, each with an established program manager, consultants, and investment portfolios already in place, at no cost to the participating state.

By granting state ABLE plans the benefit of immediate scale and shared expertise, collaborative structures remove the main barriers to establishing, growing, and managing state ABLE plans. Moreover, a state plan ensures that Wisconsin residents can participate in an ABLE program overseen by a state agency that is politically accountable to them, while avoiding out-of-state charges imposed by some other states' plans.

2021 Wisconsin Act 119 required the Department of Financial Institutions (DFI) to conduct a study, which has since been completed, to examine the advantages and disadvantages of the following options in establishing a Wisconsin ABLE program for this state's residents: 1) DFI establishes and administers the ABLE program; or 2) DFI enters into an agreement with another state, or with an entity representing an alliance of states, to establish and administer the ABLE program. The study included review and evaluation by DFI of each option's potential costs; the impact of each option on Wisconsin residents' program choice, tax benefits, and account fees; and ABLE programs offered by other states.

In light of these factors and the significant changes in the ABLE marketplace over the past seven years, the DFI report recommends that the Legislature authorize the state to establish a qualified state ABLE program, specifically through reintroduction of this specific bipartisan legislation to accomplish that objective, authorizing the DFI to "implement and administer an ABLE program, either directly or by entering into a formal agreement with another state, or with an entity representing an alliance of states, to establish an ABLE program or otherwise administer ABLE program services for the residents of this state."

This authorizing language would enable the Department to establish an ABLE program through an existing collaboration, while retaining the leverage and flexibility to join a different collaboration or pursue another structure if conditions change such that a new approach becomes more advantageous for the state and program participants.

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

The Senate version of this measure, Senate Bill 122, last month unanimously passed the Senate Committee on Licensing, Constitution and Federalism, which I chair.

This legislation was developed with the input of disability advocates and organizations who have lobbied for this change during previous legislative sessions. The following groups have all publicly stated their support for a Wisconsin ABLE program: The Arc Wisconsin, The Arc Dane County, The Arc of Dodge County, The Arc of Dunn County, Inc., The Arc Fond du Lac, The Arc Greater Columbia County, The Arc-Green County, The Arc of Racine County, Richland County Arc, The Arc of Southwestern Wisconsin, Inc., The Waupaca County Arc, Alianza Latina Aplicando Soluciones, Autism Society of Greater Wisconsin, Autism Society of South Central Wisconsin, Autism Society of Southeastern Wisconsin, CUNA Mutual Group, Disability Rights Wisconsin, Down Syndrome Association of Wisconsin, Inc., Elder Law and Special Needs Section of the State Bar, Family Voices of Wisconsin, Madison Area Down Syndrome Society, Respite Care Association of Wisconsin, Save IRIS, Survival Coalition of Wisconsin Disability Organizations, Wisconsibs, Inc., Wisconsin Board for People with Developmental Disabilities, Wisconsin Chapter of NAELA (National Academy of Elder Law Attorneys), Wisconsin Coalition of Independent Living Centers, Inc., Wisconsin FACETS, Wisconsin Down Syndrome Advocacy Coalition, Wisconsin Upside Down, and Wispact Inc.

Thank you for your consideration of Assembly Bill 121.

Chairperson Duchow and members of the committee:

Thank you for allowing me to testify in support of Wisconsin creating its own ABLE program.

I am a parent of a son who qualified for an ABLE Account. As Wisconsin does not have an ABLE program but allowed residents to enroll in other states programs, we enrolled in Iowa's program and have been satisfied with it. They were very welcoming to us. Joseph enrolled in November 2017 at his first opportunity. We are pleased that his contributions are fully tax deductible on his Wisconsin Income Tax.

Joseph is employed at the VA in Madison and can save with ABLE that allows an incentive to work and save with financial goals and a feeling of responsibility as a taxpayer. The $2000 Medicaid and SSI Asset Cap is way outdated and is very restrictive and requires much management. The ABLE program allows participants to live with dignity and pride to achieve greater independence with flexibility to spend their ABLE funds to better their lives. In addition, ABLE accounts can complement Special Needs Trusts that have considerably higher management fees than ABLE Accounts.

It is my understanding that Wisconsin, Idaho, North Dakota, and South Dakota are the only states that don't have their own program. I found this alarming and sort of embarrassing as to what message this was sending to people with disabilities and their families. I hope and believe Wisconsin should establish their own program. I think by establishing our own program and having a bi-partisan campaign promoting ABLE accounts would put the legislature and executive branch in a good light. But most importantly people with disabilities would Achieve a Better Life Experience (ABLE)

Thank You

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disability**rights** WISCONSIN
Protection and advocacy for people with disabilities.

Date: April 12, 2023

To: Representative Duchow, Chair and Members of Assembly Committee on Financial Institutions

Re: Public Comment in Support of AB 121 / SB 122

From: Pamela Hencke, Disability Rights Wisconsin, pamelah@drwi.org

Thank you for the opportunity to provide testimony in support of AB 121 and SB 122, which would make it easier for Wisconsin residents to establish tax-exempt savings accounts for people with disabilities under the Achieving a Better Life Experience Act (ABLE).

Disability Rights Wisconsin is the federally mandated Protection and Advocacy agency for our state, charged with protecting the rights of Wisconsinites with disabilities. Our mission is to advance the dignity, equality, and self-determination of people with disabilities.

ABLE accounts can be an important tool to support people with disabilities to advance independence and self-determination. ABLE accounts were established by Congress to allow individuals with disabilities to save and invest money without affecting eligibility and benefits under Social Security and Medicaid. This flexibility is important because Medicaid funded programs that people with disabilities rely on to live independently, such as Family Care and IRIS, have strict asset limits ($2000) that make it impossible to save for rent deposits, down payments on vehicles or homes, and other routine expenses.

Although ABLE accounts can be very beneficial for people with disabilities, very few Wisconsin residents have established ABLE accounts to date and there has been limited awareness of this option. As noted in the September 2022 report from the Wisconsin Department of Financial Institutions *Report and Recommendations on Establishing an ABLE Program for Wisconsin Residents*, "Wisconsin is the only state that has neither established an ABLE program nor tasked a public agency or other public body with helping residents open and utilize ABLE accounts" (page 4).

As reported by DFI, while Wisconsin's ABLE-eligible population is estimated at 142,510, the Department of Revenue reports that fewer than 300 filers (equivalent to roughly 0.2 percent of the ABLE-eligible population in Wisconsin) claimed an income tax deduction for ABLE account contributions in either 2020 or 2021 (page 6). Wisconsin residents can open ABLE accounts in programs administered by other states, however many people with disabilities and families are unaware of ABLE accounts, or struggle to find information and make decisions about how to set them up.

DRW supports AB 121/ SB 122 because this legislation has the potential to improve awareness of and access to ABLE accounts for Wisconsinites with disabilities and their families. This bill requires DFI to implement and administer a qualified ABLE program, either directly or by entering into an agreement with another state or alliance of states to establish an ABLE program or otherwise administer ABLE program services for the residents of this state. We appreciate the work of the Legislature in commissioning the report from DFI, and believe the report provides analysis and recommendations to help move Wisconsin forward with expanding access to ABLE accounts. This bill would move those recommendations forward.

In addition to speaking on behalf of Disability Rights Wisconsin, I also wear a parent hat and speak from lived experience. Raising a child with disabilities requires a constant strain financially and emotionally on daily living. Having an ABLE program in Wisconsin would give ease of access and an added peace of mind for families. Even the most financially savvy families are challenged with having to research ABLE programs in other states to find the best program for their loved one. Again, being tasked with one more thing to do when plates are already overflowing. Personally, having the ability for my son to use his own money, to buy his own items, is something we all dream of. If my son wants to get fast food or buy an assistive technology support such as a new app for his iPad, or a new switch adapter for a toy, basically any overall expense that would improve his independence or quality of life, he should be allowed to with his own money. Having my son who is 14 years old, be able to choose an item at a store with his own birthday money and use his own account, and then pay for it, like what his siblings and friends also do, tops the pride list when you see this as a parent and is the right thing to do. If our son has a smile from cheek to cheek at 14 when spending his own money, also think about that 25-year-old disabled in an auto accident or the 40-year-old disabled veteran.

We all want to be able to make our own choices, especially how we save and spend our own money. Having extra money available for our son's personal caregivers because a grandparent wants to be able to help pay for a support so my husband and I can step away for an evening, again is life-changing for families to take a break. Having additional funds available for personal supports as a twenty-something year old adult is equally as life changing. ABLE accounts allow for a place for these monies to be saved and used when necessary. These individuals did not choose their disability, so at least let them choose how they truly spend their own money. We want to be a leader here in Wisconsin, not the only state without an ABLE account for disabled residents. Let us continue to build that confidence for our disabled population that we are looking out for them.

For these reasons, Disability Rights Wisconsin supports AB 121 and SB 122 and asks legislators to advance this important legislation to increase access to and awareness of ABLE accounts and support opportunities for independence and self-determination for Wisconsinites who have a disability.

Sources:

Report and Recommendations on Establishing an ABLE Program for Wisconsin Residents, State of Wisconsin Department of Financial Institutions, September 1, 2022

Dear Committee Members:

I am writing in support of AB 121, which bill would direct the Department of Financial Institutions to find the best ABLE option for disabled Wisconsin residents and their families. ABLE accounts permit disabled people to save money, with the savings not counting as income that would negatively impact Medicaid or other benefit eligibility.

As the parent of a 30 year old with autism, I know as do all other parents my position, that social security may not even cover rent, much less any day to day expenses. Disabled individuals who are employed should have some mechanism for saving money that will not penalize benefits eligibility, and that will provide them with funds to pay their bills. Or, their parents ought to have a mechanism for making contributions to an account that could pay for expenses that social security simply can't cover. Unfortunately, NO options exist in Wisconsin for doing this.

When our daughter Amy moved into her own apartment, we knew we would have to supplement her basic living expenses. We were familiar with ABLE accounts, but to our absolute surprise, ABLE accounts did not exist in Wisconsin. We had to look outside Wisconsin to locate an ABLE account. We were told by multiple groups and individuals that STABLE of Ohio was the "best" of the ABLE accounts, so we opened an account there. Yet, the STABLE platform has many flaws -- a clunky website, long delays between making a deposit from an account to an associated debit card, and the inability to make monthly/scheduled withdrawals from the account to an associated debit card. This can result in funds not being available when a disabled person needs to access them. In addition, the customer support/call center often requires leaving a message, rather than being able to talk to a "real person."

The analogy I'd like the committee to consider is our state Edvest Program, another savings program that permits funds to be set aside, tax free, for purposes of saving for a child's college education. We opened an Edvest account for our neuro-typical son when he was two, and when it was time to withdraw funds to pay for his college education, the Edvest system worked very, very well. Edvest has a responsive, friendly call center with available staff. Deposits and withdrawals are processed quickly and efficiently. The Edvest website is clear. Could the Edvest model -- a model that has been working successfully in Wisconsin for some time -- be utilized to set up ABLE accounts in Wisconsin?

While having an Ohio STABLE (Ohio ABLE) account in place helps make Amy's life and the lives of those like her, run smoothly and efficiently, the system could be much better so I would carefully scrutinize contracting with another state such as Ohio to administer ABLE. Instead, a program like Edvest provides a model for how ABLE could be successfully administered in state.

In summary, I'd like to see ABLE set up here in Wisconsin, to both benefit disabled people AND Wisconsin residents generally, by keeping Wisconsin dollars IN Wisconsin!

Thank you for considering my testimony

Sincerely,

Mary Anne Oemichen
W6159 Legler Valley Road
New Glarus, WI 53574

Assembly Bill 121 Testimony – Committee on Financial Institutions

Wednesday, April 12, 2023

Hello,

My name is Ryan McGuire. I am a CFP® certificant and Chartered Special Needs Consultant®. I work with families across the country who have children with permanent disabilities, assisting them with important financial and estate planning tasks. I am also the sibling of an ABLE account owner. Our family happens to be of the few fortunate Wisconsinites who have been properly informed about the benefits of ABLE accounts, enabling my sister to put away some money towards important quality of life purchases. She uses the state of Ohio program, known as STABLE.

The current countable resource limit of $2,000 per individual on Supplemental Security Income has not been adjusted since 1984, 12 years before my sister was born. $2,000 in 1984 is equivalent in purchasing power to about $5,790 today. Consider this scenario: you inherit $5,000 from your great Aunt's estate and as a result, you could lose your benefits unless you do something with the money immediately. Or, what if you mistakenly forget to monitor your account one month, and at the end of the month, it has a balance of $2,100? You would be required to withdraw some cash or spend down immediately to avoid losing your benefits if you didn't have a properly established first party supplemental needs trust or ABLE account to receive a funds transfer. Such scenarios have created immense anxiety and stress for individuals with permanent disabilities and those that support them.

House of Representatives bill 647, which became known as the Stephen Beck, Jr. ABLE Act, was introduced to the 113th US Congress with overwhelming bipartisan support just over 10 years ago. It passed through the House on December 3rd, 2014, by a vote of 404 to 17. The U.S. Senate passed the bill on December 16th of that year by a vote of 76 to 16 and was signed into law by President Obama three afternoons later.

Since that time, 46 states and the District of Columbia have sponsored official ABLE programs, mostly leveraging the handful of plan administration consortiums that do a great job of servicing state branded programs.

My career's objective is to educate individuals and families on the intricacies of long-term planning for persons with permanent disabilities. In conjunction with efforts of advocates, disability service organizations, and articles available through online search, there is a great need formal support from the state government through the sponsorship of an official program. Establishing an official program would enhance public awareness and drive greater utilization of these accounts, like how Edvest has increased awareness of 529 College Savings Plans in our state.

It is a rarity in both private and public sectors to analyze an investment that is highly likely to generate such an outsized positive return. A Wisconsin sponsored ABLE program will directly improve quality of life for countless residents.

Thank you for your time.

Ryan R McGuire

Representative Duchow Chair of the Assembly Committee on Financial Institutions
Re: AB121

As it appears I will not be able to provide my testimony in person I appreciate the opportunity to make it part of the record.

I am a parent of a son who qualified for an ABLE Account. As Wisconsin does not have an ABLE program but allowed residents to enroll in other states programs, we enrolled in Iowa's program and have been satisfied with it. They were very welcoming to us. Joseph enrolled in November 2017 at his first opportunity. We are pleased that his contributions are fully tax deductible on his Wisconsin Income Tax.

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Thank You

Andrew A. Halada
Madison, WI 53711

My name is Patrick young my address is N113 W15130 Montgomery Drive Germantown WI 53022

Dear members of Assembly committee I write to you as a citizen of Wisconsin my name is Patrick about the critical importance about AB 121, Achieving a Better Life Experience (ABLE) bill make it easier for people with disabilities to earn and save more money. Achieving a Better Life Experience (ABLE) accounts let people with disabilities set up tax exempt savings accounts to pay qualified expenses--including education, housing and transportation costs--without effecting eligibility for Medicaid or Social Security. The benefits Achieving a Better Life Experience (ABLE) programs which let people with disabilities set up tax exempt savings accounts to pay qualified expenses, including education, housing and transportation costs.and The bill implements the ABLE report recommendations and will make ABLE accounts more accessible for Wisconsin families and advance the Legislature's continuing efforts to empower individuals with disabilities
I question are you a champion and support People with abilities and disability do the right

Patrick young
Sent from my iPhone

April 12, 2023

Rep. Duchow (Rm 210 North, Madison, WI 53708), Chair of the Assembly Committee on Financial Institutions,

My name is Amanda Schaefer and I am a member of the Ho-Chunk Nation and the mother of a special needs son. Maxwell is on the Autism Spectrum, non -verbal will need care his whole life. Maxwell is also a tribal member and has a tribal trust fund. Our issue with-in our nation is lack of proper handling of the trust accounts for our special needs children. The Nation has its own special needs trusts but the policies and procedures need to be updated. It is extremely hard on parents to access the funds for even important things that their adult children need.

ABLE Accounts set up properly could help these young adults immensely. So many parents would benefit from the peace of mind that their child's funds are protected for their future yet accessible for things that come up in adult life but not completely cut them off from critical services that they truly need. I am currently in the adult transition part of life with my son and worry how it will go. Maxwell will not be able to take and pass the literacy test required by the nation to receive your trust at 18. Those who do not take and pass receive their trust at age 25. But those with an IEP that cannot pass it end up being deemed incompetent and their trust is then kept in trust with The Ho-Chunk Nation. Any access requires going to tribal courts and is not an easy process. So these young adults and children have no trust access but are cut off from services like disability because of the trust. We have parents working towards change within our tribe but all things take time and persistence. ABLE accounts in WI could very well push the tribe to make the changes needed in this regard. Thank you for your time.

Sincerely,

Amanda Schaefer

1723 Oconto Dr. Sun Prairie WI 53590

April 12th, 2023

Dear Representative Duchow and Others:

My name is Ramsey Lee. I am from Hudson, Wisconsin, and I totally support SB 122, Achieving a Better Life Experience (ABLE) bill.

The bill would direct the Department of Financial Institutions to find the best ABLE option for Wisconsin residents--either entering into an agreement with another state already managing ABLE accounts or starting a program in Wisconsin. This would make it easier for people with disabilities to understand their options and set up accounts.

Achieving a Better Life Experience (ABLE) accounts let people with disabilities set up tax exempt savings accounts to pay qualified expenses--including education, housing and transportation costs--without affecting eligibility for Medicaid or Social Security.

I encourage Wisconsin to start an ABLE program without a Medicaid Buy Back provision. Prior to a person's death, I believe they should be able to designate who their beneficiaries should be. Colorado, Virginia, and other states have programs without Medicaid Buy Back provisions.

I am a non-driver and therefore regret not being able to attend the hearing in person.

Your consideration is greatly appreciated.

Ramsey Lee
Hudson, WI

April 12, 2023
AB 121

Distinguished Committee Members,

Thank you for taking up AB 121, which is a vital step in securing financial well being and security for our disabled citizens in Wisconsin. I am a parent to two young adults with Autism and Intellectual Disabilities who own ABLE accounts in the state of Nebraska.

I say that with pride as I know what a rare breed we are. We don't have any other friends in the disability community who have ABLE accounts. When we met with a disability benefits specialist recently she was very surprised to learn that we already had accounts. She remarked that she rarely runs across clients with one already in place.

This is a serious problem as we are approaching a decade of the law being passed and the great benefit it can provide our disabled citizens. Why aren't more people taking advantage of this opportunity? I believe the lack of utilization is a direct result of Wisconsin not participating in its own program.

First, people just plain don't know about it. Without its own program, Wisconsin has no real stake in getting the message out to its citizens. When I've been told about it, it has usually been in passing with the caveat "but Wisconsin doesn't administer its own program so you will have to go out and find one from another state." For people already embroiled in the administrative headaches of disability management, this is yet another hurdle we shouldn't have to face.

The onus is therefore put on caregivers and the disabled to go out and research which state has the best plan. I can tell you from personal experience that this is extremely overwhelming. There are only 4 states that don't have active plans - that means I had to sift through plans from nearly every state in the nation. This took me several days to do.

As a financial layperson, I had to really think about what each plan offered, its investment returns, risks, fees, banking options, etc. Each plan was a little different. This caused anxiety and distress as I felt pressure to make the right choice. The choices were overwhelming. I was also worried about making an investment in a state so far from home where I didn't have any local connections to help me. I encourage Wisconsin to have their own plan that has the best interest of Wisconsinites in mind. This would alleviate the need to be a financial expert while choosing a plan.

I was also concerned about the ramifications for Medicaid repayment when the beneficiary dies. Many of the plans made clear what their state would do in regards to repayment, but I couldn't be reassured that Wisconsin would not seek repayment should one of my children die. I want the deceased's ABLE account to be inherited by their living sibling's ABLE account. A Wisconsin plan that details this would be comforting.

It is well past time for Wisconsin to have an ABLE plan for its disabled citizens. By passing AB 121 we can bring greater awareness of this program, make it more accessible and enrollment less intimidating. Everyone in Wisconsin wins when our disabled population can gain greater financial security!

Amy Bushman
1762 Sunnyside Lane
De Pere, WI 54115
Assembly District 2

disabilityrights WISCONSIN
Protection and advocacy for people with disabilities.

Date: April 12, 2023

To: Representative Duchow, Chair and Members of Assembly Committee on Financial Institutions

Re: Public Comment in Support of AB 121 / SB 122

From: Pamela Hencke, Disability Rights Wisconsin, pamelah@drwi.org

Thank you for the opportunity to provide testimony in support of AB 121 and SB 122, which would make it easier for Wisconsin residents to establish tax-exempt savings accounts for people with disabilities under the Achieving a Better Life Experience Act (ABLE).

Disability Rights Wisconsin is the federally mandated Protection and Advocacy agency for our state, charged with protecting the rights of Wisconsinites with disabilities. Our mission is to advance the dignity, equality, and self-determination of people with disabilities.

ABLE accounts can be an important tool to support people with disabilities to advance independence and self-determination. ABLE accounts were established by Congress to allow individuals with disabilities to save and invest money without affecting eligibility and benefits under Social Security and Medicaid. This flexibility is important because Medicaid funded programs that people with disabilities rely on to live independently, such as Family Care and IRIS, have strict asset limits ($2000) that make it impossible to save for rent deposits, down payments on vehicles or homes, and other routine expenses.

Although ABLE accounts can be very beneficial for people with disabilities, very few Wisconsin residents have established ABLE accounts to date and there has been limited awareness of this option. As noted in the September 2022 report from the Wisconsin Department of Financial Institutions *Report and Recommendations on Establishing an ABLE Program for Wisconsin Residents*, "Wisconsin is the only state that has neither established an ABLE program nor tasked a public agency or other public body with helping residents open and utilize ABLE accounts" (page 4).

As reported by DFI, while Wisconsin's ABLE-eligible population is estimated at 142,510, the Department of Revenue reports that fewer than 300 filers (equivalent to roughly 0.2 percent of the ABLE-eligible population in Wisconsin) claimed an income tax deduction for ABLE account contributions in either 2020 or 2021 (page 6). Wisconsin residents can open ABLE accounts in programs administered by other states, however many people with disabilities and families are unaware of ABLE accounts, or struggle to find information and make decisions about how to set them up.

DRW supports AB 121/ SB 122 because this legislation has the potential to improve awareness of and access to ABLE accounts for Wisconsinites with disabilities and their families. This bill requires DFI to implement and administer a qualified ABLE program, either directly or by entering into an agreement with another state or alliance of states to establish an ABLE program or otherwise administer ABLE program services for the residents of this state. We appreciate the work of the Legislature in commissioning the report from DFI, and believe the report provides analysis and recommendations to help move Wisconsin forward with expanding access to ABLE accounts. This bill would move those recommendations forward.

In addition to speaking on behalf of Disability Rights Wisconsin, I also wear a parent hat and speak from lived experience. Raising a child with disabilities requires a constant strain financially and emotionally on daily living. Having an ABLE program in Wisconsin would give ease of access and an added peace of mind for families. Even the most financially savvy families are challenged with having to research ABLE programs in other states to find the best program for their loved one. Again, being tasked with one more thing to do when plates are already overflowing. Personally, having the ability for my son to use his own money, to buy his own items, is something we all dream of. If my son wants to get fast food or buy an assistive technology support such as a new app for his iPad, or a new switch adapter for a toy, basically any overall expense that would improve his independence or quality of life, he should be allowed to with his own money. Having my son who is 14 years old, be able to choose an item at a store with his own birthday money and use his own account, and then pay for it, like what his siblings and friends also do, tops the pride list when you see this as a parent and is the right thing to do. If our son has a smile from cheek to cheek at 14 when spending his own money, also think about that 25-year-old disabled in an auto accident or the 40-year-old disabled veteran.

We all want to be able to make our own choices, especially how we save and spend our own money. Having extra money available for our son's personal caregivers because a grandparent wants to be able to help pay for a support so my husband and I can step away for an evening, again is life-changing for families to take a break. Having additional funds available for personal supports as a twenty-something year old adult is equally as life changing. ABLE accounts allow for a place for these monies to be saved and used when necessary. These individuals did not choose their disability, so at least let them choose how they truly spend their own money. We want to be a leader here in Wisconsin, not the only state without an ABLE account for disabled residents. Let us continue to build that confidence for our disabled population that we are looking out for them.

For these reasons, Disability Rights Wisconsin supports AB 121 and SB 122 and asks legislators to advance this important legislation to increase access to and awareness of ABLE accounts and support opportunities for independence and self-determination for Wisconsinites who have a disability.

Sources:
Report and Recommendations on Establishing an ABLE Program for Wisconsin Residents, State of Wisconsin Department of Financial Institutions, September 1, 2022

Wisconsin BPDD
Wisconsin Board for People with Developmental Disabilities

April 12, 2023

Assembly Committee on Financial Institutions
Representative Duchow, Chair
State Capitol, Room 210 North
Madison, WI 53708

Dear Rep. Duchow and members of the committee:

The Wisconsin Board for People with Disabilities (BPDD) supports SB 122, which directs the Department of Financial Institutions (DFI) to find the best Achieving a Better Life Experience (ABLE) program option for Wisconsin residents--either entering into an agreement with another state already managing ABLE accounts or starting a program in Wisconsin. This would make it easier for people with disabilities to understand their options and set up accounts.

Congress authorized ABLE accounts to allow people with disabilities set up tax exempt savings accounts to pay qualified expenses[1] without affecting eligibility for Medicaid or Social Security. Medicaid funded long term care programs like Family Care and IRIS that people with disabilities rely on to live independently have strict asset limits ($2000) that make it impossible to save for rent deposits, downpayments on vehicles or homes, and other routine expenses.

In December 2022, Congress broadened who can set up an ABLE account from a person who has acquired a disability by age 26 to a person who has acquired a disability by age 46, making this an important tool for many more Wisconsinites.

Wisconsin is the only state that has neither established an ABLE program nor tasked a public agency or other public body with helping residents open and utilize ABLE accounts. In 2016, Wisconsin passed ABLE tax legislation but chose not to establish its own state ABLE program. Wisconsin residents can open ABLE accounts in programs administered by other states, however many people with disabilities and families are unaware of ABLE accounts, or struggle to find information and make decisions about how to set them up.

Last session the legislature passed a bill that required a report on the utilization of ABLE accounts by Wisconsin residents and options for the state to either run its own ABLE program or contract with another state that is managing ABLE accounts. At the time of the report (Sept 2022) an estimated 142,150 Wisconsinites would be eligible for participation in ABLE, however fewer than 300 filers (equivalent to roughly 0.2 percent of the ABLE-eligible population in Wisconsin) claimed an income tax deduction for ABLE account contributions in either 2020 or 2021.

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[1] Allowable expenses include education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, and funeral and burial expenses.

Wisconsin BPDD

WISCONSIN BOARD FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES

Wisconsin has tried the self-navigation approach for seven years and the results are clear. Simply allowing the tax exemption without a formal structure in place to help individuals understand and choose where to set up an account is insufficient. Even the savviest people with disabilities and families describe a daunting and overwhelming process of evaluating different state plans. Many find it too hard and give up, which is what the data shows.

After the DFI report came out, Congress increased the age threshold from 26 to 46 expanding the number of potential people eligible for ABLE accounts. There are an unknown number of Wisconsinites—veterans with disabilities, people who have acquired disabilities through traumatic injury or degenerative conditions--who would newly qualify for these accounts. As eligibility for ABLE accounts is based on an individual's disability status, we should anticipate there will be more people struggling to navigate this option, many by themselves. If we want more people to successfully open up accounts, it is time to make it easier for them to do so.

BPDD appreciates the legislature's diligence and deliberative evaluative process to determine the appropriate legislative course of action over the past several sessions. We believe the report the legislature required of DFI outlines a course of action that will result in more people in Wisconsin opening these valuable accounts. This bill is a direct reflection of DFI's analysis and recommendations. It enjoys bi-partisan support which reflects the broad constituency across the state that will benefit from its passage and enactment into law.

BPDD is charged under the federal Developmental Disabilities Assistance and Bill of Rights Act with advocacy, capacity building, and systems change to improve self-determination, independence, productivity, and integration and inclusion in all facets of community life for people with developmental disabilities[2].

Thank you for your consideration,

Beth Swedeen

Beth Swedeen, Executive Director,
Wisconsin Board for People with Developmental Disabilities

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[2] More about BPDD https://wi-bpdd.org/wp-content/uploads/2018/08/Legislative_Overview_BPDD.pdf.

Testimony in support of AB-121, ABLE Savings Accounts
Matt Lynch, Chief Legal Counsel, and Jessica Wetzel, Financial Capability Director, Wisconsin Department of Financial Institutions

Assembly Committee on Financial Institutions
Wednesday, April 12, 2023, at 1:00 p.m.
Wisconsin State Capitol, Room 300 Northeast

Good morning, Chairperson Duchow and Committee Members:

On behalf of the Department of Financial Institutions, thank you for the opportunity to testify today in support of Assembly Bill 121. My name is Matt Lynch; I serve as the Department's chief legal counsel. With me is Jessica Wetzel, who serves as director of the Department's Office of Financial Capability. Jessica and I had the privilege of working with several others to prepare the Department's *Report and Recommendations on Establishing an ABLE Program for Wisconsin Residents*, which was submitted to the Legislature on September 1 of last year, and which we've included with our written testimony today.

We would like to thank the Governor and the authors of this legislation, who have promoted ABLE and based their initiatives on the recommendations in the Department's report. Assembly Bill 121, like the Governor's budget, thoughtfully creates the best ABLE program for Wisconsin based on research and lessons learned from other states in similar situations. We support both initiatives and hope that the Legislature chooses to move them forward.

This morning, we hope to summarize some of the key findings of the report and to answer any questions that committee members may have about those findings. But first, it may be helpful to begin with some context about this report and how we went about putting it together.

The report was the product of legislation passed last session that called for the DFI to study the options, potential impact, and potential costs associated with establishing an ABLE program in Wisconsin. To complete this work, we reviewed publicly available reports regarding ABLE programs around the country and interviewed dozens of individuals who offered a variety of perspectives, including representatives of ABLE programs in other states, nonprofit groups that support individuals with disabilities, individuals interested in opening ABLE accounts in Wisconsin, and financial advisors that specialize in financial planning for individuals with disabilities. These interviews were especially valuable, and we're grateful to so many people for being so generous with their time and insights.

These interviews reinforced the special financial planning challenges faced by individuals with disabilities and their families. Many are forced to choose between investing for long-term needs and maintaining eligibility for existing federal benefits. ABLE accounts allow individuals with disabilities and their families to save for disability-related expenses without creating additional tax liabilities or jeopardizing existing federal benefits. And they make it easy to save, offering low-fee funds through well-established financial institutions.

Our written report starts by assessing the status quo in Wisconsin. Though Wisconsin does not have its own ABLE program, our residents are eligible for ABLE-related tax benefits and can open ABLE accounts in programs administered by other states. In theory, the status quo allows ABLE-eligible Wisconsin residents to obtain the advantages of ABLE participation without the need to establish our own Wisconsin program.

In reality, however, the status quo is resulting in missed opportunities for our residents. As noted in the report, the available data suggests that eligible Wisconsinites' participation rate in ABLE programs is five to ten times lower than our neighboring states—all of which have their own state ABLE programs. Our neighbors are not alone: 46 states and the District of Columbia have established ABLE programs, while another three states have designated a public entity or council to provide resources and assistance to residents who want to open ABLE accounts administered by other states. Wisconsin is the only state that has not taken either step.

For all the reasons set forth in the report, we believe it's an opportune moment for Wisconsin to end its outlier status by passing Assembly Bill 121. In the nine years since the federal ABLE Act was enacted, states have learned how to implement and grow ABLE programs, and to solve the primary challenge when it comes to administering tax-beneficial savings programs: achieving sufficient scale to make the program administratively feasible, while keeping participant fees low. They've done this by forming three different collaborative groups of states with ABLE programs. These collaborations allow states to maintain their own state-branded ABLE programs while utilizing a shared program manager and other resources, at no cost to the participating state. Thirty-six of the 46 states with ABLE programs now belong to one of these three ABLE collaborations. If this bill is enacted, we anticipate that Wisconsin would soon become the thirty-seventh.

On behalf of the DFI, we thank the committee and the many sponsors, cosponsors, and supporters of Assembly Bill 121 for their time and energy on this important legislation. We look forward to seeing this legislation enacted, and to bringing these important benefits to more Wisconsin residents.

State of Wisconsin
Department of Financial Institutions

Report and Recommendations on Establishing an ABLE Program for Wisconsin Residents

September 1, 2022

Table of Contents

I. Background

• ***Nature of ABLE accounts.*** The Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014—better known as the "ABLE Act"—is a federal law authorizing states to establish ABLE programs to help eligible individuals and their families save for disability-related expenses.[1] An ABLE program allows participants to create investment accounts (known as "ABLE accounts") for the benefit of individuals with disabilities that developed prior to age 26.[2]

Contributions toward an individual's account are capped each year at the level of the federal gift-tax exclusion (currently $16,000), plus a formula-based add-on for accounts held by beneficiaries who are employed but do not participate in employer-based retirement savings plans.[3] Account funds may be withdrawn to cover the beneficiary's "qualified disability expenses," which can include education, housing, transportation, employment training and support, assistive technology and support services, and several other categories of living expenses.

• ***Advantages of ABLE accounts.*** For eligible individuals, ABLE accounts have two legal benefits. First, they have **tax advantages**: distributions from ABLE accounts to cover qualified disability expenses are not counted as income for purposes of federal and state tax law,[4] and contributions to an ABLE account are tax-deductible under state law.[5] Second, they have **administrative advantages**: except in limited circumstances, ABLE account contributions and distributions are disregarded for purposes of determining a beneficiary's eligibility and benefits under Social Security and other means-tested federal programs.[6] Together, these advantages allow ABLE beneficiaries and their families to save for disability-related expenses without creating additional tax liabilities or jeopardizing existing federal benefits.

For ABLE beneficiaries and their families, these benefits can bring positive effects beyond the sum of their parts. A local financial advisor interviewed for this report summarized their "life-changing" impact:

> "For an individual with a disability to have an account like this that allows them to protect benefits, work, earn money, and put away in an account that they can use to pay for housing and other essential expenses or invest for the long term, it can be life changing. The ability to create a practical tool for people with a disability to have

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[1] *See generally*, Pub. L. 113-295, 128 Stat. 4056 (2014).
[2] More specifically, a person is eligible to be an ABLE beneficiary if that person (1) is entitled to benefits based on blindness or disability under the Social Security Act or files a proper disability certification with the IRS; and (2) the disability occurred before the person reached age 26. 26 U.S.C. § 529A(e)(1).
[3] 26 U.S.C. § 529A(b)(2).
[4] 26 U.S.C. § 529A(c)(1)(B); Wis. Stat. § 71.05(6)(a)27.
[5] Wis. Stat. § 71.05(6)(b)52.
[6] 26 U.S.C. § 529A, note on "Treatment of ABLE accounts under certain Federal programs." There are limited exceptions: ABLE distributions for housing expenses are counted for purposes of the supplemental security income (SSI) program, and ABLE accounts with balances above $100,000 are considered a resource of the beneficiary for purposes of SSI eligibility. (The first $100,000 in the ABLE account is exempt from SSI resource limits.)

a place to build their savings and feel less stress surrounding low benefit asset limits, takes away a lot of the anxiety and encourages good saving habits. Its impact can't be understated."[7]

• ***Establishment of ABLE programs around the country.*** To date, 46 states and the District of Columbia have established ABLE programs, either as single-state programs (10 states) or as part of a collaboration of states that coordinate efforts (36 states). Three other states (Idaho and the Dakotas) have not established ABLE programs, but each has designated a public entity or council to provide resources or technical assistance to help ABLE-eligible residents open ABLE accounts administered by other states.[8]

Wisconsin is the only state that has neither established an ABLE program nor tasked a public agency or other public body with helping residents open and utilize ABLE accounts. There have been several proposals to establish a Wisconsin ABLE program in recent years, however, including bipartisan bills introduced in each of the last two legislative sessions[9] and provisions in Governor Evers' proposed 2021-2023 budget.[10]

• ***Legislative mandate for this report.*** In February of this year, Governor Evers signed legislation calling for the Department of Financial Institutions to study and report on the state's options for establishing an ABLE program, either by administering a single-state program or by joining a collaboration of other states.[11] The bill requires the Department to examine the advantages and disadvantages of both approaches—taking into consideration the ABLE programs offered by other states, Wisconsin residents' use of those programs, the potential impact for Wisconsin residents, and the costs and legislative changes necessary to establish an ABLE program in this state—and to make recommendations to the Legislature.[12]

• ***How the Department of Financial Institutions carried out this study.*** To complete this study and make its recommendations, the Department's Office of Financial Capability compiled and reviewed publicly available reports and other sources of data regarding the implementation of ABLE programs in other states, including materials from the ABLE National Resource Center,[13] AKF Consulting's ABLE market reports,[14] agreements and other materials from other states or collaborations of states, prior Wisconsin legislative proposals to establish an

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[7] Interview with Ryan McGuire of Oak Wealth Financial Advisors.
[8] *See* Idaho Stat. § 56-708; N.D. Cent. Code § 6-09-38.1; S.D. Codified L. § 28-21-3.
[9] 2019 Assembly Bill 912/Senate Bill 776; 2021 Assembly Bill 496/Senate Bill 486.
[10] 2021 A.B. 68/S.B. 111, § 2451.
[11] 2021 Wis. Act 119 (published Feb. 5, 2022).
[12] *Id.*
[13] *See generally* https://www.ablenrc.org/.
[14] AKF Consulting, AKF Market Report: ABLE America 2021 (Mar. 2022), *available at* https://akfconsulting.com/wp-content/uploads/ABLE-Market-Report-2021.pdf; AKF Consulting, AKF Market Report: ABLE America 2020 (Dec. 2020), *available at* https://akfconsulting.com/wp-content/uploads/ABLE-Market-Report-FINAL-2020.pdf; AKF Consulting, AKF Market Report: ABLE America 2018 (Mar. 2018), *available at* https://akfconsulting.com/wp-content/uploads/2018-Winter-ABLE-Market-Report-REVISED-FINAL-as-of-2018-5-17-10pm.pdf.

ABLE program,[15] a 2020 cost-benefit analysis of a potential Wisconsin ABLE program prepared by the Tommy G. Thompson Center on Public Leadership,[16] and other sources referenced in the footnotes of this report.

In addition, the Office of Financial Capability interviewed the following people to help inform the findings and recommendations that appear in this report:

> Representatives from groups that provide education, advocacy, or other support for individuals with disabilities and their families, including the ABLE National Resource Center, the National Disability Institute, Disability Rights Wisconsin, The ARC Wisconsin, and People First Wisconsin.
>
> Individuals interested in opening ABLE accounts in Wisconsin.
>
> Representatives from government boards, agencies, and regulatory organizations with relevant subject matter expertise, including the Wisconsin Board for People with Developmental Disabilities, the Wisconsin Department of Health Services, the Wisconsin Department of Revenue, the National Association of State Treasurers, and several agencies that administer ABLE programs in other states (including the Alabama State Treasurer's Office, the California State Treasurer's Office, the Illinois State Treasurer's Office, the Maryland 529 Board, the Michigan Department of Treasury, the Nebraska State Treasurer's Office, the Ohio Treasurer's Office, the Oregon Treasury Savings Network, and the Pennsylvania Office of the State Treasurer).
>
> Advisors who provide expertise on ABLE programs or financial planning for individuals with disabilities, including advisors affiliated with AKF Consulting Group, Crescendo Wealth Management, Cuna Mutual, Intuition College Savings Solutions, Johnson Teigen, Oak Wealth Advisors, TIAA-CREF, and TMG.

The Department is grateful to the many individuals who shared their time and insights, which helped the Department evaluate the issues presented by the Legislature and reach the findings and recommendations that follow.

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[15] *See* 2015 Wis. Act 55 § 316e, *repealed by* 2015 Wis. Act 312; 2019 A.B. 912/S.B. 776; 2021 A.B. 68/S.B. 111, § 2451; 2021 A.B. 496/S.B. 486.

[16] Casola et al., *Disability Savings Accounts in Wisconsin: A Cost-Benefit Analysis of a Wisconsin State ABLE Program* (Dec. 2020), Tommy G. Thompson Center on Public Leadership, *available at* https://lafollette.wisc.edu/images/publications/cba/2020-CBA-Wisconsin_ABLE_Participation.pdf.

II. The Status Quo in Wisconsin

• ***Wisconsin's ABLE-eligible population.*** In 2015, the National Disability Institute estimated that as many as 8 million Americans meet the federal eligibility requirements to be beneficiaries of ABLE accounts.[17] Applying the same methodology to more recent data at the state level,[18] an estimated 142,150 Wisconsinites would be eligible for participation in ABLE.

• ***Wisconsinites' low utilization of ABLE accounts relative to other states.*** Though the state has not established a Wisconsin ABLE program, Wisconsin residents can open ABLE accounts in programs administered by other states. To date, relatively few Wisconsinites have done so. The Department of Revenue reports that fewer than 300 filers (equivalent to roughly 0.2 percent of the ABLE-eligible population in Wisconsin) claimed an income tax deduction for ABLE account contributions in either 2020 or 2021.

This data suggests a five- to tenfold lower participation rate among the ABLE-eligible population in Wisconsin than in neighboring states that offer ABLE programs and dedicate public resources toward ABLE outreach and education:

Table II.A: ABLE Participation in Neighboring States
Data as of Q4 2021[19]

	ABLE-eligible population (est.)	# of ABLE Accounts (Q4 2021)	Participation Rate
Iowa	68,390	1,367	2.0%
Illinois	277,152	2,905	1.0%
Michigan	317,689	3,485	1.1%
Minnesota	111,521	2,601	2.3%

• ***Reasons for Wisconsinites' comparatively low utilization of ABLE accounts.*** While ABLE programs nationally are still in their nascent stages, with an emphasis on increasing growth and public awareness, Wisconsin's ABLE participation is especially low relative to neighboring states. To identify specific reasons for Wisconsinites' relatively low participation in ABLE programs, the Office of Financial Capability interviewed representatives from local

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[17] NATIONAL DISABILITY INSTITUTE, *Estimated Number of ABLE Act Participants* (Jan. 7, 2015).
[18] The Wisconsin estimate was derived by applying the NDI report's methodology to more recent, state-specific data provided by the Social Security Administration and the National Survey of Children's Health.
[19] Data regarding the number of accounts in each state was obtained from ISS Market Intelligence's *529 College Savings Quarterly Update* for Q4 2021 (hereinafter "ISS MARKET INTELLIGENCE REPORT"), which includes information on ABLE programs.

organizations that provide services or other support for individuals with disabilities, including financial advisors and governmental and non-profit organizations.

Interviewees repeatedly cited the informational hurdles that ABLE-eligible Wisconsinites and their families must surmount prior to opening an account. For example:

> "Many people are unaware that ABLE accounts exist. For those who have heard of ABLE accounts, they may find choosing plans from many states confusing and not understand how to establish one. Adults with disabilities and parents of children with disabilities have a lot of things to coordinate and this is another thing that involves a lot of research and work. Is it okay to establish one in another state? No one wants to do something wrong."[20]

> "There's a lot of confusion. You can't google 'Wisconsin ABLE.' It does not come up when developing a long-term care plan or [individualized educational plan]. Nobody knows what to tell people other than what's on the national website."[21]

While informational barriers exist even in states that have established ABLE programs, interviewees noted that the lack of a dedicated state ABLE program in Wisconsin multiplies those challenges for its residents:

> "The low numbers [in Wisconsin] likely have a lot to do with the wide-open decision-making process for choosing a program. It involves a lot of consumer work to go and figure out what other state's program might be the best option, and that effort is surely a major barrier. A second likelihood is that without a Wisconsin-specific option, the possibility is less often referenced. Too many people probably don't know that ABLE is even available to them, and Wisconsin not having its own program is a barrier to getting the word out to the people who could benefit."[22]

> "Many people aren't aware that they can open an account in another state. And because Wisconsin doesn't have an ABLE program, there is an overall lack of awareness of the benefits of them and how to start one."[23]

• ***Additional fees imposed on Wisconsinites who open accounts through out-of-state ABLE programs.*** Some ABLE programs in other states charge higher fees for out-of-state participants. For example, the annual fee for out-of-state participants in Minnesota's ABLE program is $5 higher than the fee for in-state residents; out-of-state residents utilizing Ohio's

[20] Interview with Nancy Gapinski of People First Wisconsin.
[21] Interview with Beth Swedeen of the Wisconsin Board for People with Developmental Disabilities.
[22] Interview with Joanne Juhnke of Disability Rights Wisconsin.
[23] Interview with Dan Krohn of TMG.

ABLE program pay higher asset-based fees than in-state residents (0.45 percent to 0.59 percent for out-of-state residents, depending on the investment options selected, versus 0.19 percent to 0.33 percent for in-state residents).

While these additional fees for out-of-state residents are not so substantial that they outweigh the broader benefits of opening an ABLE account, they do represent an additional penalty borne by Wisconsin ABLE participants that is not required of ABLE-eligible residents in the 46 other states that have established ABLE programs.

III. Overview of Options for Establishing an ABLE Program for Wisconsin Residents

• ***How state ABLE programs are structured and staffed.*** While fees and investment options vary among state ABLE programs, the structure of those programs is generally the same. A state agency contracts with a third-party financial institution to manage the ABLE program, which includes opening accounts, providing investment options, processing contributions and withdrawals, meeting recordkeeping and reporting requirements, and providing online access and other services. The third-party financial institution in this relationship is commonly referred to as the "program manager."

The state agency administers the contract with the program manager, oversees the program manager's performance, addresses any complaints, promotes the program to potential participants, coordinates with other state agencies and boards, and serves as an ABLE information hub for members of the public. The number of public employees devoted primarily to ABLE program administration and outreach varies by state, ranging from three full-time staff members to one half-time staff member. When identifying critical factors for an ABLE program's success, out-of-state agencies repeatedly emphasized the importance of having at least one full-time public staff position dedicated to ongoing program oversight and outreach.

ABLE programs also typically engage a third-party investment consultant to provide independent monitoring and analysis of the investments offered to participants.

• ***The challenge of achieving sufficient scale for ABLE programs.*** In a general sense, the structure outlined above mirrors the structure of state college savings programs established under section 529 of the Internal Revenue Code. The two programs differ substantially in their scale, however. As of 2021, there were roughly $1 billion in assets under management in all ABLE programs across the country combined.[24] By comparison, there are roughly $6.7 billion in participant assets under management in Wisconsin's college savings program alone.

• ***The prevalence of partnerships among states with ABLE programs.*** To achieve greater scale—and thereby reduce administrative fees charged to participants or the need for public subsidization—most state ABLE programs have chosen to join collaborations of other states that utilize a shared third-party program manager and plan structure.

There are presently three main collaborations of state ABLE programs: the National ABLE Alliance (consisting of 18 states and the District of Columbia, led by the state of Illinois), the STABLE Account Partnership (13 states, led by Ohio), and the ABLE Collaboration (five states, led by Oregon). Ten states have their own independent ABLE plans, but only four of them (California, Massachusetts, Nebraska, and Virginia) offer plans that are open to residents of other states.

The chart on the following page provides a breakdown of these collaborations and independent plans.

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[24] ISS MARKET INTELLIGENCE REPORT, *supra* note 19.

Table III.A: ABLE Program Structures by State[25]

	Collaborative Structures			Independent Plans
	National ABLE Alliance	STABLE Account Partnership	ABLE Collaboration	
46 States and DC	Alaska Arkansas Colorado Connecticut Delaware D.C. Illinois Indiana Iowa Kansas Michigan Minnesota Mississippi Montana Nevada New Jersey North Carolina Pennsylvania Rhode Island	Arizona Georgia Kentucky Missouri New Hampshire New Mexico Ohio Oklahoma South Carolina Utah Vermont West Virginia Wyoming	Alabama Hawaii Maryland Oregon Washington	California Florida Louisiana Maine Massachusetts Nebraska New York Tennessee Texas Virginia

[25] This table is borrowed from AKF Consulting's *Market Report: ABLE America 2021* (Mar. 2022), *available at* https://akfconsulting.com/wp-content/uploads/ABLE-Market-Report-2021.pdf.

IV. ABLE Program Option 1: the Independent Plan Approach

• ***Overview.*** To establish an independent ABLE plan, a state agency contracts directly with a third-party financial institution to manage the program. To obtain insights into the advantages and disadvantages of this approach, the Office of Financial Capability interviewed representatives from two states that administer independent ABLE plans (California and Nebraska), as well as representatives from some states that considered—but ultimately decided against—implementing that approach for their ABLE programs.

The following table lists the states with independent ABLE plans in order of their total assets under management. Note has Virginia offers two ABLE plans, one offered directly to the public (ABLENow) and another offered only through financial advisors (ABLEAmerica). The table below combines the data for those two plans.

Table IV.A: Independent ABLE Plans by State and Assets Under Management

Data as of Q4 2021[26]

	# of Accounts	Assets	Average Account Size
Virginia (combined)	13,660	$104,491,334	$7,649
Massachusetts	6,532	$84,141,464	$12,881
California	7,098	$70,498,030	$9,932
Florida	7,368	$56,901,110	$7,723
Tennessee	2,942	$38,011,024	$12,920
Nebraska	2,993	$26,056,215	$8,706
New York	1,980	$20,660,837	$10,435
Texas	1,792	$13,033,682	$7,273
Louisiana	798	$3,940,044	$4,937
Maine	85	$346,292	$4,074
	45,248	$418,080,031	$8,653

Advantages of the Independent Plan Approach

• ***Greater flexibility and control over program design.*** By proceeding independently, a state has the autonomy to craft an ABLE plan that is tailored to the needs of its residents. While the practical considerations and market forces associated with independent plans significantly curtail the universe of potential program options (more on that in the "Disadvantages" section below), the state would have ultimate control over the program's size, shape, and direction.

This autonomy leads to some material variations among independent ABLE plans. The California, Massachusetts, Nebraska, and Virginia plans seek to achieve greater scale by marketing nationally and inviting participation by out-of-state residents, while other independent

[26] ISS MARKET INTELLIGENCE REPORT, *supra* note 19.

plans are subsidized and limited to in-state residents. Virginia offers two types of plans, one offered directly to the public and another offered through financial advisors. Maine's program is tailored for residents who primarily use ABLE accounts for day-to-day expenses rather than savings: it only allows participants to deposit ABLE contributions in a local checking account, without offering longer-term investment options.

• ***Direct control over program management.*** Program managers for independent state plans enter contracts directly with a single state, rather than a collaboration of states. In theory, this gives the contracting state more control over the contractual relationship, with the ability to negotiate contract terms and demand changes to the manager's performance without first seeking the coordination or consent of other states. In practice, however, this benefit is likely offset by the additional leverage program managers have over independent plans, as explained in more detail below.

Disadvantages of the Independent Plan Approach

• ***Challenges in attracting a viable program manager.*** As outlined earlier in this report, ABLE program managers are financial institutions responsible for opening accounts, providing investment options, processing contributions and withdrawals, meeting recordkeeping and reporting requirements, and providing online access and other services. They typically recoup the costs of providing these services through program manager fees charged to program participants, often calculated as a percentage of assets under management.

While this contractual model functions well for programs with substantial assets under management and investors with long time horizons, such as college savings programs, it creates challenges for ABLE programs. A limited number of people are eligible to open ABLE accounts, which caps the potential size of any individual state's program, and ABLE accounts can be used for both long-term savings and everyday expenses, which increases a program manager's recordkeeping costs while reducing the average size of accounts. Without the ability to scale up the program sufficiently to cover the program manager's expenses, a state trying to establish an independent ABLE plan from scratch may struggle to attract a viable program manager.

Interviews with representatives from agencies in other states confirm that ABLE programs with limited scale have had to make sacrifices to attract program managers in recent years. Some found it necessary to offer subsidies of up to $1 million and other incentives to attract qualified institutions. Maine took an alternative approach, reducing program management expenses by limiting the scope of its ABLE plan to checking accounts through a local bank (and leaving those who seek to use their ABLE accounts for long-term savings to utilize out-of-state programs instead).

• ***The need for up-front public investment.*** A state attempting to start an independent ABLE plan from the ground up faces significant costs of entry. Whereas a state with an existing ABLE program may be able to cover some or all of a program manager's costs through asset-based fees paid by participants, a new ABLE program starts with no assets and generates no asset-based fees. The program manager's costs would need to be covered by a different source of funding, likely in the form of a direct subsidy from the state, unless and until the program grows large enough to recoup those costs through asset-based fees.

Subsidization would also be needed to help achieve that growth. An independent ABLE plan would need to create marketing materials and online functionality from scratch, rather than repurposing printed and online materials already in use (as would be the case if the state joined an existing collaboration).

• ***Independent plans are often more costly for participants.*** For many of the same reasons, independent ABLE plans tend to charge participants higher fees than collaborative plans. The following table provides the range of asset-based fees on investment portfolios[27] for the four independent ABLE plans that are open to out-of-state participants, as compared to the fees for the two groups of collaborative plans (the ABLE Collaboration and the National ABLE Alliance) that are currently accepting new state members:

Table IV.B: Participant Fees for Established Independent Plans, Compared to Collaborative Structures

	Total annual asset-based fee	Annualized maintenance fees	Combined annual fees on a $10,000 account
ABLE Collaboration	0.33% to 0.38%	$35	$68 to $73
Virginia (ind.) (direct plan)	0.36% to 0.39%	$39	$75 to $78
National ABLE Alliance	0.32% to 0.37%	$45	$77 to $82
Massachusetts (ind.)	0.70% to 0.88%	$0	$70 to $88
California (ind.)	0.51% to 0.52%	$37	$88 to $89
Nebraska (ind.)	0.44% to 0.45%	$45	$89 to $90

Note that the four independent plans shown in this table are marketed nationally, and each is an established plan with more than $25 million in assets. Participant fees would likely need to be even higher to offset the costs of a new independent plan that has not yet achieved the same scale as the plans in Virginia, Massachusetts, California, and Nebraska.

[27] The table does not reflect asset-based fees for federally insured investments, such as savings, checking, or money-market account options. Asset-based fees for these investments are typically lower than the fees for portfolios that assume investment risk.

V. ABLE Program Option 2: the Collaborative Approach

• ***Overview.*** Thirty-six of the 46 states with ABLE programs do not offer independent plans. Instead, they belong to one of three state ABLE collaborations, each of which is served by a single program manager. By combining multiple state plans' participants under a single program manager with a common set of materials, recordkeeping systems, and online functions, collaborations enable states to overcome the challenges of "scaling up" their ABLE programs.

As illustrated in the table below, the assets held by each of the three state ABLE collaborations exceed those of even the largest independent ABLE plans:

Table V.A: Assets of State Collaborations, as Compared to the Largest Independent Plans

	# of States	# of Accounts	Assets	Average Account Size
National ABLE Alliance	18	28,194	$268,335,330	$8,672
STABLE Partnership	13	26,671	$242,434,548	$9,090
ABLE Collaboration	5	12,018	$115,618,220	$7,440
Virginia (combined)	1	13,660	$104,491,334	$7,649
Massachusetts	1	6,532	$84,141,464	$12,881
California	1	7,098	$70,498,030	$9,932
Florida	1	7,368	$56,901,110	$7,723
Tennessee	1	2,942	$38,011,024	$12,920
Nebraska	1	2,993	$26,056,215	$8,706
New York	1	1,980	$20,660,837	$10,435
Texas	1	1,792	$13,033,682	$7,273

To obtain insights into the advantages and disadvantages of the collaborative approach, the Office of Financial Capability interviewed representatives from the lead states of the each of the three collaborations (Illinois, Ohio, and Oregon), as well as two states that joined the National ABLE Alliance (Michigan and Pennsylvania) and two states that joined the ABLE Collaboration (Alabama and Maryland). The STABLE Partnership is not currently accepting new member states, and therefore this report does not evaluate it as an option for Wisconsin.

Advantages of the Collaborative Approach

• ***Collaborations already have qualified program managers in place, and they provide services at no cost to the state.*** There are no entrance fees or other costs to the state to join the National ABLE Alliance or the ABLE Collaboration. Each program is large enough that the asset-based and account maintenance fees charged to participants are sufficient to fully compensate the shared program manager for its services, and thus no fees are paid from participating states to the program manager or to the collaboration. Each program has an experienced and well-regarded manager already in place,[28] and those managers can incorporate new member states and begin opening accounts for new state ABLE programs in a matter of months—all at no charge to the state.

• ***Lower fees for ABLE plan participants.*** Though participants in each collaboration must pay asset-based and maintenance fees to cover the program manager's services, the greater scale of these programs tends to result in lower fees for participants than even the largest independent plans. See Table IV.B above.

Each collaboration also gives states the option to impose a state-specific fee on its participants to help defray the state's administrative costs (namely marketing costs and payroll expenses for relevant state agency staff) in promoting and overseeing the program. While this report does not recommend imposing a state-specific fee on participants while an ABLE program remains in its early stages of growth,[29] this option may warrant further consideration once the state program has matured.

• ***Access to ABLE program expertise.*** This state has no experience administering an ABLE program or addressing the various kinds of participant questions and issues that may arise, but the other members of ABLE collaborations do. The collaborative structure enables each member state to benefit from the others' experience and expertise, ultimately reducing risk and improving program management.

In addition, both the National ABLE Alliance and the ABLE Collaboration retain third-party consultants with relevant expertise in the management of investment plans to review the performance of investments and recommend adjustments to the program manager's investment lineups where warranted. The consultants are compensated from participant fees, and member states are entitled to receive their periodic reports at no charge to the state.

• ***No long-term commitments required.*** Neither the National ABLE Alliance nor the ABLE Collaboration requires long-term commitments of its members. The standard agreements for each are terminable by the participating state program on short notice (120 days for the National ABLE Alliance, 30 days for the ABLE Collaboration). Moreover, the assets and accounts attributable to each participating state program are held in state-specific trusts controlled by that state.

Taken together, these provisions allow a participating state program to exit a collaboration at any time and choose a different path—whether joining a different collaboration or forming an independent plan—without surrendering control over the state ABLE accounts opened while it was a member of the collaboration. In this way, collaborative structures provide

[28] The National ABLE Alliance currently utilizes Ascensus as its program manager, while the ABLE Collaboration utilizes Sumday (an affiliate of BNY Mellon).
[29] There are two reasons for this recommendation. First, because state-specific fees are generally charged as a percentage of participants' assets under management—and because a new program begins without account holders or assets—a new program would generate limited state-specific fees in its early years. Second, additional fees would reduce the competitiveness of a new program relative to other state programs from the outset, potentially stunting its growth.

a vehicle for new state ABLE plans to mature, without reducing a state's ability to explore alternative structures once its plan achieves greater scale.

Disadvantages of the Collaborative Approach

• ***Somewhat less autonomy than independent plans.*** By proceeding independently, the state has full discretion to select a program manager and design an ABLE plan—at least if it is willing to pay the additional up-front costs associated with developing an ABLE program outside of a collaborative structure.

In a collaboration, the state's autonomy is somewhat more limited. Though a participating state is free to leave the collaboration at any time, it cannot unilaterally select the program manager for the collaboration or amend the scope of its services. The investment lineups available to participants are generally standardized, as well, though the makeup of these lineups (consisting primarily of Vanguard index funds and other low-fee mutual funds) is broadly acceptable to most investors. The ABLE Collaboration also offers states the option to create their own investment portfolios.

VI. Recommendations

Recommendation 1: The legislature should create the position of ABLE Officer within the Department of Financial Institutions' Office of Financial Capability.

As noted in Part I of this report, Wisconsin is presently the only state in the country with neither a dedicated ABLE program nor a public agency or other body tasked with helping residents open and utilize ABLE accounts. Financial advisors and non-profit groups that assist individuals with disabilities identify the lack of public resources as the primary cause for Wisconsinites' under-utilization of these "life-changing" benefits, and comparative data from Wisconsin's neighbors—all of which have dedicated ABLE programs—supports the conclusion that public education and outreach is a critical driver of participation. (See Part II of this report.)

To fill this gap, the Department of Financial Institutions recommends that the legislature create and fund the permanent position of ABLE Officer within the Department's Office of Financial Capability.[30] This position would provide financial education resources for ABLE-eligible individuals and their families, promote and facilitate their participation in ABLE, coordinate with public agencies and non-profit organizations serving individuals with disabilities in Wisconsin, and work with counterparts in other states and the federal government to help ensure that Wisconsinites can take full advantage of the valuable financial tools and benefits available to others. In addition, if the Legislature authorizes the Department to establish an ABLE program (as recommended below), the ABLE Officer would be responsible for the management, development, and oversight of the program.

As noted in Part III of this report, other states utilize between one-half and three full-time employees to carry out these functions. While more staff would certainly enable more extensive outreach, at this time—and assuming the state joins a collaboration as recommended below—the Department believes that these functions can be carried out by one qualified, full-time ABLE Officer.

The Department estimates the initial cost of funding this position at **$174,960 annually**, consisting of the following: $80,000 in salary and $29,960 in fringe benefits for the ABLE Officer; $20,000 for travel, training, and conferences; and $45,000 for marketing and printed materials, an expense that may decrease over time as Wisconsinites' familiarity and experience with ABLE accounts grows.

Recommendation 2: The legislature should authorize the Department of Financial Institutions to establish a qualified ABLE program.

In 2015, shortly after Congress enacted the ABLE Act, the Wisconsin Legislature passed (and Governor Walker signed) legislation authorizing the state to establish a qualified ABLE

[30] Placing this position within the Office of Financial Capability is appropriate because the Office also manages the state's college savings program under section 529 of the Internal Revenue Code. There are some structural similarities between the programs, and other states typically assign the same office jurisdiction over section 529 college savings and section 529A ABLE programs.

program in Wisconsin.[31] The Legislature repealed the legislation later that session, however, on the ground that Wisconsin residents had the option to join ABLE plans established by other states—and thus there was no need for the state to bear the substantial risk and expense of creating its own proprietary plan.[32] Indeed, a fiscal estimate at the time put the cost of developing and administering an independent ABLE plan at $300,000 to $350,000 per year,[33] which was likely an underestimate for the reasons stated in Part IV above.

But the ABLE marketplace has changed substantially since that time. States no longer need to incur the risks and costs of developing independent, proprietary ABLE plans from scratch. They can join one of the now-existing collaborations of states, each with an established program manager, consultants, and investment portfolios already in place, at no cost to the participating state. By granting state ABLE plans the benefit of immediate scale and shared expertise, collaborative structures remove the main barriers to establishing, growing, and managing state ABLE plans. Moreover, as noted in Part II above, a state plan ensures that Wisconsin residents can participate in an ABLE program overseen by a state agency that is politically accountable to them, while avoiding out-of-state charges imposed by some other states' plans.

In light of these factors and the significant changes in the ABLE marketplace over the past seven years, the Department recommends that the Legislature re-authorize the state to establish a qualified state ABLE program. The Legislature in recent sessions proposed bipartisan bills that would accomplish that objective, including 2019 Assembly Bill 912/Senate Bill 776 and 2021 Assembly Bill 496/Senate Bill 486, and Governor Evers included the same language in his administration's most recent budget bill.[34] Each of these proposals authorizes the Department of Financial Institutions to "implement and administer an ABLE program, either directly or by entering into a formal agreement with another state, or with an entity representing an alliance of states, to establish an ABLE program or otherwise administer ABLE program services for the residents of this state." This authorizing language would enable the Department to establish an ABLE program through an existing collaboration, while retaining the leverage and flexibility to join a different collaboration or pursue another structure if conditions change such that a new approach becomes more advantageous for the state and program participants.

Recommendation 3: The Department of Financial Institutions should establish an ABLE program through an existing ABLE collaboration.

For all the reasons outlined in Parts IV and V of this report, the Department recommends establishing an ABLE plan through an existing ABLE collaboration, rather than attempting to develop an independent plan. The overwhelming majority of states with ABLE programs belong to one of the three collaborative groups, which provide members with expertise and the benefits of scale without the growing pains of developing it themselves. They also provide participants with the added assurance of working with experienced program managers with proven track

[31] 2015 Wis. Act 55, § 316e.
[32] 2015 Wis. Act 312; Legislative Council Hearing Materials for 2015 A.B. 731 (Jan. 27, 2016).
[33] 2015 A.B. 731, Fiscal Estimate of the Department of Administration (Jan. 25, 2016).
[34] 2021 A.B. 68/S.B. 111, § 2451.

records in administering ABLE accounts. None of the regulators or consultants that the Office interviewed on this subject recommended a different approach for Wisconsin.

Wisconsin can obtain these benefits by joining either the National ABLE Alliance or the ABLE Collaboration, the two collaborations that are accepting new member states. Both are suitable vehicles for a state to efficiently establish and grow a new ABLE program, and participation in either will enable the state to offer the benefits of ABLE accounts to eligible residents within months.

* * *

For all the reasons outlined in this report, the Department recommends that the Legislature (1) create the position of ABLE Officer within the Department of Financial Institutions' Office of Financial Capability, with annual program funding of $174,960; and (2) authorize the Department of Financial Institutions to establish a state ABLE program by re-introducing and enacting 2019 Assembly Bill 912/Senate Bill 776 or 2021 Assembly Bill 496/Senate Bill 486. If the Legislature takes these recommended actions, the Department would establish a state ABLE program by joining the ABLE Collaboration or the National ABLE Alliance, with the decision depending on which collaboration offers more favorable terms to new states and participants at the time.

We welcome any questions regarding the findings and recommendations in this report, and we look forward to working with the Legislature on these important issues.