Overview

This bill creates the Achieving a Better Life Experience (ABLE) Act to establish accounts for certain persons with disabilities similar to 529 college savings accounts.

In December 2014, Congress passed and President Obama signed the federal ABLE Act, which allows people with disabilities and their families to create a tax-exempt savings account that can be used for qualified expenses including 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, funeral and burial expenses, and other expenses.

The federal ABLE Act excludes the resources in these accounts from being counted toward asset tests for a variety of federal public assistance programs including SSI, SNAP, and Medicaid. So, eligible individuals and families are able to establish ABLE savings accounts that will not affect their eligibility for these programs.

The total annual contributions by all participating individuals, including family and friends, is $14,000. This amount will be adjusted annually for inflation. Under current tax law, $14,000 is the maximum amount that individuals can make as a gift to someone else and not pay taxes (gift tax exclusion). The total limit over time that could be made to an ABLE account is subject to the individual state and their limit for education-related 529 savings accounts.
Each state is responsible for establishing and operating an ABLE program.

**Section 1**

ABLE accounts, account owners, and beneficiaries. Amends § 13.461, by adding subd. 32. Specifies how data on ABLE accounts, account owners, and beneficiaries is treated.

**Section 2**

Plan established. Creates § 256Q.01. Establishes a savings plan known at the Minnesota ABLE plan. States the purposes of this act are to encourage and assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities to maintain health, independence, and quality of life, and to provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, other specified benefits.

**Section 3**

Citation. Creates § 256Q.02. Allows this chapter to be cited as the “Minnesota Achieving a Better Life Experience Act.”

**Section 4**

Definitions. Creates § 256Q.03.

  **Subd. 1. Scope.** States for the purposes of this section, the terms defined in this section have the meanings given them.

  **Subd. 2. ABLE account.** Defines “ABLE account.”

  **Subd. 3. ABLE account plan and plan.** Defines “ABLE account plan” and “plan.”

  **Subd. 4. Account.** Defines “account.”

  **Subd. 5. Account owner.** Defines “account owner.”

  **Subd. 6. Annual contribution limit.** Defines “annual contribution limit.”

  **Subd. 7. Application.** Defines “application.”

  **Subd. 8. Board.** Defines “board.”

  **Subd. 9. Commissioner.** Defines “commissioner.”

  **Subd. 10. Contribution.** Defines “contribution.”

  **Subd. 11. Department.** Defines “department.”

  **Subd. 12. Designated beneficiary and beneficiary.** Defines “designated beneficiary” and “beneficiary.”

  **Subd. 13. Earnings.** Defines “earnings.”

  **Subd. 14. Eligible individual.** Defines “eligible individual.”

  **Subd. 15. Executive director.** Defines “executive director.”

  **Subd. 16. Internal Revenue Code.** Defines “Internal Revenue Code.”

  **Subd. 17. Investment in the account.** Defines “investment in the account.”

  **Subd. 18. Member of the family.** Defines “member of the family.”
Section

Subd. 19. Participation agreement. Defines “participation agreement.”

Subd. 20. Person. Defines “person.”


Subd. 22. Qualified disability expense. Defines “qualified disability expense.”

Subd. 23. Qualified distribution. Defines “qualified distribution.”


Subd. 25. Total account balance. Defines “total account balance.”

ABLE plan requirements. Creates § 256Q.04.

Subd. 1. State residency requirement. Requires the designated beneficiary of any ABLE account to be a resident of Minnesota, or the resident of a state that has entered into a contract with Minnesota to provide its residents access to the Minnesota ABLE plan.

Subd. 2. Single account requirement. Limits ABLE accounts to one account per beneficiary, except as permitted under certain IRS regulations.

Subd. 3. Accounts-type plan. Requires the plan to be operated as an accounts-type plan. Requires a separate account to be maintained for each beneficiary for whom contributions are made.

Subd. 4. Contribution and account requirements. Subjects contributions to an ABLE account to certain IRS requirements prohibiting noncash contributions and contributions in excess of the annual contribution limit. Limits the total account balance to the maximum account balance limit under 529 college savings plans.

Subd. 5. Limited investment direction. Prohibits designated beneficiaries from directing the investment of assets in their accounts more than twice in any calendar year.

Subd. 6. Security for loans. Prohibits an interest in an account from being used as security for a loan.

ABLE Plan Administration. Creates § 256Q.05.

Subd. 1. Plan to comply with federal law. Requires the commissioner to ensure that the plan meets the federal requirements for an ABLE account. Allows the commissioner to request a private letter ruling or rulings from the IRS or Secretary of Health and Human Services. Requires the commissioner to take any necessary steps to ensure that the plan qualifies under relevant provisions of federal law.

Subd. 2. Plan rules and procedures. Requires the commissioner to establish the rules, terms, and conditions for the plan, subject to the requirements of this chapter and IRS regulations.

Subd. 3. Consultation with other state agencies. Requires the commissioner of human services to consult with the executive director of the State Board of Investment
Section

and the commissioner of the Office of Higher Education in designing and establishing the plan’s requirements and in negotiating or entering into contracts with third parties. Requires the commissioner and executive director to establish an annual fee, equal to a percentage of the average daily net assets of the plan, to be imposed on account owners to recover the costs of administration, record keeping, and investment management.

Subd. 4. Marketing. Requires the commissioner to promote awareness of the availability and advantages of the ABLE account plan as a way to assist individuals and families in saving private funds for the purpose of supporting individuals with disabilities. Prohibits the cost of these promotional efforts from being funded with fees imposed on account owners.

Subd. 5. Administration. Requires the commissioner to administer the plan, including accepting and processing applications, verifying state residency, verifying eligibility, maintaining account records, making payments, and undertaking any other necessary tasks to administer the plan. Requires DHS to adopt rules for the purposes of implementing and administering the plan. Allows DHS to contract with one or more third parties to carry out some or all of these administrative duties, including providing incentives and marketing the plan. Allows DHS and the board to jointly contract with third-party providers, if DHS and the board determine that it is desirable to contract with the same entity or entities for administration and investment management.

Subd. 6. Authority to impose fees. Allows the commissioner to impose annual fees on account owners to recover the costs of administration. Requires the commissioner to keep the fees as low as possible, consistent with efficient administration, so that the returns on savings invested in the plan are as high as possible.

Subd. 7. Federally mandated reporting. Paragraph (a) requires the commissioner to submit a notice to the Secretary of the Treasury upon the establishment of each ABLE account as required in federal law. Specifies the information that must be included in the notice. Paragraph (b) requires the commissioner to electronically submit to the Commissioner of Social Security monthly statements on relevant distributions and account balances from all ABLE accounts as required under federal law.

Subd. 8. Data. Paragraph (a) makes data on ABLE accounts and designated beneficiaries of ABLE accounts private data on individuals or nonpublic data under the Government Data Practices statute. Paragraph (b) allows the commissioner to share or disseminate data classified as private or nonpublic under certain circumstances.

Plan accounts. Creates § 256Q.06.

Subd. 1. Contributions to an account. Allows any person to make contributions to an ABLE account on behalf of a beneficiary. States that contributions to an account
Section

made by persons other than the account holder become the property of the account owner. Specifies that a person does not acquire an interest in an ABLE account by making contributions to an account. Requires contributions to be made in cash, by check, or other commercially acceptable means, as permitted by the IRS and approved by the plan administrator in cooperation with the commissioner and the board.

Subd. 2. Contribution and account limitations. Subjects contributions to an ABLE account to certain IRS requirements. Prohibits the maximum balance of an ABLE account from exceeding the limit imposed under the Minnesota 529 college savings plan. Requires any portion of a contribution to an account to be rejected if the contribution exceeds the annual contribution limit or would cause the total account balance to exceed the maximum account balance limit.

Subd. 3. Authority of account owner. Specifies the authority the account owner has over the account.

Subd. 4. Effect of plan changes on participation agreement. States that amendments to this statute automatically amend the participation agreement and any amendments to the operating procedures and policies of the plan automatically amend the participation agreement after adoption by DHS or the board.

Subd. 5. Special account to hold plan assets in trust. States that all assets of the plan, including contributions to accounts, are held in trust for the exclusive benefit of account owners. Requires assets to be held in a separate account in the state treasury to be known as the Minnesota ABLE plan account or in accounts with the third-party provider. States that plan assets are not subject to claims by creditors of the state, are not part of the general fund, and are not subject to appropriation by the state. Requires payments from the Minnesota ABLE plan account to be made under this chapter.

8 Investment of ABLE Accounts. Creates § 256Q.07.

Subd. 1. State Board of Investment to invest. Requires the State Board of Investment to invest the money deposited in accounts in the plan.

Subd. 2. Permitted investments. Allows the board to invest the accounts in any permitted investment under certain retirement plans, with certain exceptions.

Subd. 3. Contracting authority. Allows the board to contract with one or more third parties for investment management, record keeping, or other services in connection with investing the accounts. Allows the board and DHS to jointly contract with third-party providers, if the commissioner and board determine that it is desirable to contract with the same entity or entities for administration and investment management.

Subd. 4. Fees. Allows the board to impose annual fees on account owners to recover the cost of investment management and related tasks for the plan. Requires the board to use its best efforts to keep these fees as low as possible, consistent with high-quality investment management, so that the returns on savings invested in the plan will be as high as possible.
Section

9  Account Distributions. Creates § 256Q.08.

Subd. 1. Qualified distribution methods. Specifies how qualified distributions may be made.

Subd. 2. Distributions upon death of a beneficiary. Requires the amount remaining in the beneficiary’s account to be distributed pursuant to IRS regulations upon the death of a beneficiary.

Subd. 3. Nonqualified distribution. Allows an account owner to request a nonqualified distribution from an account at any time. Specifies the manner in which nonqualified distributions must be withdrawn. Subjects the earnings portion of a nonqualified distribution to a federal additional tax pursuant to IRS regulations. Defines “earnings portion” for purposes of this subdivision.