

Brianne K Nadeau
Councilmember Brianne Nadeau

Jack Evans
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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend, on an emergency basis, Chapter 48 of Title 47 of the District of Columbia Official Code to establish a qualified ABLE Program, to be known as the ABLE Program Trust, pursuant to the requirements of the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 to exempt from income taxation the earnings on deposits made to an ABLE Program Trust by an eligible individual to assist the individual with certain expenses related to the individual's blindness or disability.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "ABLE Program Trust Establishment Emergency Amendment Act of 2015".

Sec. 2. Chapter 48 of Title 47 of the District of Columbia Official Code is amended as follows:

(a) The table of contents is amended by adding a new section 47-4811.01 to read as follows:

"47-4811.01. ABLE Program Trust."

(b) Section 47-4801 is amended as follows:

(1) Paragraph (1) is designated as paragraph (1A).

(2) New paragraphs (1B), (1C), (1D), and (1E) are added to read as follows:

1 “(1B) “ABLE Account” means an account established by an eligible individual,
2 owned by the eligible individual, and maintained under a qualified ABLE program, as defined in
3 the Federal ABLE Act.

4 “(1C) “ABLE Account Savings Agreement” means the terms, conditions, and
5 provisions considered necessary or appropriate by the Chief Financial Officer, as set forth in
6 regulations issued pursuant to this section, governing the deposits to and withdrawals from an
7 ABLE Account.

8 “(1D) “ABLE Program Trust” or “Trust” means the trust established in § 47-
9 4811.01.

10 “(1E) “Chief Financial Officer” or “CFO” means the Chief Financial Officer of
11 the District of Columbia, established by section 424(a) of the District of Columbia Home Rule
12 Act, approved April 17, 1995 (109 Stat. 142; D.C. Official Code § 1-204.24a(a)).”.

13 (3) A new paragraph (2A) is added to read as follows:

14 “(2A) “Designated Beneficiary” means an eligible individual who has established
15 an ABLE account and is the owner of the account, as defined in the Federal ABLE Act.

16 (4) New paragraphs (5A) and (5B) are added to read as follows:

17 “(5A) “Eligible Individual” means an individual who during the taxable year is
18 entitled to benefits based on blindness or disability under title II or XVI of the Social Security
19 Act [42 USCS §§ 401 et seq. or §§ 1381 et seq.], and such blindness or disability occurred before
20 the date on which the individual attained age 26, or a disability certification with respect to such
21 individual is filed with the CFO for such taxable year, as defined in subsection (e)(1) of the
22 Federal ABLE Act.

1 “(5B) " Federal ABLÉ Act” means the Stephen Beck, Jr., Achieving a Better Life
2 Experience Act of 2014, approved December 19, 2014 (128 Stat. 4056; 26 U.S.C. 529A).

3 (5) A new paragraph (7A) is added to read as follows:

4 “(7A) “Qualified Disability Expense” means expenses related to the eligible
5 individual's blindness or disability that are made for the benefit of an eligible individual who is
6 the designated beneficiary, including expenses for:

7 “(A) Education;

8 “(B) Housing;

9 “(C) Transportation;

10 “(D) Employment training and support;

11 “(E) Assistive technology and personal support services;

12 “(F) Health, prevention and wellness;

13 “(G) Financial management and administrative services;

14 “(H) Legal fees;

15 “(I) Expenses for oversight and monitoring;

16 “(J) Funeral and burial expenses; and

17 “(K) Other expenses that are consistent with the purposes of this section

18 and the Federal ABLÉ Act and approved by the CFO.

19 (c) A new section 47-4811.01 is added to read as follows:

20 “§ 47-4811.01. ABLÉ Program Trust.

21 “(a)(1) In accordance with the Federal ABLÉ Act, there is established a qualified ABLÉ
22 Program, to be known as the ABLÉ Program Trust, that shall be established as a trust, which

1 shall authorize an eligible individual to create an ABLÉ Account to enable the eligible individual
2 to benefit from the tax incentives provided under the Federal ABLÉ Act.

3 “(2)(A) The Chief Financial Officer, or the CFO’s designee, shall serve as the
4 trustee of the Trust.

5 “(B) The Trust shall receive and hold all payments and contributions received
6 from any public or private source, and the earnings on those payments and contributions,
7 including:

8 “(i) Gifts;

9 “(ii) Bequests;

10 “(iii) Endowments;

11 “(iv) Federal and local grants; and

12 “(v) Any other funds intended for the Trust.

13 “(C) All deposits, and earnings on those deposits, held in the Trust shall
14 constitute assets of the Trust and shall not be commingled with or revert to the General Fund or
15 any special, emergency, or temporary fund of the District of Columbia at the end of any fiscal
16 year or at any other time.

17 “(D) The Trust shall continue in existence as long as it holds any payments,
18 contributions, or other funds or has any obligations and until its existence is terminated by law.

19 “(b) An eligible individual who seeks to save money for the payment of qualified
20 disability expenses of a designated beneficiary may establish an ABLÉ account and shall enter
21 into an ABLÉ Account Savings Agreement with the Trust.

1 “(c) The Chief Financial Officer shall take the action necessary to implement the
2 qualified ABLÉ Program, promulgate regulations, and enter into ABLÉ Account Savings
3 agreements.”.

4 Sec. 3. Fiscal impact statement.

5 The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact
6 statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved
7 December 24, 1973 (87 Stat. 813; D.C. Official Code§ 1-206.02(c)(3)).

8 Sec. 4. Effective date.

9 This act shall take effect following approval by the Mayor (or in the event of veto by the
10 Mayor, action by the Council to override the veto), and shall remain in effect for no longer than
11 90 days, as provided for emergency acts of the Council of the District of Columbia in section
12 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788;
13 D.C. Official Code §1-204.12(a)).



OFFICE OF THE GENERAL COUNSEL

Council of the District of Columbia
1350 Pennsylvania Avenue NW, Suite 4
Washington, DC 20004
(202) 724-8026

MEMORANDUM

TO: Councilmember Jack Evans

FROM: Ellen A. Efros, General Counsel *EAE*

DATE: September 22, 2015

RE: Legal sufficiency determination for ABLE Program
Trust Establishment Emergency Amendment Act of
2015.

The measure is legally and technically sufficient for Council consideration.

This emergency legislation¹ establishes a program that permits individuals with blindness or a disability to open tax-exempt saving accounts in accordance with the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014. ("federal ABLE Act").² which provides that states establish ABLE programs and authorize such accounts to assist eligible individuals with certain expenses related to their blindness or disability and enable them to benefit from the tax incentives provided under the federal Able Act.

I am available if you have any questions.

¹ Permanent measure is Bill 21-252.

² Approved December 19, 2014 (128 Stat. 4056; 26 U.S.C. 529A).

**COUNCIL OF THE DISTRICT OF COLUMBIA
Office of the Budget Director**

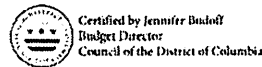


Jennifer Budoff
Budget Director

FISCAL IMPACT STATEMENT

TO: The Honorable Phil Mendelson, Chairman, Council of the District of Columbia

FROM: Jennifer Budoff, Budget Director



Certified by Jennifer Budoff
Budget Director
Council of the District of Columbia

DATE: September 21, 2015

SHORT TITLE: The ABLE Program Trust Establishment Emergency Amendment Act of 2015

TYPE: Emergency

REQUESTING OFFICE: Councilmember Jack Evans

Conclusion

This legislation will not have an adverse impact on the District's budget and financial plan because administrative costs to the District associated with implementing the legislation can be absorbed and potential revenue loss is expected to be de minimis.

Background

In 2014, the federal Stephen Beck Jr., Achieving a Better Life Experience Act of 2014 ("ABLE Act") was enacted and mandated that states provide people with disabilities and their families the opportunity to create tax-exempt savings accounts. This bill would establish the Achieving a Better Life Experience (ABLE) program (529A), in the District of Columbia to be administered with the 529 College Savings Plan program that already exists. The ABLE program would allow District residents with a disability to open a tax-exempt savings account of up to \$100,000.

The Office of Finance and Treasury would offer the ABLE accounts through the outside vendor that offers the District's 529 College Savings program. The vendor would cover its management costs, such as custodial, marketing, and accounting costs through fees assessed on account deposits. Until the number of accounts and total assets are sufficient to cover vendor costs, it is likely the District would need to pay administrative fees to the vendor. The fees would be approximately \$200,000 annually.

Individuals cannot deduct their contributions to ABLE accounts from their annual incomes. For this reason, the tax implications of the ABLE accounts proposed by this bill are extremely limited. However, capital gains realized by the accounts would be exempted from taxes. While this is a potential revenue loss, it is expected to be de minimis.

Analysis of Impact on Revenue

The legislation will have a minor impact on revenue that can be absorbed.

Analysis of Impact on Spending

The legislation will have a minor impact on spending that can be absorbed.