

HEARING ON ABLE LEGISLATION

Before the
Committee on Finance and Revenue
Council of the District of Columbia

The Honorable Jack Evans, Committee Chairman

**September 17, 2015, 10:00 a.m.
John A. Wilson Building, Room 500
1350 Pennsylvania Avenue, NW
Washington, DC 20004**



Testimony of
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Good morning, Councilman Evans. I am John Henry, Associate Treasurer for Asset Management in the Office of Finance and Treasury. I am pleased to testify on the proposed Achieving a Better Life Experience “ABLE” legislation.

By way of background, in December of 2014, President Obama signed the ABLE act into law. The law amends Section 529 of the Internal Revenue Code of 1986 to include Section 529A. An ABLE account is common to a “first party” special needs trust in that it is a vehicle where an individual with a disability, his or her family or friends can contribute funds for special or supplemental needs without affecting the beneficiary’s means-tested government benefits.

The Federal law authorizes the creation of ABLE accounts commonly referred to as 529-ABLE accounts where individual states will be responsible for creating their own programs on a voluntary basis. One of the biggest benefits is that the 529-ABLE account will allow individuals to accumulate up to \$100,000 of assets that are exempt from the \$2,000 limit on personal assets that determine an individual’s eligibility for Medicaid and Supplemental Security Income (SSI) benefits. After the balance in a 529-ABLE account exceeds \$100,000 the beneficiary is no longer eligible to receive the exempt status benefit. If a beneficiary receives Medicaid benefits and dies with assets remaining in their 529-ABLE account the remaining assets must be distributed to any state Medicaid plan that provided the beneficiary with benefits in an amount equal to the total medical assistance paid for the beneficiary after the 529-ABLE account was established.

To be eligible for a 529-ABLE account, a beneficiary must have become blind or disabled before the age of 26 and must be eligible for SSI benefits or be certified as blind or disabled by a doctor. Unlike traditional 529 plans, a beneficiary can only

use a plan that is offered by the state in which the beneficiary resides unless the state contracts with another state to manage the program. In addition, each beneficiary is limited to only one account. The total contributions to an account cannot exceed \$14,000 per year, the current gift exclusion amount. Although contributions to these accounts must be made with after-tax dollars, the earnings accumulate tax-free and an account holder can take tax-free distributions for a beneficiary's qualified disability expenses. If the distributions are used on other purposes, the earnings are taxable and subject to a 10 percent penalty. Qualified disability expenses will include expenses for health care, housing, education, transportation, employment training, and assistive technology as well as other expenses outlined in the IRS proposed regulations. The comment period on the proposed regulations ends September 21, 2015. The College Savings Network has consolidated comments from states and responded to the proposed regulations with a number of recommendations. We have provided a copy of the recommendations for your information.

The purpose of the District of Columbia ABLE Program Trust Establishment Act of 2015 is to provide the authority to the District of Columbia via the Office of the Chief Financial Officer (OCFO) to establish a 529-ABLE program. Once the law is enacted, the OCFO will evaluate its options whether issuing an RFP for services or amend the current contract with the administrator of the 529 college savings program. The basic services required will be for the provider to operate the administration, marketing and investment management of the program.

If we need to issue an RFP, we anticipate a total time of 9 to 12 months from issuing the RFP to selecting a vendor and implementing the program. Once the administrator is selected they will be contracted to establish the website, develop

account open/close forms, marketing information, draft operating procedures and execute other pertinent processes necessary to run the program. We anticipate the program will operate similarly to the current 529 College Savings program.

We believe the ABLE program will be a valuable program for District residents and the OCFO will be in position to provide this valuable service to residents upon enactment of the ABLE Program Trust Establishment Act of 2015.

This concludes my remarks. I would be pleased to answer any questions you may have.