

NATIONAL DISABILITY INSTITUTE'S

Washington Insider



National Disability Institute's Washington Insider is a monthly newsletter highlighting key federal policy news that impacts the financial futures and economic empowerment of all people with disabilities. The Washington Insider tracks legislative and policy initiatives gaining momentum on Capitol Hill, specifically in the areas of taxation, asset building and economic development.

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Congress Passes ABLE Act: Major Victory for Persons with Disabilities and Their Families

On December 16th, the U.S. Senate overwhelmingly passed the Achieving a Better Life Experience (ABLE) Act of 2014 by a vote of 76 to 16. First introduced in 2006, and subsequent sessions of Congress, the ABLE Act will allow people with disabilities (with an age of onset up to 26 years old) and their families the opportunity to create a tax-exempt savings account that can be used for maintaining health, independence and quality of life.

“Today marks a new day in our country’s understanding and support of people with disabilities and their families,” [Michael Morris, National Disability Institute](#) (NDI) Executive Director, said. “A major victory for the disability community, ABLE, for the very first time in our country’s policy on disability, recognizes that there are added costs to living with a disability.” He continued. “For far too long, federally imposed asset limits to remain eligible for critical public benefits have served as a roadblock toward greater financial independence for the millions of individuals living with a disability.”

NDI has long championed the ABLE Act as a critical strategy to providing a pathway to a better economic future for all people with disabilities. As the nation's first nonprofit dedicated to improving the financial health and future of all people with disabilities, the organization has extensively documented and called attention to the daily reality and extra expenses associated with living with a disability, and the challenges of navigating the complex web of government rules to maintain public benefits eligibility.

Prior to Senate consideration, and preceding passage by the U.S. House of Representatives (404 to 17), the ABLE Act was subject to protracted, bicameral negotiations that resulted in limiting access to ABLE accounts to individuals with a disability up to 26 years old. This amended version of the ABLE Act was necessary to quell budgetary concerns with the original version of the bill.

“While the bill is far from perfect, as is the vast majority of legislation, the ABLE Act lays the groundwork for greater financial independence and quality of life experience among people and families living with disabilities,” said Morris. “Although we are disappointed individuals over the age of 26 will be unable to access ABLE accounts at this time, please rest assured we will continue to work closely with Congress and the Obama Administration to identify, develop and open more economic pathways to all people with disabilities – including expanded access to ABLE accounts.” Concluded Morris, “In the meantime, however, we commend Congress for taking an important first step and call on President Obama to sign the ABLE Act into law without delay.”

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ABLE Accounts: 10 Things You Must Know

In recognition of the historic piece of legislation, the ABLE Act of 2014, NDI has created a list of 10 items about ABLE accounts that individuals with disabilities and their families should know. They are:

1. **What is an ABLE account?**

ABLE Accounts, which are tax-advantaged savings accounts for individuals with disabilities and their families, will be created as a result of the passage of the ABLE Act of 2014. Income earned by the accounts would not be taxed. Contributions to the account made by any person (the account beneficiary, family and friends) would not be tax deductible.

2. **Why the need for ABLE accounts?**

Millions of individuals with disabilities and their families depend on a wide variety of public benefits for income, health care and food and housing assistance. Eligibility for these public benefits (SSI, SNAP, Medicaid) require meeting a means or resource test that limits eligibility to individuals to report more than \$2,000 in cash savings, retirement funds and other items of significant value. To remain eligible for these public benefits, an individual must remain poor. For the first time in public policy, the ABLE Act recognizes the extra and significant costs of living with a disability. These include costs, related to raising a child with significant disabilities or a working age adult with disabilities, for accessible housing and transportation, personal

assistance services, assistive technology and health care not covered by insurance, Medicaid or Medicare.

For the first time, eligible individuals and families will be allowed to establish ABLE savings accounts that will not affect their eligibility for SSI, Medicaid and other public benefits. The legislation explains further that an ABLE account will, with private savings, “secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, Medicaid, SSI, the beneficiary’s employment and other sources.”

3. Am I eligible for an ABLE account?

Passage of legislation is a result of a series of compromises. The final version of the ABLE Act limits eligibility to individuals with significant disabilities with an age of onset of disability before turning 26 years of age. If you meet this criteria and are also receiving benefits already under SSI and/or SSDI, you are automatically eligible to establish an ABLE account. If you are not a recipient of SSI and/or SSDI, but still meet the age of onset disability requirement, you would still be eligible to open an ABLE account if you meet SSI criteria regarding significant functional limitations. The regulations to be written in 2015 by the Treasury Department will have to explain further the standard of proof and required medical documentation. You need not be under the age of 26 to be eligible for an ABLE account. You could be over the age of 26, but must have the documentation of disability that indicates age of onset before the age of 26.

4. Are there limits to how much money can be put in an ABLE account?

The total annual contributions by all participating individuals, including family and friends, is \$14,000. The 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 will be subject to the individual state and their limit for education-related 529 savings accounts. Many states have set this limit at more than \$300,000 per plan. However, for individuals with disabilities who are recipients of SSI and Medicaid, the ABLE Act sets some further limitations. The first \$100,000 in ABLE accounts would be exempted from the SSI \$2,000 individual resource limit. If and when an ABLE account exceeds \$100,000, the beneficiary would be suspended from eligibility for SSI benefits and no longer receive that monthly income. However, the beneficiary would continue to be eligible for Medicaid. States would be able to recoup some expenses through Medicaid upon the death of the beneficiary.

5. Which expenses are allowed by ABLE accounts?

A “qualified disability expense” means any expense related to the designated beneficiary as a result of living a life with disabilities. These include education, housing, transportation, employment training and support, assistive technology, personal support services, health care expenses, financial management and administrative services and other expenses which will be further described in regulations to be developed in 2015 by the Treasury Department.

6. Where do I go to open an ABLÉ account?

Each state is responsible for establishing and operating an ABLÉ program. If a state should choose not to establish its own program, the state may choose to contract with another state to still offer its eligible individuals with significant disabilities the opportunity to open an ABLÉ account.

After President Obama signs the ABLÉ Act, the Secretary of the Department of Treasury will begin to develop regulations that will guide the states in terms of a) the information required to be presented to open an ABLÉ account; b) the documentation needed to meet the requirements of ABLÉ account eligibility for a person with a disability; and c) the definition details of “qualified disability expenses” and the documentation that will be needed for tax reporting.

No accounts can be established until the regulations are finalized following a public comment period on proposed rules for program implementation. States will begin to accept applications to establish ABLÉ accounts before the end of 2015.

7. Can I have more than one ABLÉ account?

No. The ABLÉ Act limits the opportunity to one ABLÉ account per eligible individual.

8. Will states offer options to invest the savings contributed to an ABLÉ account?

Like state 529 college savings plans, states are likely to offer qualified individuals and families multiple options to establish ABLÉ accounts with varied investment strategies. Each individual and family will need to project possible future needs and costs over time, and to assess their risk tolerance for possible future investment strategies to grow their savings. Account contributors or designated beneficiaries are limited, by the ABLÉ Act, to change the way their money is invested in the account up to two times per year.

9. How many eligible individuals and families might benefit from establishing an ABLÉ account?

There are 58 million individuals with disabilities in the United States. To meet the definition of significant disability required by the legislation to be eligible to establish an ABLÉ account, the conservative number would be approximately 10 percent of the larger group, or 5.8 million individuals and families. Further analysis is needed to understand more fully the size of this market and more about their needs for new savings and investment products.

10. How is an ABLÉ account different than a special needs or pooled trust?

An ABLÉ Account will provide more choice and control for the beneficiary and family. Cost of establishing an account will be considerably less than either a Special Needs Trust (SNT) or Pooled Income Trust. With an ABLÉ account, account owners will have the ability to control their funds and, if circumstances change, still have other options available to them. Determining which option is the most appropriate will depend upon individual circumstances. For many

families, the ABLE account will be a significant and viable option in addition to, rather than instead of, a Trust program.

For more information on the ABLE Act, please read our [ABLE Act press release](#) or visit our [ABLE Act webpage](#). You can also watch our special "[Ten Things You Need to Know About ABLE Accounts](#)," YouTube video.

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An ABLE Congress: A Holiday Gift Early for the Disability Community

Not since the passage of the Americans with Disabilities Act (ADA) in 1990 has Congress moved forward with a change in public policy as important and unprecedented as ABLE. Additionally, no piece of legislation before the 113th Congress had more cosponsors – 380 House Members and 74 Senators – or received more bipartisan support across both the Democratic and Republican parties.

Following Congressional approval, NDI Executive Director Michael Morris penned a special ABLE Act blog. To read the post, [please visit NDI's blog](#).

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