

# Implementing the ABLE Act in Arizona



**What?** The Achieving a Better Life Experience (ABLE) Act (H.R. 647), a federal bi-partisan bill passed on December 19, 2014, amends the federal tax code to allow Section 529 tax-exempt savings accounts for disability-related expenses. This allows earnings to grow tax-deferred and withdrawn tax-free when used for qualified disability expenses. Account contributions are limited to \$14,000 per year, and would not count against AHCCCS eligibility, SSI, and Social Security Disability Insurance (SSDI).

Total account assets under \$100,000 are excluded from social security disability determination, but this varies by state. Some states are opting to cap assets at more than \$300,000. These accounts must be owned by the person with a disability with an age of onset of a significant disability before 26.

It is important to note that upon the death of the account holder, the state of residence receives reimbursement of the balance of an account if the state paid for the account owner's medical costs incurred after the account was opened.

**Why?** 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, but these individuals are ineligible for benefits if they have more than \$2,000 cash savings and retirement funds. However, the ABLE Act recognizes the significant costs of disability, including raising a child with significant disabilities, and the costs of accessible housing and transportation, personal assistance services, and assistive technology. Furthermore, many caregivers worry about providing for the future of their children with disabilities.

There was a perceived inequity among bi-partisan Congress members regarding children with and without disabilities that made the enactment of this new tax benefit possible. Many children without disabilities benefit from tax-favored savings accounts that facilitate saving for higher education and promoting brighter futures.

But parents of children with significant disabilities do not similarly benefit, although future expenses of adults with significant disabilities are high. As stated by one of the legislation's co-sponsors: "No longer would individuals with disabilities have to stand aside and watch others use IRS-sanctioned tools to lay the groundwork for a brighter future."

In 2015, [the Arizona Developmental Disabilities Planning Council asked people](#) with disabilities if they could set up a tax-free savings account (i.e. called the ABLE account) with their own money they could continue to add and take money out at any time (tax-free), would they do it? – 76% replied yes. Throughout the state, the Act could potentially benefit more than 80,000 individuals with developmental disabilities and their families.

**Arizona Actions?** According to nonprofit organization [The Arc](#), 48 states have passed ABLE legislation. Arizona legislators, led by Representative John Allen, passed a state version of the ABLE Act, allotting \$240,000 to set up the program's infrastructure. On May 12, 2016, [Governor Doug Ducey signed HB2388](#) into law, which directs the Arizona Department of Economic Security (DES) to administer the program alongside a designated financial institution.

Arizona ABLE accounts are not expected to be fully operational until at least mid-2017. However, Arizonans can open ABLE accounts in other states, such as Ohio, Tennessee and Nebraska, which have opened the first [nationwide ABLE programs](#). Other states are soon to follow. Arizona's ABLE Act Oversight Committee will make recommendations to DES to finalize the rules of the ABLE program by July 1, 2017.

Applications for the Oversight Committee are open. Anyone who wishes to apply can visit the Governor's website at <http://bc.azgovernor.gov/bc/form/boards-and-commissions-application>

Appointments will occur after August 5, 2016. The DES Director and the State Treasurer will serve on the committee, along with representatives from the following groups:

1. One member who has knowledge, skill and experience in investment, asset management or financial-related experience
2. One member who is a licensed attorney in this state, who has knowledge, skill and experience in special needs trusts and disability issues
3. One member who is an eligible individual
4. One member who is a family member of an eligible individual
5. One representative of a community-based organization that supports or advocates for individuals with disabilities

**For more information on the ABLE Act, contact Larry Clausen, Executive Director, Arizona Developmental Disabilities Planning Council at (602) 542-8977 or [lclausen@azdes.gov](mailto:lclausen@azdes.gov)**