

SUMMARY ANALYSIS OF AMENDED BILL

Author: Irwin, et al. Analyst: Scott McFarlane Bill Number: AB 449
 Related Bills: See Prior Analysis Telephone: 845-6075 Amended Date: July 1, 2015
 Attorney: Bruce Langston Sponsor _____

SUBJECT:	The California Achieving a Better Life Experience (ABLE) Act
-----------------	--

SUMMARY

This bill would establish a California ABLE program and would modify California income tax law to conform to the federal income tax treatment of ABLE accounts.

This analysis only addresses the provisions of the bill that would impact the department's programs and operations.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The July 1, 2015, amendments removed the sunset and repeal date language, and added language that would create the ABLE Act Board and provide specific funding, appropriation, and administrative rules for that board.

The July 1, 2015, amendments also added a coauthor and made minor technical changes.

As a result of the amendments, the implementation and policy concerns have been resolved. Except for the "Effective/Operative Date," "This Bill," "Implementation Considerations," "Fiscal Impact," "Economic Impact," and "Policy Concerns" sections, the remainder of the department's analysis of this bill as amended May 5, 2015, still applies.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2016, and would be operative for taxable years beginning on or after January 1, 2016.

THIS BILL

This bill would establish a California Qualified ABLE Program,¹ and would conform to the federal income tax treatment of ABLE accounts.

¹ The California Qualified ABLE Program and fund would be established under the California Welfare and Institutions Code, and would be administered by the California State Treasurer, who would be responsible to ensure that the program is administered in compliance with the federal ABLE Act.

Board Position:	Legislative Director	Date
_____ S _____ NA _____ X _____ NP	Gail Hall	7/10/15
_____ SA _____ O _____ NAR		
_____ N _____ OUA _____		

The California Qualified ABLE Program would allow a person to make contributions for a taxable year, for the benefit of an individual who is an eligible individual (i.e., a designated beneficiary) for that taxable year, to an ABLE account that is established for the purpose of meeting the qualified disability expenses of that designated beneficiary. The designated beneficiary would be required to be a resident of this state, and would be allowed to have only one ABLE account.

Moneys in, contributions to, and qualified distributions from an ABLE account not in excess of \$100,000 would not count toward determining eligibility for a state or local means-tested program.

Similar to federal law, contributions would be required to be made in cash and would not be deductible for state income tax purposes, and the additional federal contribution, rollover, and distribution rules would apply—meaning the portion of any ABLE distribution that is includible in income would be subject to an additional 10-percent tax for state purposes (in addition to the 10-percent additional tax imposed for federal purposes), unless the distribution is made after the death of the designated beneficiary.

A copy of the report required to be filed with the Secretary of the Treasury under IRC section 529A(d) would be required to be filed with the Franchise Tax Board at the same time and in the same manner as specified by the Secretary.

This bill would not conform to the federal six-percent excise tax on contributions to an ABLE account that exceed the annual limit.

IMPLEMENTATION CONSIDERATIONS

This bill would not significantly impact the department's programs or operations.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB 449 As Amended July 1, 2015 Assumed Enactment After September 30, 2015		
2015-16	2016-17	2017-18
- \$100,000	- \$400,000	- \$900,000

This estimate does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

This estimate is based on a proration of the Joint Committee on Taxation (JCT) estimate for the ABLE Act of 2014. The JCT's estimated losses, converted to calendar years, are \$5.5 million, \$13.5 million, \$30.3 million, and \$57.3 million in calendar years 2016, 2017, 2018, and 2019, respectively. Estimated losses are attributable to projected earnings in ABLE accounts that would be exempt from taxation and qualified distributions that would be excluded from gross income.

The JCT's estimate is reduced by approximately 87.5 percent based on Social Security Disability Insurance data to reflect California's estimated 12.5 percent share. The results are then reduced an additional 70 percent to reflect the difference between federal and state tax rates.

The calendar-year estimates are converted to fiscal years and then rounded to arrive at the amounts shown in the table above. The JCT estimates that revenue losses are projected to continue to increase, and prorating the last year included in the JCT estimate would result in an estimated loss of approximately \$10 million in fiscal year 2025-26.

LEGISLATIVE STAFF CONTACT

Scott McFarlane
Legislative Analyst, FTB
(916) 845-6075
scott.mcfarlane@ftb.ca.gov

Jame Eiserman
Revenue Manager, FTB
(916) 845-7484
jame.eiserman@ftb.ca.gov

Gail Hall
Legislative Director, FTB
(916) 845-6333
gail.hall@ftb.ca.gov