

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1239

Amendment Number: H1 (Engrossed 2/10/15)

Bill Subtitle: TO CREATE THE ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM AND TO PROVIDE NEW AVENUES FOR FINANCIAL SELF-SUFFICIENCY FOR ARKANSANS WITH DISABILITIES.

Basic Change : Sponsor: Rep. J. Mayberry, Broadaway, Brown, Cozart, Della Rosa, K. Hendren, House, Johnson, Ladyman, Leding, Lundstrum, McElroy, McNair, Miller, Rushing, Sabin, Shepherd, Tucker, Vaught Senator J. Hutchinson

HB1239 will enact the Achieving Better Life Experience Program (ABLE) in Arkansas. The bill will create a program of tax favored savings accounts for Arkansas residents who are blind or disabled and diagnosed before age 26. Beginning with tax year 2014, contributions to a disability savings account established under the ABLE Program may be deducted from a taxpayer's adjusted gross income (AGI). Deductible contributions up to \$5,000 will be allowed per taxpayer and contributions must be made to an ABLE account whose designated beneficiary is a resident of Arkansas.

Contributions that have been deducted from a taxpayer's AGI are subject to recapture if the taxpayer: 1) takes a subsequent nonqualified distribution from the account; or 2) rolls the account over to a tax-deferred savings program established by another state or institution. Interest, dividends, and capital gains from funds invested are exempt from Arkansas income tax. Qualified distributions include expenses for medical, education, transportation and housing. Qualified distributions are also exempt from Arkansas income tax. Nonqualified withdrawals are taxable to the party, account owner, or designated beneficiary who actually makes the withdrawal. Earnings are subject to Arkansas income tax if an account owner receives a refund of contributions because of either: 1) death or disability of designated beneficiary; or 2) a scholarship, allowance, educational assistance, or a payment for educational expenses received by the designated beneficiary.

Revenue Impact :

FY 2016 - \$36,000 reduction to General Revenue

FY 2017 - \$90,000 reduction to General Revenue

Taxpayer Impact :

Taxpayers must provide certain documents to establish savings accounts. Taxpayers will then be allowed to contribute to tax free savings accounts for individuals with disabilities and deduct these contributions up to \$5,000 from their adjusted gross income. Beneficiaries of the savings accounts may receive tax exempt distributions for qualified expenses.

Resources Required :

None

Time Required :

None

Procedural Changes :

The trustees must establish rules and procedures for the program and the State Treasurer shall provide office space, staff, and materials for the program committee. Computer software plus tax forms and instructions must be updated. Employees will need to be educated as well as the tax community.

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Legal Analysis :

This amendment to House Bill 1239 would add a definition for the term "contracting state". A contracting state is defined as being a state without a qualified "Achieving a Better Life Experience Program" (hereinafter "ABLE" or "ABLE Program") that has entered into a contract with the State of Arkansas to provide its residents access to a qualified ABLE Program. Of most importance, this amendment would allow the extension of the ABLE Program to non-Arkansas residents if the other state enters into a contract with this State for that purpose.

This amendment also specifies that no one associated with the ABLE Program shall be deemed to be a guarantor of a positive return on any contribution to an ABLE Account.

Otherwise, this amendment makes technical revisions based upon the additional provisions discussed above and minor clarification provisions. The amendment would not materially change the Act's effects on the duties, requirements, or personnel of the Arkansas Department of Finance and Administration.