ABLE Act Bill for Tax-Free Disability Savings Advances, But Dispute Over Oversight Casts Shadow on Implementation

Bill 36-0035 would allow disabled Virgin Islanders to open tax-free savings accounts without losing public benefits. While the measure advanced with broad support, lawmakers and agencies clashed over which government entity should oversee the program.

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The Committee on Health, Hospitals, and Human Services met on Tuesday to consider legislation that would allow individuals with disabilities to open tax-advantaged savings accounts without jeopardizing their eligibility for Medicaid or Supplemental Security Income (SSI).

Bill 36-0035, sponsored by Senators Novelle Francis Jr. and Marise James, seeks to amend Title 15 of the Virgin Islands Code to permit the territory to implement the Stephen J. Beck, Jr. Achieving Better Life Experiences (ABLE) Act, a federal mandate signed into law by President Barack Obama in 2014.

“In so doing, he set in motion the pathway through which individuals with disabilities can open a Tax Free Savings Account, which allows individuals and their families to save far and secure their future,” said Senator Francis. Prior to the ABLE Act, individuals could only save up to $2,000 before losing access to public benefits. “The Virgin Islands needs to catch up,” he urged, noting that the ABLE Act is already in effect in 46 states, plus the District of Columbia, Puerto Rico, and Guam.

“We want people with disabilities to be able to live full lives, have jobs, and be able to participate in our community, yet we penalize them if they have too much money,” Francis added.

The bill received widespread support from stakeholders. Troy Schuster, State Director for AARP Virgin Islands, testified in favor of the bill. “We urge this committee to act in favor of advancing the financial security for disabled Virgin Islanders and their families by ultimately passing this legislation,” he said, highlighting its accountability safeguards and alignment with national policies.

Christopher Finch shared a real-world example through the story of Jenique Prince Marasco, a Virgin Islander with a disability currently living in Virginia who benefits from the ABLE Act. “She uses the provisions of the ABLE Act to enable the family and friends who know and love her to be able to contribute to her expenses without her public benefits being affected,” Finch explained.

Despite broad support, debate grew heated over who would administer the program in the territory. Angus Drigo of the Disability Rights Center of the Virgin Islands pointed out that many people with disabilities face challenges visiting banks in person. Under the bill’s current language, program administration would fall to the Department of Finance.

That proposal sparked concern from several stakeholders. Julian Henley, Territorial ADA Coordinator, praised the bill as “transformational” but expressed reservations. “While I recognize the Department of Finance’s central role in managing government funds, I would respectfully express my reservations regarding it serving as a primary administrator,” he said, citing potential limitations in capacity.

The Department of Finance appeared to share that concern. Brenda Carty, Director of Treasury, told lawmakers, “Although the Department of Finance supports this important legislation, we respectfully note that we do not currently possess the internal capacity or technical expertise to administer such a specialized initiative.”

Carty suggested that the program would be better managed by the Office of the Lieutenant Governor, specifically its Division of Banking and Insurance, which DOF believes is better equipped for such responsibilities.

Her comments drew sharp reactions from some lawmakers. “I'm just a little bit taken aback by no one wanting to take the responsibility of fully implementing the ABLE Act if it's passed,” said Senator Kurt Vialet. He noted that the Division of Banking and Insurance had previously stated that it “should not be the custodian” due to its regulatory role. “We're going to have to put the onus back on the Department of Finance to come up with a plan,” he said.

Committee Chair Senator Ray Fonseca echoed the frustration. “You have millions of dollars that you're managing for the government from time to time,” he told Carty. “It behooves me as to why you don't have this internal capacity for specialized initiatives. This is probably not going to be more than 300 persons.”

Carty pushed back, explaining, “There's also staffing capabilities and having the expertise to do so. This would need a specialized program manager for which we at DOF simply do not have.” She added that DOF would need to build the infrastructure from the ground up and could not estimate how many additional staff might be required.

“In 27 states where the ABLE Act is implemented, the program is managed by the Treasury Department,” she acknowledged, but insisted that the Virgin Islands would need to conduct further research before proceeding.

The responses from DOF drew visible frustration from the bill’s sponsors. “We're not asking the Department of Finance to become a bank,” said Senator Francis. “I want to make sure that we're not focusing on the barriers by which we're able to meet the needs of our disabled population.”

Senator Marise James emphasized that the Virgin Islands is not starting from scratch. “All these states have rolled out these programs, which is good for us, because then all we need to do is compare, analyze and decide what we want to do,” she said, suggesting that the government could partner with a local bank to manage the funds.

Senator Hubert Frederick, however, supported DOF’s hesitance. “That's what banks do. That's what credit unions do. I don't know of the Department of Finance doing anything like that. You guys aren't set up for that,” said Frederick, who previously worked in Finance in the private sector and owns an insurance company. “Right now we're going around in a circle.”

The debate also exposed broader concerns about trust in the government, the willingness of local financial institutions to participate, and whether DOF could hire and train appropriate staff. Carty’s early departure from the legislative chambers—without seeking permission from the committee chair—fueled additional tension.

Ultimately, the bill passed out of committee with a favorable recommendation, although Senator Alma Francis Heyliger abstained. “I get very leery of things that our government touches,” she said, a comment that prompted strong pushback from Senators Francis and James.

“In order for anything to happen, the law has to pass…The other fine-tuning that we're speaking about will come after,” said Senator Clifford Joseph, urging the bill’s advancement.

Bill 36-0035 will now move to the Committee on Rules and Judiciary for further consideration.