



General Assembly

Substitute Bill No. 6738

January Session, 2015



**AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE
PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE
CONCERNING THE FEDERAL ACHIEVING A BETTER LIFE
EXPERIENCE ACT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2015*) As used in this section
2 and sections 2 to 8, inclusive, of this act:

3 (1) "Achieving a better life experience account" or "ABLE account"
4 means an account established and maintained pursuant to sections 2 to
5 8, inclusive, of this act for the purposes of paying the qualified
6 disability expenses related to the blindness or disability of a
7 designated beneficiary.

8 (2) "Contracting state" means a state without a qualified ABLE
9 program that has entered into a contract with the State Treasurer or
10 other officer of this state to provide residents of the contracting state
11 with access to qualified ABLE programs.

12 (3) "Deposit" means a deposit, payment, contribution, gift or other
13 transfer of funds.

14 (4) "Depositor" means any person making a deposit into an ABLE
15 account pursuant to a participation agreement.

16 (5) "Designated beneficiary" means any individual state resident or
17 resident of a contracting state originally designated in the participation
18 agreement who is an eligible individual and is the owner of an ABLE
19 account.

20 (6) "Disability certification" means, with respect to an individual, a
21 certification to the satisfaction of the Secretary of the Treasury of the
22 United States by the individual or the parent or guardian of the
23 individual that (A) certifies that (i) the individual has a medically
24 determinable physical or mental impairment, that results in marked
25 and severe functional limitations, and that can be expected to result in
26 death or that has lasted or can be expected to last for a continuous
27 period of not less than twelve months, or is blind within the meaning
28 of Section 1614(a)(2) of the Social Security Act, and (ii) such
29 impairment or blindness occurred before the date on which the
30 individual attained the age of twenty-six, and (B) includes a copy of
31 the individual's diagnosis relating to the individual's relevant
32 impairment or blindness that is signed by a physician who is licensed
33 pursuant to chapter 370 of the general statutes.

34 (7) "Eligible individual" means an individual who is entitled to
35 benefits during a taxable year based on blindness or disability under
36 Title II or XVI of the Social Security Act, and such blindness or
37 disability occurred before the date on which the individual attained
38 the age of twenty-six, provided a disability certification with respect to
39 such individual is filed with the State Treasurer for such taxable year.

40 (8) "Federal ABLÉ Act" means the federal ABLÉ Act of 2014, P.L.
41 113-295, as amended from time to time.

42 (9) "Participation agreement" means an agreement between the trust
43 established pursuant to section 2 of this act and depositors that
44 provides for participation in an ABLÉ account for the benefit of a
45 designated beneficiary.

46 (10) "Qualified disability expenses" means any expenses related to

47 an eligible individual's blindness or disability that are made for the
48 benefit of an eligible individual who is the designated beneficiary,
49 including the following expenses: Education, housing, transportation,
50 employment training and support, assistive technology and personal
51 support services, health, prevention and wellness, financial
52 management and administrative services, legal fees, expenses for
53 oversight and monitoring, funeral and burial expenses, and other
54 expenses that are approved by the Secretary of the Treasury of the
55 United States under regulations adopted by the Secretary pursuant to
56 the federal ABLÉ Act.

57 Sec. 2. (NEW) (*Effective October 1, 2015*) (a) (1) The State Treasurer
58 shall establish a qualified ABLÉ program pursuant to the federal ABLÉ
59 Act and sections 1 to 8, inclusive, of this act. Under the program: (A)
60 The State Treasurer shall administer individual ABLÉ accounts to
61 encourage and assist eligible individuals and their families in saving
62 private funds to provide support for eligible individuals, and (B) a
63 person may make contributions to an individual ABLÉ account to meet
64 the qualified disability expenses of the designated beneficiary of the
65 account.

66 (2) For the purposes of the program, there is established within the
67 Office of the State Treasurer the Connecticut Achieving A Better Life
68 Experience Trust. The trust shall constitute an instrumentality of the
69 state and shall perform essential governmental functions, as provided
70 in sections 1 to 8, inclusive, of this act. The trust shall receive and hold
71 all payments and deposits intended for ABLÉ accounts as well as gifts,
72 bequests, endowments or federal, state or local grants and any other
73 funds from public or private sources and all earnings, until disbursed
74 in accordance with sections 1 to 8, inclusive, of this act.

75 (b) (1) The amounts on deposit in the trust shall not constitute
76 property of the state and the trust shall not be construed to be a
77 department, institution or agency of the state. Amounts on deposit in
78 the trust shall not be commingled with state funds and the state shall
79 have no claim to or against, or interest in, such amounts, except as

80 provided in subdivision (2) of this subsection. Any contract entered
81 into by, or any obligation of, the trust shall not constitute a debt or
82 obligation of the state and the state shall have no obligation to any
83 designated beneficiary or any other person on account of the trust and
84 all amounts obligated to be paid from the trust shall be limited to
85 amounts available for such obligation on deposit in the trust. The
86 amounts on deposit in the trust may only be disbursed in accordance
87 with the provisions of sections 1 to 8, inclusive, of this act.

88 (2) The trust shall continue in existence as long as it holds any
89 deposits or other funds or has any obligations and until its existence is
90 terminated by law, and upon termination of the trust, any unclaimed
91 assets of the trust shall return to the state. Property of the trust shall be
92 governed by section 3-61a of the general statutes.

93 (c) The State Treasurer shall be responsible for the receipt,
94 maintenance, administration, investment and disbursements of
95 amounts from the trust. The trust shall not receive deposits in any
96 form other than cash. No depositor or designated beneficiary may
97 direct the investment of any contributions or amounts held in the trust
98 other than in the specific fund options provided for by the trust and
99 shall not direct investments in such specific fund options more than
100 two times in any calendar year. No interest, or portion of any interest,
101 in the program shall be used as security for a loan.

102 (d) A person may make deposits to an ABLE account to meet the
103 qualified disability expenses of the designated beneficiary of the
104 account, provided the trust and deposits meet the other requirements
105 of this section, the federal ABLE Act and any regulations adopted
106 pursuant to the federal ABLE Act by the Secretary of the Treasury of
107 the United States.

108 (e) On or before December 31, 2016, and annually thereafter, the
109 State Treasurer shall submit (1) in accordance with the provisions of
110 subsection (a) of section 3-37 of the general statutes, a report to the
111 Governor on the operations of the trust, including the receipts,

112 disbursements, assets, investments and liabilities and administrative
113 costs of the trust for the prior fiscal year, and (2) in accordance with the
114 provisions of section 11-4a of the general statutes, a report on the trust
115 to the joint standing committees of the General Assembly having
116 cognizance of matters relating to finance and public health, and shall
117 make such report available to each depositor and designated
118 beneficiary. The report required under subdivision (2) of this
119 subsection shall include, but need not be limited to: (A) The number of
120 ABLE accounts; (B) the total amount of contributions to such accounts;
121 (C) the total amount and nature of distributions from such accounts;
122 and (D) a description of issues relating to the abuse of such accounts, if
123 any.

124 Sec. 3. (NEW) (*Effective October 1, 2015*) The State Treasurer, on
125 behalf of the trust and for purposes of the trust, may:

126 (1) Receive and invest moneys in the trust in any instruments,
127 obligations, securities or property in accordance with section 4 of this
128 act;

129 (2) Establish consistent terms for each participation agreement, bulk
130 deposit, coupon or installment payments, including, but not limited to,
131 (A) the method of payment into an ABLE account by payroll
132 deduction, transfer from bank accounts or otherwise, (B) the
133 termination, withdrawal or transfer of payments under an ABLE
134 account, including transfers to or from a qualified ABLE program
135 established by another state pursuant to the federal ABLE Act, (C)
136 penalties for distributions not used or made in accordance with the
137 federal ABLE Act, and (D) the amount of any charges or fees to be
138 assessed in connection with the administration of the trust;

139 (3) Enter into one or more contractual agreements, including
140 contracts for legal, actuarial, accounting, custodial, advisory,
141 management, administrative, advertising, marketing and consulting
142 services for the trust and pay for such services from the gains and
143 earnings of the trust;

144 (4) Procure insurance in connection with the trust's property, assets,
145 activities or deposits or contributions to the trust;

146 (5) Apply for, accept and expend gifts, grants or donations from
147 public or private sources to enable the Connecticut Achieving A Better
148 Life Experience Trust to carry out its objectives;

149 (6) Sue and be sued;

150 (7) Establish one or more funds within the trust and maintain
151 separate ABLE accounts for each designated beneficiary; and

152 (8) Take any other action necessary to carry out the purposes of
153 sections 1 to 8, inclusive, of this act and incidental to the duties
154 imposed on the State Treasurer pursuant to said sections.

155 Sec. 4. (NEW) (*Effective October 1, 2015*) Notwithstanding the
156 provisions of sections 3-13 to 3-13h, inclusive, of the general statutes,
157 the State Treasurer shall invest the amounts on deposit in the trust in a
158 manner reasonable and appropriate to achieve the objectives of the
159 trust, exercising the discretion and care of a prudent person in similar
160 circumstances with similar objectives. The State Treasurer shall give
161 due consideration to the rate of return, risk, term or maturity,
162 diversification of the total portfolio within the trust, liquidity,
163 projected disbursements and expenditures and the expected payments,
164 deposits, contributions and gifts to be received. The State Treasurer
165 shall not require the trust to invest directly in obligations of the state or
166 any political subdivision of the state or in any investment or other
167 fund administered by the State Treasurer. The assets of the trust shall
168 be continuously invested and reinvested in a manner consistent with
169 the objectives of the trust until disbursed for qualified disability
170 expenses, expended on expenses incurred by the operations of the
171 trust or refunded to the depositor or designated beneficiary on the
172 conditions provided in the participation agreement.

173 Sec. 5. (NEW) (*Effective October 1, 2015*) Participation in the trust and
174 the offering, sale and solicitation of opportunities to participate in the

175 trust are exempt from sections 36b-16 and 36b-22 of the general
176 statutes, provided the State Treasurer has obtained written advice of
177 counsel or written advice from the Securities Exchange Commission,
178 or both, that the trust and the offering, sale and solicitation of
179 opportunities to participate in the trust are not subject to federal
180 securities laws.

181 Sec. 6. (NEW) (*Effective October 1, 2015*) The property of the trust and
182 the earnings on the trust shall be exempt from taxation by the state and
183 political subdivisions of the state.

184 Sec. 7. (NEW) (*Effective October 1, 2015*) The state pledges to
185 depositors, designated beneficiaries and any party who enters into
186 contracts with the trust, pursuant to the provisions of sections 1 to 8,
187 inclusive, of this act, that the state will not limit or alter the rights
188 under said sections vested in the trust or contract with the trust until
189 such obligations are fully met and discharged and such contracts are
190 fully performed on the part of the trust, provided nothing in this
191 section shall preclude such limitation or alteration if adequate
192 provision is made by law for the protection of such depositors and
193 designated beneficiaries pursuant to the obligations of the trust or
194 parties who entered into such contracts with the trust. The trust, on
195 behalf of the state, may include a description of such pledge and
196 undertaking for the state in participation agreements and such other
197 obligations or contracts.

198 Sec. 8. (NEW) (*Effective October 1, 2015*) The State Treasurer shall
199 take any action necessary to ensure that the trust complies with all
200 applicable requirements of state and federal laws, rules and
201 regulations to the extent necessary for the trust to constitute a qualified
202 ABLE program and be exempt from taxation under the federal ABLE
203 Act, and any regulations adopted pursuant to the federal ABLE Act by
204 the Secretary of the Treasury of the United States.

205 Sec. 9. (NEW) (*Effective October 1, 2015*) (a) Notwithstanding any
206 provision of the general statutes, moneys invested in an individual

