

**Proposed Substitute
Bill No. 6738**

LCO No. 5142

**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, that is established and owned by an eligible
6 individual for the purposes of qualified disability expenses.

7 (2) "Designated administrator" means any corporation designated
8 by the Treasurer for the purpose of administering ABLE accounts.

9 (3) "Disability certification" means, with respect to an individual, a
10 certification by the individual or the parent or guardian of the
11 individual that satisfies the Secretary of the Treasury of the United
12 States that (A) the individual has a medically determinable physical or
13 mental impairment, that results in marked and severe functional
14 limitations, and that can be expected to result in death or that has
15 lasted or can be expected to last for a continuous period of not less
16 than twelve months, or is blind, within the meaning of Section
17 1614(a)(2) of the Social Security Act, and (B) such impairment or

18 blindness occurred before the date on which the individual attained
19 the age of twenty-six, and (C) a physician has signed a copy of the
20 individual's diagnosis relating to the individual's relevant impairment
21 or impairments or blindness.

22 (4) "Eligible individual" means an individual who is entitled to
23 benefits based on blindness or disability under Title II or XVI of the
24 Social Security Act, and such blindness or disability occurred before
25 the date on which the individual attained the age of twenty-six, and a
26 disability certification with respect to such individual is filed with the
27 State Treasurer.

28 (5) "Designated beneficiary" means any individual state resident or
29 resident of a contracting state originally designated in the participation
30 agreement, who is an eligible individual and is the owner of an ABLE
31 account.

32 (6) "Depositor" means any person making a deposit, payment,
33 contribution, gift or otherwise in an ABLE account pursuant to a
34 participation agreement.

35 (7) "Internal Revenue Code" means the Internal Revenue Code of
36 1986, or any subsequent corresponding internal revenue code of the
37 United States, as from time to time amended.

38 (8) "Participation agreement" means an agreement between the trust
39 and depositors for participation in an ABLE account for a designated
40 beneficiary.

41 (9) "Contracting state" means a state without a qualified ABLE
42 program that has entered into a contract with this state to provide
43 residents of the contracting state with access to qualified ABLE
44 programs.

45 (10) "Physician" means a physician licensed under chapter 370 of the
46 general statutes.

47 (11) "Qualified disability expenses" means any expenses related to

48 an eligible individual's blindness or disability that are made for the
49 benefit of an eligible individual who is the designated beneficiary,
50 including the following expenses: Education, housing, transportation,
51 employment training and support, assistive technology and personal
52 support services, health, prevention and wellness, financial
53 management and administrative services, legal fees, expenses for
54 oversight and monitoring, funeral and burial expenses, and other
55 expenses that are approved by the Secretary of the Treasury of the
56 United States under regulations and consistent with the purposes of
57 this section and sections 2 to 8, inclusive, of this act.

58 Sec. 2. (NEW) (*Effective October 1, 2015*) (a) There is established
59 within the Office of the State Treasurer the Achieving A Better Life
60 Experience Trust for the purposes of administering ABLÉ accounts to
61 encourage and assist eligible individuals and families in saving private
62 funds to provide support for individuals with disabilities. Under the
63 trust, a person may make contributions to one ABLÉ account to meet
64 the qualified disability expenses of the designated beneficiary of the
65 account. The trust shall constitute an instrumentality of the state and
66 shall perform essential governmental functions, as provided in sections
67 1 to 8, inclusive, of this act. The trust shall receive and hold all
68 payments and deposits or contributions intended for ABLÉ accounts as
69 well as gifts, bequests, endowments or federal, state or local grants and
70 any other funds from any public or private source and all earnings,
71 until disbursed in accordance with sections 1 to 8, inclusive, of this act.

72 (b) The amounts on deposit in the trust shall not constitute property
73 of the state and the trust shall not be construed to be a department,
74 institution or agency of the state. Amounts on deposit in the trust shall
75 not be commingled with state funds and the state shall have no claim
76 to or against, or interest in, such amounts. Any contract entered into
77 by, or any obligation of, the trust shall not constitute a debt or
78 obligation of the state and the state shall have no obligation to any
79 designated beneficiary or any other person on account of the trust and
80 all amounts obligated to be paid from the trust shall be limited to
81 amounts available for such obligation on deposit in the trust. The

82 amounts on deposit in the trust may only be disbursed in accordance
83 with the provisions of sections 1 to 8, inclusive, of this act. The trust
84 shall continue in existence as long as it holds any deposits or has any
85 obligations and until its existence is terminated by law, and upon
86 termination any unclaimed assets shall return to the state. Property of
87 the trust shall be governed by section 3-61a of the general statutes.

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

97 (d) A person may make contributions to an ABLE account to meet
98 the qualified disability expenses of the designated beneficiary of the
99 account, provided the trust and contributions meet the other
100 requirements of this section, the ABLE Act of 2014, P.L. 113-295, as
101 amended from time to time, and any regulations adopted thereunder
102 by the Secretary of the Treasury of the United States.

103 (e) On or before June 30, 2016, and annually thereafter, the Treasurer
104 shall submit (1) in accordance with the provisions of section 3-37 of the
105 general statutes, a report to the Governor on the operations of the
106 trust, including the receipts, disbursements, assets, investments and
107 liabilities and administrative costs of the trust for the prior fiscal year,
108 and (2) in accordance with the provisions of section 11-4a of the
109 general statutes, a report on the trust to the joint standing committee of
110 the General Assembly having cognizance of matters relating to public
111 health, and shall make such report available to each depositor and
112 designated beneficiary. The report described in subdivision (2) of this
113 subsection shall include, but not be limited to: (A) The number of
114 ABLE accounts, (B) the total amount of contributions to such accounts;

115 (C) the total amount and nature of distributions from such accounts;
116 and (D) a description of issues relating to the abuse of such accounts.

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

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

122 (2) Establish consistent terms for each participation agreement, bulk
123 deposit, coupon or installment payments, including, but not limited to,
124 (A) the method of payment into an ABLE account by payroll
125 deduction, transfer from bank accounts or otherwise, (B) the
126 termination, withdrawal or transfer of payments under an ABLE
127 account, including transfers to or from a qualified ABLE program
128 established by another state pursuant to the ABLE Act of 2014, P.L.
129 113-295, as amended from time to time, (C) penalties for distributions
130 not used or made in accordance with said act, and (D) any charges or
131 fees in connection with the administration of the trust;

132 (3) Enter into one or more contractual agreements, including
133 contracts for legal, actuarial, accounting, custodial, advisory,
134 management, administrative, advertising, marketing and consulting
135 services for the trust and pay for such services from the gains and
136 earnings of the trust;

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

139 (5) Apply for, accept and expend gifts, grants or donations from
140 public or private sources to enable the achieving a better life
141 experience program to carry out its objectives;

142 (6) Sue and be sued;

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

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

148 Sec. 4. (NEW) (*Effective October 1, 2015*) Notwithstanding sections 3-
149 13 to 3-13h, inclusive, of the general statutes, the State Treasurer shall
150 invest the amounts on deposit in the trust in a manner reasonable and
151 appropriate to achieve the objectives of such trust, exercising the
152 discretion and care of a prudent person in similar circumstances with
153 similar objectives. The Treasurer shall give due consideration to rate of
154 return, risk, term or maturity, diversification of the total portfolio
155 within the trust, liquidity, the projected disbursements and
156 expenditures and the expected payments, deposits, contributions and
157 gifts to be received. The Treasurer shall not require the trust to invest
158 directly in obligations of the state or any political subdivision of the
159 state or in any investment or other fund administered by the Treasurer.
160 The assets of the trust shall be continuously invested and reinvested in
161 a manner consistent with the objectives of such trust until disbursed
162 for qualified disability expenses, expended on expenses incurred by
163 the operations of the trust or refunded to the depositor or designated
164 beneficiary on the conditions provided in the participation agreement.

165 Sec. 5. (NEW) (*Effective October 1, 2015*) Participation in the trust and
166 the offering and solicitation of the trust are exempt from sections 36b-
167 16 and 36b-22 of the general statutes. The Treasurer shall obtain
168 written advice of counsel or written advice from the Securities
169 Exchange Commission, or both, that the trust and the offering of
170 participation in the trust are not subject to federal securities laws.

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

174 Sec. 7. (NEW) (*Effective October 1, 2015*) The state pledges to
175 depositors, designated beneficiaries and with any party who enters
176 into contracts with the trust, pursuant to the provisions of sections 1 to

177 8, inclusive, of this act that the state will not limit or alter the rights
178 under said sections vested in the trust or contract with the trust until
179 such obligations are fully met and discharged and such contracts are
180 fully performed on the part of the trust, provided nothing contained in
181 this section shall preclude such limitation or alteration if adequate
182 provision is made by law for the protection of such depositors and
183 designated beneficiaries pursuant to the obligations of the trust or
184 parties who entered into such contracts with the trust. The trust, on
185 behalf of the state, may include this pledge and undertaking for the
186 state in participation agreements and such other obligations or
187 contracts.

188 Sec. 8. Section 3-22o of the general statutes is repealed and the
189 following is substituted in lieu thereof (*Effective October 1, 2015*):

190 The Treasurer shall take any action necessary to ensure that the trust
191 complies with all applicable requirements of federal and state laws,
192 rules and regulations to the extent necessary for the trust to constitute
193 a qualified state tuition program and be exempt from taxation under
194 Section 529 of the Internal Revenue Code and the ABLE Act of 2014,
195 P.L. 113-295.

196 Sec. 9. (NEW) (*Effective October 1, 2015*) Notwithstanding any
197 provision of the general statutes, moneys invested in an ABLE account,
198 contributions to an ABLE account of an individual and distributions
199 for qualified disability expenses shall be disregarded for purposes of
200 determining an individual's eligibility for assistance under the
201 temporary family assistance program, as described in section 17b-112
202 of the general statutes, programs funded under the federal Low
203 Income Home Energy Assistance Program block grant and any other
204 federally funded assistance or benefit program, including the state's
205 medical assistance program, that requires consideration of one or more
206 financial circumstances of an individual, for the purpose of
207 determining eligibility to receive, or the amount of, any assistance or
208 benefit.

209 Sec. 10. Subparagraph (B) of subdivision (20) of subsection (a) of
210 section 12-701 of the general statutes is repealed and the following is
211 substituted in lieu thereof (*Effective October 1, 2015 and applicable to*
212 *taxable years commencing on or after January 1, 2015*):

213 (B) There shall be subtracted therefrom (i) to the extent properly
214 includable in gross income for federal income tax purposes, any
215 income with respect to which taxation by any state is prohibited by
216 federal law, (ii) to the extent allowable under section 12-718, exempt
217 dividends paid by a regulated investment company, (iii) the amount of
218 any refund or credit for overpayment of income taxes imposed by this
219 state, or any other state of the United States or a political subdivision
220 thereof, or the District of Columbia, to the extent properly includable
221 in gross income for federal income tax purposes, (iv) to the extent
222 properly includable in gross income for federal income tax purposes
223 and not otherwise subtracted from federal adjusted gross income
224 pursuant to clause (x) of this subparagraph in computing Connecticut
225 adjusted gross income, any tier 1 railroad retirement benefits, (v) to the
226 extent any additional allowance for depreciation under Section 168(k)
227 of the Internal Revenue Code, as provided by Section 101 of the Job
228 Creation and Worker Assistance Act of 2002, for property placed in
229 service after December 31, 2001, but prior to September 10, 2004, was
230 added to federal adjusted gross income pursuant to subparagraph
231 (A)(ix) of this subdivision in computing Connecticut adjusted gross
232 income for a taxable year ending after December 31, 2001, twenty-five
233 per cent of such additional allowance for depreciation in each of the
234 four succeeding taxable years, (vi) to the extent properly includable in
235 gross income for federal income tax purposes, any interest income
236 from obligations issued by or on behalf of the state of Connecticut, any
237 political subdivision thereof, or public instrumentality, state or local
238 authority, district or similar public entity created under the laws of the
239 state of Connecticut, (vii) to the extent properly includable in
240 determining the net gain or loss from the sale or other disposition of
241 capital assets for federal income tax purposes, any gain from the sale
242 or exchange of obligations issued by or on behalf of the state of

243 Connecticut, any political subdivision thereof, or public
244 instrumentality, state or local authority, district or similar public entity
245 created under the laws of the state of Connecticut, in the income year
246 such gain was recognized, (viii) any interest on indebtedness incurred
247 or continued to purchase or carry obligations or securities the interest
248 on which is subject to tax under this chapter but exempt from federal
249 income tax, to the extent that such interest on indebtedness is not
250 deductible in determining federal adjusted gross income and is
251 attributable to a trade or business carried on by such individual, (ix)
252 ordinary and necessary expenses paid or incurred during the taxable
253 year for the production or collection of income which is subject to
254 taxation under this chapter but exempt from federal income tax, or the
255 management, conservation or maintenance of property held for the
256 production of such income, and the amortizable bond premium for the
257 taxable year on any bond the interest on which is subject to tax under
258 this chapter but exempt from federal income tax, to the extent that
259 such expenses and premiums are not deductible in determining federal
260 adjusted gross income and are attributable to a trade or business
261 carried on by such individual, (x) (I) for a person who files a return
262 under the federal income tax as an unmarried individual whose
263 federal adjusted gross income for such taxable year is less than fifty
264 thousand dollars, or as a married individual filing separately whose
265 federal adjusted gross income for such taxable year is less than fifty
266 thousand dollars, or for a husband and wife who file a return under
267 the federal income tax as married individuals filing jointly whose
268 federal adjusted gross income for such taxable year is less than sixty
269 thousand dollars or a person who files a return under the federal
270 income tax as a head of household whose federal adjusted gross
271 income for such taxable year is less than sixty thousand dollars, an
272 amount equal to the Social Security benefits includable for federal
273 income tax purposes; and (II) for a person who files a return under the
274 federal income tax as an unmarried individual whose federal adjusted
275 gross income for such taxable year is fifty thousand dollars or more, or
276 as a married individual filing separately whose federal adjusted gross
277 income for such taxable year is fifty thousand dollars or more, or for a

278 husband and wife who file a return under the federal income tax as
279 married individuals filing jointly whose federal adjusted gross income
280 from such taxable year is sixty thousand dollars or more or for a
281 person who files a return under the federal income tax as a head of
282 household whose federal adjusted gross income for such taxable year
283 is sixty thousand dollars or more, an amount equal to the difference
284 between the amount of Social Security benefits includable for federal
285 income tax purposes and the lesser of twenty-five per cent of the Social
286 Security benefits received during the taxable year, or twenty-five per
287 cent of the excess described in Section 86(b)(1) of the Internal Revenue
288 Code, (xi) to the extent properly includable in gross income for federal
289 income tax purposes, any amount rebated to a taxpayer pursuant to
290 section 12-746, (xii) to the extent properly includable in the gross
291 income for federal income tax purposes of a designated beneficiary,
292 any distribution to such beneficiary from any qualified state tuition
293 program, as defined in Section 529(b) of the Internal Revenue Code,
294 established and maintained by this state or any official, agency or
295 instrumentality of the state, (xiii) to the extent allowable under section
296 12-701a, contributions to accounts established pursuant to any
297 qualified state tuition program, as defined in Section 529(b) of the
298 Internal Revenue Code, established and maintained by this state or
299 any official, agency or instrumentality of the state, (xiv) to the extent
300 properly includable in gross income for federal income tax purposes,
301 the amount of any Holocaust victims' settlement payment received in
302 the taxable year by a Holocaust victim, (xv) to the extent properly
303 includable in gross income for federal income tax purposes of an
304 account holder, as defined in section 31-51ww, interest earned on
305 funds deposited in the individual development account, as defined in
306 section 31-51ww, of such account holder, (xvi) to the extent properly
307 includable in the gross income for federal income tax purposes of a
308 designated beneficiary, as defined in section 3-123aa, interest,
309 dividends or capital gains earned on contributions to accounts
310 established for the designated beneficiary pursuant to the Connecticut
311 Homecare Option Program for the Elderly established by sections 3-
312 123aa to 3-123ff, inclusive, (xvii) to the extent properly included in

313 gross income for federal income tax purposes, fifty per cent of the
 314 income received from the United States government as retirement pay
 315 for a retired member of (I) the Armed Forces of the United States, as
 316 defined in Section 101 of Title 10 of the United States Code, or (II) the
 317 National Guard, as defined in Section 101 of Title 10 of the United
 318 States Code, (xviii) to the extent properly includable in gross income
 319 for federal income tax purposes for the taxable year, any income from
 320 the discharge of indebtedness in connection with any reacquisition,
 321 after December 31, 2008, and before January 1, 2011, of an applicable
 322 debt instrument or instruments, as those terms are defined in Section
 323 108 of the Internal Revenue Code, as amended by Section 1231 of the
 324 American Recovery and Reinvestment Act of 2009, to the extent any
 325 such income was added to federal adjusted gross income pursuant to
 326 subparagraph (A)(x) of this subdivision in computing Connecticut
 327 adjusted gross income for a preceding taxable year, [and] (xix) to the
 328 extent not deductible in determining federal adjusted gross income,
 329 the amount of any contribution to a manufacturing reinvestment
 330 account established pursuant to section 32-9zz in the taxable year that
 331 such contribution is made, and (xx) to the extent properly includable in
 332 gross income for federal income tax purposes the amount of any
 333 contribution to an ABL account, as defined in section 1 of this act, in
 334 the taxable year that such contribution is made.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	New section
Sec. 2	<i>October 1, 2015</i>	New section
Sec. 3	<i>October 1, 2015</i>	New section
Sec. 4	<i>October 1, 2015</i>	New section
Sec. 5	<i>October 1, 2015</i>	New section
Sec. 6	<i>October 1, 2015</i>	New section
Sec. 7	<i>October 1, 2015</i>	New section
Sec. 8	<i>October 1, 2015</i>	3-22o
Sec. 9	<i>October 1, 2015</i>	New section

Sec. 10	<i>October 1, 2015 and applicable to taxable years commencing on or after January 1, 2015</i>	12-701(a)(20)(B)
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