



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3360

by Rep. Laura Fine

SYNOPSIS AS INTRODUCED:

15 ILCS 505/16.6 new

Amends the State Treasurer Act. Creates the "Achieving a Better Life Experience" or "ABLE" account plan to encourage and assist individuals and families in saving private funds for the purpose of supporting persons with disabilities in endeavors to maintain health, independence, and quality of life. and to provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, federal and State medical and disability insurance, the beneficiary's employment, and other sources. Provides that the State Treasurer shall be primarily responsible for the plan but shall work with the Illinois State Board of Investment. Sets forth the requirements of the plan. Requires the State Treasurer to adopt rules to implement the program. Defines required terms. Effective immediately.

LRB099 04289 JLK 24314 b

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Treasurer Act is amended by adding
5 Section 16.6 as follows:

6 (15 ILCS 505/16.6 new)

7 Sec. 16.6. ABLE account program.

8 (a) As used in this Section,

9 "ABLE account" and "account" means an account established
10 for the purpose of financing certain qualified expenses of
11 persons with disabilities as set forth in this Section.

12 "ABLE account plan" and "plan" mean the savings account
13 plan provided for in this Section.

14 "Beneficiary" means the ABLE account owner, or the person
15 entitled to apply the savings accrued in an ABLE account, if
16 that person is not the account owner.

17 "Executive Director" means the Executive Director of the
18 Illinois State Board of Investment.

19 "Individual with a disability" means an individual who,
20 before the date on which the individual attains age 26: (1) has
21 a medically determinable physical or mental impairment, which
22 results in marked and severe functional limitations and which
23 can be expected to result in death, or which has lasted or can

1 be expected to last for a continuous period of not less than 12
2 months; or (2) is blind.

3 "Participating financial institution" means any financial
4 institution insured by the Federal Deposit Insurance
5 Corporation and lawfully doing business in the State of
6 Illinois and any credit union approved by the State Treasurer
7 and lawfully doing business in the State of Illinois that
8 agrees to process new accounts in the ABLE account program.

9 "Qualified disability expense" means an expense made for
10 the benefit of an individual with a disability who is the
11 beneficiary of an ABLE account, which includes, but is not
12 limited to, education, housing, transportation, employment
13 training and support, assistive technology and personal
14 support services, health, prevention, and wellness, financial
15 management and administrative services, legal fees, expenses
16 for oversight and monitoring, funeral and burial expenses, and
17 other expenses consistent with the purpose of this Section that
18 are approved by the Treasurer and provided for by rule.

19 "Qualified distribution" means a distribution from an ABLE
20 account used to pay for a qualified expense. "Qualified
21 distribution" also includes investment earnings generated by
22 the ABLE account.

23 "Qualified withdrawal" means a withdrawal from an ABLE
24 account to pay a qualified disability expense of the
25 beneficiary of the account. A qualified withdrawal may be made
26 by an agent of the beneficiary who has the power of attorney or

1 by the beneficiary's legal guardian.

2 (b) The "Achieving a Better Life Experience" or "ABLE"
3 account plan is hereby created to encourage and assist
4 individuals and families in saving private funds for the
5 purpose of supporting persons with disabilities in endeavors to
6 maintain health, independence, and quality of life, and to
7 provide secure funding for disability-related expenses on
8 behalf of designated beneficiaries with disabilities that will
9 supplement, but not supplant, benefits provided through
10 private insurance, federal and State medical and disability
11 insurance, the beneficiary's employment, and other sources.
12 The Department of Human Services shall certify to the Treasurer
13 that a person qualifies as an individual with a disability
14 eligible for an ABLE account.

15 New accounts in the ABLE account program may be processed
16 through participating financial institutions. Participating
17 financial institutions may charge a processing fee to
18 participants to open an account in the program. Every
19 contribution received by a financial institution for
20 investment in the ABLE account program shall be transferred
21 from the financial institution to a location selected by the
22 State Treasurer within one business day following the day that
23 the funds must be made available in accordance with federal
24 law. All communications from the State Treasurer to
25 participants and donors shall reference the participating
26 financial institution at which the account was processed.

1 The Treasurer may invest the moneys in the ABLE account
2 program in the same manner and in the same types of investments
3 provided for the investment of moneys by the Illinois State
4 Board of Investment. To enhance the safety and liquidity of the
5 ABLE account program, to ensure the diversification of the
6 investment portfolio of the pool, and in an effort to keep
7 investment dollars in the State of Illinois, the State
8 Treasurer may make a percentage of each account available for
9 investment in participating financial institutions doing
10 business in the State.

11 Under the plan, which must be operated as an accounts-type
12 plan, a person may make contributions to an ABLE account to
13 meet the qualified disability expenses incurred by or on behalf
14 of the designated beneficiary of the account. Contributions to
15 and the maximum balance of an ABLE account are subject to the
16 requirements of subsection (b) of section 529A of the Internal
17 Revenue Code. The beneficiary must be a resident of the state
18 in which the ABLE account is opened or in a state that has a
19 memorandum of understanding with another state to provide an
20 ABLE account. A separate account must be maintained for each
21 beneficiary for whom contributions are made, and no more than
22 one account shall be established per beneficiary. Qualified
23 distributions may be made directly to the account owner or
24 beneficiary either before or after a qualified expense is made.
25 Distributions from an ABLE account that are not used for a
26 qualified expense are subject to income tax on the portion of

1 such distribution attributable to earnings from the account, in
2 addition to a 10% penalty. Upon the death of a beneficiary, the
3 amount remaining in a beneficiary's ABLE account must be
4 distributed in accordance with subsection (f) of section 529A
5 of the Internal Revenue Code. The provisions of this Section
6 are exempt from taxation under Section 250 of the Illinois
7 Income Tax Act and any other tax imposed by the State of
8 Illinois or any of its subdivisions so long as distributions
9 are used for qualified expenses.

10 In designing and establishing the plan's requirements and
11 in negotiating or entering into contracts with third parties,
12 the Treasurer shall consult with the Executive Director. The
13 Treasurer and the Executive Director shall establish an annual
14 fee, equal to a percentage of the average daily assets of the
15 plan, to be imposed on participants to recover the costs of
16 administration, recordkeeping, and investment management. The
17 State Treasurer shall administer the plan, including accepting
18 and processing applications, maintaining account records,
19 making payments, and undertaking any other necessary tasks to
20 administer the plan. Notwithstanding other requirements of
21 this Section, the State Treasurer shall adopt rules for
22 purposes of implementing and administering the plan and
23 obtaining certification of eligible beneficiaries from the
24 Department of Human Services.

25 (c) The State Treasurer shall ensure that the plan meets
26 the requirements for an ABLE account under Section 529 of the

1 Internal Revenue Code. In doing so, the Treasurer shall adopt
2 rules and establish guidelines as necessary to ensure this
3 compliance.

4 (d) The State Treasurer shall promote awareness of the
5 availability and advantages of the ABLE account program as a
6 way to assist individuals and families in saving private funds
7 for the purpose of supporting individuals with disabilities.
8 The Treasurer's office shall not publicize or otherwise market
9 the ABLE account program or accept any moneys into the ABLE
10 account program until the Internal Revenue Service issues its
11 final regulations concerning State ABLE account programs.

12 (e) The State Treasurer may adopt any other rules necessary
13 to implement the requirements of this Section.

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.