



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB1383

Introduced 2/20/2015, by Sen. Scott M. Bennett

#### SYNOPSIS AS INTRODUCED:

15 ILCS 505/16.6 new

Amends the State Treasurer Act. Creates the "Achieving a Better Life Experience" or "ABLE" account program 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.

LRB099 08749 JLK 28917 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" or "account" means an account established  
10 for the purpose of financing certain qualified expenses of  
11 persons with disabilities as specifically provided for in this  
12 Section.

13 "ABLE account plan" or "plan" means the savings account  
14 plan provided for in this Section.

15 "Account administrator" means the person selected by the  
16 State Treasurer to administer the daily operations of the ABLE  
17 account plan and provide marketing, recordkeeping, investment  
18 management, and other services for the plan.

19 "Beneficiary" means the ABLE account owner, or the person  
20 entitled to apply the savings accrued in an ABLE account, if  
21 not the account owner.

22 "Board" means the Illinois State Board of Investment.

23 "Disability certification" means a certification by the

1 beneficiary or the parent or guardian of the beneficiary that  
2 states the diagnosis of the individual with a disability and is  
3 signed by a physician meeting the criteria of Section  
4 1861(r) (1) of the federal Social Security Act.

5 "Individual with a disability" means an individual who,  
6 before the date on which the individual attains age 26: (1) has  
7 a medically determinable physical or mental impairment, which  
8 results in marked and severe functional limitations and which  
9 can be expected to result in death or which has lasted or can  
10 be expected to last for a continuous period of not less than 12  
11 months; or (2) is blind.

12 "Participation agreement" means an agreement to  
13 participate in the ABLE account plan between an account owner  
14 and the State, through its agencies and the State Treasurer.

15 "Qualified disability expense" means an expense made for  
16 the benefit of an individual with a disability who is the  
17 beneficiary, including the following expenses: education,  
18 housing, transportation, employment training and support,  
19 assistive technology and personal support services, health,  
20 prevention and wellness, financial management and  
21 administrative services, legal fees, expenses for oversight  
22 and monitoring, funeral and burial expenses, and other expenses  
23 consistent with the purposes of this Section that are approved  
24 by the State Treasurer and provided for in duly adopted  
25 administrative rules.

26 "Qualified withdrawal" or "qualified distribution" means a

1 withdrawal from an ABLE account to pay the qualified disability  
2 expenses of the beneficiary of the account. A qualified  
3 withdrawal may be made by an agent of the beneficiary who has  
4 the power of attorney or by the beneficiary's legal guardian.

5 "Total account balance" means the amount in an account on a  
6 particular date or the fair market value of an account on a  
7 particular date.

8 (b) The "Achieving a Better Life Experience" or "ABLE"  
9 account program is hereby created and shall be administered by  
10 the State Treasurer. The purpose of the ABLE plan is to  
11 encourage and assist individuals and families in saving private  
12 funds for the purpose of supporting individuals with  
13 disabilities to maintain health, independence, and quality of  
14 life, and to provide secure funding for disability-related  
15 expenses on behalf of designated beneficiaries with  
16 disabilities that will supplement, but not supplant, benefits  
17 provided through private insurance, federal and State medical  
18 and disability insurance, the beneficiary's employment, and  
19 other sources. Under the plan, a person may make contributions  
20 to an ABLE account to meet the qualified disability expenses of  
21 the designated beneficiary of the account. The plan must be  
22 operated as an accounts-type plan that permits persons to save  
23 for qualified disability expenses incurred by or on behalf of  
24 an individual with a disability. A separate account must be  
25 maintained for each beneficiary for whom contributions are  
26 made, and no more than one account shall be established per

1 beneficiary.

2 In designing and establishing the plan's requirements and  
3 in negotiating or entering into contracts with third parties  
4 under this Section, the State Treasurer shall consult with the  
5 Board. The State Treasurer shall establish an annual fee to be  
6 imposed on participants to recover the costs of administration,  
7 recordkeeping, and investment management. The State Treasurer  
8 must use his or her best efforts to keep these fees as low as  
9 possible, consistent with efficient administration, so that  
10 the returns on savings invested in the plan will be as high as  
11 possible.

12 The State Treasurer shall administer the plan, including  
13 accepting and processing applications, maintaining account  
14 records, making payments, and undertaking any other necessary  
15 tasks to administer the plan, including the appointment of an  
16 account administrator. Notwithstanding other requirements of  
17 this Section, the State Treasurer shall adopt rules for  
18 purposes of implementing and administering the plan. The State  
19 Treasurer may contract with one or more third parties to carry  
20 out some or all of these administrative duties, including  
21 providing investment management services, incentives, and  
22 marketing the plan.

23 Prior to the establishment of an ABLE account, an account  
24 owner must provide documentation to the State Treasurer that  
25 the account beneficiary has been certified as an individual  
26 with a disability. The certification must be signed by a

1 physician and meet the criteria established by Section  
2 1861(r)(1) of the federal Social Security Act and any federal  
3 regulations issued pursuant to Section 529A of the Internal  
4 Revenue Code.

5 Contributions to an ABLE account are subject to the  
6 requirements of Section 529A(b) of the Internal Revenue Code.  
7 The maximum balance of an ABLE account may not exceed the limit  
8 established by the federal ABLE Act of 2014.

9 The State Treasurer shall promote awareness of the  
10 availability and advantages of the ABLE account plan as a way  
11 to assist individuals and families in saving private funds for  
12 the purpose of supporting individuals with disabilities. The  
13 cost of these promotional efforts shall not be funded with fees  
14 imposed on participants. The State Treasurer shall not promote  
15 ABLE accounts until the Internal Revenue Service has issued its  
16 final regulations concerning ABLE accounts.

17 Account owner data, account data, and data on beneficiaries  
18 of accounts are confidential and exempt from disclosure under  
19 the Freedom of Information Act.

20 (c) The State Treasurer may invest the moneys in ABLE  
21 accounts in the same manner and in the same types of  
22 investments provided for the investment of moneys by the Board.  
23 To enhance the safety and liquidity of ABLE accounts, to ensure  
24 the diversification of the investment portfolio of accounts,  
25 and in an effort to keep investment dollars in the State, the  
26 State Treasurer may make a percentage of each account available

1 for investment in participating financial institutions doing  
2 business in the State, except that the accounts may be invested  
3 without limit in investment options from open-ended investment  
4 companies registered under Section 4.32 of the federal  
5 Investment Company Act of 1940. The State Treasurer may  
6 contract with one or more third parties for investment  
7 management, recordkeeping, or other services in connection  
8 with investing the accounts.

9 The State Treasurer may impose annual fees on participants  
10 in the plan to recover the cost of investment management and  
11 related tasks for the plan. The State Treasurer shall use his  
12 or her best efforts to keep these fees as low as possible,  
13 consistent with high quality investment management, so that the  
14 returns on savings invested in the plan will be as high as  
15 possible.

16 (d) The State Treasurer shall ensure that the plan meets  
17 the requirements for an ABLE account under Section 529A of the  
18 Internal Revenue Code. The State Treasurer may request a  
19 private letter ruling or rulings from the Internal Revenue  
20 Service or Secretary of Health and Human Services and must take  
21 any necessary steps to ensure that the plan qualifies under  
22 relevant provisions of federal law.

23 A person may make contributions to an ABLE account on  
24 behalf of a beneficiary. Contributions to an account made by  
25 persons other than the account owner become the property of the  
26 account owner. A person does not acquire an interest in an ABLE

1 account by making contributions to an account. Contributions to  
2 an ABLE account are subject to the requirements of Section  
3 529A(b) of the Internal Revenue Code. The maximum balance of an  
4 ABLE account may not exceed the limit imposed by the Internal  
5 Revenue Service. A contribution to any account for a  
6 beneficiary must be rejected if the contribution would cause  
7 the total account balance of the account to exceed the limit  
8 imposed by the Internal Revenue Service.

9 An account owner shall have the authority to manage the  
10 account consistent with the requirements of Section 529A of the  
11 Internal Revenue Code and federal regulations issued pursuant  
12 thereto. Any change in account owners or beneficiaries must be  
13 done in a manner consistent with Section 529A of the Internal  
14 Revenue Code.

15 Notice of any proposed amendments to the rules and  
16 regulations shall be provided to all participants prior to  
17 adoption. Amendments to rules and regulations shall apply only  
18 to contributions made after the adoption of the amendment.  
19 Amendments to this Section automatically amend the  
20 participation agreement. Any amendments to the operating  
21 procedures and policies of the plan shall automatically amend  
22 the participation agreement after adoption by the State  
23 Treasurer.

24 All assets of the plan, including contributions to  
25 accounts, are held in trust for the exclusive benefit of  
26 account owners and beneficiaries. Assets must be held in a



1 separate account in the State treasury to be known as the  
2 Illinois ABLE plan account or in accounts with a third-party  
3 provider selected pursuant to this Section. Plan assets are not  
4 subject to claims by creditors of the State, are not part of  
5 the general fund, and are not subject to appropriation by the  
6 State. Payments from the Illinois ABLE account plan shall be  
7 made under this Section.

8 The assets of ABLE accounts and their income and operation  
9 shall be exempt from all taxation by the State of Illinois and  
10 any of its subdivisions. The accrued earnings on investments in  
11 an ABLE account once disbursed on behalf of a designated  
12 beneficiary shall be similarly exempt from all taxation by the  
13 State of Illinois and its subdivisions, so long as they are  
14 used for qualified expenses.

15 (e) Qualified distributions may be made: (1) directly to  
16 participating providers of goods and services that are  
17 qualified disability expenses, if purchased for a beneficiary;  
18 (2) in the form of a check payable to both the beneficiary and  
19 provider of goods or services that are qualified disability  
20 expenses; or (3) directly to the account owner or beneficiary,  
21 if the account owner or beneficiary has already paid qualified  
22 disability expenses. Qualified distributions must be withdrawn  
23 proportionally from contributions and earnings in an account  
24 owner's account on the date of distribution as provided in  
25 Section 529A of the Internal Revenue Code. Upon the death of a  
26 beneficiary, the amount remaining in the beneficiary's account

1 must be distributed pursuant to Section 529A(f) of the Internal  
2 Revenue Code.

3 (f) The State Treasurer shall adopt rules he or she  
4 considers necessary for the efficient administration of ABLE  
5 accounts. The rules shall provide whatever additional  
6 parameters and restrictions are necessary to ensure that ABLE  
7 accounts meet all of the requirements for a qualified state  
8 ABLE program under Section 529A of the Internal Revenue Code.