

SENATE SUBSTITUTE FOR
SENATE, No. 2770

STATE OF NEW JERSEY
216th LEGISLATURE

ADOPTED DECEMBER 7, 2015

Sponsored by:

Senator STEPHEN M. SWEENEY

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Senator DAWN MARIE ADDIEGO

District 8 (Atlantic, Burlington and Camden)

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District 6 (Burlington and Camden)

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District 6 (Burlington and Camden)

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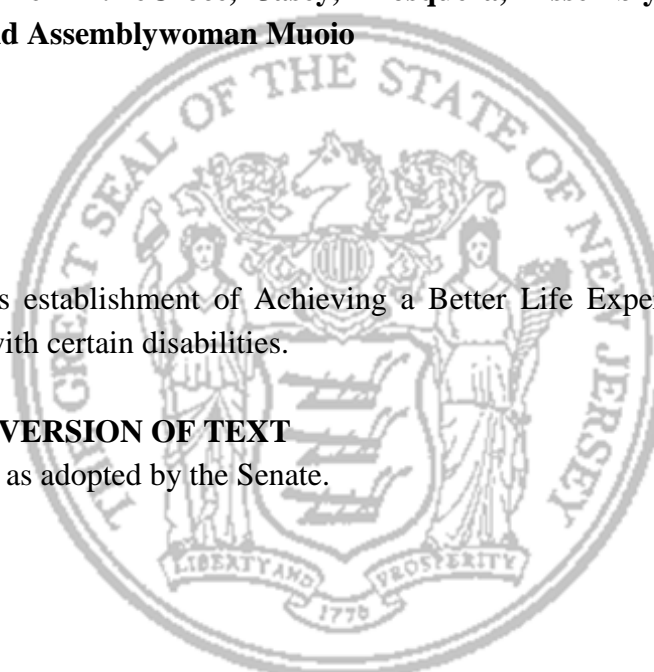
Senators Madden, Turner, Oroho, O'Toole, Gordon, Beck,
Assemblywomen B.DeCroce, Jasey, Mosquera, Assemblymen Webber,
Singleton and Assemblywoman Muoio

SYNOPSIS

Authorizes establishment of Achieving a Better Life Experience accounts for persons with certain disabilities.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate.



(Sponsorship Updated As Of: 12/18/2015)

1 AN ACT concerning trust accounts for persons with certain
2 disabilities, amending P.L.1997, c.237, and supplementing Title
3 52 of the Revised Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 13 of P.L.1997, c.237 (C.54A:6-25) is amended to
9 read as follows:

10 13. a. Gross income shall not include earnings on **[an education**
11 **individual retirement]** a Coverdell education savings account, [or]
12 a qualified State tuition program account, or a qualified ABLE
13 account until the earnings are distributed from the account, at which
14 time they shall be includible in the gross income of the distributee
15 except as provided in this section.

16 b. Gross income shall not include qualified distributions as
17 defined in paragraph (3) of subsection c. of this section.

18 c. For purposes of this section:

19 (1) **["Education individual retirement account"]** "Coverdell
20 education savings account" means **[an education retirement]** a
21 Coverdell education savings account as defined pursuant to
22 paragraph (1) of subsection (b) of section 530 of the federal Internal
23 Revenue Code of 1986, 26 U.S.C. s.530.

24 (2) "Qualified State tuition program account" means an account
25 established pursuant to the "New Jersey Better Educational Savings
26 Trust (NJBEST) Program," (N.J.S.18A:71B-35 et seq.) **[, an**
27 **account established pursuant to the "New Jersey Prepaid Higher**
28 **Education Expense Program," P.L.2001, c.262 (C.18A:71B-64 et**
29 **seq.)]** or an account established pursuant to any qualified State
30 tuition program, as defined pursuant to subsection (b) of section
31 529 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529
32 or a tuition credit or certificate purchased pursuant to any such
33 program.

34 (3) "Qualified distribution" means any of the following:

35 (a) a distribution from a qualified State tuition program account
36 that is used for qualified higher education expenses as defined
37 pursuant to paragraph (3) of subsection (e) of section 529 or a
38 distribution from a qualified ABLE account that is used for
39 qualified disability expenses as defined pursuant to paragraph (5) of
40 subsection (e) of section 529A of the federal Internal Revenue Code
41 of 1986, 26 U.S.C. s.529 or 529A;

42 (b) a rollover from one account to another account as described
43 in clause (i) of subparagraph (C) of paragraph (3) of subsection (c)

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 of section 529, clause (i) of subparagraph (C) of paragraph (1) of
2 subsection (c) of section 529A, or paragraph (5) of subsection (d) of
3 section 530 of the federal Internal Revenue Code of 1986, 26
4 U.S.C. s.529,529A, or 530; or

5 (c) a change in designated beneficiaries of an account as
6 described in clause (ii) of subparagraph (C) of paragraph (3) of
7 subsection (c) of section 529, clause (ii) of subparagraph (C) of
8 paragraph (1) of subsection (c) of section 529A, or paragraph (6) of
9 subsection (d) of section 530 of the federal Internal Revenue Code
10 of 1986, 26 U.S.C. s.529,529A, or 530; and

11 (d) any other transfer involving a qualified ABLE account
12 which is a qualified distribution for the purposes of section 529A of
13 the federal Internal Revenue Code, 26 U.S.C. s.529A.

14 (4) “Qualified ABLE account” means an account established
15 pursuant to P.L. , c. (C.) (pending before the Legislature
16 as this bill) or an account established pursuant to any qualified State
17 ABLE Program established pursuant to section 529A of the federal
18 Internal Revenue Code of 1986, 26 U.S.C. s.529A.

19 d. The portion of a distribution from **【an education individual**
20 **retirement】** a Coverdell education savings account, a qualified
21 ABLE account, or a qualified State tuition program account that is
22 attributable to earnings shall be determined in accordance with the
23 principles of section 72 of the federal Internal Revenue Code of
24 1986, 26 U.S.C. s.72, as applied for purposes of sections 529,529A,
25 and 530 of the federal Internal Revenue Code of 1986, 26 U.S.C.
26 ss.529,529A, and 530.

27 (cf: P.L.2001, c.262, s.21)

28

29 2. (New section) The Department of the Treasury, in
30 cooperation with the Department of Human Services, shall
31 establish, in accordance with section 529A of the federal Internal
32 Revenue Code of 1986, 26 U.S.C. s.529A, the “New Jersey
33 Achieving a Better Life Experience (ABLE) Program.” The
34 departments may contract with a third party provider to administer
35 and operate the program.

36

37 3. (New section) The Department of the Treasury shall ensure
38 that participants can readily deposit and withdraw funds from
39 ABLE accounts in accordance with 26 U.S.C. s.529A.

40

41 4. (New section) The Department of Human Services shall be
42 responsible for program services. The department may contract
43 with a third party provider to administer any or all program
44 services, which shall include, but not be limited to:

45 a. Promoting the program to the communities most likely to
46 benefit from access to ABLE accounts;

- 1 b. Evaluating, qualifying, and processing applications to the
2 program in accordance with 26 U.S.C. s.529A; and
- 3 c. Processing claims from an ABLE account holder to the
4 Department of Human Services or other institution assigned to
5 administer the ABLE account in accordance with 26 U.S.C. s.529A.
6
- 7 5. (New section) The Department of the Treasury and the
8 Department of Human Services shall take all actions required so
9 that the program is treated as a qualified State ABLE Program
10 under 26 U.S.C. s.529A.
11
- 12 6. (New section) Annually, the Department of the Treasury
13 shall determine a dollar amount of an ABLE account, which shall
14 not be less than \$25,000, which shall not be considered in
15 evaluating the financial needs of a designated beneficiary or be
16 deemed a financial resource or a form of financial aid or assistance
17 to a designated beneficiary, for purposes of determining the
18 eligibility of the beneficiary for any scholarship, grant, or monetary
19 assistance awarded by the State for the purposes of financing the
20 education expenses of the beneficiary, including higher education
21 expenses; nor shall the amount of any account as determined by the
22 Department of the Treasury provided for a designated beneficiary
23 under P.L. , c. (C.) (pending before the Legislature as this
24 bill) reduce the amount of any scholarship grant or monetary
25 assistance which the beneficiary is entitled to be awarded by the
26 State for the purposes of financing education expenses.
27
- 28 7. (New section) Notwithstanding any other provision of State
29 law or regulation that requires consideration of one or more
30 financial circumstances of an individual, for the purpose of
31 determining eligibility to receive, or the amount of, any assistance
32 or benefit authorized by such provision to be provided to or for the
33 benefit of such individual, any amount, including earnings thereon,
34 in any ABLE account of such individual, and any distribution for
35 qualified disability expenses shall be disregarded for such purpose
36 with respect to any period during which such individual maintains,
37 makes contributions to, or receives distributions from such ABLE
38 account.
39
- 40 8. (New section) The Department of Human Services and the
41 Department of the Treasury shall, pursuant to the “Administrative
42 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), adopt rules
43 and regulations governing the administration and operation of the
44 program as may be necessary to effectuate the provisions of
45 P.L. , c. (C.) (pending before the Legislature as this bill)
46 in accordance with 26 U.S.C. s.529A.

1 9. This act shall take effect on the first day of the 10th month
2 next following the date of enactment.

3

4

5

STATEMENT

6

7 This floor substitute requires the Department of Human Services
8 and the Department of the Treasury to establish the “New Jersey
9 Achieving a Better Life Experience (ABLE) Program” pursuant to
10 the federal ABLE Act, 26 U.S.C. s.529A. Under the program,
11 individuals with certain disabilities will be permitted to establish
12 ABLE accounts that may be used to pay certain disability-related
13 expenses. ABLE accounts will be exempt from state income
14 taxation and will not be included as an asset or income when
15 determining the individual’s eligibility for State assistance
16 programs.

17 The Departments of Human Services and Treasury will be
18 permitted to contract with a third party provider to administer and
19 operate the program, including providing program services such as
20 promoting the program to communities likely to benefit from access
21 to ABLE accounts, processing applications for ABLE accounts, and
22 processing claims from ABLE account holders to institutions
23 assigned to administer their ABLE accounts. The Department of
24 the Treasury will be required to ensure that participants can readily
25 deposit and withdraw funds from ABLE accounts. The Departments
26 of Human Services and Treasury will further be required to take all
27 actions as may be necessary to ensure the program meets the
28 requirements under federal law to be treated as a qualified State
29 ABLE Program.