

State of Connecticut



Hartford

DENISE L. NAPPIER
TREASURER

December 30, 2016

Joint Committee on Banking

The Honorable Gary A. Winfield, Senate Chair
The Honorable Matthew Lesser, House Chair
The Honorable Henri Martin, Senate Ranking Member
The Honorable Bill Simanski, House Ranking Member

Legislative Office Building, Room 2400
Hartford, CT 06106

Re: Report on Aspects of the Achieving a Better Life Experience (ABLE) Program, pursuant to Public Act 16-65.

Messrs.:

In accordance with Section 72 of Public Act 16-65, *An Act Concerning Banking and Consumer Protections*, the Office of the Treasurer hereby submits this report concerning the feasibility of conversion of 529 college savings accounts to ABLE accounts, and revisions and appropriations to enhance the ABLE program.

Background

In 2014, the U.S. Congress passed the ABLE Act, a framework that would allow persons with disabilities who are on Supplemental Security Income (SSI) to amass assets without putting benefits at risk. The Act created 529(a) accounts as a subset of the 529 college savings program. Many of the tax advantages offered through 529 accounts are available in ABLE 529(a) accounts, including exempting investment earnings from federal and state income taxes. This federal legislation required states to enact their own statutory frameworks for establishing programs for their respective state residents.

Accordingly, in 2015, Connecticut passed Public Act 15-80, *An Act Implementing the Recommendations of the Program Review and Investigations Committee Concerning the Federal Achieving A Better Life Experience Act* (Public Act). Mirroring the federal legislation, it allows families to accumulate assets for expenses without affecting state and federally mandated maximums to qualify for governmental services. The Public Act designated the State Treasurer as Trustee of the ABLE program with responsibility to establish a federally qualified ABLE program and administer individual ABLE accounts. The Public Act was passed without an appropriation of funds for implementation.



In December 2015, Congress adopted an enhancement to the ABLE Act which removed the geographic restrictions in the original statute. Eligible individuals would now have access to any ABLE program, regardless of their state of residence.

In 2016, the General Assembly tasked the Office of the Treasurer with submitting a report, in consultation with the Department of Revenue Services, “concerning any mechanism for converting an education savings plan, as described in Section 529 of the Internal Revenue Code... into an ABLE account..., and any appropriations or revisions to the general statutes the Treasurer deems necessary to ensure the successful operation of the qualified ABLE program.” See Public Act 16-65 at Section 72.

Status of Connecticut’s ABLE Program

To date, Connecticut’s ABLE Trust has yet to be formally established. Connecticut residents can, however, open ABLE accounts with programs sponsored by eight other states.¹

In an effort to implement an ABLE Program in Connecticut that meets the objectives of the federal mandate, the Office of the Treasurer formed an advisory committee comprised of 20 volunteers with relevant experience, including advocates for persons with disabilities who represent key constituencies and organizations, and leaders of state agencies with purview over disability issues. The ABLE Advisory Committee convened for its first meeting on December 22, 2015, and met ten times during 2016 to consider various options for structuring Connecticut’s program to most effectively serve the greatest number of eligible citizens given the lack of funding.² The Advisory Committee is exploring the feasibility of Connecticut partnering with another state and utilizing their existing program structure. Such an arrangement could allow Connecticut to offer a program in a more cost-effective and timely manner than starting a program from scratch.

The Office and the ABLE Advisory Committee currently believe that issuing a Request for Information (RFI) to the states open for partnership is the next best step in determining how best to serve Connecticut residents.

Our ability to conduct such a process, however, has been constrained by the lack of appropriated funds for implementation activities. In the Treasury’s April 13, 2016 progress report to the Legislative Program Review and Investigations Committee, emphasis was placed on the significant challenges associated with implementing a Connecticut ABLE program without an appropriation of funds. Those challenges are even more pressing today, given that under three percent of the Treasury’s agency budget is supported by the General Fund.

Feasibility of Converting 529 College Savings Accounts to ABLE Accounts

Federal action is required to permit the conversion of 529 accounts to 529(a) accounts.

¹ Alaska, Michigan, Nebraska, Ohio, Oregon, Rhode Island, Tennessee and Virginia. Four of these were just launched in December 2016.

² Agendas and meeting minutes for the ABLE Advisory Committee are available at www.otf.ct.gov.



As part of its ABLE development work, the Office of the Treasurer has worked closely with the National Association of State Treasurers (NAST) and the College Savings Plan Network (CSPN) to monitor and influence the ongoing definition of the ABLE program at the national level. The

group engaged several times during 2016 with both the Internal Revenue Service and the Social Security Administration as they developed federal ABLE regulations. The Congress also continued to demonstrate an interest in the ABLE program and, though none passed in 2016, several additional program enhancements are under consideration.

On April 28, 2016, the “Boost Savings for College Act” was introduced in the U.S. Senate. The bi-partisan bill included a provision to allow for the rollover of 529 plans to 529(a) plans. HR 4795 in the U.S. House of Representatives sought this change as well. These bills were actively supported by the Office of the Treasurer with NAST and CSPN. Though the proposals were not adopted, they had significant bi-partisan support and are expected to be raised again in the next session of the Congress.

Until the Congress has acted to amend the IRS statutes governing distributions from 529 accounts, no rollovers from 529 Education Savings Accounts to 529(a) ABLE accounts are permitted.

Recommended Revisions to the General Statutes

There are two revisions to the general statutes that I recommend in order to enhance the ABLE program.

1. Public Act No. 15–80, Section 1 (5), defines a “designated beneficiary” as “any individual state resident or resident of a contracting state originally designated in the participation agreement who is an eligible individual and is the owner of an ABLE account.”

This language should be amended to reflect the change in the federal ABLE Act adopted by Congress in December 2015, which removed the geographic restriction from the original statute. The current federal ABLE Act allows eligible individuals to access any ABLE program open to them, regardless of the individual’s state of residence and allows any state ABLE program to choose to accept accounts from any eligible individual or to restrict its program to eligible state residents only.

2. Public Act No. 15 – 80, Section1 (2) permits the State Treasurer to contract with another state without a qualified ABLE program in order to provide access to a Connecticut ABLE program for residents of that contracting state. It should also specify that the State of Connecticut may choose to contract with another state’s ABLE program in order to make the program directly available to Connecticut residents.

In addition, we intend to recommend other, more technical amendments regarding investments and program administration. We propose to work with the legislature to craft bill language during the 2017 session of the General Assembly.

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**Necessary Appropriations To Ensure A Successful ABLE Program for Connecticut Residents**

While the Treasury has not yet estimated the costs of developing and operating an ABLE program, it is clear that a program of this complexity requires an appropriation to secure dedicated internal staff and/or outside assistance in order to effectively launch this initiative.

The costs will depend, in part, on whether we pursue a Connecticut-specific program from scratch or whether we choose to partner with another state that already has developed a program. In either scenario, however, we will require funds to develop and issue an RFI or Request for Proposals, evaluate responses and manage implementation activities.

When we develop a cost estimate, we will forward it to the Committee.

Respectfully submitted,



Denise L. Nappier  
State Treasurer

cc: The Honorable Kevin B. Sullivan  
Commissioner, Department of Revenue Services