

[First Reprint]

ASSEMBLY, No. 3956

STATE OF NEW JERSEY

216th LEGISLATURE

INTRODUCED DECEMBER 11, 2014

Sponsored by:

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Co-Sponsored by:

Assemblywomen B.DeCroce, Jasey, Mosquera and Assemblyman Webber

SYNOPSIS

Authorizes establishment of tax-exempt Achieving a Better Life Experience accounts for persons with developmental disabilities.

CURRENT VERSION OF TEXT

As reported by the Assembly Human Services Committee on March 19, 2015, with amendments.

(Sponsorship Updated As Of: 11/17/2015)

1 AN ACT concerning trust accounts for persons with developmental
 2 disabilities, amending P.L.1997, c.237, and supplementing Title
 3 30 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 ¹~~an~~
 11 ~~education individual retirement~~ a Coverdell education savings¹
 12 ~~account,~~ **[or]** a qualified State tuition program account, or a
 13 qualified ABLE account until the earnings are distributed from the
 14 account, at which time they shall be includible in the gross income
 15 of the distributee 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) ¹~~["Education individual retirement account"]~~ "Coverdell
 20 education savings account"¹ means ¹~~an education retirement~~ **a**
 21 Coverdell education savings¹ 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) ¹~~[(a)]~~¹ "Qualified State tuition program account" means an
 25 account established pursuant to the "New Jersey Better Educational
 26 Savings Trust (NJBEST) Program," (N.J.S.18A:71B-35 et seq.)
 27 ¹~~an account established pursuant to the "New Jersey Prepaid~~
 28 ~~Higher Education Expense Program," P.L.2001, c.262 (C.18A:71B-~~
 29 ~~64 et seq.)~~¹ or an account established pursuant to any qualified
 30 State tuition program, as defined pursuant to subsection (b) of
 31 section 529 of the federal Internal Revenue Code of 1986, 26
 32 U.S.C. s.529 or a tuition credit or certificate purchased pursuant to
 33 any such program;

34 ¹~~[(b) "Qualified ABLE account"]~~ means an account established
 35 pursuant to P.L. , c. (C.) (pending before the Legislature as
 36 this bill) or an account established pursuant to any qualified State
 37 ABLE program established pursuant to subsection (f) of section 529
 38 of the federal Internal Revenue Code of 1986, 26 U.S.C. s.529]¹.

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

40 (a) a distribution from a qualified State tuition program account
 41 that is used for qualified higher education expenses as defined
 42 pursuant to paragraph (3) of subsection (e) of section 529 or a
 43 distribution from a qualified ABLE account that is used for

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

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AHU committee amendments adopted March 19, 2015.

1 qualified disability expenses as defined pursuant to paragraph ¹[(3)
 2 of subsection (f) of section 529] (5) of subsection (e) of section
 3 529A¹ of the federal Internal Revenue Code of 1986, 26 U.S.C.
 4 s.529 ¹or 529A¹;

5 (b) a rollover from one account to another account as described
 6 in clause (i) of subparagraph (C) of paragraph (3) of subsection (c)
 7 of section 529, ¹[(paragraph (4) of subsection (f) of section 529]
 8 clause (i) of subparagraph (C) of paragraph (1) of subsection (c) of
 9 section 529A¹, or paragraph (5) of subsection (d) of section 530 of
 10 the federal Internal Revenue Code of 1986, 26 U.S.C. s.529
 11 ¹, 529A, ¹or 530; ¹or¹

12 (c) a change in designated beneficiaries of an account as
 13 described in clause (ii) of subparagraph (C) of paragraph (3) of
 14 subsection (c) of section 529, ¹[(paragraph (4) of subsection (f) of
 15 section 529] clause (ii) of subparagraph (C) of paragraph (1) of
 16 subsection (c) of section 529A¹, or paragraph (6) of subsection (d)
 17 of section 530 of the federal Internal Revenue Code of 1986, 26
 18 U.S.C. s.529 ¹, 529A, ¹or 530 ¹[:];

19 (4) “Qualified ABLE account” means an account established
 20 pursuant to P.L. , c. (C.) (pending before the Legislature as
 21 this bill) or an account established pursuant to any qualified State
 22 ABLE Program established pursuant to section 529A of the federal
 23 Internal Revenue Code of 1986, 26 U.S.C. s.529A.¹

24 d. The portion of a distribution from ¹[an education individual
 25 retirement] a Coverdell education savings¹ account, a qualified
 26 ABLE account, or a qualified State tuition program account that is
 27 attributable to earnings shall be determined in accordance with the
 28 principles of section 72 of the federal Internal Revenue Code of
 29 1986, 26 U.S.C. s.72, as applied for purposes of sections 529
 30 ¹, 529A, ¹and 530 of the federal Internal Revenue Code of 1986, 26
 31 U.S.C. ss.529 ¹, 529A, ¹and 530.

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

33

34 2. (New section) As used in P.L. , c. (C.) (pending
 35 before the Legislature as this bill):

36 ¹“ABLE Program” or “program” means the “New Jersey
 37 Achieving a Better Life Experience (ABLE) Program” established
 38 pursuant to P.L. , c. (C.) (pending before the Legislature as
 39 this bill);¹

40 "Account" means an individual ABLE account established ¹[in
 41 accordance with this act] by an eligible individual, which is owned
 42 by the individual and maintained under the ABLE Program
 43 established pursuant to P.L. , c. (C.) (pending before the
 44 Legislature as this bill)¹;

45 "Contributor" means the person or organization contributing to
 46 and maintaining an account and having the right to withdraw funds

1 from the account before the account is disbursed to or for the
2 benefit of the designated beneficiary;

3 "Designated beneficiary" means: ¹~~["the"]~~ an eligible¹ individual
4 ¹~~["designated at the time the account is opened as the individual~~
5 whose qualified disability expenses are expected to be paid from the
6 account and the replacement beneficiary if the change in designated
7 beneficiary would not result in a distribution that is included in
8 federal gross income under section 529¹ ~~"]~~ who establishes and owns
9 an ABLE account consistent with the provisions of P.L. _____,
10 c. (C. _____) (pending before the Legislature as this bill) and
11 section 529A¹ of the federal Internal Revenue Code of 1986, 26
12 U.S.C. ¹~~["s.529"]~~ s.529A¹;

13 "Division" means the Division of Developmental Disabilities in
14 the Department of Human Services;

15 ¹"Eligible Individual" means an eligible individual as defined in
16 or for the purposes of section 529A of the federal Internal Revenue
17 Code of 1986, 26 U.S.C. s.529A¹;

18 "Investment Manager" means the Division of Investment in the
19 Department of the Treasury or the private entities authorized to do
20 business in this State that may be designated by the division to
21 invest the funds of the trust pursuant to the terms of ¹~~["this act"]~~
22 P.L. _____, c. (C. _____) (pending before the Legislature as this bill)¹;

23 "Member of the family" means a member of the family as
24 defined in or for purposes of section ¹~~["529"]~~ 529A¹ of the federal
25 Internal Revenue Code of 1986, 26 U.S.C. ¹~~["s.529"]~~ 529A¹;

26 "Nonqualified withdrawal" means a withdrawal from an account
27 other than: (1) a qualified withdrawal; (2) a withdrawal made as the
28 result of the death or disability of the designated beneficiary of an
29 account; ¹~~or¹~~ (3) ¹~~["a withdrawal made on account of a scholarship~~
30 (or allowance or payment described in subparagraph (B) or (C) of
31 paragraph (1) of subsection (d) of section 135 of the federal Internal
32 Revenue Code of 1986, 26 U.S.C. s.135) received by the designated
33 beneficiary, but only to the extent of the amount of that scholarship,
34 allowance or payment; or (4)¹ ~~"]~~ ¹~~["a rollover or change in designated~~
35 beneficiary which would not result in a distribution includible in
36 federal gross income under section ¹~~["529"]~~ 529A¹ of the federal
37 Internal Revenue Code of 1986, 26 U.S.C. ¹~~["s.529"]~~ 529A¹;

38 ¹~~["Program"]~~ means the "New Jersey Achieving a Better Life
39 Experience (ABLE) Program" established pursuant to
40 P.L. _____, c. (C. _____) (pending before the Legislature as this bill);¹

41 "Qualified disability expenses" means expenses described in
42 paragraph ¹~~["(3) of subsection (f) of section 529"]~~ (5) of subsection
43 (e) of section 529A¹ of the federal Internal Revenue Code of 1986,
44 26 U.S.C. ¹~~["s.529"]~~ s.529A¹, made for the benefit of an individual
45 with a disability who is a designated beneficiary. A "qualified
46 disability expense" shall be related to the beneficiary's disability

1 and shall supplement, but not supplant, impair, or diminish, any
2 benefits or assistance of any ¹**["Federal"] federal**¹, State, or other
3 governmental entity for which the beneficiary may otherwise be
4 eligible or which the beneficiary may be receiving;

5 "Qualified withdrawal" means a withdrawal from an account to
6 pay the qualified disability expenses of the designated beneficiary
7 of the account. A qualified withdrawal may be made by an agent of
8 the beneficiary who has power of attorney or by the beneficiary's
9 legal guardian;

10 "Trust" means the "New Jersey Achieving a Better Life
11 Experience Trust (ABLE Trust)" established pursuant to section 3
12 of P.L. , c. (C.) (pending before the Legislature as this
13 bill).
14

15 3. (New section) Pursuant to the ABLE ¹**["program"] Program**¹
16 established by ¹**["this act"] P.L. , c. (C.)**(pending before the
17 Legislature as this bill)¹, there is created within the Division of
18 Developmental Disabilities in the Department of Human Services
19 the New Jersey Achieving a Better Life Experience (ABLE) Trust.
20 The ABLE ¹**["program"] Program**¹ shall provide a mechanism
21 through which the division, as trustee, holds accounts established
22 and maintained in the ABLE Trust pursuant to the provisions of this
23 act to finance the cost of qualified disability expenses.
24

25 4. (New section) The division shall administer the ABLE
26 Trust. The division shall have the power to:

27 a. serve as trustee of the trust;
28 b. adopt rules and regulations pursuant to the "Administrative
29 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to
30 carry out the provisions of ¹**["this act"] P.L. , c. (C.)** (pending
31 before the Legislature as this bill)¹;

32 c. prescribe and provide appropriate forms for participation in
33 the program;

34 d. select an investment manager and any other contractors
35 needed to manage and market the program;

36 e. monitor the investment manager and any other contractors
37 by audits and other reports;

38 f. collect reasonable administrative fees in connection with any
39 contract or transaction relating to the program;

40 g. take all actions required so that the program is treated as a
41 qualified State ABLE ¹**["program"] Program**¹ under section ¹**["529"]**
42 529A¹ of the federal Internal Revenue Code of 1986, 26 U.S.C.
43 ¹**["s.529"] s.529A**¹; and

44 h. perform any other acts which may be deemed necessary or
45 appropriate to carry out the objectives and purposes of ¹**["this act"]**
46 P.L. , c. (C.) (pending before the Legislature as this bill)¹.

1 5. (New section) Neither the members of the division, nor any
2 officer or employee of the division, shall be liable personally for the
3 debts, liabilities, or obligations of the ABLE ¹~~['program']~~ Program¹
4 established pursuant to ¹~~['this act']~~ P.L. _____, c. _____ (C. _____) (pending
5 before the Legislature as this bill)¹.

6
7 6. (New section) a. The division shall select an investment
8 manager or managers to invest the funds of the ABLE Trust or the
9 funds in ABLE accounts. In making this selection, any investment
10 manager shall be subject to the "prudent person" standard of care
11 applicable to the Division of Investment in the Department of the
12 Treasury pursuant to subsection b. of section 11 of P.L.1950, c.270
13 (C.52:18A-89), and the division shall consider the impact of fees
14 and costs imposed by the manager or managers on yield to
15 contributors.

16 b. The division may select more than one investment manager
17 and investment instrument for the program if it is in the best interest
18 of contributors and will not interfere with the administration of the
19 program.

20 c. The division may provide a contributor with a choice of
21 investment managers or investment instruments or both for the
22 program if both of the following conditions exist:

23 (1) the federal Internal Revenue Service has provided guidance
24 that providing a contributor with a choice of investment managers
25 or instruments under a State ABLE ¹~~['program']~~ Program¹ will not
26 cause the program to fail to qualify for favorable tax treatment
27 under section ¹~~['529']~~ 529A¹ of the federal Internal Revenue Code
28 of 1986, 26 U.S.C. ¹~~['s.529']~~ s.529A¹; and

29 (2) the division concludes that a choice of investment managers
30 or of investment instruments is in the best interest of contributors
31 and will not interfere with the administration of the program.

32 d. If the division terminates the designation of an investment
33 manager to hold accounts, and accounts must be moved from that
34 investment manager to another investment manager, the division
35 shall select the investment manager and type of investment
36 instrument to which the balance of the account is moved, unless the
37 federal Internal Revenue Service provides guidance that allowing
38 the contributor to select among several investment managers or
39 investment instruments that have been selected by the division
40 would not cause a program to cease to be a qualified State ABLE
41 ¹~~['program']~~ Program¹ for the purposes of ¹~~['subsection (f) of']~~
42 section ¹~~['529']~~ 529A¹ of the federal Internal Revenue Code, 26
43 U.S.C. ¹~~['s.529']~~ s.529A¹.

44 e. If the selection process provided for in this section results in
45 an investment manager other than the Division of Investment, the
46 division shall provide for the orderly transfer of accounts and shall

1 ensure that all the rights of the contributors and designated
2 beneficiaries participating in the program are protected.

3
4 7. (New section) a. The ABLE ¹~~['program']~~ Program¹ shall be
5 operated as a trust through the use of accounts for designated
6 beneficiaries. An account may be opened by ¹~~['any person who~~
7 ~~desires to save to pay the qualified disability expenses of']~~¹ an
8 ¹~~eligible~~¹ individual by satisfying each of the following
9 requirements:

10 (1) completing an application in the form prescribed by the
11 division;

12 (2) ¹~~['paying the one-time application fee established by the~~
13 ~~division;~~

14 (3) ¹~~['making the minimum contribution required by the division~~
15 ~~for opening an account~~¹, which in no case shall be an amount
16 greater than the minimum contribution required by the division for
17 opening an account under the NJBEST Program established
18 pursuant to N.J.S.18A:71B-35 et seq.¹ ;

19 ¹~~['(4) designating the account or accounts to be opened; and~~

20 (5) in the case of an account to which subsection a. of section 8
21 of P.L. , c. (C.) (pending before the Legislature as this bill)
22 would apply, ¹~~and~~

23 (3)¹ demonstrating to the satisfaction of the division that ¹~~['either~~
24 ~~the contributor, if an individual, or']~~¹ the designated beneficiary is a
25 New Jersey resident. ¹~~['The requirement of New Jersey residency~~
26 ~~for either the contributor or the designated beneficiary would not~~
27 ~~apply to an account to which subsection b. of section 8 of~~
28 ~~P.L. , c. (C.) (pending before the Legislature as this bill)~~
29 ~~would apply unless otherwise determined by the division.】~~¹

30 b. ¹In no case shall a designated beneficiary establish, own, or
31 maintain more than one ABLE account at one time. Unless
32 otherwise permitted under section 529A of the federal Internal
33 Revenue Code of 1986, 26 U.S.C. s.529A, an account subsequently
34 established for such beneficiary shall not be treated as an ABLE
35 account.

36 c. (1)¹ Contributions to accounts shall be made only in cash,
37 as defined by the division pursuant to regulations, in accordance
38 with section ¹~~['529']~~ 529A¹ of the federal Internal Revenue Code of
39 1986, 26 U.S.C. ¹~~['s.529']~~ 529A.

40 (2) Except in the case of contributions under subparagraph (C)
41 of paragraph (1) of subsection (c) of section 529A of the federal
42 Internal Revenue Code of 1986, 26 U.S.C. s.529A, no contribution
43 may be accepted if it would result in aggregate contributions to the
44 account exceeding the amount in effect under subsection (b) of
45 section 2503 of the federal Internal Revenue Code of 1986, 26

1 U.S.C. s.2503, for the calendar year in which the taxable year
2 begins¹.

3 ¹**[c.] d.**¹ Contributors may withdraw all or part of the balance
4 from an account on sixty days' notice or a shorter period, as may be
5 authorized by the division pursuant to regulations. The contributor
6 shall provide written notice of the withdrawal to the trustee and to
7 the designated beneficiary.

8 ¹**[d.** A contributor may change the **]** e. (1) The¹ designated
9 beneficiary of an account ¹may be changed¹, provided that the new
10 beneficiary qualifies as a designated beneficiary for the purposes of
11 ¹**[this act, or rollover all]** P.L. , c. (C.)(pending before the
12 Legislature as this bill) and such change meets the requirements of,
13 and would not result in a distribution includible in gross income
14 under, section 529A of the federal Internal Revenue Code of 1986,
15 26 U.S.C. s.529A.

16 (2) All¹ or a portion of an account ¹may be rolled over¹ to
17 another account, provided that the other account ¹**[that meets the**
18 **requirements of this act, if the change or]** is a qualifying ABLE
19 account that meets the requirements of P.L. , c. (C.)
20 (pending before the Legislature as this bill) and such¹ rollover
21 would not result in a distribution includible in gross income under
22 section ¹**[529]** 529A¹ of the federal Internal Revenue Code of
23 1986, 26 U.S.C. ¹**[s.529,** in accordance with procedures established
24 **by the division]** 529A¹.

25 ¹**[e.] f.**¹ Each account shall be maintained separately from
26 each other account under the program.

27 ¹**[f.] g.**¹ Separate records and accounting shall be maintained
28 for ¹**[each]** the¹ account ¹**[for]** of¹ each designated beneficiary.

29 ¹**[g.] h.** (1) A designated beneficiary may, directly or
30 indirectly, direct the investment of any contributions to the
31 program, or any earnings thereon, no more than two times in any
32 calendar year.

33 (2)¹ A contributor to ¹**[or designated beneficiary of any]** an¹
34 account shall not direct the investment of any contributions to an
35 account or the earnings from the account, except as permitted under
36 section ¹**[529]** 529A¹ of the federal Internal Revenue Code of
37 1986, 26 U.S.C. ¹**[s.529]** 529A¹.

38 ¹**[h.] i.**¹ A contributor or a designated beneficiary shall not use
39 an interest in an account as security for a loan. Any pledge of an
40 interest in an account is of no force and effect.

41 ¹**[i.] j.**¹ The maximum ¹individual¹ contribution ¹and maximum
42 aggregate contributions¹ for any designated beneficiary shall be
43 determined by the division pursuant to regulations, in accordance
44 with section ¹**[529]** 529A¹ of the federal Internal Revenue Code of
45 1986, 26 U.S.C. ¹**[s.529]** 529A¹.

1 **¹[j.] k.**¹ Statements, reports on distributions, ¹notices of the
2 establishment of accounts¹ and information returns relating to
3 accounts shall be prepared, distributed, and filed ¹**[to the extent**
4 **required by]** in accordance with subsection (d) of¹ section ¹**[529]**
5 529A¹ of the federal Internal Revenue Code of 1986, 26 U.S.C.
6 ¹**[s.529]** s.529A¹, or regulations issued thereunder.

7 **¹[k.] l.**¹ The division may charge, impose, and collect
8 reasonable administrative fees and service charges in connection
9 with any agreement, contract, or transaction relating to the program.
10 These fees and charges may be imposed directly on contributors or
11 may be taken as a percentage of the investment earnings on
12 accounts.

13 **¹[l.] m.**¹ The State or any State agency, municipality, or other
14 political subdivision may, by contract or collective bargaining
15 agreement, agree with any employee to remit contributions to
16 accounts through payroll deductions made by the appropriate officer
17 or officers of the State, State agency, county, municipality, or
18 political subdivision. The contributions shall be held and
19 administered in accordance with ¹**[this act]** P.L. , c. (C.)
20 (pending before the Legislature as this bill)¹.

21 **¹[m.]** A contributor, if an individual, may designate another
22 person as a successor contributor in the event of the death of the
23 original contributor. The person who opens the account, or any
24 successor contributor, shall be considered the contributor as defined
25 in section 2 of P.L. , c. (C.) (pending before the
26 Legislature as this bill).¹

27 n. Any person may make contributions to an account,
28 consistent with ¹subsection c. of this section and¹ the terms
29 established by the division, after the account is opened.

30 o. Moneys paid into or out of an ABLE account by or on behalf
31 of a contributor or designated beneficiary for the purposes of
32 financing the cost of qualified disability expenses under ¹**[this act]**
33 P.L. , c. (C.) (pending before the Legislature as this bill)¹ are
34 exempt from all claims of creditors of the contributor or the
35 designated beneficiary.

36 p. Subject to any outstanding payments due for qualified
37 disability expenses, in the case that the designated beneficiary dies
38 or ceases to be an individual with a disability, all amounts
39 remaining in the qualified ABLE account not in excess of the
40 amount equal to the total medical assistance paid for the designated
41 beneficiary after the establishment of the account, net of any
42 premiums paid from the account or paid by or on behalf of the
43 beneficiary to a Medicaid Buy-In program, shall be distributed to
44 the State upon the State filing a claim for payment. For the
45 purposes of this subsection, the State shall be a creditor of the
46 ABLE account and not a beneficiary. ¹**[Paragraph (3) of subsection**

1 (c) of 26 U.S.C. s.529 shall not apply to a distribution to the State
2 pursuant to this subsection. **1**

3
4 8. (New section) a. If the investment manager is the Division
5 of Investment in the Department of the Treasury, in order to assure
6 the availability of principal of any amount contributed under **1**["this
7 act"] P.L. , c. (C.)(pending before the Legislature as this
8 bill)¹, there shall be paid to the division for deposit in the trust, at
9 the time of distribution, subject to appropriation, such sum, if any,
10 as shall be certified by the Director of the Division of
11 Developmental Disabilities in the Department of Human Services as
12 necessary to provide that amount at the time of distribution. The
13 director shall make and deliver to the Governor, or the Governor's
14 designee, the certificate stating the sums, if any, required to make
15 available in the trust the amount aforesaid, and the sums so certified
16 shall be appropriated and paid to the division during the then
17 current State fiscal year.

18 b. If the investment manager is a private entity, the investment
19 of the principal and interest of any amount contributed under **1**["this
20 act"] P.L. , c. (C.)(pending before the Legislature as this
21 bill)¹ shall be made in accordance with an investment plan approved
22 by the State Investment Council in the Division of Investment.

23
24 9. (New section) Annually, the division shall determine a
25 dollar amount of an ABLE account, which shall not be less than
26 \$25,000, which shall not be considered in evaluating the financial
27 needs of a designated beneficiary or be deemed a financial resource
28 or a form of financial aid or assistance to a designated beneficiary,
29 for purposes of determining the eligibility of the beneficiary for any
30 scholarship, grant, or monetary assistance awarded by the State for
31 the purposes of financing the education expenses of the beneficiary,
32 including higher education expenses; nor shall the amount of any
33 account as determined by the division provided for a designated
34 beneficiary under **1**["this act"] P.L. , c. (C.)(pending before
35 the Legislature as this bill)¹ reduce the amount of any scholarship
36 grant or monetary assistance which the beneficiary is entitled to be
37 awarded by the State for the purposes of financing education
38 expenses.

39
40 10. (New section) Notwithstanding any other provision of State
41 law that requires consideration of one or more financial
42 circumstances of an individual, for the purpose of determining
43 eligibility to receive, or the amount of, any assistance or benefit
44 authorized by such provision to be provided to or for the benefit of
45 such individual, any amount, including earnings thereon, in any
46 ABLE account of such individual, and any distribution for qualified
47 disability expenses shall be disregarded for such purpose with

1 respect to any period during which such individual maintains,
2 makes contributions to, or receives distributions from such ABLE
3 account.

4

5 11. (New section) a. Nothing in ¹【this act】 P.L._____,
6 c. (C.____)(pending before the Legislature as this bill)¹ shall be
7 construed to:

8 (1) guarantee the availability or provision of disability-related
9 services to a designated beneficiary;

10 (2) establish State residency for a person merely because the
11 person is a designated beneficiary; or

12 (3) guarantee that amounts saved pursuant to the program will
13 be sufficient to cover the qualified disability expenses of a
14 designated beneficiary.

15 b. Nothing in ¹【this act】 P.L._____, c. (C.____)(pending before
16 the Legislature as this bill)¹ establishes any obligation of this State
17 or any agency or instrumentality of this State to guarantee for the
18 benefit of any contributor or designated beneficiary any of the
19 following:

20 (1) the rate of interest or other return on any account; or

21 (2) the payment of interest or other return on any account.

22 c. Nothing in ¹【this act】 P.L._____, c. (C.____)(pending before
23 the Legislature as this bill)¹ establishes any obligation or liability of
24 this State or any agency or instrumentality of this State with respect
25 to any federal or State tax liability of any contributor or designated
26 beneficiary in this program.

27 d. Under regulations promulgated by the division, every
28 contract and application that may be used in connection with a
29 contribution to an account shall clearly indicate that the account is
30 not insured by this State nor is the investment return guaranteed by
31 this State.

32

33 12. This act shall take effect ¹【upon enactment of the federal
34 “Achieving a Better Life Experience Act of 2013”】 on the 45th day
35 after the date of enactment¹ and section 1 shall apply to
36 contributions made for taxable years beginning after the effective
37 date.