

# ACHIEVING A BETTER LIFE EXPERIENCE

## PLAN DOCUMENT

### RECITALS

**WHEREAS**, Tenn. Code Ann. §§71-4-801 through 71-4-812 establishes the Achieving a Better Life Experience (“ABLE”) Act authorizing the State Treasurer to establish a qualified ABLE Program (“ABLE Program” or “Program”);

**WHEREAS**, the authority for the establishment of the ABLE Act was derived from federal law codified at 26 U.S.C. §529A, which authorizes a State to establish and maintain an ABLE Program as an agency and instrumentality thereof;

**WHEREAS**, pursuant to applicable federal and state law, the purpose of the ABLE Program is “[t]o encourage and assist individuals and families to save private funds for the purpose of supporting individuals with disabilities to maintain health, independence and quality of life”;

**WHEREAS**, consistent with applicable federal and state authority, the State Treasurer is establishing an ABLE Program for the State of Tennessee that will be branded as ABLE *TN*;

**WHEREAS**, in establishing the ABLE Program, the State Treasurer shall develop a plan (“Plan”) that shall include provisions for the implementation, administration, operation, marketing, investment options, customer service and investment management services of the ABLE Program, which shall be approved by the ABLE Program trustees;

**NOW THEREFORE**, in consideration of the foregoing, the Plan for the ABLE Program is hereby established as follows:

### I. TRUSTEE AND STATE TREASURER RESPONSIBILITIES

The trustees for the ABLE Program are as follows: Chair of the Senate Finance, Ways and Means Committee; Chair of the House Finance, Ways and Means Committee; Commissioner of Finance and Administration; and State Treasurer (“Trustees”). The Trustees shall approve the Plan, and as a part of the Plan, are authorized to offer investment options to ABLE Program participants.

In addition to being a Trustee for the ABLE Program, the State Treasurer has the authority to carry out the following duties and functions, including, but not limited to: (a) provide investment options or investment products for the ABLE Program; (b) purchase insurance from insurers to cover any loss in connection with the program’s property, assets or activity; (c) enter into contracts for the implementation of the ABLE Program; (d) administer and operate the Program at the direction of the Plan approved by the Trustees; (e) promote, advertise, market and publicize the Program; (f) solicit and accept monetary gifts made to the Program; (g) establish and impose reasonable restrictions and limits on the number of accounts, contributions, substitution of designated beneficiaries, transfer of account ownership, account

investment direction; (h) impose fees; (i) promulgate rules for the administration of the Program; (j) seek rulings from the United State Department of Treasury and the Internal Revenue Service relative to the Program; and (k) make changes to the Program that are required for Program participants to obtain federal income tax benefits or treatments.

The State Treasurer shall effectuate the terms of the Plan through his/her authority to carry out the day-to-day operations and responsibilities of the ABLE Program. In doing so, the State Treasurer has the authority to and may assign the duties and responsibilities associated with the Program's implementation and day-to-day operation to Department of Treasury staff or private vendors or contactors. The State Treasurer may also consult with professionals about the administration of the Program, and establish Program policies, procedures and operating guidelines. See Tenn. Code Ann. §§71-4-804, 71-4-805 and 71-4-807.

## **II. ADMINISTRATION AND OPERATION**

Consistent with the State Treasurer's authority, the State Treasurer has promulgated rules for the administration and operation of the ABLE Program which are contained in Tenn. Comp. R. & Regs. Chapter 1700-08 [ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM]. The State Treasurer shall ensure that the administration and operation of the ABLE Program is consistent with applicable federal and state laws and rules as well as all notices and interpretations released by the United States Treasury, including the Internal Revenue Service. See Tenn. Code Ann. §71-4-805(21).

## **III. MARKETING**

In addition to the authority to market the ABLE Program as listed in Section I of this Plan, the State Treasurer has the authority to enter into memoranda of understanding with appropriate Tennessee state agencies to develop, implement and market educational programs and related informational materials to inform individuals with disabilities and their legal representatives about the ABLE Program. The State Treasurer may enter into memoranda of understanding with Tennessee state agencies that have contact and communication with the disability community, including, but not limited to, the Departments of Health, Mental Health, Intellectual and Developmental Disabilities and Human Services. Through the memoranda of understanding, the State Treasurer may request the state agencies to facilitate communication and provide marketing or educational materials to organizations that provide services to disabled individuals relative to the ABLE Program. The State Treasurer also has the authority to request assistance from and exchange data with other Tennessee state departments and agencies. See Tenn. Code Ann. §§71-4-805(19) and 71-4-809.

## **IV. INVESTMENT OPTIONS**

At all times, the funds of the ABLE Program shall be preserved, invested and expended pursuant to and for the purposes set forth in Tenn. Code Ann. §71-4-802 and held in account for the ABLE

Program's designated beneficiaries. The funds of the ABLE Program may be pooled for investment purposes with the assets of any other assets under the custody of the State Treasurer.

The Trustees hereby authorize the State Treasurer to provide ABLE Program participants with a menu of investment options that will meet the needs of a diverse demographic with respect to asset classes, risk levels and investment strategies and be reasonable in cost when compared with other investment options with similar objectives. In doing so, the State Treasurer has the authority to utilize some or all of the investment options provided to Baccalaureate Education System Trust Fund Program, Educational Investment Plan (commonly referred to as TNStars® 529 College Saving Plan) participants. Furthermore, the State Treasurer has the authority to and may delegate certain investment-related responsibilities to the Department of Treasury staff or service providers. See Tenn. Code Ann. §§71-4-805(1) and 71-4-808.

## **V. CUSTOMER SERVICE**

The State Treasurer shall employ Department of Treasury staff to efficiently operate the Program and provide customer service to the ABLE Program participants. The staff shall be trained to provide information relative to, including, but not limited to, the following:

- Qualifying for an ABLE account;
- Establishing, contributing and withdrawing monies from an ABLE account;
- ABLE Program investment options;
- §529A tax provisions; and
- Qualified disability expenses.

Such customer service may be provided through a variety of channels including, but not limited to, websites, online portals, email and telephone.

## **VI. INVESTMENT MANAGEMENT SERVICES**

If determined to be in the best interest of the ABLE Program, the State Treasurer is authorized to contract with financial consultants, investment managers or other related professionals as necessary to carry out the investment-related responsibilities of the Plan. The State Treasurer shall have the responsibility to determine the procurement method for such services or providers, including general and technical qualifications. The State Treasurer shall also determine the duties and responsibilities of the providers with such duties and responsibilities enumerated in a contractual agreement. See Tenn. Code Ann. §71-4-805(6).

## **VII. FIDUCIARY STANDARD**

ABLE Program participant funds shall be invested and managed in good faith and in the best interest of the participants with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

**VIII. PLAN AMENDMENT**

The State Treasurer has the authority to amend any provisions in the Plan from time to time, in whole or in part, with the concurrence of the Commissioner of Finance and Administration; however, no such amendment shall be inconsistent with applicable federal and state laws and rules. Any such amendment shall be in writing. See Tenn. Code Ann. §71-4-804(b).

**IX. PROGRAM TERMINATION**


The Trustees may suspend or terminate the Program at any time if the Trustees determine that the Program is financially infeasible or is not beneficial to the citizens of the State of Tennessee or to the State itself. See Tenn. Code Ann. §71-4-811.

This Plan, made and entered into this 12<sup>th</sup> day of May, 2016, by the Trustees for the implementation of the Achieving a Better Life Experience Act.

  
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SENATOR RANDY MCNALLY,  
Chairman of the Senate Finance, Ways and Means Committee

  
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REPRESENTATIVE CHARLES SARGENT,  
Chairman of the House Finance, Ways and Means Committee

  
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LARRY B. MARTIN,  
Commissioner of Finance and Administration

  
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DAVID H. LILLARD, JR.,  
State Treasurer