

## SB0199S01 compared with SB0199

~~{deleted text}~~ shows text that was in SB0199 but was deleted in SB0199S01.

Inserted text shows text that was not in SB0199 but was inserted into SB0199S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Todd Weiler proposes the following substitute bill:

### ABLE ACT REVISIONS

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd Weiler**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill modifies provisions of the Achieving a Better Life Experience Program Act.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ directs the Department of Workforce Services to either:
  - administer the state Achieving a Better Life Experience Program (ABLE);
  - enter into a contract with a state that maintains a qualified ABLE program to provide Utah residents access to that state's qualified ABLE program; or
  - inform eligible individuals and parents or legal guardians of eligible individuals about qualified ABLE programs offered by other states to which Utah residents may apply; and

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- ▶ allows persons that contribute to an account in any qualified ABLE program to claim a nonrefundable state tax credit.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

**35A-12-102**, as enacted by Laws of Utah 2015, Chapter 460

**35A-12-201**, as enacted by Laws of Utah 2015, Chapter 460

**59-7-620**, as enacted by Laws of Utah 2015, Chapter 460

**59-10-1035**, as enacted by Laws of Utah 2015, Chapter 460

#### REPEALS:

**35A-12-202**, as enacted by Laws of Utah 2015, Chapter 460

**35A-12-301**, as enacted by Laws of Utah 2015, Chapter 460

**35A-12-302**, as enacted by Laws of Utah 2015, Chapter 460

**35A-12-303**, as enacted by Laws of Utah 2015, Chapter 460

**35A-12-304**, as enacted by Laws of Utah 2015, Chapter 460

**35A-12-305**, as enacted by Laws of Utah 2015, Chapter 460

**35A-12-401**, as enacted by Laws of Utah 2015, Chapter 460

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **35A-12-102** is amended to read:

**35A-12-102. Definitions.**

As used in this chapter:

(1) "Account" means [~~a state Achieving a Better Life Experience Program account established under this chapter~~] an account in a qualified ABLE program.

[~~(2) "Account administrator" means a person who administers accounts in accordance with this chapter.~~]

[~~(3) "Account agreement" means an agreement between an account administrator and an account owner to establish an account.~~]

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~~[(4) "Account owner" means the following who enter into an agreement with an account administrator to establish an account under this chapter:]~~

~~[(a) an eligible individual; or]~~

~~[(b) if the eligible individual is under 18 years of age or is incapacitated, a parent or legal guardian of the eligible individual.]~~

~~[(5) "Beneficiary" means an individual who is:]~~

~~[(a) an eligible individual;]~~

~~[(b) a resident of:]~~

~~[(i) this state; or]~~

~~[(ii) a contracting state; and]~~

~~[(c) designated as the beneficiary of an account under an account agreement.]~~

~~[(6) "Contracting state" means a state that:]~~

~~[(a) does not have an Achieving a Better Life Experience program that meets the requirements to be a qualified Achieving a Better Life Experience program under the federal Achieving a Better Life Experience Act; and]~~

~~[(b) has entered into a contract with this state to provide residents of the other state access to the state Achieving a Better Life Experience Program:]~~

~~[(7) "Eligible individual" means an individual who, before the individual turns 26 years of age:]~~

~~[(a) as determined by the department, has a medically determinable physical or mental impairment that:]~~

~~[(i) results in marked and severe functional limitations that can be expected to result in death; or]~~

~~[(ii) has lasted or can be expected to last for a continuous period of 12 months or more; or]~~

~~[(b) is eligible for benefits under title II or title XVI of the Social Security Act on the basis of blindness:]~~

~~[(8) "Federal Achieving a Better Life Experience Act" means the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014, Pub. L. No. 113-295, 128 Stat. 4010.]~~

~~[(9) "Qualified disability expenses" means the same as that term is defined in the federal Achieving a Better Life Experience Act.]~~

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(2) "Qualified ABLE program" means the same as that term is defined in 26 U.S.C. Sec. 529A.

~~[(10)]~~ (3) "State Achieving a Better Life Experience Program" means the program created by this chapter.

Section 2. Section **35A-12-201** is amended to read:

### **35A-12-201. Creation of program.**

(1) There is created the state Achieving a Better Life Experience Program.

(2) The department shall do one of the following:

(a) administer the [program] state Achieving a Better Life Experience Program in compliance with:

~~[(a) this chapter;]~~

~~[(b) the federal Achieving a Better Life Experience Act; and]~~

(i) 26 U.S.C. Sec. 529A; and

~~[(c)]~~ (ii) regulations, if any, issued by the United States Department of the Treasury[-];

~~[(3) The program shall authorize the creation of an account for the purpose of allowing contributions on behalf of a beneficiary for the payment of qualified disability expenses.]~~

~~[(4) Subject to Subsection 35A-12-301(3), the department shall ensure that contributions to an account:]~~

~~[(a) are held in trust for a beneficiary; and]~~

~~[(b) may not be used for a purpose other than the payment of qualified disability expenses:]~~

(b) enter into a contract with a state that maintains a qualified ABLE program to provide Utah residents access to that state's qualified ABLE program; or

(c) inform eligible individuals and parents or legal guardians of eligible individuals about qualified ABLE programs offered by other states to which Utah residents may apply.

(3) This chapter may not be interpreted to:

(a) authorize or provide a disability-related service to an eligible individual;

(b) be a factor in establishing residency; or

(c) provide that contributions made into an account are sufficient to cover the qualified disability expenses of an eligible individual.

(4) An account is not insured or guaranteed by the state.

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(5) The state does not guarantee the rate or payment of interest or other return on an account.

Section 3. Section **59-7-620** is amended to read:

**59-7-620. Nonrefundable tax credit for contribution to state Achieving a Better Life Experience Program account.**

(1) As used in this section:

~~[(a) "Account" means the same as that term is defined in Section 35A-12-102.]~~

~~[(b) "Account administrator" means the same as that term is defined in Section 35A-12-102.]~~

(a) "Account" means an account in a qualified ABLE program where the designated beneficiary of the account is a resident of this state.

~~[(c)] (b) "Contributor" means a corporation that:~~

~~(i) makes a contribution to an account; and~~

~~(ii) receives a statement from the [account administrator in accordance with Section 35A-12-304] qualified ABLE program itemizing the contribution.~~

~~{ (c) "Qualified ABLE program" means the same as that term is defined in Section 35A-12-102.~~

~~‡ [(d) "State Achieving a Better Life Experience Program" means the same as that term is defined in Section 35A-12-102.]~~

(c) "Designated beneficiary" means the same as that term is defined 26 U.S.C. Sec. 529A.

(d) "Qualified ABLE program" means the same as that term is defined in Section 35A-12-102.

(2) A contributor to an account [~~created under the state Achieving a Better Life Experience Program~~] may claim a nonrefundable tax credit as provided in this section.

(3) Subject to the other provisions of this section, the tax credit is equal to the product of:

(a) 5%; and

(b) the total amount of contributions:

(i) the contributor makes for the taxable year; and

(ii) for which the contributor receives a statement from the [~~account administrator in~~

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~~accordance with Section 35A-12-304]~~ qualified ABLÉ program itemizing the contributions.

(4) A contributor may not claim a tax credit under this section:

(a) for an amount of excess contribution to an account that is returned to the contributor [~~in accordance with Section 35A-12-302~~]; or

(b) with respect to an amount the contributor deducts on a federal income tax return.

(5) A tax credit under this section may not be carried forward or carried back.

Section 4. Section **59-10-1035** is amended to read:

**59-10-1035. Nonrefundable tax credit for contribution to state Achieving a Better**

**Life Experience Program account.**

(1) As used in this section:

~~[(a) "Account" means the same as that term is defined in Section 35A-12-102.]~~

~~[(b) "Account administrator" means the same as that term is defined in Section 35A-12-102.]~~

(a) "Account" means an account in a qualified ABLÉ program where the designated beneficiary of the account is a resident of this state.

~~[(c)]~~ (b) "Contributor" means a claimant, estate, or trust that:

(i) makes a contribution to an account; and

(ii) receives a statement from the [~~account administrator in accordance with Section 35A-12-304]~~ qualified ABLÉ program itemizing the contribution.

~~{~~ ~~—~~ ~~(c) "Qualified ABLÉ program" means the same as that term is defined in Section 35A-12-102.~~

~~{~~ ~~(d) "State Achieving a Better Life Experience Program" means the same as that term is defined in Section 35A-12-102.]~~

(c) "Designated beneficiary" means the same as that term is defined 26 U.S.C. Sec. 529A.

(d) "Qualified ABLÉ program" means the same as that term is defined in Section 35A-12-102.

(2) A contributor to an account [~~created under the state Achieving a Better Life Experience Program~~] may claim a nonrefundable tax credit as provided in this section.

(3) Subject to the other provisions of this section, the tax credit is equal to the product of:

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- (a) 5%; and
- (b) the total amount of contributions:
  - (i) the contributor makes for the taxable year; and
  - (ii) for which the contributor receives a statement from the ~~[account administrator in accordance with Section 35A-12-304]~~ qualified ABLE program itemizing the contributions.
- (4) A contributor may not claim a tax credit under this section:
  - (a) for an amount of excess contribution to an account that is returned to the contributor ~~[in accordance with Section 35A-12-302]~~; or
  - (b) with respect to an amount the contributor deducts on a federal income tax return.
- (5) A tax credit under this section may not be carried forward or carried back.

### Section 5. **Repealer.**

This bill repeals:

Section **35A-12-202, Application.**

Section **35A-12-301, Account administrator -- Fees or service charges.**

Section **35A-12-302, Contributions.**

Section **35A-12-303, Account agreements -- Beneficiaries.**

Section **35A-12-304, Duties of account administrator.**

Section **35A-12-305, Reports.**

Section **35A-12-401, Scope of chapter -- No state guarantee.**

†

**Legislative Review Note**

**Office of Legislative Research and General Counsel†**