



NC ABE
National ABE Alliance Member



Dale R. Folwell, CPA
STATE TREASURER OF NORTH CAROLINA
DALE R. FOLWELL, CPA

MINUTES NC ABE PROGRAM BOARD OF TRUSTEES

The quarterly meeting of the NC ABE Program Board of Trustees was called to order at 9:30 a.m., February 9, 2022, by the Chair, State Treasurer Dale R. Folwell, CPA. The meeting was held in a hybrid format, with people attending virtually or in person in the Dogwood Conference Room of the Longleaf Building at 3200 Atlantic Avenue, Raleigh, NC 27604. The Chair indicated there would be a public comment period for organizations and individuals to address the Board later in the agenda.

Members Present

Board members attending in person: Treasurer Dale R. Folwell.

Board members attending virtually: NC Commissioner of Banks Katherine Bosken, Chris Egan, Melinda Plue, and Carlton 'Tim' Smith.

Members Absent

Board members absent: Marquita Robertson.

Guests Present

Guests attending virtually: Jose Gamboa and Paul Souppa from Ascensus.

Department of State Treasurer Staff Present

Staff members attending in person: Thomas Causey, Reid Chisholm, Zora Falkowski, Patti Hall, Jeff Hancock, and Alan Jaquith.

Staff members attending virtually: Christy Farrelly, Joan Fontes, Fran Lawrence, Kristin Merrick, and Laura Rowe.

The Chair called the meeting to order and reminded members that, since this meeting is being held in a hybrid format, members must announce their names when they arrive, when they depart, and when speaking. He explained that making a motion will be assumed to be a vote for the proposal and that all votes will be taken by roll call. He stated that today's meeting is being recorded under the Department of State Treasurer's policy to record official public meetings as part of an initiative to increase government transparency.

The Chair shared that 2022 marks the five-year anniversary of NC ABE account availability.

Ethics Awareness and Identification of Conflicts or Potential Conflicts of Interest

The Chair asked, pursuant to the ethics rules, about board member conflicts of interest. No conflicts of interest were identified.

The Chair informed the members that the Evaluation of Statement of Economic Interest (SEI) for Carlton "Tim" Smith was available in the appendix. He said that SEI evaluations are a part of the meeting minutes.

Approval of Minutes

The Chair entertained a motion to approve the minutes of the November 10, 2021, NC ABLE Program Board of Trustees meeting. Commissioner Bosken so moved, and Ms. Plue seconded. The motion passed by a unanimous roll call vote of 5-0.

National ABLE Alliance Program Manager Contract Update

The Chair recognized Mr. Jeff Hancock to provide an update on the National ABLE Alliance's program manager contract. Mr. Hancock said that Illinois, the lead state in the National ABLE Alliance, has not yet finalized contract terms with Ascensus. Illinois has extended the current contract with Ascensus through March 31, 2022 to allow additional time for negotiations. This contract extension also applies to North Carolina's implementation agreement.

To avoid a special board meeting, Mr. Hancock proposed that the Board approve a new program management implementation agreement, subject to: (1) the execution of a signed master agreement between the Illinois ABLE Program and Ascensus for National ABLE Alliance services; and (2) the Department successfully negotiating an implementation agreement with Ascensus.

Mr. Chisholm confirmed that a motion of this type would be satisfactory from a legal perspective. The Chair stated that he has complete confidence in Mr. Causey, Mr. Chisholm, and Mr. Hancock to negotiate with Ascensus.

The Chair entertained a motion to approve a new program management implementation agreement with Ascensus, subject to these two conditions. Mr. Egan so moved, and Ms. Plue seconded. The motion passed by a unanimous roll call vote of 5-0.

Budget Proposal for 2021-2022

The Chair recognized Mr. Jeff Hancock to provide an update on the NC ABLE Program budget. Mr. Hancock commented that the North Carolina legislature approved a state budget later last year than is typical. He shared that the General Assembly eliminated the full-time employee position previously included in the NC ABLE Program budget. Mr. Hancock discussed the proposed administrative budget (included in the Board's materials), including revenue and expenditure assumptions.

The Chair entertained a motion to approve the NC ABLE Program budget. Commissioner Bosken so moved, and Mr. Egan seconded. The motion passed by a unanimous roll call vote of 5-0.

The Chair, Treasurer Folwell, stated that he would be handing the gavel to Mr. Thomas Causey and that Mr. Causey would take over as Acting Chair. As the Chair departed, he shared that he was on a call for the NC ABLE Program last night and there was great interest in the Program.

Legal Matters

The Acting Chair recognized Mr. Reid Chisholm to provide a legal update on the NC ABLE Program. Mr. Chisholm presented the Program's annual report to the General Assembly (included in the Board's materials) for the Board's approval. The annual report is required by North Carolina's ABLE statute.

The Acting Chair entertained a motion to approve the report. Commissioner Bosken so moved and Ms. Plue seconded. The motion passed by a unanimous roll call vote of 5-0, with the Acting Chair voting on behalf of the Chair.

Mr. Chisholm then provided an update on the implementation of the Federal ABLE regulations by the National ABLE Alliance and the NC ABLE Program. Mr. Chisholm addressed the expanded types of people who are authorized to open and manage ABLE accounts on behalf of an account owner. He also addressed the certification of authorized individuals and the availability of successor account owners. The NC ABLE Program will implement these items by November. In addition, staff will propose legislation to conform the state ABLE statute to federal law.

Communication and Marketing Update

The Acting Chair recognized Ms. Zora Falkowski to provide an update on communication and marketing efforts for the NC ABLE Program (included the Board's materials). Ms. Falkowski reminded the Board that last quarter she shared some of the great success from National Disability Employment Awareness month. She said that it led to an active fourth quarter, with NC ABLE issuing four press releases. NC ABLE also participated in the NC State Fair's first-ever AccessAbility Day where Treasurer Folwell attended and spoke. She shared that ABLE accounts as a whole are receiving more coverage in national media and we have seen a renewed interest in organizations requesting informational presentations. She said that the presentations have Q&A sessions, which provide great feedback and help identify topics to add to the FAQs on the website. Ms. Falkowski shared that at the close of 2021, NC ABLE released a newsletter and account holder survey, and while responses are still coming in, initial responses have shown trends where we can improve on the Program and increase our communication efforts. She also said NCABLE.org is transitioning to a new NC.gov platform for increased security and accessibility. She stated that as we celebrate the five-year anniversary of NC ABLE account availability, we will use this big milestone to positively promote and raise awareness of the Program throughout the year.

In response to questions about fees and withdrawals, Mr. Hancock explained that checking account fees can be waived by maintaining a minimum daily balance or by electing to receive electronic statements. He said that withdrawals can be processed online or via a phone call.

Administrative Update

The Acting Chair recognized Mr. Jose Gamboa from Ascensus, Relationship Manager for the Program, to provide an administrative update (included in the Board’s materials). He said that the NC ABLE Program assets topped \$15 million in December and that the management fee dropped from 30 basis points (bps) to 28 bps. Mr. Gamboa said that assets increased 57% over the last year from a combination of contributions and market growth. He commented that a notable increase in assets came in December. He shared that the checking option is the largest, but the more aggressive options also have a strong percentage of the total assets. He said they added a new graphic showing contributions by age group and commented that it is too early to draw any conclusions from this new data. After adding the Michigan ABLE Program to the National Alliance in Q4, the NC ABLE Program now ranks sixth in total assets among the 19 state programs.

Mr. Paul Souppa of Ascensus reported on investments and portfolio performance (included in the Board’s materials). He noted that overall, the NC ABLE Program saw tremendous growth in the past 12 months, with approximately 50% of assets in the most-aggressive investment options. In response to a question about fund performance, Mr. Souppa commented that the fund performance is available, but custom benchmark performance numbers are not released to the public.

Public Comments

No public comments were offered.



Board of Trustees Comments

The Acting Chair apologized to everyone for the technical difficulties during today’s meeting. Joining the meeting virtually, Treasurer Folwell thanked the staff for their work and said he was happy to be on the virtual presentation last night.

The Acting Chair announced the next Board meeting will be Wednesday, May 11, 2022, at 9:30 a.m.

Adjournment

The Acting Chair commented that with no further business before the Board, he would entertain a motion to adjourn. Treasurer Folwell so moved and Mr. Egan seconded. The motion passed by a unanimous roll call vote of 5-0. The meeting adjourned at approximately 10:39 a.m.

	<u>5/11/22</u>
Chair	Date
	<u>5/11/22</u>
Secretary	Date



STATE ETHICS COMMISSION

POST OFFICE BOX 27685

RALEIGH, NC 27611

PHONE: 919-814-3600

Via Email

August 5, 2021

The Honorable Phil Berger
President Pro Tempore of the Senate
16 West Jones Street, Room 2008
Raleigh, North Carolina 27601

**Re: Evaluation of Statement of Economic Interest Filed by Mr. Carlton Timothy Smith
Appointee to the NC (ABLE) Program Board of Trustees**

Dear Senator Berger:

Our office has received **Mr. Carlton Timothy Smith's** 2021 Statement of Economic Interest as an appointee to the **NC (ABLE) Program Board of Trustees (the "Board")**. We have reviewed it for actual and potential conflicts of interest pursuant to Chapter 138A of the North Carolina General Statutes ("N.C.G.S."), also known as the State Government Ethics Act (the "Act").

Compliance with the Act and avoidance of conflicts of interest in the performance of public duties are the responsibilities of every covered person, regardless of this letter's contents. This letter, meanwhile, is not meant to impugn the integrity of the covered person in any way. This letter is required by N.C.G.S. § 138A-28(a) and is designed to educate the covered person as to potential issues that could merit particular attention. Advice on compliance with the Act is available to certain public servants and legislative employees under N.C.G.S. § 138A-13.

We did not find an actual conflict of interest but found the potential for a conflict of interest. The potential conflict identified does not prohibit service on this entity.

The Achieving a Better Life Experience (ABLE) Board of Trustees was established to implement a private savings account program (ABLE accounts) for the purpose of supporting individuals with disabilities. The Board is authorized to contract for investment advice, retain professionals, develop a marketing plan, establish methods for dispersing funds, and set administrative costs for the program, as well as develop and implement investment strategies.

The Act establishes ethical standards for certain public servants and prohibits public servants from: (1) using their positions for their financial benefit or for the benefit of their extended family or business, N.C.G.S. § 138A-31; and (2) participating in official actions from which they or certain associated persons might receive a reasonably foreseeable financial benefit, N.C.G.S. § 138A-36(a). The Act also requires public servants to take appropriate steps to remove themselves from proceedings in which their impartiality might reasonably be questioned due to a familial, personal, or financial relationship with a participant in those proceedings. N.C.G.S. § 138A-36(c).

Mr. Smith is a CPA who could seek to provide professional consulting services for the Board. Therefore, he has the potential for a conflict of interest and should exercise appropriate caution in the performance of his public duties, should issues involving his CPA firm or any entity in which he owns a financial interest come before the Board for official action.

In addition to the conflict standards noted above, the Act prohibits public servants from accepting gifts from (1) a lobbyist or lobbyist principal, (2) a person or entity that is seeking to do business with the public servant's agency, is regulated or controlled by that agency, or has financial interests that might be affected by their official actions, or (3) anyone in return for being influenced in the discharge of their official responsibilities. N.C.G.S. § 138A-32. Exceptions to the gifts restrictions are set out in N.C.G.S. § 138A-32(e).

When this letter cites an actual or potential conflict of interest under N.C.G.S. § 138A-24(e), the conflict must be recorded in the minutes of the applicable board and brought to the membership's attention by the board's chair as often as necessary to remind all members of the conflict and to help ensure compliance with the Act. N.C.G.S. § 138A-15(c).

Finally, the Act mandates that all public servants attend an ethics and lobbying education presentation. N.C.G.S. § 138A-14. Please review the attached document for additional information concerning this requirement.

Please contact our office if you have any questions concerning our evaluation or the ethical standards governing public servants under the Act.

Sincerely,



Mary Roerden, SEI Unit
State Ethics Commission

cc: Carlton Timothy Smith
Laura Rowe, Ethics Liaison

Attachment: Ethics Education Guide