

1 SB226
2 165243-2
3 By Senators Brewbaker, Melson, Dunn, Whatley, Glover, Figures,
4 Hightower, Smitherman, Orr, Stutts, Ross, Pittman, Reed, Ward,
5 Williams, Allen, Smith, Albritton, Singleton, Waggoner,
6 Chambliss, Holley, Marsh, McClendon, Blackwell, Beasley,
7 Scofield and Bussman
8 RFD: Fiscal Responsibility and Economic Development
9 First Read: 12-MAR-15

1 SB226

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3
4 ENROLLED, An Act,

5 This bill would amend Sections 16-33C-1, 16-33C-2,
6 16-33C-2.1, 16-33C-3, 16-33C-4, 16-33C-5, 16-33C-10,
7 16-33C-11, 16-33C-12, and 40-18-19, Code of Alabama 1975 to
8 rename the Wallace-Folsom College Savings Investment Plan to
9 the Wallace-Folsom Savings Investment Plan; to provide for the
10 ABLE Program; provide for definitions relating to the ABLE
11 Program; provide for the income tax exemption eligible to the
12 ABLE Program; allow board members that are employed by the
13 state. This bill would add new sections to the Code of Alabama
14 1975, to generally provide for the ABLE Program; provide for
15 the investment of ABLE and ACES Programs; and provide
16 appropriations for Fiscal Year 2015 for development and
17 implementation of the ABLE Program.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Sections 16-33C-1, 16-33C-2, 16-33C-2.1,
20 16-33C-3, 16-33C-4, 16-33C-5, 16-33C-10, 16-33C-11, 16-33C-12,
21 and 40-18-19, Code of Alabama 1975 are amended to read as
22 follows:

23 "§16-33C-1.

24 "The Legislature of Alabama hereby finds and
25 determines that the advancement and improvement of higher

1 education in the State of Alabama is a proper governmental
2 function and purpose of the State of Alabama. Additionally,
3 the Legislature of Alabama intends to establish a qualified
4 ABLE Program in this state which will encourage and assist
5 Alabama individuals and families in saving private funds for
6 the purpose of supporting Alabama citizens with disabilities.
7 It is therefore the legislative intent of this chapter to
8 establish the Wallace-Folsom ~~College~~ Savings Investment Plan
9 that consists of the ABLE Program, ACES Program, and the PACT
10 Program ~~two alternatives to assist individuals in paying costs~~
11 ~~and expenses of attending colleges and universities and~~
12 ~~thereby encourage students to attend colleges and~~
13 ~~universities.~~ In establishing this plan, it is further the
14 intent of the Legislature to encourage timely financial
15 planning for higher education and other qualified disability
16 expenses.

17 "§16-33C-2.

18 "This chapter shall be known as the "Wallace-Folsom
19 ~~College~~ Savings Investment Plan Act."

20 "§16-33C-2.1.

21 "There is hereby created the Wallace-Folsom ~~College~~
22 Savings Investment Plan ~~(plan)~~ as an agency and
23 instrumentality of the State of Alabama. The plan consists of
24 the PACT Program, ~~and~~ the ACES Program, and the ABLE Program.
25 The plan shall be administered by the State Treasurer in

1 accordance with the provisions of this chapter and rules,
2 regulations, and guidelines established by the ~~board~~ boards.
3 The facilities and resources of the State Treasurer's office
4 shall be used and employed in the administration of the plan.
5 The official location of the plan shall be the State
6 Treasurer's office.

7 "§16-33C-3.

8 "The following terms as used in this chapter shall
9 have the meanings ascribed to them, unless the context clearly
10 indicates otherwise:

11 "(1) ABLE PROGRAM. The Achieving a Better Life
12 Experience Program established pursuant to this chapter and
13 defined in Section 529A of the Internal Revenue Code of 1986,
14 as amended, or other applicable federal law, to assist
15 individuals and families to save private funds to support
16 individuals with disabilities to maintain health,
17 independence, and quality of life.

18 "(2) ABLE SAVINGS ACCOUNT. An individual ABLE trust
19 fund account established by a contributor pursuant to this
20 chapter to apply distributions from the account toward
21 qualified disability expenses for an eligible designated
22 beneficiary, both terms as defined in Section 529A of the
23 Internal Revenue Code of 1986, as amended, or other applicable
24 federal law.

1 "(3) ABLE TRUST FUND. The fiduciary trust fund
2 established pursuant to this chapter comprised of separate and
3 segregated ABLE savings accounts as established by savings
4 agreements.

5 "~~(1)~~ (4) ACES ADMINISTRATIVE FUND. The ACES
6 Administrative Fund created in Section 16-33C-10.

7 "~~(2) ACES BOARD. The board of directors and trustees~~
8 ~~of the ACES Trust Fund.~~

9 "~~(3)~~ (5) ACES PROGRAM. The Alabama College Education
10 Savings Program created under subsection (a) of Section
11 16-33C-10., a qualified program established pursuant to this
12 chapter and as defined in Section 529 of the Internal Revenue
13 Code of 1986, as amended, or other applicable federal law, to
14 assist individuals and families to save funds for the purpose
15 of meeting the qualified higher education expenses of the
16 designated beneficiary.

17 "(6) ACES SAVINGS ACCOUNT. An individual ACES
18 account held in the ACES Trust Fund established by a
19 contributor pursuant to this chapter in order to apply
20 distributions from the account toward qualified higher
21 education expenses at eligible educational institutions for an
22 eligible designated beneficiary, with terms as defined in
23 Section 529 of the Internal Revenue Code of 1986, as amended,
24 or other applicable federal law.

1 "~~(4)~~ (7) ACES TRUST FUND. The fiduciary trust fund
2 created in Section 16-33C-10.

3 "~~(5)~~ ~~ADMINISTRATIVE COST. Any expense of~~
4 ~~administering the PACT or ACES Programs, including, but not~~
5 ~~limited to, the costs associated with administering the~~
6 ~~programs throughout the State Treasurer's office, and any~~
7 ~~records administration expense.~~

8 "~~(6)~~ ~~ADMINISTRATIVE FEE. Any fee or penalty required~~
9 ~~by the board to be paid by a participant in the plan.~~

10 "~~(7)~~ ~~CONTRACT PAYMENT. Any amount paid to the PACT~~
11 ~~Trust Fund toward the purchase of a PACT contract.~~

12 "~~(8)~~ ~~CONTRIBUTION. Any amount paid to the ACES Trust~~
13 ~~Fund for deposit into an ACES savings account.~~

14 "~~(9)~~ (8) CONTRIBUTOR. Any person who contributes
15 money to an ACES Program savings account or an ABLE Program
16 savings account established pursuant to this chapter on behalf
17 of a designated beneficiary and who is listed as the owner of
18 the savings account.

19 "~~(10)~~ (9) DESIGNATED BENEFICIARY. The ~~person~~
20 ~~designated at the time the PACT contract is entered into or~~
21 ~~ACES savings account opened as the person who benefits from~~
22 ~~payments of qualified higher education costs at eligible~~
23 ~~educational institutions, or that person's replacement~~
24 eligible individual named as the beneficiary of an ABLE

1 savings account, ACES savings account, or PACT contract
2 established pursuant to this chapter.

3 ~~"(11) ELIGIBLE EDUCATIONAL INSTITUTION. An~~
4 ~~institution defined in Section 529 of the Internal Revenue~~
5 ~~Code of 1986, as amended, and in Section 481 of the Higher~~
6 ~~Education Act of 1965 (20 U.S.C. 1988) which is eligible to~~
7 ~~participate in a program under Title IV of the act.~~

8 ~~"(12) INVESTMENT COST. Any expense of the PACT or~~
9 ~~ACES Trust Funds, including, but not limited to, investment~~
10 ~~manager fees, actuary fees, custodial fees, brokerage~~
11 ~~commissions, and transactional costs.~~

12 ~~"(13) (10) LEGISLATURE. The Legislature of Alabama.~~

13 ~~"(17) (11) PACT ADMINISTRATIVE FUND. The PACT~~
14 ~~Administrative Fund created in subsection (c) of Section~~
15 ~~16-33C-6.~~

16 ~~"(14) (12) PACT BOARD. The board of directors and~~
17 ~~trustees of the PACT Trust Fund.~~

18 ~~"(18) (13) PACT CONTRACT. A contract entered into by~~
19 ~~the board and a participant in the PACT Program.~~

20 ~~"(15) (14) PACT PROGRAM. The Alabama Prepaid~~
21 ~~Affordable College Tuition Program created in subsection (a)~~
22 ~~of Section 16-33C-6.~~

23 ~~"(16) (15) PACT TRUST FUND. The fiduciary trust fund~~
24 ~~created in subsection (b) of Section 16-33C-6.~~

1 "~~(19)~~ (16) PLAN. The Wallace-Folsom College Savings
2 Investment Plan ~~created under Section 16-33C-2.1~~ established
3 pursuant to this chapter that consists of the PACT Program,
4 ~~and the ACES Program, and the ABLE Program.~~

5 "~~(20)~~ (17) PURCHASER. A person who is obligated to
6 make contract payments in accordance with a PACT contract
7 entered into pursuant to this chapter.

8 "~~(21)~~ QUALIFIED HIGHER EDUCATION COST. Any higher
9 education expense permitted under Section 529 of the Internal
10 Revenue Code of 1986, as amended, and required for the
11 enrollment or attendance of a designated beneficiary at an
12 eligible educational institution. These expenses include
13 tuition, fees, books, supplies, equipment, and, subject to
14 certain limits, room and board.

15 "~~(22)~~ SAVINGS ACCOUNT. An individual ACES Trust Fund
16 account established by a contributor pursuant to this chapter
17 on behalf of a designated beneficiary in order to apply
18 distributions from the account toward qualified higher
19 education costs at eligible educational institutions.

20 "~~(23)~~ (18) SAVINGS AGREEMENT. An agreement entered
21 into between the ~~board~~ Savings Board and a contributor
22 establishing ~~a~~ an ACES or ABLE savings account.

23 "(19) SAVINGS BOARD. The Board of Directors of the
24 ABLE Program and ACES Program, and trustees of the ABLE Trust
25 Fund and ACES Trust Fund.

1 "~~(24)~~ (20) STATE TREASURER. The State Treasurer of
2 Alabama.

3 "§16-33C-4.

4 "(a) The ~~ACES board~~ Savings Board shall consist of
5 ~~10~~ 11 members as follows:

6 "(1) The Lieutenant Governor, or his or her
7 designee.

8 "(2) The Executive Director of the Alabama
9 Commission on Higher Education (ACHE), or his or her designee.

10 "(3) The State Treasurer.

11 "(4) The Chancellor of the Alabama Department of
12 Postsecondary Education, or his or her designee.

13 "(5) One person appointed by the Council of College
14 and University Presidents.

15 "(6) One person appointed by the Speaker of the
16 House of Representatives.

17 "(7) One person appointed by the Lieutenant
18 Governor.

19 "(8) One person appointed by the State Treasurer.

20 "(9) Two persons appointed by the Governor.

21 "(10) One person appointed by the State Treasurer
22 who has experience in health and disability related matters.

23 "(b) Members shall serve for terms of office of four
24 years and shall be eligible for reappointment, and shall serve
25 until a successor is appointed. Any person appointed to fill a

1 vacancy on the ~~ACES board~~ Savings Board shall be appointed in
2 a like manner and shall serve for only the unexpired term. Ex
3 officio members of the board shall serve terms coincident with
4 their terms of office.

5 "(c) Each person so appointed shall possess
6 knowledge, skill, and experience in business or financial
7 matters commensurate with the duties and responsibilities of
8 the ~~plan~~ ABLE Program and ACES Program. ~~No person holding a~~
9 ~~full-time office or position of employment with the state, any~~
10 ~~county or municipality in the state, any educational~~
11 ~~institution, or any instrumentality, agency, or subdivision of~~
12 ~~the foregoing, shall be eligible for appointment to the ACES~~
13 ~~board.~~

14 "(d) Members of the ~~ACES board~~ Savings Board shall
15 serve without compensation, but may be reimbursed for each
16 day's official duties of the ~~ACES~~ board at the same per diem
17 and travel rate as is paid the employees of the state.

18 "(e) The State Treasurer shall be the chair and
19 presiding officer of the ~~ACES board~~ Savings Board, and the
20 State Treasurer may appoint such other officers as the ~~ACES~~
21 board may deem advisable or necessary. A majority of the
22 members of the ~~ACES board~~ Savings Board shall constitute a
23 quorum for the transaction of the business of the ~~plan~~
24 program.

1 "(f) Members of the Savings Board or any committee
2 established by the Savings Board may participate in a meeting
3 of the board or committee by means of telephone conference,
4 video conference, or similar communications equipment by means
5 of which all persons participating in the meeting may hear
6 each other at the same time. Participation by such means shall
7 constitute presence in person at a meeting for all purposes,
8 including the establishment of a quorum. Notice of such
9 meetings must be given in accordance with the Alabama Open
10 Meetings Act and such telephone or video conference or similar
11 communications equipment shall also allow members of the
12 public the opportunity to simultaneously listen to or observe
13 such meetings.

14 "§16-33C-5.

15 "In addition to the powers granted by any other
16 provision of this chapter, the ~~ACES board~~ Savings Board and
17 PACT board shall have, as agents of the State of Alabama, the
18 powers necessary or convenient to carry out the purposes and
19 provisions of this chapter, to develop and implement the ABLE
20 Program, ACES Program and the PACT Program, and the powers
21 delegated by any other law of the state or any executive order
22 thereof including, but not limited to, the following express
23 powers:

24 "(1) To adopt and amend bylaws.

1 "(2) To adopt the rules and regulations necessary to
2 implement the provisions of this chapter either with or
3 without compliance with the state Administrative Procedure
4 Act.

5 "(3) To invest as they deem appropriate any funds in
6 the ~~PACT Trust Fund and ACES Trust Fund~~ plan in any
7 instrument, obligation, security, or property that constitutes
8 legal investments for public funds in the state, including
9 legal investments for the State Treasurer and the Alabama
10 Trust Fund, and to name and use depositories for its
11 investments and holdings.

12 "~~(4) To execute contracts and other necessary~~
13 ~~instruments.~~

14 "~~(5)~~ (4) To contract with a purchaser under the PACT
15 Program.

16 "~~(6)~~ (5) To enter into savings agreements under the
17 ABLE Program and ACES Program.

18 "~~(7)~~ (6) To ~~contract~~ enter into and execute
19 contracts and other instruments for necessary goods and
20 services, to employ necessary personnel, and to engage the
21 services of qualified persons and entities for administrative
22 and technical assistance in carrying out the responsibilities
23 of the plan, ~~including the PACT Trust Fund and ACES Trust~~
24 ~~Fund,~~ under terms and conditions that the PACT board or ~~ACES~~
25 ~~board~~ Savings Board deems reasonable and appropriate. All such

1 contracts awarded by the PACT board or ~~ACES board~~ Savings
2 Board may be for periods not exceeding five years, except that
3 professional services contracts awarded by the ~~board for the~~
4 ~~ACES Program~~ Savings Board may be for periods not exceeding
5 ten years.

6 "(7) To contract with other states to participate
7 under the rules of another state's qualified ABLE Program or
8 to authorize the participation of a contracting state in the
9 Alabama ABLE Program.

10 "(8) To ~~solicit and~~ apply for, accept, and expend
11 gifts, ~~including bequeathments or other testamentary gifts~~
12 made by will, trust or other disposition, grants, or donations
13 loans, and other aids from any personal source for deposit
14 into the PACT or ACES Trust Fund as designated by the donor,
15 or if no such designation is made, into either as determined
16 by the PACT board or ACES board, or to participate in any
17 other way in any federal, state, or local governmental
18 programs in carrying out from public or private sources to
19 enable it to carry out its objectives and the purposes of this
20 chapter.

21 "(9) To define the terms and conditions of and enter
22 into PACT contracts and ~~ACES~~ savings agreements.

23 "(10) To delegate to the State Treasurer the
24 responsibilities of the day-to-day administration of the plan.

1 "(11) To establish other policies, procedures, and
2 criteria necessary to implement and administer the provisions
3 of this chapter.

4 "(12) To authorize the State Treasurer to approve
5 marketing material produced for the plan. Neither the state,
6 the State Treasurer, the PACT board, nor the ~~ACES board~~
7 Savings Board is liable for misrepresentation by a marketing
8 agent.

9 "§16-33C-10.

10 "(a) The ACES Program is established as one college
11 savings alternative under the plan whereby contributors open
12 ACES savings accounts according to savings agreements for the
13 payment of qualified higher education costs for a designated
14 beneficiary at eligible educational institutions, terms as
15 defined in Section 529 of the Internal Revenue Code of 1986,
16 as amended, or other applicable federal law. The ACES Program
17 includes the ACES Trust Fund, the ACES Administrative Fund,
18 and the ACES Opportunity Enhancement Fund created pursuant to
19 this chapter. The ACES Program may be marketed under a
20 different name than ACES.

21 "(b) The ACES Trust Fund is hereby created and shall
22 be comprised of separate ACES savings accounts held in
23 segregated accounts as established by savings agreements.
24 Funds contributed to the ACES savings accounts established
25 pursuant to the ACES Program are held in trust by the ~~ACES~~

1 ~~board Savings Board for the sole benefit of the contributor~~
2 ~~and designated beneficiary. Contributions and investment~~
3 ~~earnings to the savings account may be used for any qualified~~
4 ~~higher education costs of the designated beneficiary. The~~
5 ~~amounts on deposit in the ACES Trust Fund shall not constitute~~
6 ~~property of the state, and the state may have no claim or~~
7 ~~interest in them.~~ Contributions which are received by the ACES
8 Program from any public or private source, except those which
9 are payments of administrative fees, shall be placed in the
10 ACES Trust Fund. ~~A savings agreement, or any other agreement~~
11 ~~entered into by or on behalf of the ACES Program or ACES Trust~~
12 ~~Fund, does not constitute a debt or obligation of the state,~~
13 ~~and no contributor is entitled to any amounts except for those~~
14 ~~amounts on deposit in or accrued to the respective savings~~
15 ~~account.~~

16 "(c) The ACES Administrative Fund is hereby created
17 as a separate fund within the State Treasurer's office for the
18 purpose of administering the ACES Program. The ACES
19 Administrative Fund shall accept, deposit, and disburse funds
20 for the purpose of administering the ACES Program. All funds
21 in the ACES Administrative Fund are hereby irrevocably pledged
22 to the payment of the administrative costs of the ACES
23 Program. Funds in the ACES Administrative Fund may be invested
24 by the State Treasurer in any investment facility allowed by
25 this chapter. Any interest and earnings from the investment of

1 funds in the ACES Administrative Fund shall be deposited to,
2 and become a part of, the ACES Administrative Fund for use as
3 authorized by this chapter. All funds in the ACES
4 Administrative Fund at the end of each fiscal year of the
5 State of Alabama shall remain in that administrative fund and
6 be automatically carried forward and available to be
7 appropriated by the Alabama Legislature for the administration
8 of the ACES Program.

9 "(d) The State Treasurer is authorized to retain the
10 services of one or more persons as staff members in order to
11 implement and manage the ACES Program. Any expenses incurred
12 shall be paid from the ACES Administrative Fund.

13 ~~"(e) Gross earnings on ACES Trust Fund corpus may be~~
14 ~~directly used by the ACES board to satisfy investment costs of~~
15 ~~the ACES Trust Fund and to supplement balances in the ACES~~
16 ~~Administrative Fund to cover outstanding administrative costs~~
17 ~~of the ACES Program as the ACES board deems necessary. Gross~~
18 ~~earnings on the principal of the ACES Trust Fund remaining~~
19 ~~after payment of investment costs and deposits into the ACES~~
20 ~~Administrative Fund as authorized herein shall be deposited~~
21 ~~into, and become a part of, the corpus of the ACES Trust Fund.~~
22 ~~In acquiring, investing, reinvesting, exchanging, retaining,~~
23 ~~selling, and managing property of the ACES Trust Fund, the~~
24 ~~ACES board, and any person or investment manager to whom the~~
25 ~~ACES board delegates any of its investment authority, shall~~

1 ~~exercise the judgment and care under the circumstances then~~
2 ~~prevailing which persons of prudence, discretion, and~~
3 ~~intelligence exercise in the management of their own affairs,~~
4 ~~not in regard to speculation but to permanent disposition of~~
5 ~~funds, considering the probable income as well as the safety~~
6 ~~of their capital. When acting within this standard of care, no~~
7 ~~ACES board member, or any person or investment manager to whom~~
8 ~~the ACES board delegates any of its investment authority,~~
9 ~~shall be held personally liable for losses suffered by the~~
10 ~~ACES Program on investments made pursuant to this chapter. No~~
11 ~~ACES board member shall be held personally liable for any~~
12 ~~losses, damages, or claims which have arisen or may arise from~~
13 ~~or are related to any act or omission of the board member~~
14 ~~taken in service as a member of the board or as a trustee, so~~
15 ~~long as the board member acted in good faith.~~

16 ~~"(f) (e)~~ Property and income of the ACES Trust Fund,
17 ACES Administrative Fund, and the ACES Opportunity Enhancement
18 Fund shall be exempt from all taxation by the state and by all
19 of its political subdivisions.

20 ~~"(g) (f)~~ The ACES Opportunity Enhancement Fund is
21 created as a separate fund within the State Treasurer's office
22 for the purpose of enhancing and providing higher education
23 opportunities and programs, as the ~~ACES board~~ Savings Board
24 deems necessary and appropriate. The fund may receive
25 contributions from individuals, private business entities,

1 public corporations, and contractual agreements with service
2 providers. The funds shall be utilized in the discretion and
3 solely at the direction of the ~~ACES board~~ Savings Board. The
4 amounts on deposit in the fund shall not constitute property
5 of the state, and the state shall have no claim or interest in
6 them.

7 "§16-33C-11.

8 "(a) Each savings agreement made pursuant to ~~the~~
9 ~~ACES Program~~ this chapter shall include, but shall not be
10 limited to, the following terms and provisions:

11 "(1) The maximum and minimum annual contributions
12 and maximum account balance allowed on behalf of a designated
13 beneficiary.

14 "(2) Provisions for withdrawals, refunds, transfers,
15 returns of excess contributions and any penalties.

16 "(3) The terms and conditions for remitting
17 contributions, including, but not limited to, that
18 contributions may be made in cash only.

19 "(4) The name, address, date of birth, and Social
20 Security number of the designated beneficiary on whose behalf
21 the ABLE or ACES savings account is opened.

22 "(5) Terms and conditions for designation of a
23 substitute beneficiary.

24 "(6) Terms and conditions for termination of the
25 account, including any transfers to the state upon the death

1 of the qualified beneficiary, if applicable, refunds,
 2 withdrawals, ~~or~~ transfers, ~~and~~ applicable penalties, the name
 3 of the person entitled to any refund due as a result of
 4 termination, and the name of the person entitled to terminate
 5 the account.

6 "(7) The time period during which the designated
 7 beneficiary is required to use benefits from the ABLE Program
 8 or ACES Program.

9 "(8) All other rights and obligations of the
 10 contributor and the ABLE Program or ACES Program.

11 "(9) Any other terms and conditions which the ~~board~~
 12 Savings Board deems necessary or appropriate, including those
 13 necessary to conform the ACES and ABLE Programs and savings
 14 agreements ~~ACES Program and ACES Trust Fund with~~ to the
 15 requirements of ~~Section 529~~ Sections 529 and 529A of the
 16 Internal Revenue Code of 1986, as amended, or other applicable
 17 federal law.

18 "~~(b) Each savings agreement made pursuant to this~~
 19 ~~chapter shall provide all of the following:~~

20 "~~(1)~~ (10) If, after the specified time period
 21 determined by the ~~ACES board~~ Savings Board under which the
 22 designated beneficiary is required to use benefits from the
 23 ABLE Program or ACES Program, the savings agreement has not
 24 been terminated nor the designated beneficiary's rights
 25 exercised, the ~~ACES board~~ Savings Board, after making

1 reasonable effort to contact the contributor, shall presume
2 the savings account monies unclaimed and abandoned property,
3 and thereafter administered in accordance with the Alabama
4 Uniform Disposition of Unclaimed Property Act, Article 2 of
5 Chapter 12 of Title 35.

6 ~~"(2)~~ (11) Participation in the ACES Program does not
7 guarantee that sufficient funds will be available to cover
8 qualified higher education expenses of a designated
9 beneficiary.

10 ~~"(3) Contributions shall be made exclusively for the~~
11 ~~purpose of meeting the qualified higher education expenses of~~
12 ~~a designated beneficiary at eligible educational institutions.~~

13 "(12) Notwithstanding any provision of any law to
14 the contrary, money in the ABLE Program or ACES Program shall
15 be exempt from creditor process and shall not be liable to
16 attachment, garnishment, or other process, nor shall it be
17 seized, taken, appropriated, or applied by any legal or
18 equitable process or operation of law to pay any debt or
19 liability of any contributor or beneficiary, provided,
20 however, that the state of residency of the designated
21 beneficiary of an ABLE savings account shall be a creditor of
22 such account in the event of the death of the designated
23 beneficiary.

24 ~~"(c)~~ (b) Nothing in this chapter shall make any
25 provisions or warranties except as provided in savings

1 agreements, including that a person shall be admitted to,
2 allowed to continue in, graduated from a college or
3 university, or conferred Alabama resident status.

4 "~~(d)~~ (c) The state or any state agency, county,
5 municipality, or any other employer in the state is hereby
6 authorized, by contract, or otherwise, to agree with any
7 employee to remit contributions through payroll deduction made
8 by the appropriate official of the state, state agency,
9 political subdivision, or other employer under the terms of a
10 savings agreement ~~in the ACES Program~~.

11 "§16-33C-12.

12 "In addition to any other requirements of this
13 chapter, the ~~ACES board~~ Savings Board shall:

14 "(1) Make available summary information on the ABLE
15 Program and ACES Program to all contributors to savings
16 agreements.

17 "(2) Prepare, or cause to be prepared, an annual
18 accounting of the ABLE Program and ACES Program and transmit a
19 copy of same to the Governor, the Lieutenant Governor, and the
20 Speaker of the House of Representatives.

21 "(3) Make all necessary and appropriate arrangements
22 with colleges and universities in order to fulfill its
23 obligations under savings agreements.

24 "§40-18-19.

1 "(a) The following exemptions from income taxation
2 shall be allowed to every individual resident taxpayer:

3 "(1) Retirement allowances, pensions and annuities,
4 or optional allowances, approved by the Board of Control of
5 the Teachers' Retirement System of Alabama, which exempt
6 status is set out in Section 16-25-23.

7 "(2) Retirement allowances, pensions and annuities
8 or optional allowances, approved by the Board of Control of
9 the Employees' Retirement System of Alabama, which exempt
10 status is set out in Section 36-27-28.

11 "(3) The first eight thousand dollars (\$8,000) of
12 any retirement compensation, retirement allowances, pensions
13 and annuities, or optional allowances, received by any
14 eligible firefighter, as defined in Sections 36-32-1 and
15 36-32-2, or his or her designated beneficiary, from any
16 firefighting agency established in the State of Alabama, but
17 only if such retirement compensation, retirement allowances,
18 pensions and annuities, or optional allowances as are awarded
19 as a result of fire protection services rendered. This
20 subdivision shall become effective for the taxable years
21 beginning January 1, 1987, and thereafter following its
22 passage and approval by the Governor, or upon its otherwise
23 becoming a law; provided, that for the taxable years beginning
24 on or after January 1, 1991, all of the pension and retirement
25 payments shall be exempt from taxation.

1 "(4) The first eight thousand dollars (\$8,000) of
2 any retirement compensation, retirement allowances, pensions
3 and annuities, or optional allowances received by any eligible
4 peace officer, as defined in subsection (11) of Section
5 36-21-60, or his or her designated beneficiary, from any
6 police retirement system established in the State of Alabama,
7 but only if the retirement compensation, retirement
8 allowances, pensions and annuities, or optional allowances are
9 awarded as a result of police services rendered. This
10 subdivision shall become effective for taxable years beginning
11 January 1, 1984, and thereafter; provided, that for the
12 taxable years beginning on or after January 1, 1991, all of
13 the pension and retirement payments shall be exempt from
14 taxation.

15 "(5) Income received as annuities under the United
16 States Retirement System from the United States Government
17 Civil Service Retirement and Disability Fund including income
18 received from the Tennessee Valley Authority's pension system,
19 income received as annuities under the United States Foreign
20 Service Retirement and Disability Fund or income received from
21 any other United States government retirement and disability
22 fund.

23 "(6) Beginning January 1, 1991, all payments made on
24 or after such date to a retiree or his designated beneficiary
25 under a "defined benefit plan," as defined under Section

1 414(j) of the Internal Revenue Code of 1986, as amended from
2 time to time, to the extent such payment would be taxable for
3 federal income tax purposes.

4 (7) Net income realized by individuals and
5 partnerships from time to time in the business of conducting a
6 financial business employing moneyed capital coming into
7 competition with the business of national banks, but only if
8 such individuals and partnerships are subject to an excise tax
9 imposed by this state on or with respect to such income.

10 "(8) In the case of a single person or a married
11 person not living with husband or wife, a personal exemption
12 of one thousand five hundred dollars (\$1,500) or, in the case
13 of a head of a family or a married person living with husband
14 or wife, a personal exemption of three thousand dollars
15 (\$3,000), but a husband and wife living together shall receive
16 only one personal exemption of three thousand dollars (\$3,000)
17 against their aggregate income, and in case they make separate
18 returns each must claim a personal exemption of one thousand
19 five hundred dollars (\$1,500).

20 "(9) a. Three hundred dollars (\$300) for each
21 person, other than husband or wife, dependent upon the
22 taxpayer, and over half of whose support, for the calendar
23 year in which the taxable year for the taxpayer begins, was
24 received from the taxpayer.

1 "b. For tax years beginning after December 31, 2006,
2 for taxpayers with adjusted gross income equal to or less than
3 \$20,000, one thousand dollars for each person other than
4 husband or wife, dependent upon the taxpayer, and over half of
5 whose support, for the calendar year in which the taxable year
6 for the taxpayer begins, was received from the taxpayer.

7 "c. For tax years beginning after December 31, 2006,
8 for taxpayers with adjusted gross income in excess of \$20,000
9 and equal to or less than \$100,000, five hundred dollars for
10 each person other than husband and wife, dependent upon the
11 taxpayer, and over half of whose support, for the calendar
12 year in which the taxable year for the taxpayer begins, was
13 received from the taxpayer.

14 "For the purposes of this section, "dependent" shall
15 mean: A son or daughter of the taxpayer or a descendant of
16 either; a stepson or stepdaughter of the taxpayer; a brother,
17 sister, stepbrother, or stepsister of the taxpayer; the father
18 or mother of the taxpayer or an ancestor of either; a
19 stepfather or stepmother of the taxpayer; a son or daughter of
20 a brother or sister of the taxpayer; a brother or sister of
21 the father or mother of the taxpayer; a son-in-law,
22 daughter-in-law, father-in-law, mother-in-law, brother-in-law,
23 or sister-in-law of the taxpayer. As used in this paragraph
24 the terms "brother" and "sister" include a brother or sister
25 by the half blood. For the purpose of determining whether any

1 of the foregoing relationships exist, a legally adopted child
2 of a person shall be considered a child of such a person by
3 blood.

4 "(10) Beginning January 1, 1998, all income,
5 interest, dividends, gains, or benefits of any kind received
6 from savings accounts or prepaid tuition contracts
7 administered under Title 16, Chapter 33C, are exempt from all
8 income taxation by the state and by all of its political
9 subdivisions to the extent that the amounts remain on deposit
10 in the PACT Trust Fund or the ACES Trust Fund, or are used to
11 pay the designated beneficiary's qualified higher education
12 expenses as defined in Section 529 of the Internal Revenue
13 Code of 1986, as amended, or are refunded under such terms as
14 would not carry a penalty under Section 529 of the Internal
15 Revenue Code of 1986, as amended.

16 "(11) Beginning January 1, 2016, all income,
17 interest, dividends, gains or benefits of any kind received
18 from ABLE savings accounts administered under Title 16,
19 Chapter 33C, are exempt from all income taxation by the state
20 and by all of its political subdivisions to the extent that
21 the amounts remain on deposit in the ABLE Trust Fund, or are
22 used to pay the designated beneficiary's qualified disability
23 expenses as defined in Section 529A of the Internal Revenue
24 Code of 1986, as amended, or are refunded under such terms as
25 would not carry a penalty under Section 529A of the Internal

1 Revenue Code of 1986, as amended, or other applicable federal
2 law.

3 "(b) Of the following personal exemptions allowed
4 resident taxpayers, each nonresident individual taxpayer shall
5 be allowed that proportion thereof that the adjusted gross
6 income received by said nonresident individual taxpayer from
7 sources within the State of Alabama bears to his or her
8 adjusted gross income received from sources within and without
9 the State of Alabama: In the case of a single person or a
10 married person not living with husband or wife, a personal
11 exemption of one thousand five hundred dollars (\$1,500) or, in
12 the case of a head of a family or a married person living with
13 husband or wife, a personal exemption of three thousand
14 dollars (\$3,000), a husband and wife living together shall
15 receive but one personal exemption of three thousand dollars
16 (\$3,000) against their aggregate income; and, in case they
17 make separate returns, each must claim a personal exemption of
18 one thousand five hundred dollars (\$1,500); and the amount in
19 subdivision (9) of subsection (a) for each person, other than
20 husband or wife, dependent upon and receiving his chief
21 support from the taxpayer."

22 Section 2. (a) The ABLE Program includes the ABLE
23 Trust Fund, and may be marketed under a different name than
24 ABLE. The ABLE Trust Fund is hereby created and comprised of
25 separate ABLE Savings Accounts established pursuant to this

1 chapter. The ABLE Trust Fund receives contributions to ABLE
2 Savings Accounts. One or more persons may make contributions
3 to an ABLE Savings Account.

4 (b) Available sources of funds, public or private,
5 including any administrative fees received from ABLE
6 contracting parties, shall be deposited in the State Treasury
7 Operations Fund. All ABLE Program expenses, including
8 operating, administrative and marketing, shall be paid from
9 the State Treasury Operations Fund. For reporting purposes,
10 ABLE Program expenses will be segregated by unit or such other
11 accounting method as provided in the State's STAARS system, or
12 similar system. Upon passage of this act, \$75,000 is hereby
13 appropriated from the Unclaimed Property Reserve Fund to the
14 State Treasury Operations Fund for the fiscal year ending
15 September 30, 2015 for the development and implementation of
16 the ABLE Program. In addition to all other appropriations,
17 there is hereby appropriated \$75,000 from the State Treasury
18 Operations Fund to the State Treasurer for the fiscal year
19 ending September 30, 2015.

20 (c) Property and income of the ABLE Program and ABLE
21 Trust Fund shall be exempt from all taxation by the state and
22 by all of its political subdivisions.

23 (d) The Examiners of Public Accounts shall annually
24 audit the ABLE Program.

1 Section 3. (a) In acquiring, investing, reinvesting,
2 exchanging, retaining, selling, and managing property for the
3 benefit of the ABLE Program and ACES Program, the Savings
4 Board, and any person, investment manager or committee to whom
5 the Savings Board delegates any of its investment authority,
6 shall act as trustee and shall exercise the judgment and care
7 under the circumstances then prevailing which persons of
8 prudence, discretion, and intelligence exercise in the
9 management of their own affairs, not in regard to speculation
10 but to permanent disposition of funds, considering the
11 probable income as well as the safety of their capital.

12 (b) No Savings Board member nor any person,
13 investment manager or committee to whom the Savings Board
14 delegates any of its investment authority who acts within the
15 standard of care set forth in subsection (a) shall be held
16 personally liable for any losses, damages, or claims suffered
17 by the ABLE Program or ACES Program on investments made
18 pursuant to the chapter.

19 (c) The assets of the ABLE Program and the ACES
20 Program shall be preserved, invested, and expended solely
21 pursuant to and for the purposes of this chapter and shall not
22 be loaned or otherwise transferred or used by the State for
23 any other purpose. A savings agreement, or any other agreement
24 entered into by or on behalf of the ABLE Program or the ACES
25 Program, does not constitute a debt or obligation of the

1 state. A contributor is solely entitled to amounts on deposit
2 in or accrued to the respective savings account.

3 (d) To the extent necessary to administer the ABLE
4 Program and ACES Program or to comply with federal, state, or
5 local tax reporting requirements, the programs shall obtain
6 all necessary social security numbers and such other data as
7 the Savings Board deems necessary for such purposes, whether
8 from a contributor or from another state agency.

9 Section 4. This act shall become effective
10 immediately upon its passage and approval by the Governor, or
11 its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB226

Senate 02-APR-15

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris
Secretary

House of Representatives
Passed: 03-JUN-15

By: Senator Brewbaker