

1 HB251  
2 188969-3  
3 By Representatives Johnson (K), Moore (B), Nordgren  
4 and Collins  
5 RFD: Financial Services  
6 First Read: 18-JAN-18

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8 SYNOPSIS: Under existing law, the Wallace-Folsom  
9 Savings Investment Plan, administered by the State  
10 Treasurer, consists of the ABLE Program, ACES  
11 Program, and the PACT Program.

12 This bill would authorize a contribution to,  
13 and continued investment in, an ACES Program or  
14 ABLE Program savings account for a designated  
15 beneficiary by the guardian or conservator of the  
16 designated beneficiary.

17 This bill would also conform the applicable  
18 code sections to the recent amendments to Section  
19 529 of the Internal Revenue Service Code.

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21 A BILL  
22 TO BE ENTITLED  
23 AN ACT

24  
25 Relating to the Wallace-Folsom Savings Investment  
26 Plan; to amend Sections 16-33C-1, 16-33C-3, 16-33C-10, and  
27 16-33C-25, Code of Alabama 1975, to authorize certain

1 contributions to, and investments in, ACES Program or ABLE  
2 Program savings accounts; and to conform the applicable code  
3 sections to the recent amendments to Section 529 of the  
4 Internal Revenue Service Code.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 16-33C-1, 16-33C-3, 16-33C-10,  
7 and 16-33C-25, Code of Alabama 1975, are amended to read as  
8 follows:

9 "§16-33C-1.

10 "The Legislature of Alabama hereby finds and  
11 determines that the advancement and improvement of ~~higher~~  
12 education in the State of Alabama is a proper governmental  
13 function and purpose of the State of Alabama. Additionally,  
14 the Legislature of Alabama intends to establish a qualified  
15 ABLE Program in this state which will encourage and assist  
16 Alabama individuals and families in saving private funds for  
17 the purpose of supporting Alabama citizens with disabilities.  
18 It is therefore the legislative intent of this chapter to  
19 establish the Wallace-Folsom Savings Investment Plan that  
20 consists of the ABLE Program, ACES Program, and the PACT  
21 Program. In establishing this plan, it is further the intent  
22 of the Legislature to encourage timely financial planning for  
23 ~~higher~~ education and other qualified disability expenses.

24 "§16-33C-3.

25 "The following terms as used in this chapter shall  
26 have the meanings ascribed to them, unless the context clearly  
27 indicates otherwise:

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

8           "(2) ABLE SAVINGS ACCOUNT. An individual ABLE trust  
9 fund account established by a contributor pursuant to this  
10 chapter to apply distributions from the account toward  
11 qualified disability expenses for an eligible designated  
12 beneficiary, both terms as defined in Section 529A of the  
13 Internal Revenue Code of 1986, as amended, or other applicable  
14 federal law.

15           "(3) ABLE TRUST FUND. The fiduciary trust fund  
16 established pursuant to this chapter comprised of separate and  
17 segregated ABLE savings accounts as established by savings  
18 agreements.

19           "(4) ACES ADMINISTRATIVE FUND. The ACES  
20 Administrative Fund created in Section 16-33C-10.

21           "(5) ACES PROGRAM. The Alabama College Education  
22 Savings Program, a qualified program established pursuant to  
23 this chapter and as defined in Section 529 of the Internal  
24 Revenue Code of 1986, as amended, or other applicable federal  
25 law, to assist individuals and families to save funds for the  
26 purpose of meeting the qualified higher education expenses of  
27 the designated beneficiary as defined in Section 529 of the

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

3 "(6) ACES SAVINGS ACCOUNT. An individual ACES  
4 account held in the ACES Trust Fund established by a  
5 contributor pursuant to this chapter in order to apply  
6 distributions from the account toward qualified higher  
7 education expenses ~~at eligible educational institutions~~ for an  
8 eligible designated beneficiary, ~~with~~ as such terms ~~as~~ are  
9 defined in Section 529 of the Internal Revenue Code of 1986,  
10 as amended, or other applicable federal law.

11 "(7) ACES TRUST FUND. The fiduciary trust fund  
12 created in Section 16-33C-10.

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

18 "(9) DESIGNATED BENEFICIARY. The eligible individual  
19 named as the beneficiary of an ABLE savings account, ACES  
20 savings account, or PACT contract established pursuant to this  
21 chapter.

22 "(10) LEGISLATURE. The Legislature of Alabama.

23 "(11) PACT ADMINISTRATIVE FUND. The PACT  
24 Administrative Fund created in subsection (c) of Section  
25 16-33C-6.

26 "(12) PACT BOARD. The board of directors and  
27 trustees of the PACT Trust Fund.

1           "(13) PACT CONTRACT. A contract entered into by the  
2 board and a participant in the PACT Program.

3           "(14) PACT PROGRAM. The Alabama Prepaid Affordable  
4 College Tuition Program created in subsection (a) of Section  
5 16-33C-6.

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

8           "(16) PLAN. The Wallace-Folsom Savings Investment  
9 Plan established pursuant to this chapter that consists of the  
10 PACT Program, the ACES Program, and the ABLE Program.

11           "(17) PURCHASER. A person who is obligated to make  
12 contract payments in accordance with a PACT contract entered  
13 into pursuant to this chapter.

14           "(18) SAVINGS AGREEMENT. An agreement entered into  
15 between the Savings Board and a contributor establishing an  
16 ACES or ABLE savings account.

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

20           "(20) STATE TREASURER. The State Treasurer of  
21 Alabama.

22           "§16-33C-10.

23           "(a) The ACES Program is established as one ~~college~~  
24 educational savings alternative under the plan whereby  
25 contributors open ACES savings accounts according to savings  
26 agreements for the payment of qualified higher education ~~costs~~  
27 expenses for a designated beneficiary ~~at eligible educational~~

1 ~~institutions, as such terms as~~ are defined in Section 529 of  
2 the Internal Revenue Code of 1986, as amended, or other  
3 applicable federal law. The ACES Program includes the ACES  
4 Trust Fund, the ACES Administrative Fund, and the ACES  
5 Opportunity Enhancement Fund created pursuant to this chapter.  
6 The ACES Program may be marketed under a different name than  
7 ACES.

8 "(b) The ACES Trust Fund is hereby created and shall  
9 be comprised of separate ACES savings accounts held in  
10 segregated accounts as established by savings agreements.  
11 Funds contributed to the ACES savings accounts established  
12 pursuant to the ACES Program are held in trust by the Savings  
13 Board for the sole benefit of the contributor and designated  
14 beneficiary. Contributions which are received by the ACES  
15 Program from any public or private source, except those which  
16 are payments of administrative fees, shall be placed in the  
17 ACES Trust Fund.

18 "(c) The ACES Administrative Fund is hereby created  
19 as a separate fund within the State Treasurer's office for the  
20 purpose of administering the ACES Program. The ACES  
21 Administrative Fund shall accept, deposit, and disburse funds  
22 for the purpose of administering the ACES Program. All funds  
23 in the ACES Administrative Fund are hereby irrevocably pledged  
24 to the payment of the administrative costs of the ACES  
25 Program. Funds in the ACES Administrative Fund may be invested  
26 by the State Treasurer in any investment facility allowed by  
27 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) Property and income of the ACES Trust Fund,  
14 ACES Administrative Fund, and the ACES Opportunity Enhancement  
15 Fund shall be exempt from all taxation by the state and by all  
16 of its political subdivisions.

17 "(f) The ACES Opportunity Enhancement Fund is  
18 created as a separate fund within the State Treasurer's office  
19 for the purpose of enhancing and providing higher education  
20 opportunities and programs, as the Savings Board deems  
21 necessary and appropriate. The fund may receive contributions  
22 from individuals, private business entities, public  
23 corporations, and contractual agreements with service  
24 providers. The funds shall be utilized in the discretion and  
25 solely at the direction of the Savings Board. The amounts on  
26 deposit in the fund shall not constitute property of the  
27 state, and the state shall have no claim or interest in them.



1           "§16-33C-25.

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

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

20          "(c) The assets of the ABLE Program and the ACES  
21          Program shall be preserved, invested, and expended solely  
22          pursuant to and for the purposes of this chapter and shall not  
23          be loaned or otherwise transferred or used by the State for  
24          any other purpose. A savings agreement, or any other agreement  
25          entered into by or on behalf of the ABLE Program or the ACES  
26          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 "(e) Notwithstanding any other law to the contrary,  
10 a contribution to, and continued investment in, an ACES  
11 savings account under the ACES Program and a contribution to,  
12 and continued investment in, an ABLE savings account under the  
13 ABLE Program for a designated beneficiary by the guardian or  
14 conservator of that designated beneficiary are permitted for  
15 all purposes under state law."

16 Section 2. This act shall become effective  
17 immediately following its passage and approval by the  
18 Governor, or its otherwise becoming law.