

1 SB226
2 165243-1
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

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8 SYNOPSIS: Currently, the State of Alabama's college
9 savings program pursuant to Section 529 of the
10 Internal Revenue Code of 1986, as amended, is the
11 Wallace-Folsom College Savings Investment Plan that
12 consists of the Alabama College Education Savings
13 (ACES) Program and the Alabama Prepaid Affordable
14 College Tuition (PACT) Program to assist
15 individuals in paying costs and expenses of
16 attending colleges and universities. Recently, the
17 Achieving a Better Life Experience (ABLE) Act of
18 2014 established Section 529A of the Internal
19 Revenue Code of 1986, as amended, to allow families
20 and individuals to save for disability-related
21 expenses of a disabled individual in a federal
22 tax-advantaged account modeled after Section 529 of
23 the Internal Revenue Code of 1986, as amended, to
24 be established and maintained by the state.

25 This bill would include ABLE in the
26 legislative intent; rename the Wallace-Folsom
27 College Savings Investment Plan to the

1 Wallace-Folsom Savings Investment Plan; to provide
2 for the ABLE Program; provide for definitions
3 relating to the ABLE Program; would provide for the
4 income tax exemption eligible to the ABLE Program;
5 and provide appropriations for Fiscal Year 2015 for
6 development and implementation of the ABLE Program.

7
8 A BILL
9 TO BE ENTITLED
10 AN ACT
11

12 This bill would amend Sections 16-33C-1, 16-33C-2,
13 16-33C-2.1, 16-33C-3, 16-33C-4, 16-33C-5, 16-33C-10,
14 16-33C-11, 16-33C-12, and 40-18-19, Code of Alabama 1975 to
15 rename the Wallace-Folsom College Savings Investment Plan to
16 the Wallace-Folsom Savings Investment Plan; to provide for the
17 ABLE Program; provide for definitions relating to the ABLE
18 Program; provide for the income tax exemption eligible to the
19 ABLE Program; allow board members that are employed by the
20 state. This bill would add new sections to the Code of Alabama
21 1975, to generally provide for the ABLE Program; provide for
22 the investment of ABLE and ACES Programs; and provide
23 appropriations for Fiscal Year 2015 for development and
24 implementation of the ABLE Program.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. Sections 16-33C-1, 16-33C-2, 16-33C-2.1,
27 16-33C-3, 16-33C-4, 16-33C-5, 16-33C-10, 16-33C-11, 16-33C-12,

1 and 40-18-19, Code of Alabama 1975 are amended to read as
2 follows:

3 "§16-33C-1.

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

22 "§16-33C-2.

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

25 "§16-33C-2.1.

26 "There is hereby created the Wallace-Folsom ~~College~~
27 Savings Investment Plan ~~(plan)~~ as an agency and

1 instrumentality of the State of Alabama. The plan consists of
2 the PACT Program, ~~and~~ the ACES Program, and the ABLE Program.
3 The plan shall be administered by the State Treasurer in
4 accordance with the provisions of this chapter and rules,
5 regulations, and guidelines established by the ~~board~~ boards.
6 The facilities and resources of the State Treasurer's office
7 shall be used and employed in the administration of the plan.
8 The official location of the plan shall be the State
9 Treasurer's office.

10 "§16-33C-3.

11 "The following terms as used in this chapter shall
12 have the meanings ascribed to them, unless the context clearly
13 indicates otherwise:

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

21 "(2) ABLE SAVINGS ACCOUNT. An individual ABLE trust
22 fund account established by a contributor pursuant to this
23 chapter to apply distributions from the account toward
24 qualified disability expenses for an eligible designated
25 beneficiary, both terms as defined in Section 529A of the
26 Internal Revenue Code of 1986, as amended, or other applicable
27 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.

25 "~~(4)~~ (7) ACES TRUST FUND. The fiduciary trust fund
26 created in Section 16-33C-10.

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

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

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

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

12 ~~"(9) (8) CONTRIBUTOR. Any person who contributes~~
13 ~~money to an ACES Program savings account or an ABLE Program~~
14 ~~savings account established pursuant to this chapter on behalf~~
15 ~~of a designated beneficiary and who is listed as the owner of~~
16 ~~the savings account.~~

17 ~~"(10) (9) DESIGNATED BENEFICIARY. The person~~
18 ~~designated at the time the PACT contract is entered into or~~
19 ~~ACES savings account opened as the person who benefits from~~
20 ~~payments of qualified higher education costs at eligible~~
21 ~~educational institutions, or that person's replacement~~
22 ~~eligible individual named as the beneficiary of an ABLE~~
23 ~~savings account, ACES savings account, or PACT contract~~
24 ~~established pursuant to this chapter.~~

25 ~~"(11) ELIGIBLE EDUCATIONAL INSTITUTION. An~~
26 ~~institution defined in Section 529 of the Internal Revenue~~
27 ~~Code of 1986, as amended, and in Section 481 of the Higher~~

1 ~~Education Act of 1965 (20 U.S.C. 1988) which is eligible to~~
2 ~~participate in a program under Title IV of the act.~~

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

7 ~~"(13)~~ (10) LEGISLATURE. The Legislature of Alabama.

8 ~~"(17)~~ (11) PACT ADMINISTRATIVE FUND. The PACT
9 Administrative Fund created in subsection (c) of Section
10 16-33C-6.

11 ~~"(14)~~ (12) PACT BOARD. The board of directors and
12 trustees of the PACT Trust Fund.

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

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

18 ~~"(16)~~ (15) PACT TRUST FUND. The fiduciary trust fund
19 created in subsection (b) of Section 16-33C-6.

20 ~~"(19)~~ (16) PLAN. The Wallace-Folsom ~~College~~ Savings
21 Investment Plan ~~created under Section 16-33C-2.1~~ established
22 pursuant to this chapter that consists of the PACT Program,
23 ~~and the ACES Program, and the ABLE Program.~~

24 ~~"(20)~~ (17) PURCHASER. A person who is obligated to
25 make contract payments in accordance with a PACT contract
26 entered into pursuant to this chapter.

1 "~~(21)~~ QUALIFIED HIGHER EDUCATION COST. Any higher
2 education expense permitted under Section 529 of the Internal
3 Revenue Code of 1986, as amended, and required for the
4 enrollment or attendance of a designated beneficiary at an
5 eligible educational institution. These expenses include
6 tuition, fees, books, supplies, equipment, and, subject to
7 certain limits, room and board.

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

13 "~~(23)~~ (18) SAVINGS AGREEMENT. An agreement entered
14 into between the ~~board~~ Savings Board and a contributor
15 establishing ~~a~~ an ACES or ABLe savings account.

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

19 "~~(24)~~ (20) STATE TREASURER. The State Treasurer of
20 Alabama.

21 "§16-33C-4.

22 "(a) The ~~ACES board~~ Savings Board shall consist of
23 ~~10~~ 11 members as follows:

24 "(1) The Lieutenant Governor, or his or her
25 designee.

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

1 "(3) The State Treasurer.

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

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

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

8 "(7) One person appointed by the Lieutenant
9 Governor.

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

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

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

14 "(b) Members shall serve for terms of office of four
15 years and shall be eligible for reappointment, and shall serve
16 until a successor is appointed. Any person appointed to fill a
17 vacancy on the ~~ACES board~~ Savings Board shall be appointed in
18 a like manner and shall serve for only the unexpired term. Ex
19 officio members of the board shall serve terms coincident with
20 their terms of office.

21 "(c) Each person so appointed shall possess
22 knowledge, skill, and experience in business or financial
23 matters commensurate with the duties and responsibilities of
24 the ~~plan~~ ABLE Program and ACES Program. ~~No person holding a~~
25 ~~full-time office or position of employment with the state, any~~
26 ~~county or municipality in the state, any educational~~
27 ~~institution, or any instrumentality, agency, or subdivision of~~

1 ~~the foregoing, shall be eligible for appointment to the ACES~~
2 ~~board.~~

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

7 "(e) The State Treasurer shall be the chair and
8 presiding officer of the ~~ACES board~~ Savings Board, and the
9 State Treasurer may appoint such other officers as the ~~ACES~~
10 board may deem advisable or necessary. A majority of the
11 members of the ~~ACES board~~ Savings Board shall constitute a
12 quorum for the transaction of the business of the ~~plan~~
13 program.

14 "(f) Members of the Savings Board or any committee
15 established by the Savings Board may participate in a meeting
16 of the board or committee by means of telephone conference,
17 video conference, or similar communications equipment by means
18 of which all persons participating in the meeting may hear
19 each other at the same time. Participation by such means shall
20 constitute presence in person at a meeting for all purposes,
21 including the establishment of a quorum. Notice of such
22 meetings must be given in accordance with the Alabama Open
23 Meetings Act and such telephone or video conference or similar
24 communications equipment shall also allow members of the
25 public the opportunity to simultaneously listen to or observe
26 such meetings.

27 "§16-33C-5.

1 "In addition to the powers granted by any other
2 provision of this chapter, the ~~ACES board~~ Savings Board and
3 PACT board shall have, as agents of the State of Alabama, the
4 powers necessary or convenient to carry out the purposes and
5 provisions of this chapter, to develop and implement the ABLE
6 Program, ACES Program and the PACT Program, and the powers
7 delegated by any other law of the state or any executive order
8 thereof including, but not limited to, the following express
9 powers:

10 "(1) To adopt and amend bylaws.

11 "(2) To adopt the rules and regulations necessary to
12 implement the provisions of this chapter either with or
13 without compliance with the state Administrative Procedure
14 Act.

15 "(3) To invest as they deem appropriate any funds in
16 the ~~PACT Trust Fund and ACES Trust Fund~~ plan in any
17 instrument, obligation, security, or property that constitutes
18 legal investments for public funds in the state, including
19 legal investments for the State Treasurer and the Alabama
20 Trust Fund, and to name and use depositories for its
21 investments and holdings.

22 "~~(4) To execute contracts and other necessary~~
23 ~~instruments.~~

24 "~~(5)~~ (4) To contract with a purchaser under the PACT
25 Program.

26 "~~(6)~~ (5) To enter into savings agreements under the
27 ABLE Program and ACES Program.

1 "~~(7)~~ (6) To contract enter into and execute
2 contracts and other instruments for necessary goods and
3 services, to employ necessary personnel, and to engage the
4 services of qualified persons and entities for administrative
5 and technical assistance in carrying out the responsibilities
6 of the plan, ~~including the PACT Trust Fund and ACES Trust~~
7 ~~Fund,~~ under terms and conditions that the PACT board or ~~ACES~~
8 ~~board~~ Savings Board deems reasonable and appropriate. All such
9 contracts awarded by the PACT board or ~~ACES board~~ Savings
10 Board may be for periods not exceeding five years, except that
11 professional services contracts awarded by the ~~board for the~~
12 ~~ACES Program~~ Savings Board may be for periods not exceeding
13 ten years.

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

18 "~~(8) To solicit and apply for, accept, and expend~~
19 ~~gifts, including bequeathments or other testamentary gifts~~
20 ~~made by will, trust or other disposition, grants, or donations~~
21 ~~loans, and other aids from any personal source for deposit~~
22 ~~into the PACT or ACES Trust Fund as designated by the donor,~~
23 ~~or if no such designation is made, into either as determined~~
24 ~~by the PACT board or ACES board, or to participate in any~~
25 ~~other way in any federal, state, or local governmental~~
26 ~~programs in carrying out~~ from public or private sources to

1 enable it to carry out its objectives and the purposes of this
2 chapter.

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

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

7 "(11) To establish other policies, procedures, and
8 criteria necessary to implement and administer the provisions
9 of this chapter.

10 "(12) To authorize the State Treasurer to approve
11 marketing material produced for the plan. Neither the state,
12 the State Treasurer, the PACT board, nor the ~~ACES board~~
13 Savings Board is liable for misrepresentation by a marketing
14 agent.

15 "§16-33C-10.

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

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

21 "(c) The ACES Administrative Fund is hereby created
22 as a separate fund within the State Treasurer's office for the
23 purpose of administering the ACES Program. The ACES
24 Administrative Fund shall accept, deposit, and disburse funds
25 for the purpose of administering the ACES Program. All funds
26 in the ACES Administrative Fund are hereby irrevocably pledged
27 to the payment of the administrative costs of the ACES

1 Program. Funds in the ACES Administrative Fund may be invested
2 by the State Treasurer in any investment facility allowed by
3 this chapter. Any interest and earnings from the investment of
4 funds in the ACES Administrative Fund shall be deposited to,
5 and become a part of, the ACES Administrative Fund for use as
6 authorized by this chapter. All funds in the ACES
7 Administrative Fund at the end of each fiscal year of the
8 State of Alabama shall remain in that administrative fund and
9 be automatically carried forward and available to be
10 appropriated by the Alabama Legislature for the administration
11 of the ACES Program.

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

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

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

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

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

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

6 "§16-33C-11.

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

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

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

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

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

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

23 "(6) Terms and conditions for termination of the
24 account, including any transfers to the state upon the death
25 of the qualified beneficiary, if applicable, refunds,
26 withdrawals, ~~or~~ transfers, ~~and~~ applicable penalties, the name
27 of the person entitled to any refund due as a result of

1 termination, and the name of the person entitled to terminate
2 the account.

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

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

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

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

17 "~~(1)~~ (10) If, after the specified time period
18 determined by the ~~ACES board~~ Savings Board under which the
19 designated beneficiary is required to use benefits from the
20 ABLE Program or ACES Program, the savings agreement has not
21 been terminated nor the designated beneficiary's rights
22 exercised, the ~~ACES board~~ Savings Board, after making
23 reasonable effort to contact the contributor, shall presume
24 the savings account monies unclaimed and abandoned property,
25 and thereafter administered in accordance with the Alabama
26 Uniform Disposition of Unclaimed Property Act, Article 2 of
27 Chapter 12 of Title 35.

1 "~~(2)~~ (11) Participation in the ACES Program does not
2 guarantee that sufficient funds will be available to cover
3 qualified higher education expenses of a designated
4 beneficiary.

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

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

19 "~~(c)~~ (b) Nothing in this chapter shall make any
20 provisions or warranties except as provided in savings
21 agreements, including that a person shall be admitted to,
22 allowed to continue in, graduated from a college or
23 university, or conferred Alabama resident status.

24 "~~(d)~~ (c) The state or any state agency, county,
25 municipality, or any other employer in the state is hereby
26 authorized, by contract, or otherwise, to agree with any
27 employee to remit contributions through payroll deduction made

1 by the appropriate official of the state, state agency,
2 political subdivision, or other employer under the terms of a
3 savings agreement ~~in the ACES Program~~.

4 "§16-33C-12.

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

7 "(1) Make available summary information on the ABLE
8 Program and ACES Program to all contributors to savings
9 agreements.

10 "(2) Prepare, or cause to be prepared, an annual
11 accounting of the ABLE Program and ACES Program and transmit a
12 copy of same to the Governor, the Lieutenant Governor, and the
13 Speaker of the House of Representatives.

14 "(3) Make all necessary and appropriate arrangements
15 with colleges and universities in order to fulfill its
16 obligations under savings agreements.

17 "§40-18-19.

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

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

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

1 "(3) The first eight thousand dollars (\$8,000) of
2 any retirement compensation, retirement allowances, pensions
3 and annuities, or optional allowances, received by any
4 eligible firefighter, as defined in Sections 36-32-1 and
5 36-32-2, or his or her designated beneficiary, from any
6 firefighting agency established in the State of Alabama, but
7 only if such retirement compensation, retirement allowances,
8 pensions and annuities, or optional allowances as are awarded
9 as a result of fire protection services rendered. This
10 subdivision shall become effective for the taxable years
11 beginning January 1, 1987, and thereafter following its
12 passage and approval by the Governor, or upon its otherwise
13 becoming a law; provided, that for the taxable years beginning
14 on or after January 1, 1991, all of the pension and retirement
15 payments shall be exempt from taxation.

16 "(4) The first eight thousand dollars (\$8,000) of
17 any retirement compensation, retirement allowances, pensions
18 and annuities, or optional allowances received by any eligible
19 peace officer, as defined in subsection (11) of Section
20 36-21-60, or his or her designated beneficiary, from any
21 police retirement system established in the State of Alabama,
22 but only if the retirement compensation, retirement
23 allowances, pensions and annuities, or optional allowances are
24 awarded as a result of police services rendered. This
25 subdivision shall become effective for taxable years beginning
26 January 1, 1984, and thereafter; provided, that for the
27 taxable years beginning on or after January 1, 1991, all of

1 the pension and retirement payments shall be exempt from
2 taxation.

3 "(5) Income received as annuities under the United
4 States Retirement System from the United States Government
5 Civil Service Retirement and Disability Fund including income
6 received from the Tennessee Valley Authority's pension system,
7 income received as annuities under the United States Foreign
8 Service Retirement and Disability Fund or income received from
9 any other United States government retirement and disability
10 fund.

11 "(6) Beginning January 1, 1991, all payments made on
12 or after such date to a retiree or his designated beneficiary
13 under a "defined benefit plan," as defined under Section
14 414(j) of the Internal Revenue Code of 1986, as amended from
15 time to time, to the extent such payment would be taxable for
16 federal income tax purposes.

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

23 "(8) In the case of a single person or a married
24 person not living with husband or wife, a personal exemption
25 of one thousand five hundred dollars (\$1,500) or, in the case
26 of a head of a family or a married person living with husband
27 or wife, a personal exemption of three thousand dollars

1 (\$3,000), but a husband and wife living together shall receive
2 only one personal exemption of three thousand dollars (\$3,000)
3 against their aggregate income, and in case they make separate
4 returns each must claim a personal exemption of one thousand
5 five hundred dollars (\$1,500).

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

11 "b. For tax years beginning after December 31, 2006,
12 for taxpayers with adjusted gross income equal to or less than
13 \$20,000, one thousand dollars for each person other than
14 husband or wife, dependent upon the taxpayer, and over half of
15 whose support, for the calendar year in which the taxable year
16 for the taxpayer begins, was received from the taxpayer.

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

24 "For the purposes of this section, "dependent" shall
25 mean: A son or daughter of the taxpayer or a descendant of
26 either; a stepson or stepdaughter of the taxpayer; a brother,
27 sister, stepbrother, or stepsister of the taxpayer; the father

1 or mother of the taxpayer or an ancestor of either; a
2 stepfather or stepmother of the taxpayer; a son or daughter of
3 a brother or sister of the taxpayer; a brother or sister of
4 the father or mother of the taxpayer; a son-in-law,
5 daughter-in-law, father-in-law, mother-in-law, brother-in-law,
6 or sister-in-law of the taxpayer. As used in this paragraph
7 the terms "brother" and "sister" include a brother or sister
8 by the half blood. For the purpose of determining whether any
9 of the foregoing relationships exist, a legally adopted child
10 of a person shall be considered a child of such a person by
11 blood.

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

24 "(11) Beginning January 1, 2016, all income,
25 interest, dividends, gains or benefits of any kind received
26 from ABLE savings accounts administered under Title 16,
27 Chapter 33C, are exempt from all income taxation by the state

1 and by all of its political subdivisions to the extent that
2 the amounts remain on deposit in the ABLE Trust Fund, or are
3 used to pay the designated beneficiary's qualified disability
4 expenses as defined in Section 529A of the Internal Revenue
5 Code of 1986, as amended, or are refunded under such terms as
6 would not carry a penalty under Section 529A of the Internal
7 Revenue Code of 1986, as amended, or other applicable federal
8 law.

9 "(b) Of the following personal exemptions allowed
10 resident taxpayers, each nonresident individual taxpayer shall
11 be allowed that proportion thereof that the adjusted gross
12 income received by said nonresident individual taxpayer from
13 sources within the State of Alabama bears to his or her
14 adjusted gross income received from sources within and without
15 the State of Alabama: In the case of a single person or a
16 married person not living with husband or wife, a personal
17 exemption of one thousand five hundred dollars (\$1,500) or, in
18 the case of a head of a family or a married person living with
19 husband or wife, a personal exemption of three thousand
20 dollars (\$3,000), a husband and wife living together shall
21 receive but one personal exemption of three thousand dollars
22 (\$3,000) against their aggregate income; and, in case they
23 make separate returns, each must claim a personal exemption of
24 one thousand five hundred dollars (\$1,500); and the amount in
25 subdivision (9) of subsection (a) for each person, other than
26 husband or wife, dependent upon and receiving his chief
27 support from the taxpayer."

1 Section 2. (a) The ABLE Program includes the ABLE
2 Trust Fund, and may be marketed under a different name than
3 ABLE. The ABLE Trust Fund is hereby created and comprised of
4 separate ABLE Savings Accounts established pursuant to this
5 chapter. The ABLE Trust Fund receives contributions to ABLE
6 Savings Accounts. One or more persons may make contributions
7 to an ABLE Savings Account.

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

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

1 (d) The Examiners of Public Accounts shall annually
2 audit the ABLE Program.

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

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

21 (c) The assets of the ABLE Program and the ACES
22 Program shall be preserved, invested, and expended solely
23 pursuant to and for the purposes of this chapter and shall not
24 be loaned or otherwise transferred or used by the State for
25 any other purpose. A savings agreement, or any other agreement
26 entered into by or on behalf of the ABLE Program or the ACES
27 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.