

**ACT No. 93**

HOUSE BILL NO. 833

BY REPRESENTATIVES FOIL, ANDERS, BARROW, BERTHELOT, STUART BISHOP, WESLEY BISHOP, BROADWATER, BURFORD, HENRY BURNS, BURRELL, CARMODY, CARTER, CHAMPAGNE, COX, CROMER, GUINN, HARRIS, HARRISON, HAVARD, HAZEL, HENSGENS, HILL, HOFFMANN, HONORE, HOWARD, HUNTER, KATRINA JACKSON, JOHNSON, LEBAS, MILLER, JAY MORRIS, POPE, SCHEXNAYDER, ST. GERMAIN, THIERRY, WHITNEY, PATRICK WILLIAMS, AND WILLMOTT AND SENATORS ADLEY, ALARIO, ALLAIN, BROOME, BROWN, BUFFINGTON, CHABERT, CLAITOR, CROWE, DORSEY-COLOMB, ERDEY, GUILLORY, JOHNS, KOSTELKA, LAFLEUR, LONG, MARTINY, MILLS, MORRELL, MURRAY, NEVERS, PEACOCK, RISER, GARY SMITH, JOHN SMITH, THOMPSON, WALSWORTH, WARD, AND WHITE

1 AN ACT

2 To enact R.S. 36:259(Y) and 802.24 and Chapter 19 of Title 46 of the Louisiana Revised  
3 Statutes of 1950, to be comprised of R.S. 46:1721 through 1740, relative to a savings  
4 program for persons with disabilities; to provide for definitions, findings, and  
5 purposes; to create the ABLE Account Program and the ABLE Account Authority  
6 to administer such program; to provide for composition, powers, and duties of the  
7 ABLE Account Authority; to provide for equivalency of certain aspects of the ABLE  
8 Account Program to aspects of the Louisiana Student Tuition Assistance and  
9 Revenue Trust Program; to establish program rules; to provide for qualified  
10 expenses; to provide for transfer of entities to the Department of Health and  
11 Hospitals for the purpose of conferring rulemaking authority; to provide for  
12 promulgation of rules; to provide for effectiveness contingent upon certain actions  
13 by congress; and to provide for related matters.

14 Be it enacted by the Legislature of Louisiana:

15 Section 1. R.S. 36:259(Y) and 802.24 are hereby enacted to read as follows:

16 §259. Transfer of agencies and functions to Department of Health and Hospitals

17 \* \* \*



1           (6) "Person with a disability" means a person who meets either of the  
2           following criteria:

3           (a) Has a medically determinable physical or mental impairment which  
4           results in marked and severe functional limitations, and which can be expected to  
5           result in death or which has lasted or can be expected to last for a continuous period  
6           of not less than twelve months.

7           (b) Is blind.

8           (7) "Qualified disability expense" means any expense made for the benefit  
9           of a person with a disability who is a designated beneficiary as defined and  
10           specifically provided for in rules and regulations of the authority. Qualified  
11           disability expenses may include, without limitation, the following:

12           (a) Assistive technology and personal support service expenses for devices  
13           and services that facilitate maintenance of health, independence, and quality of life.

14           (b) Education expenses, including tuition for preschool through  
15           postsecondary education, which shall include higher education expenses and  
16           expenses for books, supplies, and educational materials related to preschool and  
17           secondary education, tutors, and special education services.

18           (c) Employment support expenses related to obtaining and maintaining  
19           employment, including job-related training, assistive technology, and personal  
20           assistance supports.

21           (d) Health, prevention, and wellness expenses including but not limited to  
22           the following, provided that the equipment and services listed in this Subparagraph  
23           conform with any applicable rules and regulations of the Department of Health and  
24           Hospitals and the Louisiana Rehabilitation Services program of the Louisiana  
25           Workforce Commission:

26           (i) Premiums for health insurance.

27           (ii) Medical, vision, dental, and mental healthcare expenses.

28           (iii) Habilitation and rehabilitation services.

29           (iv) Durable medical equipment.

30           (v) Therapy.

1                    (vi) Respite care.

2                    (vii) Long-term services and supports.

3                    (viii) Nutritional management.

4                    (ix) Communication services and devices, adaptive equipment, and assistive  
5 technology.

6                    (x) Personal assistance.

7                    (e) Housing expenses for a primary residence, including rent, purchase of a  
8 primary residence or an interest in a primary residence, mortgage payments, real  
9 property taxes, and utility charges.

10                   (f) Miscellaneous expenses, including expenses for financial management  
11 and administrative services; legal fees; expenses for oversight; monitoring; home  
12 improvements, modifications, maintenance, and repairs at primary residence; and  
13 funeral and burial expenses.

14                   (g) Transportation expenses, including the use of mass transit, the purchase  
15 or modification of vehicles, and moving expenses.

16                   (h) Any other expenses which are consistent with the purposes of this  
17 Chapter, approved by the authority, and provided for in duly promulgated  
18 administrative rules.

19                   §1723. ABLE Account Program; creation; purpose; legislative intent

20                   A. The ABLE Account Program is hereby created and shall be administered  
21 by the ABLE Account Authority, referred to hereafter as "authority" to encourage  
22 and assist individuals and families in saving private funds for the purpose of  
23 supporting persons with disabilities in endeavors to maintain health, independence,  
24 and quality of life.

25                   B. The purposes of the ABLE Account Program, referred to hereafter as the  
26 "program", include all of the following:

27                   (1) To pay qualified disability expenses so that persons with disabilities may  
28 maintain health, independence, and quality of life.

29                   (2) To provide secure funding for disability-related expenses on behalf of  
30 designated beneficiaries with disabilities that will supplement, but not supplant,

1 benefits provided through private insurance, the Medicaid program under Title XIX  
 2 of the Social Security Act, the supplemental security income program under Title  
 3 XVI of such Act, the beneficiary's employment, and other sources.

4 C.(1) It is the intention of the legislature that the program shall be treated in  
 5 the same manner as a qualified tuition program defined in Section 529 of the federal  
 6 Internal Revenue Code, as amended. Any provision of this Chapter determined to  
 7 be in conflict with any requirement of the code as applicable to a qualified tuition  
 8 program shall be superseded by such code provision to the extent necessary to assure  
 9 that the program continues to meet requirements for tax-advantaged status in  
 10 accordance with the code's definition of a qualified tuition program.

11 (2) Any requirement of this Chapter determined to be more restrictive than  
 12 the requirements of the federal Internal Revenue Code as applicable to a qualified  
 13 tuition program may be modified by the authority through rules promulgated in  
 14 accordance with the Administrative Procedure Act to conform with code  
 15 requirements.

16 §1724. General program rules

17 A. For purposes of any other provision of law which may pertain, in effect,  
 18 to the program, except as otherwise provided in this Section, the program and the  
 19 ABLE Accounts thereof shall be treated in the same manner as a qualified tuition  
 20 program and the accounts provided for in the Louisiana Student Tuition Assistance  
 21 and Revenue Trust Program law, R.S. 17:3091 et seq.

22 B. Qualified disability expenses paid from an ABLE Account shall be treated  
 23 in the same manner as qualified higher education expenses are treated.

24 C. Maximum contributions to ABLE Accounts shall be no higher than the  
 25 limit established by the state for the Louisiana Student Tuition Assistance and  
 26 Revenue Trust Program, R.S. 17:3091 et seq.

27 §1725. ABLE Account Authority; creation; powers

28 A. There is hereby created the ABLE Account Authority, which shall have  
 29 the powers enumerated in this Chapter.

1           B.(1) The authority shall operate under the same laws, rules, and guidelines  
2           and with the same officer selection and employment policies as the Louisiana  
3           Student Financial Assistance Commission, R.S. 17:3021 et seq., except when  
4           inconsistent with this Chapter.

5           (2) The membership of the authority shall consist of the following seven  
6           persons:

7           (a) The chairperson of the Louisiana Developmental Disabilities Council or  
8           his designee.

9           (b) The executive director of the governor's office of disability affairs or his  
10          designee.

11          (c) One member who is affiliated with Louisiana Rehabilitation Services or  
12          the Disability Navigator Program, or any successors of these, appointed by the  
13          executive director of the Louisiana Workforce Commission.

14          (d) An officer of a bank in Louisiana who is a member of the Louisiana  
15          Bankers Association and who is nominated by the association.

16          (e) One member of the House of Representatives appointed by the speaker.

17          (f) One member of the Senate appointed by the president.

18          (g) The state treasurer who shall be an ex officio voting member of the  
19          authority.

20          (3) The authority shall meet at least annually at the call of the chairman and  
21          at such other times as the chairman or the authority determines necessary. The  
22          authority may establish and delegate to an executive committee such duties and  
23          responsibilities as the authority determines appropriate.

24          (4) A majority of the authority shall constitute a quorum of the authority, and  
25          the affirmative vote of a majority of the members present shall be necessary for any  
26          action taken by the authority. A majority of the executive committee shall constitute  
27          a quorum of the executive committee, and the affirmative vote of a majority of the  
28          executive committee members present shall be necessary for any action taken by the  
29          executive committee. No vacancy in the membership of the authority or the

1 executive committee shall impair the rights of a quorum to exercise all rights and  
2 perform all duties of the authority or the executive committee respectively.

3 C. In addition to any other powers conferred by this Chapter, the authority  
4 may do any of the following:

5 (1) Purchase insurance from insurers licensed to do business in this state  
6 providing for coverage against any loss in connection with the authority's property,  
7 assets, or activities or to further ensure the value of ABLE Accounts.

8 (2) Indemnify or purchase policies on behalf of members, officers, and  
9 employees of the authority from insurers licensed to do business in this state  
10 providing for coverage for any liability incurred in connection with any civil action,  
11 demand, or claim against a director, officer, or employee by reason of an act or  
12 omission by the director, officer, or employee that was not manifestly outside the  
13 scope of his employment or official duties or with malicious purpose, in bad faith,  
14 or in a wanton or reckless manner.

15 (3) Make, execute, and deliver contracts, conveyances, and other instruments  
16 necessary to the exercise and discharge of the powers and duties of the authority.

17 (4) Promote, advertise, and publicize the ABLE Account Program.

18 (5) Solicit, accept, and expend gifts or grants.

19 D.(1) The authority shall, by adoption of rules pursuant to the Administrative  
20 Procedure Act, provide for the following:

21 (a) The establishment and imposition of reasonable residency requirements  
22 for beneficiaries of those applying to establish an ABLE Account.

23 (b) The establishment and imposition of reasonable limits on the number of  
24 ABLE Account participants.

25 (c) The establishment and imposition of limits on the amount which may  
26 accrue in an ABLE Account on behalf of any beneficiary.

27 (d) The establishment and imposition of restrictions on the substitution of  
28 one beneficiary for another.

29 (e) The establishment and imposition of restrictions on the transfer of  
30 ownership of ABLE Accounts.

1                   (f) The determination of the rate of interest to be paid on ABLE Accounts  
2                   of record at the close of a calendar year, provided that such rate is not a negative rate  
3                   and is approved by the state treasurer.

4                   (g) The disposition of abandoned accounts in compliance with state law.

5                   (h) The establishment and imposition of restrictions on investment of  
6                   deposits in an ABLE Account and the interest earned thereon.

7                   (2) The authority may, through the exclusive means of adoption of rules  
8                   pursuant to the Administrative Procedure Act, provide for the implementation and  
9                   administration of this Chapter.

10                  §§1726 through 1740. [Reserved.]

11                  Section 2. The effectiveness of the provisions of Section 1 of this Act shall be  
12                  contingent upon enactment of amendments to Section 529 of the federal Internal Revenue  
13                  Code that establish tax-advantaged savings accounts for persons with disabilities as provided  
14                  in the Achieving a Better Life Experience Act of 2013, or any Act of the United States  
15                  Congress that is substantially similar thereto.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_