AN ACT

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

Be it enacted by the Legislature of Louisiana:

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

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

* * *

CODING: Words in struck through type are deletions from existing law; words underscored are additions.
Y. The ABLE Account Authority (R.S. 46:1725) is hereby placed within the Department of Health and Hospitals and shall exercise and perform its powers, duties, functions, and responsibilities in the manner provided in R.S. 36:802.24.

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§802.24. Transfer; ABLE Account Authority

The ABLE Account Authority, transferred by the provisions of R.S. 36:259(Y), is transferred to and placed within the Department of Health and Hospitals and shall continue to be composed and selected as provided by law, and shall continue to exercise all of the powers, duties, functions, and responsibilities as provided in Chapter 19 of Title 46 of the Louisiana Revised Statutes of 1950.

Section 2. Chapter 19 of Title 46 of the Louisiana Revised Statutes of 1950, comprised of R.S. 46:1721 through 1740, is hereby enacted to read as follows:

CHAPTER 19. ABLE ACCOUNT PROGRAM FOR DISABILITY-RELATED EXPENSES

§1721. Short title

This Chapter shall be known and may be cited as the "Achieving a Better Life Experience in Louisiana Act" or the "Louisiana ABLE Act".

§1722. Definitions

As used in this Chapter, the following terms have the meaning ascribed to them in this Section:

(1) "ABLE Account" means a special savings account for financing of certain qualified expenses of persons with disabilities as specifically provided in this Chapter.

(2) "ABLE Account Program" and "program" mean the special savings account program provided for in this Chapter.

(3) "Authority" means the ABLE Account Authority created by this Chapter to administer the ABLE Account Program.

(4) "Beneficiary" means the ABLE Account owner or the person entitled to apply the savings accrued in an ABLE Account, if not the account owner.

(5) "Department" means the Department of Health and Hospitals.
(6) "Person with a disability" means a person who meets either of the following criteria:

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

(b) Is blind.

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

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

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

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

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

(i) Premiums for health insurance.

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

(iii) Habilitation and rehabilitation services.

(iv) Durable medical equipment.

(v) Therapy.
(vi) Respite care.

(vii) Long-term services and supports.

(viii) Nutritional management.

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

(x) Personal assistance.

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

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

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

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

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

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

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

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

(2) To provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant,
benefits provided through private insurance, the Medicaid program under Title XIX
of the Social Security Act, the supplemental security income program under Title
XVI of such Act, the beneficiary’s employment, and other sources.

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

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

§1724. General program rules

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

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

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

§1725. ABLE Account Authority; creation; powers

A. There is hereby created the ABLE Account Authority, which shall have
the powers enumerated in this Chapter.
B.(1) The authority shall operate under the same laws, rules, and guidelines and with the same officer selection and employment policies as the Louisiana Student Financial Assistance Commission, R.S. 17:3021 et seq., except when inconsistent with this Chapter.

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

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

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

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

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

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

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

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

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

(4) A majority of the authority shall constitute a quorum of the authority, and the affirmative vote of a majority of the members present shall be necessary for any action taken by the authority. A majority of the executive committee shall constitute a quorum of the executive committee, and the affirmative vote of a majority of the executive committee members present shall be necessary for any action taken by the executive committee. No vacancy in the membership of the authority or the
executive committee shall impair the rights of a quorum to exercise all rights and
perform all duties of the authority or the executive committee respectively.

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

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

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

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

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

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

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

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

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

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

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

(e) The establishment and imposition of restrictions on the transfer of
ownership of ABLE Accounts.
(f) The determination of the rate of interest to be paid on ABLE Accounts of record at the close of a calendar year, provided that such rate is not a negative rate and is approved by the state treasurer.

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

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

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

§§1726 through 1740. [Reserved.]

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: ____________________

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