SB226

165243-2

By Senators Brewbaker, Melson, Dunn, Whatley, Glover, Figures, Hightower, Smitherman, Orr, Stutts, Ross, Pittman, Reed, Ward, Williams, Allen, Smith, Albritton, Singleton, Waggoner, Chambliss, Holley, Marsh, McClendon, Blackwell, Beasley, Scofield and Bussman

RFD: Fiscal Responsibility and Economic Development

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§16-33C-1.

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

"§16-33C-2.
"This chapter shall be known as the "Wallace-Folsom College Savings Investment Plan Act."

"§16-33C-2.1.
"There is hereby created the Wallace-Folsom College Savings Investment Plan (plan) as an agency and instrumentality of the State of Alabama. The plan consists of the PACT Program, and the ACES Program, and the ABLE Program. The plan shall be administered by the State Treasurer in
accordance with the provisions of this chapter and rules, regulations, and guidelines established by the board boards. The facilities and resources of the State Treasurer's office shall be used and employed in the administration of the plan. The official location of the plan shall be the State Treasurer's office.

"§16-33C-3.
"The following terms as used in this chapter shall have the meanings ascribed to them, unless the context clearly indicates otherwise:

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

"(2) ABLE SAVINGS ACCOUNT. An individual ABLE trust fund account established by a contributor pursuant to this chapter to apply distributions from the account toward qualified disability expenses for an eligible designated beneficiary, both terms as defined in Section 529A of the Internal Revenue Code of 1986, as amended, or other applicable federal law."
"(3) ABLE TRUST FUND. The fiduciary trust fund established pursuant to this chapter comprised of separate and segregated ABLE savings accounts as established by savings agreements.

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

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

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

"(6) ACES SAVINGS ACCOUNT. An individual ACES account held in the ACES Trust Fund established by a contributor pursuant to this chapter in order to apply distributions from the account toward qualified higher education expenses at eligible educational institutions for an eligible designated beneficiary, with terms as defined in Section 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law.
"(7) ACES TRUST FUND. The fiduciary trust fund created in Section 16-33C-10.

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

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

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

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

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

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

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

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

"(13) LEGISLATURE. The Legislature of Alabama.

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

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

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

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

"(16) PACT TRUST FUND. The fiduciary trust fund created in subsection (b) of Section 16-33C-6.
"(19) (16) PLAN. The Wallace-Folsom College Savings Investment Plan created under Section 16-33C-2.1 established pursuant to this chapter that consists of the PACT Program, and the ACES Program, and the ABLE Program.

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

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

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

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

"(19) SAVINGS BOARD. The Board of Directors of the ABLE Program and ACES Program, and trustees of the ABLE Trust Fund and ACES Trust Fund.
"(24) (20) STATE TREASURER. The State Treasurer of Alabama.

"§16-33C-4.

"(a) The ACES Board Savings Board shall consist of 11 members as follows:

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

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

"(3) The State Treasurer.

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

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

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

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

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

"(9) Two persons appointed by the Governor.

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

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

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

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

"(e) The State Treasurer shall be the chair and presiding officer of the ACES board Savings Board, and the State Treasurer may appoint such other officers as the ACES board may deem advisable or necessary. A majority of the members of the ACES board Savings Board shall constitute a quorum for the transaction of the business of the plan program.
"(f) Members of the Savings Board or any committee established by the Savings Board may participate in a meeting of the board or committee by means of telephone conference, video conference, or similar communications equipment by means of which all persons participating in the meeting may hear each other at the same time. Participation by such means shall constitute presence in person at a meeting for all purposes, including the establishment of a quorum. Notice of such meetings must be given in accordance with the Alabama Open Meetings Act and such telephone or video conference or similar communications equipment shall also allow members of the public the opportunity to simultaneously listen to or observe such meetings.

"§16-33C-5.

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

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

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

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

"(5) To contract with a purchaser under the PACT Program.

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

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

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

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

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

"(10) To delegate to the State Treasurer the
responsibilities of the day-to-day administration of the plan.
(11) To establish other policies, procedures, and criteria necessary to implement and administer the provisions of this chapter.

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

§16-33C-10.

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

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

"(c) The ACES Administrative Fund is hereby created as a separate fund within the State Treasurer's office for the purpose of administering the ACES Program. The ACES Administrative Fund shall accept, deposit, and disburse funds for the purpose of administering the ACES Program. All funds in the ACES Administrative Fund are hereby irrevocably pledged to the payment of the administrative costs of the ACES Program. Funds in the ACES Administrative Fund may be invested by the State Treasurer in any investment facility allowed by this chapter. Any interest and earnings from the investment of
funds in the ACES Administrative Fund shall be deposited to, and become a part of, the ACES Administrative Fund for use as authorized by this chapter. All funds in the ACES Administrative Fund at the end of each fiscal year of the State of Alabama shall remain in that administrative fund and be automatically carried forward and available to be appropriated by the Alabama Legislature for the administration of the ACES Program.

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

"(e) Gross earnings on ACES Trust Fund corpus may be directly used by the ACES board to satisfy investment costs of the ACES Trust Fund and to supplement balances in the ACES Administrative Fund to cover outstanding administrative costs of the ACES Program as the ACES board deems necessary. Gross earnings on the principal of the ACES Trust Fund remaining after payment of investment costs and deposits into the ACES Administrative Fund as authorized herein shall be deposited into, and become a part of, the corpus of the ACES Trust Fund. In acquiring, investing, reinvesting, exchanging, retaining, selling, and managing property of the ACES Trust Fund, the ACES board, and any person or investment manager to whom the ACES board delegates any of its investment authority, shall
exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but to permanent disposition of funds, considering the probable income as well as the safety of their capital. When acting within this standard of care, no ACES board member, or any person or investment manager to whom the ACES board delegates any of its investment authority, shall be held personally liable for losses suffered by the ACES Program on investments made pursuant to this chapter. No ACES board member shall be held personally liable for any losses, damages, or claims which have arisen or may arise from or are related to any act or omission of the board member taken in service as a member of the board or as a trustee, so long as the board member acted in good faith.

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

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

"§16-33C-11.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"$16-33C-12.

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

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

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

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

"$40-18-19.
(a) The following exemptions from income taxation shall be allowed to every individual resident taxpayer:

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

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

(3) The first eight thousand dollars ($8,000) of any retirement compensation, retirement allowances, pensions and annuities, or optional allowances, received by any eligible firefighter, as defined in Sections 36-32-1 and 36-32-2, or his or her designated beneficiary, from any firefighting agency established in the State of Alabama, but only if such retirement compensation, retirement allowances, pensions and annuities, or optional allowances as are awarded as a result of fire protection services rendered. This subdivision shall become effective for the taxable years beginning January 1, 1987, and thereafter following its passage and approval by the Governor, or upon its otherwise becoming a law; provided, that for the taxable years beginning on or after January 1, 1991, all of the pension and retirement payments shall be exempt from taxation.
"(4) The first eight thousand dollars ($8,000) of any retirement compensation, retirement allowances, pensions and annuities, or optional allowances received by any eligible peace officer, as defined in subsection (11) of Section 36-21-60, or his or her designated beneficiary, from any police retirement system established in the State of Alabama, but only if the retirement compensation, retirement allowances, pensions and annuities, or optional allowances are awarded as a result of police services rendered. This subdivision shall become effective for taxable years beginning January 1, 1984, and thereafter; provided, that for the taxable years beginning on or after January 1, 1991, all of the pension and retirement payments shall be exempt from taxation.

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

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

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

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

"(9) a. Three hundred dollars ($300) for each
person, other than husband or wife, dependent upon the
taxpayer, and over half of whose support, for the calendar
year in which the taxable year for the taxpayer begins, was
received from the taxpayer.
"b. For tax years beginning after December 31, 2006, for taxpayers with adjusted gross income equal to or less than $20,000, one thousand dollars for each person other than husband or wife, dependent upon the taxpayer, and over half of whose support, for the calendar year in which the taxable year for the taxpayer begins, was received from the taxpayer.

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

"For the purposes of this section, "dependent" shall mean: A son or daughter of the taxpayer or a descendant of either; a stepson or stepdaughter of the taxpayer; a brother, sister, stepbrother, or stepsister of the taxpayer; the father or mother of the taxpayer or an ancestor of either; a stepfather or stepmother of the taxpayer; a son or daughter of a brother or sister of the taxpayer; a brother or sister of the father or mother of the taxpayer; a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law of the taxpayer. As used in this paragraph the terms "brother" and "sister" include a brother or sister by the half blood. For the purpose of determining whether any
of the foregoing relationships exist, a legally adopted child of a person shall be considered a child of such a person by blood.

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

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

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

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

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

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

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

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

(c) The assets of the ABLE Program and the ACES Program shall be preserved, invested, and expended solely pursuant to and for the purposes of this chapter and shall not be loaned or otherwise transferred or used by the State for any other purpose. A savings agreement, or any other agreement entered into by or on behalf of the ABLE Program or the ACES Program, does not constitute a debt or obligation of the
state. A contributor is solely entitled to amounts on deposit in or accrued to the respective savings account.

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

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