AN ACT

Providing for the establishment of a savings program by the Treasury Department to encourage savings accounts for individuals with disabilities; establishing the Pennsylvania ABLE Savings Program and the ABLE Savings Program Fund; and imposing duties on the Treasury Department.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

CHAPTER 1

PRELIMINARY PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Pennsylvania ABLE Act.

Section 102. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"ABLE." Achieving a Better Life Experience.

"ABLE account contract." A contract between a program...
manager or the department and an account owner.

"ABLE savings account." An individual savings account established in accordance with this act.

"Account." An ABLE savings account.

"Account owner." A person or legal entity authorized to be an ABLE account owner under section 529A of the Internal Revenue Code who enters into an ABLE account contract under this act.

"Department." The Treasury Department of the Commonwealth.

"Designated beneficiary." An eligible individual whose qualified disability expenses may be paid from the account.

"Eligible individual." An eligible individual as defined in section 529A(e)(1) of the Internal Revenue Code.

"Fund." The ABLE Savings Program Fund established in section 302.


"Nonqualified withdrawal." A withdrawal from an account which is not:

(1) A qualified withdrawal.

(2) A rollover distribution.

"Program." The Pennsylvania ABLE Savings Program established under section 301.

"Qualified ABLE program." As defined in section 529A(b)(1) of the Internal Revenue Code.

"Qualified disability expense." A qualified disability expense included under section 529A of the Internal Revenue Code.

"Qualified withdrawal." A withdrawal from an account to pay the qualified disability expenses of the designated beneficiary of the account.
"Rollover distribution." A rollover distribution as used in section 529A of the Internal Revenue Code.

CHAPTER 3

PENNSYLVANIA ABLE SAVINGS PROGRAM

Section 301. Pennsylvania ABLE Savings Program.

(a) Establishment.--The department may establish and maintain a savings program through which TO ALLOW ABLE savings accounts may be opened for eligible individuals for payment of qualified disability expenses. Notwithstanding any other provision of law, an ABLE savings program established by the department shall be maintained at all times in such a manner as to ensure THAT ENSURES the program's status as a qualified ABLE program.

(b) Purpose.--The purpose of the program is to empower an individual with a disability and the individual's family to save private funds in a savings account to support the individual with a disability in maintaining health, independence and quality of life.

(c) (B) Administration.--The department may utilize the administrative or investment structures of the Tuition Account Investment Program established by the act of April 3, 1992 (P.L.28, No.11), known as the Tuition Account Programs and College Savings Bond Act, without separately soliciting proposals for assistance in the management of all or part of the program.

(d) (C) Investment manager and trustee.--The department may contract with one or more persons or other legal entities to serve as investment managers, program managers and trustees to the department on behalf of the program. If the department contracts with investment managers, program managers or trustees
in order to fulfill the objectives of the program, the
investment managers, program managers and trustees shall work
with the department to create a program to develop
investment portfolios and to supervise investments and the
investment programs selected.

(e) Contracts with other states.--The department may contract with another state for any of the following:

(1) For another state to provide all or part of the program to beneficiaries residing in this Commonwealth.

(2) For the department to provide all or part of the program to beneficiaries residing in another state.

(3) For the department and another state to engage in joint efforts to establish and maintain ABLE savings programs.

Section 302. ABLE Savings Program Fund.

(a) Fund established.--The ABLE Savings Program Fund is established in the State Treasury. The fund shall consist of all the following:

(1) All contributions made to accounts of eligible individuals pursuant to ABLE account contracts and all interest, earnings and additions to the accounts.

(2) Any fees or charges levied on accounts to cover administrative expenses in administering the program.

(3) Other money appropriated or made available to the department for the program from any source and all interest, earnings and additions to the money.

(b) Continuing appropriation.--All money in the fund, including fees and charges levied on an account to cover the expenses in administering the program, contributions and increase in value on the contributions, for
distribution to or on behalf of eligible individuals, is hereby
appropriated to the department on a continuing basis to carry
out the provisions of this act.

(c) Assets.--The assets of the fund shall be preserved,
invested and expended solely to and for the purposes of carrying out this act.

(d) Investment.--The money in the fund shall be invested in accordance with policies established by the department to provide for an appropriate balance of risk, liquidity and return commensurate with the management of a prudent investor. The department, the investment managers, program managers and trustees shall have the authority to invest and reinvest the money in the fund in all lawful investments.

Section 303. Operating and administrative costs.

The department shall prepare and, through the Governor, submit annually to the General Assembly a budget covering the operating and administrative expenses of the program. Upon approval by the General Assembly in an appropriation bill, expenses incurred by the program and the department shall be paid from program fees and charges or from other available funds.

Section 304. Interdepartmental cooperation.

The head of any department, board, commission, agency or instrumentality of the Commonwealth, unless otherwise prohibited by law, shall assist the department in providing information about the program to potential eligible individuals and their families.

Section 305. Department powers and duties.

In addition to the powers granted by other provisions of this act, the department shall have the powers necessary or
convenient to carry out this act, including, but not limited to,
the power to:

(1) Administer the program and the fund.
(2) Enter into contracts with individuals for the
    establishment of ABLE savings accounts.
(3) Pay to an account owner or designated beneficiary,
or a third party authorized by an account owner, upon receipt
of appropriate documentation if required by the department,
funds from the account to pay for the eligible individual's
qualified disability expenses.
(4) Contract for goods and services and engage and
    employ personnel, including, but not limited to, the service
of CONTRACTS WITH private consultants, actuaries, managers,
legal counsel and auditors AS NECESSARY for rendering
professional, managerial and technical assistance and advice.
(5) Solicit and accept gifts, grants, loans and other
aid from any person, corporation or other entity or from a
government entity and participate in any Federal, State or
local government program that results in additional funds
being available to pay for the qualified disability expenses
of eligible individuals with ABLE savings accounts.
(6) Charge and collect administrative fees and charges
in connection with any transaction, including continued
participation in the program.
(7) Close ABLE savings accounts and return any remaining
funds, minus any fees, to the account owner.
(8) Contract for insurance, letters of credit and
collateral agreements.
(9) Adjust the terms of contracts with account owners.
(10) Solicit answers from appropriate Federal agencies
regarding the application of security or other Federal laws
to the program.

(11) Consider means whereby contributions into an ABLE
savings account can be deducted from salary.

(12) Promulgate regulations to implement the provisions
of this act.

(13) Take any other action necessary to carry out the
purpose of this act and incidental to the duties imposed on
the department.

CHAPTER 5
ACCOUNTS
Section 501. ABLE savings accounts.

(a) ABLE account contract.--An ABLE savings account may be
opened through a contract entered into by an account owner and
the department. If the account owner is a fiduciary, the account
owner shall continue to have signatory authority over the
account until the account owner relinquishes the authority.

(b) Fiduciaries.--To the extent that Federal law requires an
eligible individual to be the account owner, the following may
enter into an ABLE account contract as fiduciary for an eligible
individual who is a minor or who lacks capacity to enter into an
ABLE account contract:

(1) A parent or guardian.

(2) A person or legal entity designated in writing by
the parent or guardian.

(3) A trustee of a trust for which the eligible
individual is a beneficiary.

(4) For an eligible individual receiving benefits based
on blindness or a disability under Title II of the Social
Security Act (49 Stat. 620, 42 U.S.C. § 401 et seq.) or Title
XVI of the Social Security Act (42 U.S.C. § 1381), the representative payee for those benefits.

(5) Any other person or entity authorized under section 529A of the Internal Revenue Code with signature authority over the account.

(c) Change of designated beneficiary.--An account owner may change the designated beneficiary named in the ABLE account contract to another eligible individual if permitted under section 529A of the Internal Revenue Code.

Section 502. Nonqualified withdrawals.

(a) Value received.--Upon a full or partial withdrawal of funds from an account, which are not used for qualified disability expenses, the account owner or the account owner's designee shall receive the market value of the account for the amount requested.

(b) Fees.--The department may impose fees and COLLECT ARRANGEMENT FEES OR charges for administrative costs upon a nonqualified withdrawal or termination and deduct the fee from the amount otherwise payable.

(c) Involuntary termination.--The department may close an account and return any remaining funds in the account as a nonqualified withdrawal if necessary for compliance with Federal law or if the department, in its sole discretion, determines that termination is in the best interest of the program or the designated beneficiary.

(d) Taxation.--In the event of a nonqualified withdrawal, to the extent the amount withdrawn includes earnings on the contributions to the account or contributions to the account that are eligible to be deducted from Pennsylvania income tax for the tax year in which the contributions were made, the
amount of earnings and deductible contributions shall be subject
to taxation as income under the laws of this Commonwealth.

Section 503. Treatment of accounts.

(a) Levy, execution and security for loans LIMITATION.--An account shall not be subject to attachment, levy or execution by any creditor of a contributor, account owner or designated beneficiary and shall not be used as security for a loan.

(b) Disability or health benefits.--Any amounts contributed to an account, any increase in the value of the account and any qualified withdrawal from the account shall not be used in calculating personal assets of a designated beneficiary or an account owner in order to determine eligibility for disability, medical assistance or other health benefits conferred by the Commonwealth.

(c) Student aid.--Any amounts contributed to an account and any increase in the value of the account shall not be used in calculating personal asset contributions for determining eligibility and need OR NEED TO QUALIFY for student loan programs, student grant programs or other student aid programs administered by an agency of the Commonwealth AGENCY, except as otherwise may be provided by Federal law.

(D) DEATH OF BENEFICIARY.--UNLESS PROHIBITED BY FEDERAL LAW, UPON THE DEATH OF A DESIGNATED BENEFICIARY, PROCEEDS FROM AN ACCOUNT MAY BE TRANSFERRED TO THE ESTATE OF A DESIGNATED BENEFICIARY, OR TO AN ACCOUNT FOR ANOTHER ELIGIBLE INDIVIDUAL SPECIFIED BY THE DESIGNATED BENEFICIARY OR THE ESTATE OF THE DESIGNATED BENEFICIARY. AN AGENCY OR INSTRUMENTALITY OF THE COMMONWEALTH MAY NOT SEEK PAYMENT UNDER SECTION 529A(F) OF THE INTERNAL REVENUE CODE FROM THE ACCOUNT OR ITS PROCEEDS FOR
Section 701. Exemption from security laws.

The program and accounts are exempt from any statute regulating securities, including the act of December 5, 1972 (P.L.1280, No.284), known as the Pennsylvania Securities Act of 1972.

Section 702. State tax exemption.

(a) Property of funds.--The property of the program and the earnings from the program shall be exempt from all taxation by the Commonwealth and its political subdivisions.

(b) Contributions.--Contributions made to an account, any increase in the value of those contributions, the retention or transfer during life or as a result of death of any legal interest in an account and payment of qualified disability expenses of eligible individuals from an account shall be exempt from all taxation by the Commonwealth and its political subdivisions.

Section 2101. Limitation.

Any obligation or debt under this act shall not be deemed an obligation or debt of the Commonwealth, nor shall the Commonwealth be liable to pay principal and interest on obligations or to offset any loss of principal and interest earnings on investments made by the department under this act.

Section 2102. Effective date.

This act shall take effect immediately.