



February 19, 2016

---

---

# ENGROSSED SENATE BILL No. 11

---

DIGEST OF SB 11 (Updated February 17, 2016 10:28 am - DI 125)

**Citations Affected:** IC 12-7; IC 12-11.

**Synopsis:** ABLE savings accounts for persons with a disability. Creates the "achieving a better life experience" (ABLE) authority (authority). Establishes the ABLE board (board) of the authority. Provides that the authority may establish a qualified ABLE program under which a person may make contributions for a taxable year for the benefit of an eligible individual with a disability to an ABLE account to meet the qualified disability expenses of the designated beneficiary in compliance with federal law. Sets forth duties and powers of the authority and the board. Establishes a general operating fund, endowment fund, and trust fund.

**Effective:** July 1, 2016.

---

---

**Kenley, Houchin, Hershman,  
Brodén, Grooms, Buck, Breaux,  
Charbonneau, Randolph Lonnie M,  
Brown L**

(HOUSE SPONSORS — CLERE, OLTHOFF, PORTER, BROWN T,  
SCHAIBLEY, KOCH, BACON, KLINKER, SUMMERS)

---

---

January 5, 2016, read first time and referred to Committee on Tax & Fiscal Policy.  
January 21, 2016, amended, reported favorably — Do Pass.  
January 25, 2016, read second time, amended, ordered engrossed.  
January 26, 2016, engrossed. Read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 8, 2016, read first time and referred to Committee on Family, Children and Human Affairs.

February 18, 2016, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

---

---

ES 11—LS 6111/DI 104





February 19, 2016

Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 11

---

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 12-7-2-0.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2016]: **Sec. 0.5. "ABLE account", for purposes of IC 12-11-14,**  
4 **has the meaning set forth in IC 12-11-14-1.**

5 SECTION 2. IC 12-7-2-18.5 IS ADDED TO THE INDIANA CODE  
6 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
7 1, 2016]: **Sec. 18.5. "Authority", for purposes of IC 12-11-14, has**  
8 **the meaning set forth in IC 12-11-14-2.**

9 SECTION 3. IC 12-7-2-22, AS AMENDED BY P.L.145-2014,  
10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2016]: Sec. 22. "Board" means the following:

12 (1) For purposes of IC 12-10-10, IC 12-10-10.5, and IC 12-10-11,  
13 the community and home options to institutional care for the  
14 elderly and disabled board established by IC 12-10-11-1.

15 (2) **For purposes of IC 12-11-14, the meaning set forth in**  
16 **IC 12-11-14-3.**

17 (2) **(3) For purposes of IC 12-12-7-5, the meaning set forth in**

ES 11—LS 6111/DI 104



- 1 IC 12-12-7-5(a).  
 2 ~~(3)~~ **(4)** For purposes of IC 12-15-35, the meaning set forth in  
 3 IC 12-15-35-2.  
 4 SECTION 4. IC 12-7-2-58.5 IS ADDED TO THE INDIANA CODE  
 5 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 6 1, 2016]: **Sec. 58.5. "Designated beneficiary", for purposes of**  
 7 **IC 12-11-14, has the meaning set forth in IC 12-11-14-5.**  
 8 SECTION 5. IC 12-7-2-76, AS AMENDED BY P.L.145-2014,  
 9 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 JULY 1, 2016]: Sec. 76. (a) "Eligible individual", for purposes of:  
 11 (1) IC 12-10-10, has the meaning set forth in IC 12-10-10-4; ~~and~~  
 12 (2) IC 12-10-10.5, has the meaning set forth in IC 12-10-10.5-3;  
 13 **and**  
 14 **(3) IC 12-11-14, has the meaning set forth in IC 12-11-14-6.**  
 15 (b) "Eligible individual" has the meaning set forth in  
 16 IC 12-14-18-1.5 for purposes of the following:  
 17 (1) IC 12-10-6.  
 18 (2) IC 12-14-2.  
 19 (3) IC 12-14-18.  
 20 (4) IC 12-14-19.  
 21 (5) IC 12-15-2.  
 22 (6) IC 12-15-3.  
 23 (7) IC 12-16-3.5.  
 24 (8) IC 12-20-5.5.  
 25 SECTION 6. IC 12-7-2-154.4 IS ADDED TO THE INDIANA  
 26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2016]: **Sec. 154.4. "Qualified ABLE**  
 28 **program", for purposes of IC 12-11-14, has the meaning set forth**  
 29 **in IC 12-11-14-7.**  
 30 SECTION 7. IC 12-7-2-154.6 IS ADDED TO THE INDIANA  
 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2016]: **Sec. 154.6. "Qualified disability**  
 33 **expense", for purposes of IC 12-11-14, has the meaning set forth in**  
 34 **IC 12-11-14-8.**  
 35 SECTION 8. IC 12-11-14 IS ADDED TO THE INDIANA CODE  
 36 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2016]:  
 38 **Chapter 14. Achieving a Better Life Experience (ABLE)**  
 39 **Program**  
 40 **Sec. 1. As used in this chapter, "ABLE account" refers to an**  
 41 **achieving a better life experience (ABLE) account established by**  
 42 **an eligible individual that:**



- 1           (1) is maintained under a qualified ABLE program; and  
 2           (2) meets the requirements of Section 529A of the Internal  
 3           Revenue Code.

4           Sec. 2. As used in this chapter, "authority" refers to the  
 5           achieving a better life experience (ABLE) authority created by  
 6           section 9 of this chapter.

7           Sec. 3. As used in this chapter, "board" refers to the ABLE  
 8           board of the authority established by section 10 of this chapter.

9           Sec. 4. As used in this chapter, "contracting state" means a state  
 10          that has entered into a contract with Indiana to:

- 11          (1) provide residents of the contracting state access to  
 12          Indiana's qualified ABLE program; or  
 13          (2) provide residents of Indiana access to the contracting  
 14          state's qualified ABLE program.

15          Sec. 5. As used in this chapter, "designated beneficiary" means  
 16          the eligible individual who has established an ABLE account and  
 17          is the owner of the account.

18          Sec. 6. As used in this chapter, "eligible individual" means an  
 19          individual who during a taxable year:

- 20          (1) is entitled to benefits based on blindness or disability  
 21          under Title II or Title XVI of the federal Social Security Act  
 22          and the blindness or disability occurred before the individual  
 23          became twenty-six (26) years of age; or  
 24          (2) has a disability certification that has been filed as set forth  
 25          in Section 529A of the Internal Revenue Code.

26          Sec. 7. As used in this chapter, "qualified ABLE program"  
 27          refers to the achieving a better life experience (ABLE) program  
 28          established under this chapter under which a person may make  
 29          contributions for a taxable year for the benefit of an eligible  
 30          individual to an ABLE account to meet the qualified disability  
 31          expenses of the designated beneficiary in compliance with Section  
 32          529A of the Internal Revenue Code.

33          Sec. 8. As used in this chapter, "qualified disability expense"  
 34          means any expenses related to the eligible individual's blindness or  
 35          disability that are incurred for the benefit of an eligible individual  
 36          who is the designated beneficiary, including the following expenses:

- 37          (1) Education.  
 38          (2) Housing.  
 39          (3) Transportation.  
 40          (4) Employment training and support.  
 41          (5) Assistive technology and personal support services.  
 42          (6) Health.



1 (7) Prevention and wellness.

2 (8) Management and administration.

3 (9) Legal fees.

4 (10) Oversight and monitoring.

5 (11) Funeral and burial.

6 (12) Other expenses approved by the federal government for  
7 a qualified ABLE program.

8 **Sec. 9. (a) The achieving a better life experience (ABLE)**  
9 **authority is created. The authority is a body corporate and politic.**

10 **(b) The authority:**

11 **(1) is not an agency of the state; and**

12 **(2) is an instrumentality of the state performing essential**  
13 **governmental functions.**

14 **(c) The authority may establish a qualified ABLE program.**

15 **(d) Because the management and operation of a qualified ABLE**  
16 **program and all funds and ABLE accounts established under this**  
17 **chapter constitute the performance of an essential public function,**  
18 **the following are exempt from taxation by the state and by any**  
19 **political subdivision of the state:**

20 **(1) The authority's management and operations.**

21 **(2) The authority's property and assets.**

22 **(3) All property and assets held by or for the authority except**  
23 **individual ABLE accounts.**

24 **(4) The investment income and earnings (whether interest,**  
25 **gains, or dividends) on:**

26 **(A) the authority's property and assets; and**

27 **(B) all property and assets held by or for the authority;**  
28 **including all funds and accounts established under this article**  
29 **except individual ABLE accounts.**

30 **(e) The authority may contract with public or private entities or**  
31 **persons for the provision of all or any portion of the services the**  
32 **board considers necessary for the management and operation of**  
33 **the authority, including the qualified ABLE program and all funds**  
34 **and accounts of the authority.**

35 **(f) The authority is a public agency for purposes of IC 5-14-1.5**  
36 **and IC 5-14-3. However, the data, information, and records**  
37 **(including medical records) relating to designated beneficiaries of**  
38 **and individual contributors to an ABLE account, including any**  
39 **records that reveal personally identifiable information about such**  
40 **individuals, are confidential for purposes of IC 5-14-3-4(a), are**  
41 **excepted from IC 5-14-3, and may not be disclosed by the**  
42 **authority, unless access to the records is specifically required by a**



1 state or federal statute or is ordered by a court under the rules of  
 2 discovery. The board is a governing body for purposes of  
 3 IC 5-14-1.5.

4 **Sec. 10. (a) The ABLE board of the authority is established. The**  
 5 **board consists of the following:**

6 (1) The following four (4) ex officio members:

7 (A) The treasurer of state.

8 (B) The secretary of family and social services.

9 (C) The budget director.

10 (D) The executive director of the Indiana housing and  
 11 community development authority.

12 (2) Five (5) appointed members who:

13 (A) are appointed by the governor; and

14 (B) consist of the following:

15 (i) One (1) member who has significant experience in  
 16 actuarial analysis, accounting, investment management,  
 17 or other areas of finance that are relevant to the  
 18 authority.

19 (ii) One (1) member who has significant legal expertise  
 20 and knowledge of estate planning.

21 (iii) One (1) member who is a representative of a  
 22 statewide organization that advocates on behalf of  
 23 individuals with disabilities.

24 (iv) One (1) member who is an individual with a  
 25 disability.

26 (v) One (1) member who is a family member of an  
 27 individual with a disability.

28 (b) A certificate of appointment or reappointment of each  
 29 member shall be filed with the authority, and this certificate is  
 30 conclusive evidence of the due and proper appointment of the  
 31 member.

32 (c) Not more than three (3) of the appointed members of the  
 33 board may belong to the same political party.

34 (d) An appointed member serves a four (4) year term. An  
 35 appointed member shall hold over after the expiration of the  
 36 member's term until the member's successor is appointed and  
 37 qualified.

38 (e) The governor may reappoint an appointed member of the  
 39 board.

40 (f) A vacancy shall be filled for the balance of an unexpired term  
 41 in the same manner as the original appointment.

42 (g) The treasurer of state shall serve as chairperson of the



1 board. The board shall annually elect one (1) of its ex officio  
 2 members as vice chairperson and may elect any other officer the  
 3 board desires. The board shall meet at the call of the chairperson  
 4 and as provided in the bylaws of the authority.

5 (h) The governor may remove an appointed member for  
 6 misfeasance, malfeasance, willful neglect of duty, or other cause.

7 (i) An appointed member of the board is not entitled to the  
 8 minimum salary per diem provided by IC 4-10-11-2.1(b). However,  
 9 each appointed member is entitled to reimbursement for traveling  
 10 expenses and other expenses actually incurred in connection with  
 11 the member's duties.

12 (j) An ex officio member of the board is entitled to  
 13 reimbursement for traveling expenses and other expenses actually  
 14 incurred in connection with the member's duties.

15 (k) An ex officio member of the board may designate a person  
 16 to serve as an ex officio member of the board in the absence of the  
 17 ex officio member.

18 (l) The majority of the members of the board constitute a  
 19 quorum for the purposes of conducting the board's business and  
 20 exercising the board's powers and for all other purposes. Vacant  
 21 positions may not be counted when determining whether a  
 22 majority of the members is present.

23 (m) The affirmative vote of a majority of all the members of the  
 24 board who are present is necessary for the authority to take action.  
 25 A vacancy in the membership of the board does not impair the  
 26 right of a quorum to exercise all the rights and perform all the  
 27 duties of the authority. An action taken by the board under this  
 28 article may be authorized by:

- 29 (1) resolution at any regular or special meeting; or
- 30 (2) unanimous consent of all the members who have not  
 31 abstained.

32 A resolution takes effect immediately upon adoption and need not  
 33 be published or posted.

34 Sec. 11. (a) The board may:

- 35 (1) employ a manager, who is not a member of the board; and
- 36 (2) delegate necessary and appropriate functions and  
 37 authority to the manager.

38 (b) The board has the powers necessary and appropriate to  
 39 carry out and effectuate the purposes of this chapter, including the  
 40 following:

- 41 (1) To develop and implement a qualified ABLE program for  
 42 Indiana through:





- 1           (A) rules adopted under IC 4-22-2 or emergency rules  
2           adopted in the manner provided under IC 4-22-2-37.1; or  
3           (B) rules, guidelines, procedures, or policies established by  
4           the board.
- 5           (2) To conform the qualified ABLE program to meet the  
6           requirements of Section 529A of the Internal Revenue Code  
7           and all applicable federal laws and regulations.
- 8           (3) To retain professional services, including the following:  
9           (A) Advisers and managers, including investment advisers.  
10           (B) Custodians and other fiduciaries.  
11           (C) Accountants and auditors.  
12           (D) Consultants or other experts.  
13           (E) Actuarial services providers.  
14           (F) Attorneys.
- 15           (4) To establish minimum ABLE account deposit amounts  
16           (both initial and periodic).
- 17           (5) To employ persons, if the board chooses, and as may be  
18           necessary, and to fix the terms of employment.
- 19           (6) To recommend legislation to the governor and the general  
20           assembly.
- 21           (7) To apply for designation as a tax exempt entity under the  
22           Internal Revenue Code.
- 23           (8) To sue and be sued.
- 24           (9) To provide or facilitate provision of benefits and incentives  
25           for the benefit of qualified beneficiaries.
- 26           (10) To conform the qualified ABLE program to federal tax  
27           advantages or incentives, to the extent consistent with the  
28           purposes and objectives of this chapter.
- 29           (11) To charge, impose, and collect administrative fees and  
30           service charges in connection with any agreement, contract,  
31           or transaction under a qualified ABLE program.
- 32           (12) To have perpetual succession.
- 33           (13) To establish policies and procedures to govern  
34           distributions from ABLE accounts that are not:  
35           (A) made on account of the death or disability of an  
36           account beneficiary; or  
37           (B) rollovers.
- 38           (14) To establish penalties for withdrawals of money from  
39           ABLE accounts that are not used exclusively for a qualified  
40           disability expense of an account beneficiary unless a  
41           circumstance described in subdivision (13) applies.
- 42           (15) To establish policies and procedures regarding the



1 transfer of individual ABLÉ accounts and the designation of  
2 substitute account beneficiaries.

3 (16) To establish policies and procedures for withdrawal of  
4 money from ABLÉ accounts for, or in reimbursement of, a  
5 qualified disability expense.

6 (17) To enter into agreements with ABLÉ account owners,  
7 account beneficiaries, and contributors, with the agreements  
8 naming:

9 (A) the account owner; and

10 (B) the account beneficiary.

11 (18) To establish ABLÉ accounts for account beneficiaries.  
12 However, the authority shall establish a separate ABLÉ  
13 account for each account beneficiary.

14 (19) To enter into agreements with financial institutions  
15 relating to ABLÉ accounts as well as deposits, withdrawals,  
16 penalties, allocation of benefits or incentives, and transfers of  
17 accounts, account owners, and account beneficiaries.

18 (20) To develop marketing plans and promotional material.

19 (21) To enter into agreements with other states to:

20 (A) allow Indiana residents to participate in a plan  
21 operated by a contracting state with a qualified ABLÉ  
22 program; or

23 (B) allow residents of contracting states to participate in  
24 the Indiana qualified ABLÉ program.

25 (22) To do all things necessary and appropriate to carry out  
26 the purposes of this chapter.

27 Sec. 12. (a) The authority shall do the following:

28 (1) Provide the board and each member, officer, employee,  
29 consultant, counsel, and agent of the authority or the board a  
30 defense in a suit arising out of the performance of duties for  
31 or on behalf of the authority or the board, if the board  
32 determines that the duties were provided in good faith.

33 (2) Hold a person described in subdivision (1) or the board  
34 harmless from any liability, cost, or damage in connection  
35 with an action arising out of the performance of duties for or  
36 on behalf of the authority or the board, including the payment  
37 of any legal fees, except where the liability, cost, or damage is  
38 predicated on, or arises out of, bad faith of the person or the  
39 board, or is based on the person's or board's malfeasance in  
40 the performance of duties.

41 (b) The authority shall prepare an annual report for the  
42 qualified ABLÉ program and transmit the annual report to the



1 governor and, in an electronic format under IC 5-14-6, to the  
 2 general assembly. The authority shall make available upon request  
 3 a copy of the annual report to qualified beneficiaries, account  
 4 owners, and the public.

5 **Sec. 13. (a) The authority may accept gifts, bequests, donations,**  
 6 **and devises of personal and real property:**

7 (1) as trustees for the maintenance, use, or benefit of the  
 8 authority, the qualified ABLÉ program, or the endowment  
 9 fund; or

10 (2) to be administered for other public or charitable purposes  
 11 for the use or benefit of ABLÉ account owners or ABLÉ  
 12 account beneficiaries.

13 (b) The authority may receive, accept, hold, administer, and use  
 14 any property transferred to the authority by gift, bequest,  
 15 donation, or devise in accordance with the terms, conditions,  
 16 obligations, liabilities, and burdens imposed on the gift, bequest,  
 17 donation, or devise if, in the judgment of the board, the action is in  
 18 the best interest of the authority, the qualified ABLÉ program, the  
 19 endowment fund, ABLÉ account owners, ABLÉ account  
 20 contributors, or ABLÉ account beneficiaries, as applicable.

21 (c) The authority may, if not inconsistent with the terms and  
 22 conditions of a gift of real property:

23 (1) sell, convey, or otherwise dispose of the real property; and

24 (2) invest, reinvest, or use the proceeds as, in the judgment of  
 25 the board, is of the greatest benefit to the authority, the  
 26 qualified ABLÉ program, the endowment fund, ABLÉ  
 27 account beneficiaries, and ABLÉ account owners.

28 **Sec. 14. A person designated by resolution of the authority:**

29 (1) shall keep a record of the proceedings of the authority;

30 (2) shall be custodian of:

31 (A) all books, documents, and papers filed with the  
 32 authority; and

33 (B) the minutes book or journal of the authority; and

34 (3) may copy all minutes and other records and documents of  
 35 the authority and may certify that the copies are true copies.

36 A person who deals with the authority may rely upon the  
 37 certification.

38 **Sec. 15. Before the adoption and implementation of a qualified**  
 39 **ABLE program:**

40 (1) the chairperson;

41 (2) the vice chairperson;

42 (3) the manager; and



1           (4) any officer elected by the authority or member of the  
2           authority authorized by resolution to handle funds or sign  
3           checks;

4           shall execute a surety bond in the penal sum of one hundred  
5           thousand dollars (\$100,000). The surety bond shall be conditioned  
6           upon the faithful performance of the duties of the office of the  
7           principal and shall be executed by a surety company authorized to  
8           transact business in Indiana. The authority shall pay the cost of the  
9           bonds.

10          Sec. 16. Notwithstanding any other law, it is not a conflict of  
11          interest or violation of any other law for a person to serve as a  
12          member of the authority. However, a member shall disclose a  
13          conflict of interest relating to actions of the authority as required  
14          and in a manner provided by IC 35-44.1-1-4.

15          Sec. 17. The following are established:

- 16           (1) The general operating fund.
- 17           (2) The endowment fund.
- 18           (3) The trust fund and, in the trust fund, the following:
  - 19               (A) The administrative account.
  - 20               (B) The program account.

21          Sec. 18. The authority shall establish and implement investment  
22          policies in accordance with IC 5-13 for the following:

- 23           (1) Money in the general operating fund.
- 24           (2) Money in the administrative account.
- 25           (3) Any other money of the authority other than money in:
  - 26               (A) the endowment fund; and
  - 27               (B) the program account.

28          Sec. 19. The board shall establish and implement investment  
29          policies for money in:

- 30           (1) the endowment fund; and
- 31           (2) the program account;

32          for investment in the manner provided by IC 30-4-3-3.

33          Sec. 20. The trust fund and other property of the authority must  
34          be preserved, invested, and expended only under this article and  
35          may not be used for any other purpose. The trust fund shall be held  
36          in trust for account owners and account beneficiaries.

37          Sec. 21. Criteria for management of assets in the trust fund,  
38          including investment of assets, must provide for both asset  
39          protection and income growth while providing for the actuarial  
40          soundness of the trust fund.

41          Sec. 22. (a) General operating, administrative, and capital  
42          expenses of the authority may be paid from amounts appropriated



1 for those purposes by the general assembly. Appropriations must  
2 be deposited in either the administrative account or the general  
3 operating fund, as the board determines to be appropriate.

4 (b) Money in the administrative account shall be used first to  
5 pay the general operating, administrative, and capital expenses of  
6 the authority. Before money in the program account may be used  
7 for these expenses, the authority must exhaust all other funds  
8 available to the authority, including money in the endowment fund  
9 and the administrative account.

10 Sec. 23. (a) The funds, accounts, management, and operations of  
11 the authority are subject to annual audit by an independent public  
12 accounting firm retained by the board.

13 (b) The authority shall promptly transmit copies of each annual  
14 audit to the governor and in an electronic format under IC 5-14-6  
15 to the general assembly. Upon request, the authority shall make  
16 available copies of the audit to qualified beneficiaries, account  
17 owners, and the public.

18 Sec. 24. (a) All ABLÉ accounts and all earnings or interest on  
19 ABLÉ accounts are exempt from taxation in Indiana to the extent  
20 that those accounts, earnings, and interest are exempt from federal  
21 taxation under the Internal Revenue Code, subject to any penalties  
22 that are established for a qualified ABLÉ program under this  
23 chapter.

24 (b) Money deposited in an ABLÉ account by the account owner  
25 or a contributor and investment returns on an account are the  
26 property of the account owner.

27 (c) Funds held in an ABLÉ account that may be established  
28 under this chapter may not be used by an account owner or  
29 account beneficiary as security for a loan.

30 (d) Funds held in an ABLÉ account:

31 (1) are exempt from creditors and are not liable to  
32 attachment, levy, garnishment, or other process; and

33 (2) may not be seized, taken, appropriated, or applied by any  
34 legal or equitable process or operation of law to pay any debt  
35 or liability of any contributor or beneficiary.

36 However, the state of residency of the designated beneficiary of an  
37 ABLÉ account is a creditor of the account in the event of the death  
38 of the designated beneficiary.

39 (e) Funds held in an ABLÉ account may not be included in  
40 determining income eligibility of the designated beneficiary for  
41 state and local assistance programs.



## COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 11, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 7, delete "IC 12-11-14-4." and insert "**IC 12-11-14-5.**"

Page 2, line 14, delete "IC 12-11-14-5." and insert "**IC 12-11-14-6.**"

Page 2, line 29, delete "IC 12-11-14-6." and insert "**IC 12-11-14-7.**"

Page 2, line 34, delete "IC 12-11-14-7." and insert "**IC 12-11-14-8.**"

Page 3, line 6, delete "8" and insert "**9**".

Page 3, line 8, delete "9" and insert "**10**".

Page 3, between lines 8 and 9, begin a new paragraph and insert:

**"Sec. 4. As used in this chapter, "contracting state" means a state that has entered into a contract with Indiana to:**

**(1) provide residents of the contracting state access to Indiana's qualified ABLE program; or**

**(2) provide residents of Indiana access to the contracting state's qualified ABLE program."**

Page 3, line 9, delete "4." and insert "**5.**"

Page 3, line 12, delete "5." and insert "**6.**"

Page 3, line 20, delete "6." and insert "**7.**"

Page 3, line 27, delete "7." and insert "**8.**"

Page 4, line 2, delete "8." and insert "**9.**"

Page 4, line 8, delete "shall" and insert "**may**".

Page 4, line 30, after "IC 5-14-3." insert "**However, the data, information, and records (including medical records) relating to designated beneficiaries of and individual contributors to an ABLE account, including any records that reveal personally identifiable information about such individuals, are confidential for purposes of IC 5-14-3-4(a), are excepted from IC 5-14-3, and may not be disclosed by the authority, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery.**"

Page 4, line 32, delete "9." and insert "**10.**"

Page 4, delete lines 38 through 42, begin a new line block indented and insert:

**"(2) Four (4) appointed members who:**

**(A) are appointed by the governor; and**

**(B) consist of the following:**

**(i) One (1) member who has significant experience in actuarial analysis, accounting, investment management,**



or other areas of finance that are relevant to the authority.

(ii) One (1) member who has significant legal expertise and knowledge of estate planning.

(iii) One (1) member who is a representative of a statewide organization that advocates on behalf of individuals with disabilities.

(iv) One (1) member who is an individual with a disability or a family member of an individual with a disability.

(b) A certificate of appointment or reappointment of each member shall be filed with the authority, and this certificate is conclusive evidence of the due and proper appointment of the member."

Page 5, delete lines 1 through 2.

Page 5, line 3, delete "three (3)" and insert "two (2)".

Page 5, line 17, delete "Meetings of the".

Page 5, delete line 18.

Page 5, delete lines 34 through 36, begin a new paragraph and insert:

**"(I) The majority of the members of the board constitute a quorum for the purposes of conducting the board's business and exercising the board's powers and for all other purposes. Vacant positions may not be counted when determining whether a majority of the members is present."**

Page 6, line 6, delete "10." and insert "11."

Page 6, line 23, after "managers" delete "." and insert ", including investment advisers."

Page 6, delete line 25.

Page 6, line 26, delete "(D)" and insert "(C)".

Page 6, line 27, delete "(E)" and insert "(D)".

Page 6, line 28, delete "(F)" and insert "(E)".

Page 6, line 29, delete "(G)" and insert "(F)".

Page 7, line 27, after "However" delete ":" and insert ",".

Page 7, line 28, delete "(A)".

Page 7, run in lines 27 through 28.

Page 7, line 29, delete "; and" and insert ".".

Page 7, delete lines 30 through 31.

Page 7, between lines 35 and 36, begin a new line block indented and insert:

**"(20) To develop marketing plans and promotional material.**

**(21) To enter into agreements with other states to:**



**(A) allow Indiana residents to participate in a plan operated by a contracting state with a qualified ABLE program; or**

**(B) allow residents of contracting states to participate in the Indiana qualified ABLE program.**

**(22) To do all things necessary and appropriate to carry out the purposes of this chapter."**

Page 7, line 36, delete "11." and insert "12."

Page 8, line 14, delete "12." and insert "13."

Page 8, line 37, delete "13." and insert "14."

Page 9, line 5, delete "14." and insert "15."

Page 9, line 19, delete "15." and insert "16."

Page 9, line 24, delete "16." and insert "17."

Page 9, line 30, delete "17." and insert "18."

Page 9, line 37, delete "18." and insert "19."

Page 9, line 42, delete "19." and insert "20."

Page 10, line 4, delete "20." and insert "21."

Page 10, line 8, delete "21." and insert "22."

Page 10, line 19, delete "22." and insert "23."

Page 10, line 27, delete "23." and insert "24."

Page 10, after line 38, begin a new paragraph and insert:

**"(d) Funds held in an ABLE account:**

**(1) are exempt from creditors and are not liable to attachment, levy, garnishment, or other process; and**

**(2) may not 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.**

**However, the state of residency of the designated beneficiary of an ABLE account is a creditor of the account in the event of the death of the designated beneficiary.**

**(e) Funds held in an ABLE account may not be included in determining income eligibility of the designated beneficiary for state and local assistance programs."**

and when so amended that said bill do pass.

(Reference is to SB 11 as introduced.)

HERSHMAN, Chairperson

Committee Vote: Yeas 12, Nays 0.





## SENATE MOTION

Madam President: I move that Senate Bill 11 be amended to read as follows:

Page 5, line 6, delete "three (3)" and insert "**four (4)**".

Page 5, between lines 9 and 10, begin a new line double block indented and insert:

**"(D) The lieutenant governor."**

Page 5, line 10, delete "Four (4)" and insert "**Five (5)**".

Page 5, delete lines 22 through 24, begin a new line triple block indented and insert:

**"(iv) One (1) member who is an individual with a disability.**

**(v) One (1) member who is a family member of an individual with a disability."**

(Reference is to SB 11 as printed January 22, 2016.)

KENLEY

---

 COMMITTEE REPORT

Mr. Speaker: Your Committee on Family, Children and Human Affairs, to which was referred Senate Bill 11, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 5, line 10, delete "The lieutenant governor." and insert "**The executive director of the Indiana housing and community development authority.**"

Page 5, line 31, delete "two (2)" and insert "**three (3)**".

Page 6, line 1, after "chairperson" delete ",".

Page 6, line 5, delete "cause" and insert "**cause.**"

Page 6, delete lines 6 through 7.

and when so amended that said bill do pass.

(Reference is to SB 11 as reprinted January 26, 2016.)

FRIZZELL

Committee Vote: yeas 12, nays 0.

ES 11—LS 6111/DI 104

