AN ACT

To amend chapter 166, RSMo, by adding thereto ten new sections relating to the Missouri Achieving a Better Life Experience program.

Section A. Chapter 166, RSMo, are amended by adding thereto ten new sections, to be known as sections 166.600, 166.605, 166.610, 166.615, 166.620, 166.625, 166.630, 166.635, 166.640, and 166.645, to read as follows:

166.600. 1. As used in sections 166.600 to 166.645, except where the context clearly requires another interpretation, the following terms mean:

(1) "ABLE account", the same meaning as in Section 529A of the Internal Revenue Code;

(2) "Benefits", the payment of qualified disability expenses on behalf of a designated beneficiary from an ABLE account;

(3) "Board", the Missouri Achieving a Better Life Experience board established in section 166.605;

(4) "Designated beneficiary", the same meaning as in Section 529A of the Internal Revenue Code;

(5) "Eligible individual", the same meaning as in Section 529A of the Internal Revenue Code;

(6) "Financial institution", a bank, insurance company or registered investment company;

(7) "Internal Revenue Code", the Internal Revenue Code of 1986, as amended;

(8) "Missouri Achieving a Better Life Experience program" or
"ABLE", the program created pursuant to sections 166.600 to 166.645;

(9) "Participant", a person who has entered into a participation agreement pursuant to sections 166.600 to 166.645 for the advance payment of qualified disability expenses on behalf of a designated beneficiary. Unless otherwise permitted under Section 529A of the Internal Revenue Code the participant shall be the designated beneficiary of the ABLE Account, except that if the designated beneficiary of the account is a minor or has a custodian or other fiduciary appointed for the purpose of managing his or her financial affairs, the parent or custodian or other fiduciary of the designated beneficiary may serve as the participant if such form of ownership is permitted or not prohibited by Section 529A of the Internal Revenue Code;

(10) "Participation agreement", an agreement between a participant and the board pursuant to and conforming with the requirements of sections 166.600 to 166.645; and

(11) "Qualified disability expenses", the same meaning as in Section 529A of the Internal Revenue Code.

166.605. 1. There is hereby created the "Missouri Achieving a Better Life Experience Program". The program shall be administered by the Missouri ABLE board which shall consist of the Missouri state treasurer who shall serve as chairman, the director of the department of health and senior services or his or her designee, the commissioner of the office of administration or his or her designee, the director of the department of economic development or his or her designee, two persons having demonstrable experience and knowledge in the areas of finance or the investment and management of public funds, one of whom is selected by the president pro tempore of the senate and one of whom is selected by the speaker of the house of representatives, and one person having demonstrable experience and knowledge in the area of banking or deposit rate determination and placement of depository certificates of deposit or other deposit investments. Such member shall be appointed by the governor with the advice and consent of the senate. The three appointed members shall be appointed to serve for terms of four years from the date of appointment, or until their successors shall have been appointed and qualified. The members of the board shall be subject to the provisions of section 105.452. Any member who violates the provisions of section 105.452 shall be removed
from the board.

2. In order to establish and administer the ABLE program, the board, in addition to its other powers and authority, shall have the power and authority to:

(1) Develop and implement the Missouri Achieving a Better Life Experience program;

(2) Promulgate reasonable rules and regulations and establish policies and procedures to implement sections 166.600 to 166.645 to permit the ABLE program to qualify as a "qualified ABLE program" pursuant to Section 529A of the Internal Revenue Code and to ensure ABLE program's compliance with all applicable laws;

(3) Develop and implement educational programs and related informational materials for participants, either directly or through a contractual arrangement with a financial institution for investment services, and their families, including special programs and materials to inform individuals with disabilities regarding methods for financing the lives of individuals with disabilities so as to maintain health, independence, and quality of life;

(4) Enter into agreements with any financial institution, or any state or federal agency or entity as required for the operation of the ABLE program pursuant to sections 166.600 to 166.645;

(5) Enter into participation agreements with participants;

(6) Accept any grants, gifts, legislative appropriations, and other moneys from the state, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the account of the ABLE program;

(7) Invest the funds received from participants in appropriate investment instruments to achieve long-term total return through a combination of capital appreciation and current income;

(8) Make appropriate payments and distributions on behalf of designated beneficiaries pursuant to participation agreements;

(9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in sections 166.600 to 166.645 and the rules adopted by the board;

(10) Make provision for the payment of costs of administration and operation of the ABLE program;

(11) Effectuate and carry out all the powers granted by sections
166.600 to 166.645, and have all other powers necessary to carry out and
effectuate the purposes, objectives and provisions of sections 166.600
to 166.645 pertaining to the ABLE program;

(12) Procure insurance, guarantees or other protections against
any loss in connection with the assets or activities of the ABLE
program; and

(13) Enter into agreements with other states to allow residents of
that state to participate in the Missouri Achieving a Better Life
Experience program.

3. Four members of the board shall constitute a quorum. No
vacancy in the membership of the board shall impair the right of a
quorum to exercise all the rights and perform all the duties of the
board. No action shall be taken by the board except upon the
affirmative vote of a majority of the members present. Any member of
the board may designate a proxy for that member who will enjoy the
full voting privileges of that member for the one meeting so specified
by such member. No more than three proxies shall be considered
members of the board for purposes of establishing a quorum.

4. The board shall meet within the state of Missouri at the time
set at a previously scheduled meeting or by the request of any four
members of the board. Notice of the meeting shall be delivered to all
members of the board in person or by depositing notice in a United
States post office in a properly stamped and addressed envelope not
less than six days prior to the date fixed for the meeting. The board
may meet at any time by unanimous mutual consent. There shall be at
least one meeting in each quarter.

5. The funds of the ABLE program shall be invested only in those
investments which a prudent person acting in a like capacity and
familiar with these matters would use in the conduct of an enterprise
of a like character and with like aims, as provided in section
105.688. For new contracts entered into after August 28, 2015, board
members shall study investment plans of other states and contract with
or negotiate to provide benefit options the same as or similar to other
states' qualified plans for the purpose of offering additional options for
members of the plan. The board may delegate to duly appointed
investment counselors authority to act in place of the board in the
investment and reinvestment of all or part of the moneys and may also
delegate to such counselors the authority to act in place of the board
in the holding, purchasing, selling, assigning, transferring, or disposing
of any or all of the securities and investments in which such moneys
shall have been invested, as well as the proceeds of such investments
and such moneys. Such investment counselors shall be registered as
investment advisors with the United States Securities and Exchange
Commission. In exercising or delegating its investment powers and
authority, members of the board shall exercise ordinary business care
and prudence under the facts and circumstances prevailing at the time
of the action or decision. No member of the board shall be liable for
any action taken or omitted with respect to the exercise of, or
delegation of, these powers and authority if such member shall have
discharged the duties of his or her position in good faith and with that
degree of diligence, care, and skill which a prudent person acting in a
like capacity and familiar with these matters would use in the conduct
of an enterprise of a like character and with like aims.

6. No investment transaction authorized by the board shall be
handled by any company or firm in which a member of the board has
a substantial interest, nor shall any member of the board profit directly
or indirectly from any such investment.

7. No member of the board or employee of the ABLE program
shall receive any gain or profit from any funds or transaction of the
ABLE program. Any member of the board, employee, or agent of the
ABLE program accepting any gratuity or compensation for the purpose
of influencing such member of the board's, employee's, or agent's action
with respect to the investment or management of the funds of the ABLE
program shall thereby forfeit the office and in addition thereto be
subject to the penalties prescribed for bribery.

166.610. 1. The board may enter into ABLE program
participation agreements with participants on behalf of designated
beneficiaries pursuant to the provisions of sections 166.600 to 166.645,
including the following terms and conditions:

(1) A participation agreement shall stipulate the terms and
conditions of the ABLE program in which the participant makes
contributions;

(2) A participation agreement shall specify the method for
calculating the return on the contribution made by the participant;

(3) A participation agreement shall clearly and prominently
disclose to participants the risk associated with depositing moneys
with the board;

(4) Participation agreements shall be organized and presented in a way and with language that is easily understandable by the general public; and

(5) A participation agreement shall clearly and prominently disclose to participants the existence of any load charge or similar charge assessed against the accounts of the participants for administration or services.

2. The board shall establish the maximum amount of contributions which may be made annually to an ABLE account, which shall be the same as the amount allowed by Section 529A of the Internal Revenue Code of 1986, as amended.

3. The board shall establish a total contribution limit for savings accounts established under the ABLE program with respect to a designated beneficiary which shall in no event be less than the amount established as the contribution limit by the Missouri higher education savings program board for qualified tuition savings programs established under sections 166.400 to 166.450. No contribution shall be made to an ABLE account for a designated beneficiary if it would cause the balance of the ABLE account of the designated beneficiary to exceed the total contribution limit established by the board. The board may establish other requirements that it deems appropriate to provide adequate safeguards to prevent contributions on behalf of a designated beneficiary from exceeding what is necessary to provide for the qualified disability expenses of the designated beneficiary.

4. The board shall establish the minimum length of time that contributions and earnings must be held by the ABLE program to qualify as tax exempt pursuant to section 166.625. Any contributions or earnings that are withdrawn or distributed from an ABLE account prior to the expiration of the minimum length of time, as established by the board, shall be subject to a penalty pursuant to section 166.620.

166.615. All money paid by a participant in connection with a participation agreement shall be deposited as received and shall be promptly invested by the board. Contributions and earnings thereon accumulated on behalf of participants in the ABLE program may be used, as provided in the participation agreement, for qualified disability expenses.

166.620. Any participant may cancel a participation agreement
at will. The board shall impose a penalty equal to or greater than ten percent of the earnings of an ABLE account for any distribution that is not:

(1) Used exclusively for qualified disability expenses of the designated beneficiary;
(2) Made because of death of the designated beneficiary; or
(3) Held in the fund for the minimum length of time established by the board.

166.625. 1. Notwithstanding any law to the contrary, the assets of the ABLE program held by the board and the assets of any ABLE account and any income therefrom shall be exempt from all taxation by the state or any of its political subdivisions. Income earned or received from an ABLE account or deposit shall not be subject to state income tax imposed pursuant to chapter 143. The exemption from taxation pursuant to this section shall apply only to assets and income maintained, accrued, or expended pursuant to the requirements of the ABLE program established pursuant to sections 166.600 to 166.645, and no exemption shall apply to assets and income expended for any other purposes. Annual contributions made to the ABLE program held by the board up to and including eight thousand dollars per participating taxpayer, and up to sixteen thousand dollars for married individuals filing a joint tax return, shall be subtracted in determining Missouri adjusted gross income pursuant to section 143.121.

2. If any deductible contributions to or earnings from any such program referred to in this section are distributed and not used to pay qualified disability expenses or are not held for the minimum length of time established by the appropriate Missouri board, the amount so distributed shall be added to the Missouri adjusted gross income of the participant, or, if the participant is not living, the designated beneficiary.

3. The provisions of this section shall apply to tax years beginning on or after January 1, 2015.

166.630. The assets of the ABLE program shall at all times be preserved, invested, and expended only for the purposes set forth in this section and in accordance with the participation agreements, and no property rights therein shall exist in favor of the state.

166.635. Any rule or portion of a rule, as that term is defined in section 536.010 that is created under the authority delegated in this
section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2015, shall be invalid and void.

166.640. The director of investment of the state treasurer's office shall, on a semiannual basis, review the financial status and investment policy of the program as well as the participation rate in the program. The director of investment shall also review the continued viability of the program and the administration of the program by the board. The director of investment shall report the findings annually to the board, which shall subsequently disclose such findings at a public meeting.

166.645. Money accruing to and deposited in individual ABLE accounts shall not be part of "total state revenues" as defined in sections 17 and 18 of article X of the Constitution of the State of Missouri and the expenditure of such revenues shall not be an expense of state government under section 20 of article X of the Constitution of the State of Missouri.