

House Bill 768

By: Representatives Hawkins of the 27th, Willard of the 51st, Fludd of the 64th, Jones of the 47th, Turner of the 21st, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 30 of the Official Code of Georgia Annotated, relating to disabled persons,
2 so as to provide for the establishment of a qualified ABLE program in this state to enable the
3 contribution of funds to tax-exempt accounts to pay for the qualified expenses of eligible
4 individuals with disabilities; to provide a short title; to provide for legislative intent; to define
5 certain terms; to provide for the creation of the Georgia ABLE Program Corporation; to
6 provide for a board of directors and its membership, powers, duties, and administration; to
7 provide for the establishment of the Georgia ABLE Program; to provide for participation
8 agreements and ABLE accounts; to provide for a trust fund and the administration thereof;
9 to provide for a comprehensive investment plan; to provide for effect of account deposits on
10 eligibility for certain public assistance; to provide for annual reports; to provide for
11 confidentiality and nondisclosure of certain records; to amend Code Section 48-7-27 of the
12 Official Code of Georgia Annotated, relating to computation of taxable net income, so as to
13 provide for certain deductions related to contributions to ABLE accounts; to provide for tax
14 treatment of withdrawals from ABLE accounts; to amend Code Section 50-13-2 of the
15 Official Code of Georgia Annotated, relating to the definitions for purposes of the Georgia
16 Administrative Procedure Act, so as to exclude the Georgia ABLE Program Corporation
17 from the meaning of "agency"; to provide for related matters; to provide for an effective date;
18 to repeal conflicting laws; and for other purposes.

19 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

20 **SECTION 1.**

21 Title 30 of the Official Code of Georgia Annotated, relating to disabled persons, is amended
22 by adding a new chapter to read as follows:

23 "CHAPTER 9

24 30-9-1.

25 This chapter shall be known and may be cited as the 'Georgia Achieving a Better Life
26 Experience (ABLE) Act.'

27 30-9-2.

28 (a) It is the intent of the legislature to establish a qualified ABLE program in this state
29 which will encourage and assist the saving of private funds in tax-exempt accounts in order
30 to pay for the qualified disability expenses of eligible individuals with disabilities.

31 (b) It is also the intent of the legislature that the qualified ABLE program be implemented
32 in a manner that is consistent with federal law authorizing the program and that maximizes
33 program efficiency and effectiveness.

34 30-9-3.

35 As used in this chapter, the term:

36 (1) 'ABLE account' means an account established and owned by an eligible individual
37 pursuant to this chapter.

38 (2) 'Board' means the board of directors of the Georgia ABLE Program Corporation.

39 (3) 'Corporation' means the Georgia ABLE Program Corporation created pursuant to
40 Code Section 30-9-4.

41 (4) 'Designated beneficiary' means the eligible individual who establishes an ABLE
42 account or to whom an ABLE account is transferred.

43 (5) 'Eligible individual' means an eligible individual as defined in Section 529A of the
44 Internal Revenue Code.

45 (6) 'Georgia ABLE Program' or 'program' means the qualified ABLE program
46 established pursuant to this chapter.

47 (7) 'Internal Revenue Code' has the meaning provided in Code Section 48-1-2.

48 (8) 'Participation agreement' means the agreement between the board and an eligible
49 individual participating in the Georgia ABLE Program or his or her fiduciary.

50 (9) 'Qualified ABLE Program' means a program established pursuant to Section 529A
51 of the Internal Revenue Code.

52 (10) 'Qualified disability expense' means an expense as defined in Section 529A of the
53 Internal Revenue Code.

54 (11) 'Trust fund' means the Georgia ABLE Program Trust Fund.

55 30-9-4.

56 (a)(1) There is created the Georgia ABLE Program Corporation, as a body corporate and
 57 politic and an instrumentality of the state, for purposes of establishing and administering
 58 the Georgia ABLE Program. The corporation shall be governed by a board of directors
 59 consisting of the Governor as chairperson; the commissioner of behavioral health and
 60 developmental disabilities; the commissioner of community health; the state auditor; the
 61 director of the Office of Planning and Budget; the state revenue commissioner; the state
 62 treasurer; and three directors who shall be appointed by and serve at the pleasure of the
 63 Governor, who shall include at least two persons who are persons with a disability, a
 64 family member of a person with a disability, or a disability advocacy professional. The
 65 state treasurer shall act as administrative officer of the board. A majority of the board
 66 shall constitute a quorum, and the acts of the majority shall be the acts of the board.

67 (2) Members of the board who are state officials or employees shall receive no
 68 compensation for their service on the board but may be reimbursed for expenses incurred
 69 by them in the performance of their duties as members of the board. Any members of the
 70 board who are not state officials or employees shall receive a daily expense allowance in
 71 the amount specified in subsection (b) of Code Section 45-7-21 for each day such
 72 member is in attendance at a meeting of the board. Expense allowances and other costs
 73 authorized in this paragraph shall be paid from moneys in the trust fund.

74 (b) The board shall have the authority necessary or convenient to carry out the purposes
 75 and provisions of this chapter and the purposes and objectives of the trust fund, including,
 76 but not limited to, the authority to:

77 (1) Have a seal and alter the same at its pleasure; bring and defend actions; make,
 78 execute, and deliver contracts, conveyances, and other instruments necessary or
 79 convenient to the exercise of its powers; and make and amend bylaws;

80 (2) Adopt such rules and regulations as are necessary to implement this chapter, subject
 81 to applicable federal laws and regulations;

82 (3) Contract for necessary goods and services; employ necessary personnel; engage the
 83 services of consultants and other qualified persons and entities for administrative and
 84 technical assistance in carrying out its responsibilities under this chapter; and contract
 85 with state or federal departments or agencies, upon such terms, for such consideration,
 86 and for such purposes as it deems advisable;

87 (4) Solicit and accept gifts, including bequests or other testamentary gifts made by will,
 88 trust, or other disposition grants, loans, and other aids from any personal source or
 89 participate in any other way in any federal, state, or local governmental program in
 90 carrying out the purposes of this chapter;

- 91 (5) Define the terms and conditions under which payments may be withdrawn or
92 refunded from an ABLE account or the trust fund established under this chapter and
93 impose reasonable charges for a withdrawal or refund;
94 (6) Regulate the receipt of contributions or payments to the trust fund;
95 (7) Require and collect fees and charges to cover the reasonable costs of administering
96 ABLE accounts and impose a 10 percent penalty on the earnings portion included within
97 a withdrawal of funds for nonqualified disability expenses or for entering into a
98 participation agreement on a fraudulent basis;
99 (8) Procure insurance against any loss in connection with the property, assets, and
100 activities of the trust fund or the corporation;
101 (9) Establish other policies, procedures, and criteria and perform such other acts as
102 necessary or appropriate to implement and administer this chapter; and
103 (10) Authorize the state treasurer to carry out any or all of the powers and duties
104 enumerated in this chapter for efficient and effective administration of the program and
105 trust fund.
106 (c) The corporation is assigned to the Department of Administrative Services for
107 administrative purposes only.

108 30-9-5.

109 (a) There is established the Georgia ABLE Program under which a person may make
110 contributions for a taxable year, for the benefit of an eligible individual, to an ABLE
111 account established for the purpose of meeting the qualified disability expenses of the
112 designated beneficiary of the ABLE account. The program shall be administered by the
113 corporation. Contributions and investment earnings on the contributions may be used for
114 any qualified disability expenses of the designated beneficiary. Only one ABLE account
115 may be established for any eligible individual.

116 (b) The Georgia ABLE Program shall continue in existence until terminated by law. If the
117 state determines that the program is financially infeasible, the state may terminate the
118 program. Upon termination, amounts in the trust fund held for each designated beneficiary
119 shall be returned in accordance with the participation agreement.

120 (c) The state pledges to the designated beneficiaries that the state will not limit or alter
121 their rights under this Code section which are vested in the Georgia ABLE Program until
122 the program's obligations are met and discharged. However, this subsection shall not
123 preclude such limitation or alteration if adequate provision is made by law for the
124 protection of the designated beneficiaries pursuant to the obligations of the corporation and
125 does not preclude termination of the program pursuant to subsection (b) of this Code
126 section.

127 30-9-6.

128 The corporation, through the Georgia ABLE Program, shall:

129 (1) Establish, implement, and maintain the program as a qualified ABLE program under
130 Section 529A of the Internal Revenue Code;

131 (2) Provide for the marketing of the program and develop and provide information to
132 eligible individuals and their families necessary to establish and maintain an ABLE
133 account; and

134 (3) Make participation agreements and ABLE accounts available to the public.

135 30-9-7.

136 (a) Each participation agreement made pursuant to this chapter shall include the following
137 terms and conditions:

138 (1) The participation agreement shall not constitute a debt or obligation of the state;

139 (2) Participation in the Georgia ABLE Program does not guarantee that sufficient funds
140 will be available to cover all qualified disability expenses for any designated beneficiary
141 and does not guarantee the receipt or continuation of any product or service for the
142 designated beneficiary;

143 (3) The establishment of an ABLE account in violation of federal law is prohibited;

144 (4) Contributions in excess of the limitations set forth in Section 529A of the Internal
145 Revenue Code are prohibited;

146 (5) The state is a creditor of ABLE accounts as, and to the extent, set forth in Section
147 529A of the Internal Revenue Code; and

148 (6) Material misrepresentations by a party to the participation agreement, other than the
149 Georgia ABLE Program Corporation, in the application for the participation agreement
150 or in any communication with the Georgia ABLE Program Corporation regarding the
151 Georgia ABLE Program may result in the involuntary liquidation of the ABLE account.
152 If an account is involuntarily liquidated, the designated beneficiary is entitled to a refund,
153 subject to any fees or penalties provided by the participation agreement and the Internal
154 Revenue Code.

155 (b) A participation agreement made pursuant to this chapter may include terms and
156 conditions specifying:

157 (1) The requirements and applicable restrictions for opening an ABLE account;

158 (2) The eligibility requirements for a party to the participation agreement and the rights
159 of the party;

160 (3) The requirements and applicable restrictions for making contributions to an ABLE
161 account;

- 162 (4) The requirements and applicable restrictions for directing the investment of the
 163 contributions or balance of the ABLE account;
 164 (5) The administrative fee and other fees and penalties applicable to an ABLE account;
 165 (6) The terms and conditions under which an ABLE account or a participation agreement
 166 may be modified, transferred, or terminated; and
 167 (7) Any other terms and conditions that the board deems necessary or appropriate,
 168 including without limitation those necessary to conform the participation agreement with
 169 the requirements of Section 529A of the Internal Revenue Code or other applicable
 170 federal laws.
 171 (c) A participation agreement may be amended throughout its term for purposes that
 172 include, but are not limited to, allowing a participant to increase or decrease the level of
 173 participation and to change designated beneficiaries and other matters authorized by this
 174 Code section and Section 529A of the Internal Revenue Code.

175 30-9-8.

- 176 (a)(1) There is created the Georgia ABLÉ Program Trust Fund as a separate fund in the
 177 state treasury. The trust fund shall be administered by the state treasurer. The state
 178 treasurer shall credit to the trust fund all amounts transferred to such fund. The trust fund
 179 shall consist of money remitted in accordance with participation agreements and shall
 180 receive and hold all payments, contributions, and deposits intended for it as well as gifts,
 181 bequests, endowments, grants and any other public or private source of funds, and all
 182 earnings on the fund until disbursed as provided under this Code section. The amounts
 183 on deposit in the trust fund shall not constitute property of the state. Amounts on deposit
 184 in the trust fund shall not be commingled with state funds, and the state shall have no
 185 claim to or interest in such funds other than the amount of reasonable fees and charges
 186 assessed to cover administration costs. Participation agreements or any other contract
 187 entered into by or on behalf of the trust fund shall not constitute a debt or obligation of
 188 the state, and no account contributor shall be entitled to any amounts except for those
 189 amounts on deposit in or accrued to the account of such contributor.
 190 (2) The trust fund shall continue in existence so long as it holds any funds belonging to
 191 an account contributor or otherwise has any obligations to any person or entity until its
 192 existence is terminated by law and remaining assets on deposit in the trust fund are
 193 returned to account contributors or transferred to the state in accordance with unclaimed
 194 property laws.
 195 (b) The official location of the trust fund shall be the state treasury, and the facilities of the
 196 state treasury shall be used and employed in the administration of the fund, including
 197 without limitation the keeping of records, the management of bank accounts and other

198 investments, the transfer of funds, and the safekeeping of securities evidencing
199 investments. These functions may be administered pursuant to a management agreement
200 with a qualified entity or entities.

201 (c) Payments received by the board on behalf of designated beneficiaries from account
202 contributors, other payors, or any other source, public or private, shall be placed in the trust
203 fund, and the board shall cause there to be maintained separate records and accounts for
204 individual beneficiaries as may be required under Section 529A of the Internal Revenue
205 Code or other applicable federal laws.

206 (d) Account contributors shall only be permitted to contribute cash except as otherwise
207 permitted under Section 529A of the Internal Revenue Code. The board shall cause the
208 program to maintain adequate safeguards against contributions to an ABLE account in
209 excess of the limitations set forth in Section 529A of the Internal Revenue Code.

210 (e) Earnings derived from investment of the contributions shall be considered to be held
211 in trust in the same manner as contributions. Amounts on deposit in an ABLE account
212 shall be available for administrative fees and expenses and penalties imposed by the board
213 as delineated in the participation agreement.

214 (f) The assets of the trust fund shall be preserved, invested, and expended solely pursuant
215 to and for the purposes of this chapter and shall not be loaned or otherwise transferred or
216 used by the state for any other purpose.

217 30-9-9.

218 The trust fund and ABLE account property and income shall be subject to taxation by the
219 state only as provided by Code Section 48-7-27 and shall not be subject to taxation by any
220 of the state's political subdivisions.

221 30-9-10.

222 (a) The board shall have authority to establish a comprehensive investment plan for the
223 purposes of this chapter and to invest any funds of the trust fund through the state treasurer.
224 The state treasurer shall invest the trust fund moneys pursuant to an investment policy
225 adopted by the board. Notwithstanding any state law to the contrary, the board, through
226 the state treasurer, shall invest or cause to be invested amounts on deposit in the trust fund,
227 including the program account, in a manner reasonable and appropriate to achieve the
228 objectives of the corporation, exercising the discretion and care of a prudent person in
229 similar circumstances with similar objectives. The board shall give due consideration to
230 the risk of, expected rate of return of, term or maturity of, diversification of total
231 investments of, liquidity of, and anticipated investments in and withdrawals from the trust
232 fund.

233 (b) The board may employ or contract with financial organizations, investment managers,
234 evaluation services, or other such entities as determined by the board to be necessary for
235 the effective and efficient operation of the program. The board shall establish criteria for
236 financial organizations, investment managers, evaluation services, or other such entities to
237 act as contractors or consultants to the board. The board may contract, either directly or
238 through such contractors or consultants, to provide such services as may be a part of the
239 comprehensive investment plan or as may be deemed necessary or proper by the board,
240 including without limitation providing consolidated billing, individual and collective record
241 keeping and accounting, and asset purchase, control, and safekeeping. All contractors and
242 consultants shall be selected by competitive solicitation, unless otherwise directed by the
243 board.

244 (c) All investments shall be marked clearly to indicate ownership by the corporation and,
245 to the extent possible, shall be registered in the name of the corporation.

246 (d) Subject to the terms, conditions, limitations, and restrictions set forth in this Code
247 section, the board may sell, assign, transfer, and dispose of any of the securities and
248 investments of the corporation if the sale, assignment, or transfer has the majority approval
249 of the entire board.

250 (e) Members and employees of the board shall be subject to the provisions of Chapter 10
251 of Title 45, relating to codes of ethics and conflicts of interest.

252 (f) No account contributor or beneficiary shall directly or indirectly direct the investment
253 of any account funds except as may be permitted under Section 529A of the Internal
254 Revenue Code or other applicable federal laws.

255 (g) The board may approve different investment plans and options to be offered to
256 participants to the extent permitted under Section 529A of the Internal Revenue Code or
257 other applicable federal laws and consistent with the objectives of this chapter, and the
258 board may require the assistance of investment counseling before participation in different
259 options.

260 30-9-11.

261 Notwithstanding any other provision of state or local law or regulation that requires
262 consideration of the financial circumstances of an applicant for local, state, or federal
263 public assistance or a benefit provided under that law, the agency or entity making the
264 determination of eligibility for such assistance or benefit may not consider the amount in
265 the applicant's ABLE account or in an applicant's ABLE account established pursuant to
266 an ABLE program in another state, including earnings on that amount, and any distribution
267 for qualified disability expenses in determining the applicant's eligibility to receive the

268 amount of the assistance or benefit with respect to the period during which the individual
269 maintains any such ABLE account.

270 30-9-12.

271 (a) The board shall prepare or cause to be prepared an annual report setting forth in
272 appropriate detail an accounting of the funds in the trust fund and a description of the
273 financial condition of the corporation at the close of each fiscal year. Such report shall be
274 submitted to the Governor, the President of the Senate, and the Speaker of the House of
275 Representatives. In addition, the board shall make the report available to account
276 contributors and designated beneficiaries upon written request and may charge a reasonable
277 fee for such report. The accounts of the trust fund shall be subject to annual audits by the
278 state auditor or his or her designee.

279 (b) Statements shall be provided to each designated beneficiary at least four times each
280 year within 30 days after the end of the quarterly period to which a statement relates. The
281 statement shall identify the contributions made during the preceding quarter, the total
282 contributions made to the account through that quarter, the value of the account on the last
283 day of that quarter, distributions made during that quarter, and any other information that
284 the state treasurer requires to be reported to the designated beneficiary.

285 30-9-13.

286 The Department of Community Health, the Department of Behavioral Health and
287 Developmental Disabilities, the Department of Human Services, the Georgia Vocational
288 Rehabilitation Agency, and the Department of Education shall assist, cooperate, and
289 coordinate with the corporation in the provision of public information and outreach for the
290 Georgia ABLE Program.

291 30-9-14.

292 (a) Upon the death of the designated beneficiary, the Department of Community Health
293 and the Medicaid program for another state may file a claim with the Georgia ABLE
294 Program for the total amount of medical assistance provided for the designated beneficiary
295 under the Medicaid program after the date of the establishment of the ABLE account, less
296 any premiums paid by or on behalf of the designated beneficiary to a Medicaid buy-in
297 program. Funds in the ABLE account of the deceased designated beneficiary must first be
298 distributed for qualified disability expenses followed by distributions for the Medicaid
299 claim authorized under this subsection. Any remaining amount shall be distributed as
300 provided in the participation agreement.

301 (b) The corporation shall assist and cooperate with the Department of Community Health
 302 and Medicaid programs in other states by providing the Department of Community Health
 303 and out-of-state Medicaid programs with the information needed to accomplish the purpose
 304 and objective of subsection (a) of this Code section.

305 30-9-15.

306 An ABLE account may not be assigned for the benefit of creditors, used as security or
 307 collateral for any loan, or otherwise subject to alienation, sale, transfer, assignment, pledge,
 308 encumbrance, or charge. Except as provided in Code Section 30-9-14, moneys paid into
 309 or out of an ABLE account, and the income and assets of such account, are not liable to
 310 attachment, levy, garnishment, or legal process in this state in favor of any creditor of or
 311 claimant against any designated beneficiary or account contributor.

312 30-9-16.

313 (a) The provisions of Article 4 of Chapter 18 of Title 50 notwithstanding, the following
 314 records, or portions thereof, shall not constitute public records and shall not be open to
 315 inspection by the general public:

316 (1) Completed participation applications, executed participation agreements, and ABLE
 317 account numbers;

318 (2) All wiring or automated clearing-house transfer of funds instructions regarding
 319 participation agreements;

320 (3) ABLE account transactions and analysis statements received or prepared by or for
 321 the corporation;

322 (4) All bank account numbers in the possession of the corporation and any record or
 323 document containing such numbers;

324 (5) All proprietary computer software in the possession or under the control of the
 325 corporation; and

326 (6) All security codes and procedures related to physical, electronic, or other access to
 327 any ABLE account or the trust fund, its systems, and its software.

328 (b) For a period from the date of creation of the record until the end of the calendar quarter
 329 in which the record is created, the following records, or portions thereof, of the trust fund
 330 shall not constitute public records and shall not be open to inspection by the general public:

331 (1) Investment trade tickets; and

332 (2) Bank statements.

333 (c) The restrictions of subsections (a) and (b) of this Code section shall not apply to access:

334 (1) Required by subpoena or other legal process of a court or administrative agency
 335 having competent jurisdiction in legal proceedings where the State of Georgia or the
 336 corporation is a party;

337 (2) In prosecutions or other court actions to which the State of Georgia or the corporation
 338 is a party;

339 (3) Given to federal or state regulatory or law enforcement agencies;

340 (4) Given to any person or entity in connection with an ABLE account to which such
 341 person or entity is an account contributor or given to any person in connection with an
 342 ABLE account of which such person is a beneficiary; or

343 (5) Given to the board or any member, employee, or contractor thereof for use and public
 344 disclosure in the ordinary performance of its duties pursuant to this chapter."

345 **SECTION 2.**

346 Code Section 48-7-27 of the Official Code of Georgia Annotated, relating to computation of
 347 taxable net income, is amended in subsection (a) by adding a new paragraph to read as
 348 follows:

349 "(11.2) For taxable years beginning on or after January 1, 2016:

350 (A) An amount equal to the amount of contributions to an ABLE account established
 351 pursuant to Chapter 9 of Title 30 on behalf of the designated beneficiary, but not
 352 exceeding \$2,000.00 per beneficiary;

353 (B) If the contributor files a separate return or single return, the sum of contributions
 354 constituting deductions on the contributor's return under this paragraph shall not exceed
 355 \$2,000.00 per beneficiary;

356 (C) If the contributor files a joint return, the sum of contributions constituting
 357 deductions on the contributor's return under this paragraph shall not exceed \$2,000.00
 358 per beneficiary; and

359 (D) For purposes of this paragraph, contributions or payments for any such taxable
 360 year may be made during or after such taxable year but on or before the deadline for
 361 making contributions to an individual retirement account under federal law for such
 362 taxable year;"

363 **SECTION 3.**

364 Said Code section is further amended in subsection (b) by adding a new paragraph to read
 365 as follows:

366 "(10.1)(A) Except as otherwise provided in subparagraph (C) of this paragraph, the
 367 amount of any qualified withdrawals from an ABLE account under Chapter 9 of Title
 368 30 shall not be subject to state income tax under this chapter.

369 (B) For withdrawals other than qualified withdrawals from such an ABLE account, the
 370 proportion of earnings in the account balance at the time of the withdrawal shall be
 371 applied to the total funds withdrawn to determine the earnings portion to be included
 372 in the designated beneficiary's taxable net income in the year of withdrawal.

373 (C) For withdrawals other than qualified withdrawals from such an ABLE account and
 374 for withdrawals from such an ABLE account which are rolled over to another account
 375 if authorized by law, the proportion of the contributions in an account balance at the
 376 time of a withdrawal which previously have been used to reduce taxable net income
 377 pursuant to subsection (a) of this Code section shall be applied to the nonearnings
 378 portion of the total funds withdrawn to determine an amount to be included in the
 379 designated beneficiary's taxable net income in the same taxable year."

380 **SECTION 4.**

381 Code Section 50-13-2 of the Official Code of Georgia Annotated, relating to definitions for
 382 purposes of the Georgia Administrative Procedure Act, is amended by revising paragraph (1)
 383 as follows:

384 "(1) 'Agency' means each state board, bureau, commission, department, activity, or
 385 officer authorized by law expressly to make rules and regulations or to determine
 386 contested cases, except the General Assembly; the judiciary; the Governor; the State
 387 Board of Pardons and Paroles; the State Financing and Investment Commission; the State
 388 Properties Commission; the Board of Bar Examiners; the Board of Corrections and its
 389 penal institutions; the State Board of Workers' Compensation; all public authorities
 390 except as otherwise expressly provided by law; the State Personnel Board; the
 391 Department of Administrative Services or commissioner of administrative services; the
 392 Technical College System of Georgia; the Nonpublic Postsecondary Education
 393 Commission; the Department of Labor when conducting hearings related to
 394 unemployment benefits or overpayments of unemployment benefits; the Department of
 395 Revenue when conducting hearings relating to alcoholic beverages, tobacco, or bona fide
 396 coin operated amusement machines or any violations relating thereto; the Georgia
 397 Tobacco Community Development Board; the Georgia Higher Education Savings Plan;
 398 the Georgia ABLE Program Corporation; any school, college, hospital, or other such
 399 educational, eleemosynary, or charitable institution; or any agency when its action is
 400 concerned with the military or naval affairs of this state. The term 'agency' shall include
 401 the State Board of Education and Department of Education, subject to the following
 402 qualifications:

403 (A) Subject to the limitations of subparagraph (B) of this paragraph, all otherwise valid
 404 rules adopted by the State Board of Education and Department of Education prior to

405 January 1, 1990, are ratified and validated and shall be effective until January 1, 1991,
406 whether or not such rules were adopted in compliance with the requirements of this
407 chapter; and

408 (B) Effective January 1, 1991, any rule of the State Board of Education or Department
409 of Education which has not been proposed, submitted, and adopted in accordance with
410 the requirements of this chapter shall be void and of no effect."

411 **SECTION 5.**

412 This Act shall become effective upon its approval by the Governor or upon its becoming law
413 without such approval.

414 **SECTION 6.**

415 All laws and parts of laws in conflict with this Act are repealed.