

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 991

By: Anderson

4
5
6 AS INTRODUCED

7 An Act relating to financing disability expenses;
8 amending 56 O.S. 2011, Section 230.52, as amended by
9 Section 1, Chapter 263, O.S.L. 2012 (56 O.S. Supp.
10 2015, Section 230.52), which relates to Temporary
11 Assistance for Needy Families; exempting certain
12 resources from benefit determination criteria;
13 creating the Oklahoma Achieving a Better Life
14 Experience (ABLE) Savings Plan Act; providing short
15 title; defining terms; specifying duties of State
16 Treasurer; requiring Treasurer to implement program
17 subject to certain provisions; authorizing Treasurer
18 to implement program through use of financial
19 institutions; authorizing Treasurer to solicit
20 certain proposals; prescribing criteria by which the
21 Treasurer may select financial institutions;
22 authorizing the Treasurer to enter into certain
23 contract and setting certain terms and procedures
24 therefor; allowing the Treasurer to select more than
one financial institution under certain conditions;
requiring the program manager to perform certain
duties for program; establishing procedures related
to nonrenewal of contracts; allowing Treasurer to
terminate contract for good cause; prescribing means
by which a person can open an account; allowing any
person to contribute to an account; requiring
contributions to accounts be in cash; allowing
withdrawal of certain funds in accordance with
certain provisions; providing for changing of
beneficiaries; providing for certain penalty for
nonqualified withdrawals; allowing Treasurer to
adjust certain penalty; providing for the collection
of certain penalties; authorizing account owner to
direct certain investment; providing for the transfer
of certain accounts when the Treasurer terminates
authority of a financial institution to hold certain

1 accounts; requiring the Treasurer to adopt certain
2 rules; requiring financial institutions to comply
3 with certain reporting requirements; requiring
4 program managers to provide statements to account
5 owners; exempting certain resources from garnishment,
6 attachment and other processes; providing for
7 codification; and providing an effective date.

8 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

9 SECTION 1. AMENDATORY 56 O.S. 2011, Section 230.52, as
10 amended by Section 1, Chapter 263, O.S.L. 2012 (56 O.S. Supp. 2015,
11 Section 230.52), is amended to read as follows:

12 Section 230.52. A. Except for specific exceptions, conditions
13 or restrictions authorized by the Statewide Temporary Assistance
14 Responsibility System (STARS) and rules promulgated by the
15 Commission for Human Services pursuant thereto, the following are
16 the minimum mandatory requirements for the Temporary Assistance for
17 Needy Families (TANF) program:

18 1. A recipient shall be eligible to receive assistance pursuant
19 to the TANF program only for a lifetime total of five (5) years,
20 subject to the exemptions allowed by federal law. Child-only cases
21 are not subject to the five-year limitation;

22 2. Single parents receiving temporary assistance pursuant to
23 the TANF program shall participate in work activities for a minimum
24 of twenty (20) hours per week during the month. Two-parent families
receiving temporary assistance pursuant to the TANF program shall

1 participate in work activities for a minimum of thirty-five (35)
2 hours per week during the month;

3 3. A recipient must be engaged in one or more of the work
4 activities set out in paragraph 4 of this subsection as soon as
5 required by the Department of Human Services pursuant to the TANF
6 program, but not later than twenty-four (24) months after
7 certification of the application for assistance, unless the person
8 is exempt from work requirements under rules promulgated by the
9 Commission pursuant to the STARS;

10 4. The Department shall develop and describe categories of
11 approved work activities for the TANF program recipients in
12 accordance with this paragraph. Work activities that qualify in
13 meeting the requirements include, but are not limited to:

- 14 a. (1) unsubsidized employment which is full-time
15 employment or part-time employment that is not
16 directly supplemented by federal or state funds,
17 (2) subsidized private sector employment which is
18 employment in a private for-profit enterprise or
19 a private not-for-profit enterprise that is
20 directly supplemented by federal or state funds.
21 Prior to receiving any subsidy or incentive, the
22 employer shall enter into a written contract with
23 the Department, and
24

1 (3) subsidized public sector employment which is
2 employment by an agency of a federal, state, or
3 local governmental entity which is directly
4 supplemented by federal or state funds. Prior to
5 receiving any subsidy or incentive, the employer
6 shall enter into a written contract with the
7 Department.

8 Subsidized hourly employment or unsubsidized hourly
9 employment pursuant to this subparagraph shall only be
10 approved by the Department as work activity if such
11 employment is subject to:

12 (a) the federal minimum wage requirements
13 pursuant to the Fair Labor Standards Act of
14 1938, as amended,

15 (b) the federal Social Security tax and Medicare
16 tax, and

17 (c) regulations promulgated pursuant to the
18 federal Occupational Safety and Health Act
19 of 1970 and rules promulgated by the State
20 Department of Labor pursuant thereto,

21 b. a program of work experience,

22 c. on-the-job training,

23 d. assisted job search which may include supervised or
24 unsupervised job-seeking activities,

- 1 e. job readiness assistance which may include, but is not
2 limited to:
- 3 (1) orientation in the work environment and basic
4 job-seeking and job retention skills,
 - 5 (2) instruction in completing an application for
6 employment and writing a resume, and
 - 7 (3) instruction in conducting oneself during a job
8 interview, including appropriate dress,
- 9 f. job skills training which is directly related to
10 employment in a specific occupation for which there is
11 a written commitment by an employer to offer
12 employment to a recipient who successfully completes
13 the training. Job skills training includes, but is
14 not limited to, customized training designed to meet
15 the needs of a specific employer or a specific
16 industry,
- 17 g. community service programs which are job-training
18 activities provided in areas where sufficient public
19 or private sector employment is not available. Such
20 activities are linked to both education or training
21 and activities that substantially enhance a
22 recipient's employability,
- 23 h. literacy and adult basic education programs,
24

- 1 i. vocational-educational programs, not to exceed twelve
- 2 (12) months for any individual, which are directed
- 3 toward vocational-educational training and education
- 4 directly related to employment,
- 5 j. education programs which are directly related to
- 6 specific employment opportunities, if a recipient has
- 7 not received a high school diploma or General
- 8 Equivalency Degree, and
- 9 k. child care for other STARS recipients. The recipient
- 10 must meet training and licensing requirements for
- 11 child care providers as required by the Oklahoma Child
- 12 Care Facilities Licensing Act;

13 5. Single, custodial parents with a child up to one (1) year of
14 age may be exempt from work activities for a lifetime total
15 exemption of twelve (12) months;

16 6. In order to receive assistance, unmarried teen parents of a
17 minor child at least twelve (12) weeks of age must participate in
18 educational activities or work activities approved by the state;

19 7. For single-parent families, except for teen parents,
20 educational activities, other than vocational-technical training, do
21 not count toward meeting the required twenty (20) hours of work
22 activity. For two-parent families, educational activities, except
23 vocational-technical training, do not count toward meeting the
24 required thirty-five (35) hours of work activity;

1 8. A teen parent must live at home or in an approved, adult-
2 supervised setting as specified in Section 230.55 of this title to
3 receive TANF assistance;

4 9. A recipient must comply with immunization requirements
5 established pursuant to the TANF program;

6 10. A recipient shall be subject to the increment in benefits
7 for additional children established by Section 230.58 of this title;

8 11. The following recipient resources are exempt from resource
9 determination criteria:

10 a. an automobile with an equity allowance of not more
11 than Five Thousand Dollars (\$5,000.00) pursuant to
12 Section 230.53 of this title,

13 b. individual development accounts established pursuant
14 to the Family Savings Initiative Act, or individual
15 development accounts established prior to November 1,
16 1998, pursuant to the provisions of Section 230.54 of
17 this title in an amount not to exceed Two Thousand
18 Dollars (\$2,000.00),

19 c. the equity value of funeral arrangements owned by a
20 recipient that does not exceed the limitation
21 specified by Section 165 of this title, ~~and~~

22 d. earned income disregards not to exceed One Hundred
23 Twenty Dollars (\$120.00) and one-half (1/2) of the
24 remainder of the earned income, and

1 e. account balances and distributions from savings
2 accounts established pursuant to the Oklahoma
3 Achieving a Better Life Experience (ABLE) Savings Plan
4 Act;

5 12. An applicant who applies and is otherwise eligible to
6 receive TANF benefits but who has resided in this state less than
7 twelve (12) months shall be subject to Section 230.57 of this title;

8 13. The recipient shall enter into a personal responsibility
9 agreement with the Department for receipt of assistance pursuant to
10 Section 230.65 of this title;

11 14. The Department shall, beginning November 1, 2012, screen
12 all adult applicants for TANF to determine if they are engaged in
13 the illegal use of a controlled substance or substances. If the
14 Department has made a determination that the applicant is engaged in
15 the illegal use of a controlled substance or substances, the
16 applicant's request for TANF cash benefits shall be denied. The
17 Commission for Human Services shall adopt rules to implement the
18 requirements of this paragraph consistent with the following:

19 a. the Department shall create a controlled substance
20 screening process to be administered at the time of
21 application. The process shall, at a minimum, include
22 a Substance Abuse Subtle Screening Inventory (SASSI)
23 or other similar screening methods. If necessary to
24 establish a reasonable expectation of certainty, the

1 Department is authorized to use further screening
2 methods, which may include, but are not limited to, a
3 clinical interview, consideration of the Department's
4 history with the applicant, and an Addictions Severity
5 Index (ASI). If the Department has reasonable cause
6 to believe that the applicant is engaged in the
7 illegal use of a controlled substance or substances,
8 the Department is authorized, though not required, to
9 request administration of a chemical drug test, such
10 as urinalysis. The cost of all such initial
11 screenings shall not be borne by the applicant,

12 b. if at any time during the controlled substance
13 screening process, the applicant refuses to
14 participate, that refusal shall lead to a denial of
15 TANF benefits,

16 c. if the Department, as the result of a controlled
17 substance screening process, has determined that the
18 applicant is engaged in the illegal use of a
19 controlled substance or substances, the applicant's
20 request for TANF cash benefits shall be denied,
21 subject to the following:

22 (1) if there has not already been a chemical drug
23 test administered as part of the controlled
24 substance screening process, the applicant may

1 submit proof of a negative chemical drug test
2 from a state certified laboratory to challenge
3 the Department's finding that the applicant is
4 engaged in the illegal use of a controlled
5 substance or substances. Proof of the chemical
6 drug test must be submitted to the Department no
7 later than the tenth calendar day following
8 denial. If denial is communicated by mail, the
9 ten (10) day window begins on the day after the
10 date of mailing of the denial notice to the
11 applicant's last-known address. The denial
12 notice is considered to be mailed on the date
13 that appears on the notice, unless otherwise
14 indicated by the facts,

15 (2) if denied due to the provisions of this
16 subparagraph, an applicant shall not be approved
17 until one (1) year has passed since the date of
18 denial,

19 (a) if the applicant is denied due to the
20 provisions of this paragraph, the Department
21 shall provide a list of substance abuse
22 treatment programs to the denied applicant,

23 (b) if an applicant has successfully complied
24 with a recommended substance abuse treatment

1 program after the date of denial, the
2 applicant may be approved for cash benefits
3 after six (6) months have passed since the
4 date of denial, rather than the required one
5 (1) year, and

6 (3) if an applicant has been denied TANF cash
7 benefits two times due to the provisions of this
8 subparagraph, the applicant shall be ineligible
9 for TANF benefits for a period of three (3) years
10 from the date of the second denial,

11 d. child-only cases and minor parents under eighteen (18)
12 years of age are not subject to the provisions of this
13 paragraph, and

14 e. in cases where the application for TANF benefits is
15 not for child-only benefits, but there is not a parent
16 who has been deemed eligible for cash benefits under
17 the provisions of this paragraph, any cash benefits
18 for which the dependent children of the family are
19 still eligible shall not be affected and may be
20 received and administered by an appropriate third
21 party approved by the Department for the benefit of
22 the members of the household;

23 15. a. As a condition of participating in the STARS, all
24 recipients are deemed to have given authorization for

1 the release of any and all information necessary to
2 allow all state and federal agencies to meet the
3 program needs of the recipient-1

4 b. The recipient shall be provided a release form to sign
5 in order to obtain the required information. Failure
6 to sign the release form may result in case closure;
7 and

8 16. The recipient shall comply with all other conditions and
9 requirements of the STARS, and rules of the Commission promulgated
10 pursuant thereto.

11 B. 1. Agencies of this state involved in providing services to
12 recipients pursuant to the STARS shall exchange information as
13 necessary for each agency to accomplish objectives and fulfill
14 obligations created or imposed by the STARS and rules promulgated
15 pursuant thereto.

16 2. Information received pursuant to the STARS shall be
17 maintained by the applicable agency and, except as otherwise
18 provided by this subsection, shall be disclosed only in accordance
19 with any confidentiality provisions applicable to the agency
20 originating the information.

21 3. The various agencies of the state shall execute operating
22 agreements to facilitate information exchanges pursuant to the
23 STARS.

24 C. In implementing the TANF program, the Department shall:

1 1. Provide assistance to aliens pursuant to Section 230.73 of
2 this title;

3 2. Provide for the closure of the TANF case when the adult
4 recipient refuses to cooperate with agreed upon work activities or
5 other case requirements pursuant to the TANF program;

6 3. Provide for the sanctioning of parents who do not require
7 their minor children to attend school; and

8 4. Deny temporary assistance to fugitive felons.

9 D. In order to ensure that the needy citizens of this state are
10 receiving necessary benefits, the Department shall maintain a
11 listing of all recipients receiving public assistance. The listing
12 shall reflect each recipient's income, social security number, and
13 the programs in which the recipient is participating including, but
14 not limited to, TANF, food stamps, child care, and medical
15 assistance.

16 E. The Department is hereby authorized to establish a grant
17 diversion program and emergency assistance services.

18 SECTION 2. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 4001.1 of Title 56, unless there
20 is created a duplication in numbering, reads as follows:

21 This act shall be known and may be cited as the "Oklahoma
22 Achieving a Better Life Experience (ABLE) Savings Plan Act".
23
24

1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4001.2 of Title 56, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in this act:

5 1. "ABLE" means achieving a better life experience;

6 2. "ABLE Account" means an individual trust account or savings
7 account owned by the designated beneficiary of the account and
8 established to pay qualified disability expenses as prescribed in
9 this act;

10 3. "Account owner" means a resident of this state, designated
11 as eligible to be a beneficiary pursuant to Section 529A of the
12 Internal Revenue Code;

13 4. "Contracting state" means a state without a qualified ABLE
14 program of its own, which contracts with another state having such a
15 program;

16 5. "Contribution" means any payment directly allocated to an
17 ABLE account for the benefit of a designated beneficiary;

18 6. "Designated beneficiary" means:

19 a. with respect to an account, the individual who is the
20 owner of the ABLE account and who either established
21 the account at a time when he or she was eligible or
22 who has succeeded the former designated beneficiary in
23 that capacity,

24

1 b. if the designated beneficiary is not able to exercise
2 signature authority over his or her ABLE account or
3 chooses to establish an ABLE account but not exercise
4 signature authority, references to the designated
5 beneficiary with respect to his or her actions include
6 actions by the designated beneficiary's designated
7 representative under a power of attorney or, if none,
8 a parent or legal guardian of the designated
9 beneficiary, and

10 c. in the case of a change in beneficiaries described in
11 subsection E of Section 6 of this act, the individual
12 who is the new beneficiary;

13 7. "Designated representative" means an individual who is
14 authorized to act on behalf of the designated beneficiary if the
15 designated beneficiary is a minor or has a guardian, conservator or
16 other fiduciary who has been appointed for purposes of managing that
17 beneficiary's financial affairs;

18 8. "Disability certification" means, with respect to an
19 individual, a certification by the individual or the parent or
20 guardian of the individual that:

21 a. the individual has a medically determinable physical
22 or mental impairment, which results in marked and
23 severe functional limitations, and which can be
24 expected to result in death or which has lasted or can

1 be expected to last for a continuous period of not
2 less than twelve (12) months, or is blind within the
3 meaning of Section 1614 (a) (2) of the Social Security
4 Act,

5 b. such blindness or disability occurred before the date
6 on which the individual attained age twenty-six (26),
7 and

8 c. a copy of the individual's diagnosis relating to the
9 individual's relevant impairment or impairments,
10 signed by a physician meeting the criteria of Section
11 1861 (r) (1) of the Social Security Act, can be
12 provided;

13 9. "Eligible individual" means, for a taxable year, an
14 individual who either:

15 a. is entitled during that taxable year to benefits based
16 on blindness or disability under the Social Security
17 Act, provided that such blindness or disability
18 occurred before the date on which the individual
19 attained age twenty-six (26), and, for this purpose,
20 an individual is deemed to attain age twenty-six (26)
21 on his or her twenty-sixth birthday, or

22 b. is the subject of a disability certification filed for
23 such taxable year;

24

1 10. "Financial institution" means any bank, commercial bank,
2 national bank, savings bank, savings and loan association, credit
3 union, an insurance company, brokerage firm or other similar entity
4 that is authorized to do business in this state;

5 11. "Internal Revenue Code" means the Internal Revenue Code of
6 1986, as amended;

7 12. "Program" means the Oklahoma ABLE Savings Plan established
8 under this act and implemented by the State Treasurer;

9 13. "Qualified disability expenses" means any expenses related
10 to the eligible individual's blindness or disability which are made
11 for the benefit of an eligible individual who is the designated
12 beneficiary, including education, housing, transportation,
13 employment training and support, assistive technology and personal
14 support services, health, prevention and wellness, financial
15 management and administrative expenses, legal fees, expenses for
16 oversight and monitoring, funeral and burial expenses and other
17 expenses approved under Section 529A of the Internal Revenue Code;
18 and

19 14. "Qualified withdrawal" means a withdrawal from an account
20 to pay the qualified disability expenses of the designated
21 beneficiary of the account, but only if the withdrawal is made in
22 accordance with this act.

23

24

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 4001.3 of Title 56, unless there
3 is created a duplication in numbering, reads as follows:

4 The Oklahoma State Treasurer shall establish and administer the
5 Oklahoma ABLE Savings Plan and in doing so, shall:

6 1. Develop and implement the program in a manner consistent
7 with this act and subject to Section 529A of the Internal Revenue
8 Code through the adoption of guidelines and procedures;

9 2. Retain professional services, if necessary, including
10 accountants, auditors, consultants and other experts;

11 3. Seek rulings and other guidance, if necessary, from the
12 United States Department of the Treasury, the Internal Revenue
13 Service and the Oklahoma Attorney General relating to the program;

14 4. Make changes to the program required for the participants in
15 the program to obtain the federal income tax benefits or treatment
16 provided by Section 529A of the Internal Revenue Code;

17 5. Interpret, in policies, guidelines and procedures, the
18 provisions of the Oklahoma ABLE Savings Plan Act broadly in light of
19 its purpose and objectives;

20 6. Develop a schedule of application fees and other necessary
21 fees and charges in connection with any agreement, contract or
22 transaction relating to the program that are sufficient to offset
23 the administrative and staffing costs associated with the
24 implementation and administration of this program;

1 7. In accordance with this act, either select the financial
2 institution or institutions to act as the depositories and managers
3 of the program accounts or determine an alternative method for
4 financial management. For purposes of selecting such institutions
5 and managers, the Treasurer shall be exempt from the Oklahoma
6 Central Purchasing Act. The Treasurer shall develop a competitive
7 process by which the institutions and managers will be selected; and

8 8. Develop procedures to assist in the administration and
9 implementation of this act. Any guidelines or procedures affecting
10 existing or potential participants in the Oklahoma ABLE Savings Plan
11 may only be implemented after reasonable notice to the public and a
12 public hearing in a manner similar to requirements of the
13 Administrative Procedures Act;

14 SECTION 5. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 4001.4 of Title 56, unless there
16 is created a duplication in numbering, reads as follows:

17 A. The State Treasurer may implement the Oklahoma ABLE Savings
18 Plan Act through the use of one or more financial institutions to
19 act as the depositories and managers. Under the program, persons
20 may establish accounts through the program at a depository that has
21 been selected by the Treasurer.

22 B. The Treasurer may solicit proposals from financial
23 institutions to act as the depositories and managers of the program.
24 Financial institutions that submit proposals shall provide all

1 information required by the Treasurer which is sufficient to enable
2 the evaluation of the investment strategies and asset allocations
3 consistent with the program objectives set by the Treasurer.

4 C. The Treasurer may select as program depositories and
5 managers, the financial institution or institutions from among
6 bidding financial institutions that demonstrate the most
7 advantageous combination, both to potential program participants and
8 this state, of the following factors:

9 1. Financial stability and integrity;

10 2. The safety of the investment instruments being offered by
11 the financial institution, taking into account any insurance
12 provided with respect to these instruments;

13 3. The ability of the financial institution to ensure that the
14 plan it offers tracks requirements of the Internal Revenue Code,
15 regulations of the Internal Revenue Service, other pertinent federal
16 and state laws and regulations, and rules and requirements of the
17 Regents;

18 4. The ability of the financial institution to track estimated
19 costs of the expenses for care of individuals with disabilities as
20 provided by the Department of Human Services and provided by the
21 financial institution to the account holder;

22 5. The ability of the financial institutions, directly or
23 through a subcontract, to satisfy recordkeeping and reporting
24

1 requirements, including those created by Section 529A of the
2 Internal Revenue Code and Internal Revenue Service regulations;

3 6. The financial institution's plan for promoting the program
4 and the investment it is willing to make to promote the program,
5 including any use of institutions with offices in Oklahoma as plan
6 marketers and enrollment agents;

7 7. The fees, if any, proposed to be charged to persons for
8 maintaining accounts;

9 8. The minimum initial deposit and minimum contributions that
10 the financial institution will require and the willingness of the
11 financial institution to accept contributions through payroll
12 deduction plans and other deposit plans; and

13 9. Any other benefits to this state or its residents included
14 in the proposal, including an account opening fee payable to the
15 Treasurer by the account owner and an additional fee from the
16 financial institution for statewide program marketing by the
17 Treasurer.

18 D. The Treasurer may enter into a contract with a financial
19 institution, or institutions provided in subsection E of this
20 section to serve as program managers and depositories.

21 E. The Treasurer may determine a minimum term for contracts
22 executed between the Treasurer and a financial institution pursuant
23 to this section and shall establish procedures by which a contract
24 may be renewed.

1 F. The Treasurer may select more than one financial institution
2 and investment for the program if the following conditions exist:

3 1. The United States Internal Revenue Service has provided
4 guidance that giving a contributor a choice of more than one
5 investment instrument under a state plan will not cause the plan to
6 fail to qualify for favorable tax treatment under Section 529A of
7 the Internal Revenue Code; and

8 2. The Treasurer concludes that the choice of instrument
9 vehicles is in the best interest of program participants and will
10 not interfere with the promotion of the program.

11 G. A program manager shall:

12 1. Take all action required to keep the program in compliance
13 with the requirements of this act and shall not take action contrary
14 to this act or its contract to manage the program so that it is
15 treated as a qualified plan under Section 529A of the Internal
16 Revenue Code;

17 2. Keep adequate records of each account, keep each account
18 segregated from each other account and provide the Treasurer with
19 the information necessary to prepare statements required by federal
20 and state law or regulation or file these statements on behalf of
21 the Treasurer;

22 3. Compile and total information contained in statements
23 required to be prepared under federal and state law and regulation
24 and provide these compilations to the Treasurer;

1 4. If there is more than one program manager, the program
2 managers shall provide the Treasurer with sufficient information to
3 determine compliance with this act;

4 5. Provide the Treasurer and other contractors or other state
5 agencies, if necessary, access to the books and records of the
6 program manager to the extent needed to determine compliance with
7 the contract; and

8 6. Hold all accounts in trust for the benefit of this state and
9 the account owner.

10 H. If a contract executed between the Treasurer and a financial
11 institution pursuant to this section is not renewed, all of the
12 following conditions apply at the end of the term of the nonrenewed
13 contract:

14 1. Accounts previously established and held in investment
15 instruments at the financial institution shall not be terminated;

16 2. Additional contributions may be made to the accounts; and

17 3. No new accounts may be placed with that financial
18 institution.

19 I. The Treasurer may terminate a contract with a financial
20 institution at any time for good cause. If a contract is terminated
21 pursuant to this section, the Treasurer shall take custody of
22 accounts held at that financial institution and shall seek to
23 promptly transfer the accounts to another financial institution that
24

1 is selected as a program manager and into investment instruments as
2 similar to the original investments as possible.

3 SECTION 6. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 4001.5 of Title 56, unless there
5 is created a duplication in numbering, reads as follows:

6 A. The program shall be operated through the use of accounts.
7 An account may be established to save for the qualified disability
8 expenses of the account owner by:

9 1. Completing an application in the form prescribed by the
10 Treasurer;

11 2. Paying the one-time application fee established by the
12 Treasurer;

13 3. Making the minimum contribution required by the Treasurer or
14 by opening an account; and

15 4. Designating a single ABLE account per beneficiary, except in
16 the case of rollovers or program-to-program transfers.

17 B. Any person may make contributions to an account after the
18 account is opened.

19 C. Contributions to accounts may be made only in cash.

20 D. Account owners may withdraw all or part of the balance from
21 an account on sixty (60) days' notice, or a shorter period as may be
22 authorized by the Treasurer, under rules prescribed by the
23 Treasurer. These rules shall include provisions that will generally
24 enable the Treasurer or program manager to determine if a withdrawal

1 is a nonqualified withdrawal or a qualified withdrawal. The rules
2 may, but need not, require one or more of the following:

3 1. Account owners seeking to make a qualified withdrawal or
4 other withdrawal that is not a nonqualified withdrawal shall provide
5 certifications, copies of bills for qualified disability expenses or
6 other supporting material; and

7 2. Withdrawals not meeting certain requirements shall be
8 treated as nonqualified withdrawals by the program manager.

9 E. An account owner may change the designated beneficiary of an
10 account to an individual as provided under Section 529A of the
11 Internal Revenue Code.

12 F. An account owner may make the changes, transfers and
13 withdrawals described in Section 529A of the Internal Revenue Code
14 to an account that is owned by the account owner. If a change of
15 beneficiary or transfer causes the total account balance for all
16 accounts under the program for the new beneficiary to exceed the
17 maximum account balance limit, the excess amount shall be rejected
18 and returned to the account owner as provided in Section 529A of the
19 Internal Revenue Code.

20 G. Each account for each designated beneficiary shall be
21 maintained separately from each other account under the program.

22 H. Separate records and accounting shall be maintained for each
23 account for each designated beneficiary.

24

1 I. An account owner may direct the investment of any
2 contributions to an account or the earnings from the account only as
3 permitted by Section 529A of the Internal Revenue Code.

4 J. If the Treasurer terminates the authority of a financial
5 institution to hold accounts and accounts must be moved from that
6 financial institution to another financial institution, the
7 Treasurer shall select the financial institution and type of
8 investment to which the balance of the account is moved unless the
9 Internal Revenue Service provides guidance stating that allowing the
10 account owner to select among several financial institutions that
11 are then contractors would not cause a plan to cease to be a
12 qualified state tuition plan.

13 K. No account owner may use an interest in an account as
14 security for a loan. Any pledge of an interest in an account is of
15 no force and effect.

16 L. The Treasurer shall adopt guidelines and procedures to
17 prevent contributions on behalf of a designated beneficiary in
18 excess of those allowed pursuant to Section 529A of the Internal
19 Revenue Code to pay the qualified disability expenses of the
20 designated beneficiaries.

21 M. The financial institution(s) shall make all reports and
22 informational returns as required by the Internal Revenue Service,
23 the Oklahoma Tax Commission and other pertinent federal and state
24 laws and regulations.

1 N. The program manager shall make such reports with respect to
2 contributions, distributions and other matters that the Treasurer
3 may require pursuant to federal and state law reporting
4 requirements. The statement shall identify the contributions made
5 during a preceding twelve-month period, the total contributions made
6 through the end of the period, the value of the account as of the
7 end of this period, distributions made during this period and any
8 other matters that the Treasurer requires be reported to the account
9 owner.

10 SECTION 7. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 4001.6 of Title 56, unless there
12 is created a duplication in numbering, reads as follows:

13 Account balances and distributions from savings accounts
14 established pursuant to the Oklahoma Achieving a Better Life
15 Experience (ABLE) Savings Plan Act shall be exempt from levy and
16 sale, garnishment, attachment or any other process whatsoever, and
17 shall be unassignable.

18 SECTION 8. This act shall become effective January 1, 2017.

19

20 55-2-1955 JCR 1/8/2016 3:36:41 PM

21

22

23

24