

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1023

By: Mazzei

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 and contingency;  
18 authorizing Treasurer to implement program through  
19 use of financial institutions; authorizing Treasurer  
20 to solicit certain proposals; prescribing criteria by  
21 which the Treasurer may select financial  
22 institutions; authorizing the Treasurer to enter into  
23 certain contract and setting certain terms and  
24 procedures 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

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

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

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

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

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

23 2. Single parents receiving temporary assistance pursuant to  
24 the TANF program shall participate in work activities for a minimum  
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 or 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 7 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 Contingent upon the availability of funding, the Oklahoma State  
5 Treasurer shall establish and administer the Oklahoma ABLE Savings  
6 Plan and in doing so, shall:

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

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

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

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

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

21 6. Develop a schedule of application fees and other necessary  
22 fees and charges in connection with any agreement, contract or  
23 transaction relating to the program that are sufficient to offset  
24

1 the administrative and staffing costs associated with the  
2 implementation and administration of this program;

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

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

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

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

24

1 B. The Treasurer may solicit proposals from financial  
2 institutions to act as the depositories and managers of the program.  
3 Financial institutions that submit proposals shall provide all  
4 information required by the Treasurer which is sufficient to enable  
5 the evaluation of the investment strategies and asset allocations  
6 consistent with the program objectives set by the Treasurer.

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

12 1. Financial stability and integrity;

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

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

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

1       5. The ability of the financial institutions, directly or  
2 through a subcontract, to satisfy recordkeeping and reporting  
3 requirements, including those created by Section 529A of the  
4 Internal Revenue Code and Internal Revenue Service regulations;

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

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

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

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

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

23       E. The Treasurer may determine a minimum term for contracts  
24 executed between the Treasurer and a financial institution pursuant

1 to this section and shall establish procedures by which a contract  
2 may be renewed.

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

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

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

13 G. A program manager shall:

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

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

24

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

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

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

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

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

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

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

20 3. No new accounts may be placed with that financial  
21 institution.

22 I. The Treasurer may terminate a contract with a financial  
23 institution at any time for good cause. If a contract is terminated  
24 pursuant to this section, the Treasurer shall take custody of

1 accounts held at that financial institution and shall seek to  
2 promptly transfer the accounts to another financial institution that  
3 is selected as a program manager and into investment instruments as  
4 similar to the original investments as possible.

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

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

11 1. Completing an application in the form prescribed by the  
12 Treasurer;

13 2. Paying the one-time application fee established by the  
14 Treasurer;

15 3. Making the minimum contribution required by the Treasurer or  
16 by opening an account; and

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

19 B. Any person may make contributions to an account after the  
20 account is opened.

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

22 D. Account owners may withdraw all or part of the balance from  
23 an account on sixty (60) days' notice, or a shorter period as may be  
24 authorized by the Treasurer, under rules prescribed by the



1 Treasurer. These rules shall include provisions that will generally  
2 enable the Treasurer or program manager to determine if a withdrawal  
3 is a nonqualified withdrawal or a qualified withdrawal. The rules  
4 may, but need not, require one or more of the following:

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

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

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

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

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

24

1 H. Separate records and accounting shall be maintained for each  
2 account for each designated beneficiary.

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

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

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

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

23 M. The financial institution(s) shall make all reports and  
24 informational returns as required by the Internal Revenue Service,

1 the Oklahoma Tax Commission and other pertinent federal and state  
2 laws and regulations.

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

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

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

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

21  
22 55-2-1903 JCR 1/13/2016 10:18:54 AM

23  
24