Proposed Rulemaking

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Title

Promulgated by:
Auditor of State

~~T~~itle 20. Public Health and Welfare

Chapter XXXV. Achieving a Better Life Experience Program Committee, Treasurer of State

Subchapter A. Generally

Part 930. Achieving a Better Life Experience Program Rules

Subpart 1. Generally

20 CAR § 930-101. General.

(a) The Achieving a Better Life Experience Program (the "ABLE Program"), is established pursuant to the Achieving a Better Life Experience Program Act, Chapter 3 of Title 20 of the Arkansas Code, as amended, codified as Arkansas Code § 20-3-101 et seq. (the "act").

(b) The program is designed to satisfy the requirements of Section 529A of the Internal Revenue Code of 1986, 26 U.S.C. § 1 et seq., as amended, and any rules, rulings, announcements, and other guidance issued thereunder (collectively referred to as "Section 529A").

(c) In accordance with the Achieving a Better Life Experience Program Act, the Achieving a Better Life Experience Program Committee (the "committee") has established the following rules governing the operation of the program.

(d) To the extent this part is interpreted to be inconsistent with provisions of Section 529A, the provisions of Section 529A shall prevail.

(e) The program may be affected by subsequent changes in federal and state legislation.

(f) The committee shall have the right to modify this part from time to time to comply with then current federal law and rules applicable to the program and for other purposes.

(g) Capitalized terms not defined herein shall have the meaning ascribed to them in the Achieving a Better Life Experience Program Act.

20 CAR § 930-102. Definitions.

As used in this part:

(1) "ABLE" means the federal Achieving a Better Life Experience Program as provided under the Tax Increase Prevention Act of 2014, Pub. L. No. 113-295, as amended, that creates state-level tax-advantaged savings programs to assist eligible individuals;

(2) "ABLE Program" or "program" means the Arkansas Achieving a Better Life Experience Program administered by the Achieving a Better Life Experience Program Committee, managed by the Treasurer of State, and created pursuant to the Achieving a Better Life Experience Program Act, Arkansas Code § 20-3-101 et seq., as amended;

(3) "ABLE Program Committee" or "committee" means the committee created pursuant to Arkansas Code § 20-3-105, or any successor provision thereto;

(4) "Account" means an individual investment account established and owned by an eligible individual and maintained pursuant to the Achieving a Better Life Experience Program;

(5) "Account Application Form" means an application substantially in the form approved by the Achieving a Better Life Experience Program Committee from time to time;

(6) "Administrative expenses" means all expenses associated with the implementation and administration of the Achieving a Better Life Experience Program, including fees payable to third parties providing services related to the Achieving a Better Life Experience Program;

~~(7) "Age-based option" means a portfolio the assets of which are invested in a combination of underlying investments, currently based on the ages of designated beneficiaries specified for such portfolio;~~

~~(8)~~(7) "Approved allocation" means the allocation of assets for a portfolio as approved by the Achieving a Better Life Experience Program Committee as may be set forth in the Program Management Agreement;

~~(9)~~(8) "Approved allocation effective date" means the annual date (July 1) by which the approved allocation for a portfolio is approved, as may be set forth in the Program Management Agreement;

~~(10)~~(9) "Arkansas administration fee" means any fee paid out of the Achieving a Better Life Experience Program's assets to the Achieving a Better Life Experience Program Committee pursuant to a Program Management Agreement;

~~(10) "Authorized Individual" means a person who is authorized to act on behalf of an Account Owner and Designated Beneficiary;~~

~~(11)~~(10) "Business day" means each day on which the New York Stock Exchange is open for trading;

~~(12)~~(11) "Code" means the Internal Revenue Code of 1986, as amended (26 U.S.C. § 1 et seq.);

~~(13)~~(12) "Contracting state" means a state without a qualified ABLE program that has entered into a contract with Arkansas to provide residents of the contracting state access to a qualified ABLE program;

~~(14)~~(13) "Contribution maximum" means the maximum amount that may be contributed to an account for the same designated beneficiary, as determined from time to time by the Achieving a Better Life Experience Program Committee in accordance with ABLE;

~~(15)~~(14) "Designated beneficiary" means the eligible individual who established the account and is the owner of the account;

~~(16)~~(15) "Designated Beneficiary Change Form" means a form for changing a designated beneficiary substantially in the form approved by the Achieving a Better Life Experience Program Committee, from time to time;

~~(17) "Designated representative" means a person who is authorized to act on behalf of an account owner and designated beneficiary;~~

~~(18)~~(16) "Disability certification" means the same as provided in Arkansas Code § 20-3-103(4);

~~(19)~~(17)(A) "Earnings" means the aggregate total of all dividends and interest income received by the Achieving a Better Life Experience Program at any time following the Achieving a Better Life Experience Program's commencement.

(B) The aggregate total of dividends and interest income shall be reduced by the aggregate total of administrative expenses at any time following the commencement of the Achieving a Better Life Experience Program.

(C) Earnings shall be determined without regard to realized or unrealized capital gains and losses incurred by the Achieving a Better Life Experience Program;

~~(20)~~(18) "Eligible individual" means an individual who for a taxable year:

(A) Is entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act, 42 U.S.C. § 301 et seq., and the blindness or disability is a preexisting condition that occurred before the date on which the individual attained ~~twenty-six (26)~~forty-six (46) years of age; or

(B) Has a disability certification filed with the United States Secretary of the Treasury for the taxable year;

~~(21)~~(29) "FDIC" means the Federal Deposit Insurance Corporation;

~~(22)~~(20)(A) "Federal guidelines" means official guidance from federal agencies with jurisdiction over ABLE, including the Social Security Administration's Program Operations Manual System (SI 01130.740) (2016) and Internal Revenue Service Notice 2015-81, "Guidance Under Section 529A: Qualified ABLE Programs" (80 FR 35602) (2015).

(B) These incorporations by reference refer to the guidelines on the date specified and do not include any editions or amendments subsequently to the date specified;

~~(23)~~(21) "Investment fund" means the portion of the Achieving a Better Life Experience Program's assets invested in underlying investments (i.e., that portion of the Achieving a Better Life Experience Program's assets not held in the operating fund);

~~(24)~~(22) "IRS" means the Internal Revenue Service;

~~(25)~~(23) "Management fee" means any fee paid out of the Achieving a Better Life Experience Program's assets to the program manager pursuant to a written agreement approved by the Achieving a Better Life Experience Program Committee;

~~(26)~~(24) "Member of the family" means a brother, sister, stepbrother, or stepsister;

~~(27)~~(25) "MSRB" means Municipal Securities Rulemaking Board and any duly established entity that succeeds to the functions thereof;

~~(28)~~(26) "Net asset value" means:

(A) The net asset value per share of the underlying investments as of the market close on that business day;

(B) Adjustments, if any, to the net asset value per share of any underlying investments made after the market close;

(C) Net purchase orders and net redemption orders received by the program manager each business day;

(D) The deduction and payment of fees and expenses from the portfolios by the program manager; and

(E) The program manager's reinvestment, into any underlying investment it or its affiliate offers and manages, of any income, dividends, and/or capital gain distributions paid by underlying funds;

~~(29)~~(27) "NYSE" means the New York Stock Exchange;

~~(30)~~(28) "Operating account" means the account established for the purpose of holding the Arkansas administration fee;

~~(31)~~(29) "Operating fund" means that portion of the Achieving a Better Life Experience Program's assets not held in the investment fund;

~~(32)~~(30) "Participation Agreement" means an agreement to participate in the Achieving a Better Life Experience Program between an account owner and the

Achieving a Better Life Experience Program, substantially in the form approved by the Achieving a Better Life Experience Program Committee, from time to time;

~~(33)~~(31) "Plan disclosure documents" means the complete disclosure document or set of documents describing the Achieving a Better Life Experience Program, including any supplement or supplements thereto, each as amended from time to time, constituting an "official statement" within the meaning of Rule 15c2-12 under the Securities Exchange Act of 1934, 15 U.S.C § 78a, as amended, and the rules of the Municipal Securities Rulemaking Board and any successor to the applicable functions thereof;

~~(34)~~(32) "Portfolio" means one (1) of the program portfolios established within the investment fund to which contributions may be allocated, and that are invested in underlying investments;

~~(35)~~(33) "Program Management Agreement" means a written implementing agreement among the Achieving a Better Life Experience Program, the Achieving a Better Life Experience Program Committee, and the program manager;

~~(36)~~(34) "Program manager" means the entity engaged by the Achieving a Better Life Experience Program to administer the daily operations of the Achieving a Better Life Experience Program, provide marketing, recordkeeping, investment management, and other services for the Achieving a Better Life Experience Program, and manage the assets of the portfolios, all pursuant to the Program Management Agreement, and designated as such in the then current plan disclosure documents;

~~(37)~~(35) "Qualified disability expenses" means the same as provided in Arkansas Code § 20-3-103(8);

~~(38)~~(36) "Qualified withdrawal" or "qualified distribution" means a withdrawal from an account to pay the qualified disability expenses of the designated beneficiary of the account;

~~(39)~~(37) "Rollover contribution" means a contribution to an account that is transferred to or deposited in the account from another program operating as a "qualified ABLE program" within the meaning of Section 529A, or any successor provision thereto, of the Internal Revenue Code of 1986, 26 U.S.C. § 1 et seq.;

~~(40)~~(38) "Rollover distribution" means a distribution or transfer from an account that is transferred to or deposited in another program operating as a "qualified ABLE program" within the meaning of Section 529A, or any successor provision thereto, of the Internal Revenue Code of 1986, 26 U.S.C. § 1 et seq.;

~~(41)~~(39) "Secretary" means the United States Secretary of the Treasury;

~~(42)~~(40) "SSA" means the Social Security Administration;

~~(43)~~(41) "SSI limit" means the Supplemental Security Income limit;

~~(44)~~(42) "Series" means a class of units of a portfolio;

~~(45)~~(43) "State" means the State of Arkansas, acting through its executive, administrative, legislative, and judicial branches;

~~(46)~~(44) "Treasurer" means the duly elected Treasurer of State;

~~(47)~~(45) "Trust" means the Achieving a Better Life Experience Program Trust created pursuant to Arkansas Code § 20-3-104(a);

~~(48)~~(46) "Underlying investments" means ETFs, securities, separate accounts, registered mutual funds, or other investments in which assets of a portfolio are invested;

~~(49)~~(47) "Withdrawal" means a qualified withdrawal or a nonqualified withdrawal;

~~(50)~~(48) "Withdrawal request" means a request by an account owner to effect a withdrawal substantially in the form or other process approved by the Achieving a Better Life Experience Program Committee, from time to time;

~~(51) "Year-of-enrollment portfolio" means a portfolio the assets of which are invested in a combination of underlying investments based upon the designated beneficiary's participated year of enrollment as determined by the account owner.~~

20 CAR § 930-103. Interstate agreement or compact.

The Treasurer of State and Achieving a Better Life Experience Program Committee may enter into an interstate agreement for joint ABLE-related services, in order to achieve better programming and higher economies of scale in investment options.

20 CAR § 930-104. Program structure.

(a) **The Achieving a Better Life Experience Program Trust.**

(1) The Achieving a Better Life Experience Program Trust is comprised of an investment fund and an operating fund.

(2) **Investment fund.**

(A) The investment fund initially receives all contributions to accounts established pursuant to Participation Agreements.

(B) The investment fund is invested in underlying investments.

(3) **Operating fund.** The operating fund is comprised of the operating account and such subaccounts as may be established by the Achieving a Better Life Experience Program Committee from time to time.

(b) **Portfolios.**

(1) **General.**

(A)(i) The investment fund may be divided into one (1) or more portfolios and/or series of portfolios.

(ii) Each portfolio will represent a separate, segregated portfolio of underlying investments held in the investment fund.

(B)(i) Contributions made to an account are invested in units of one (1) or more series of one (1) or more portfolios based on an election on the Account Application Form (or other appropriate form) made by an account owner.

(ii) If an account owner is awarded a matching grant, the matching grant will be invested according to the portfolio's or portfolios' allocation instructions on file for the owner's account.

(iii) The terms, expenses, and sales charges, if any, as well as the availability of different portfolios (or series thereof) shall be as described in the then current plan disclosure documents.

(C) The assets of each portfolio will be rebalanced periodically on an as-needed basis to conform each portfolio to the approved allocation.

(D) The Achieving a Better Life Experience Program or the program manager has the right to alter the basis of assigning accounts to ~~age-based options~~

portfolios and, subject to receipt of reasonably satisfactory assurance that such reassignment would not disqualify the affected accounts or the Achieving a Better Life Experience Program from treatment, for federal tax purposes, as described in the then current plan disclosure documents and/or supplement, or any supplements thereto, to reassign existing accounts for any reason it deems appropriate.

(2) **Change of designated beneficiary.**

(A) An account owner shall be the designated beneficiary of an account and have the right at any time to change the designated beneficiary of an account to an eligible individual who is a member of the family of the former designated beneficiary.

(B) At the direction of an account owner, all or a portion of an account may be transferred to another account of which the designated beneficiary is a member of the family of the designated beneficiary of the transferee account if the transferee account was created by Arkansas Code § 20-3-109 et seq., or in accordance with ABLE.

(3) **Subsequent portfolios and series.** The committee shall have the authority to increase or decrease the number of ~~age-based options or custom~~ portfolio options and/or the number of series of each such portfolio and to create or terminate any additional portfolios or series the terms of which shall be as set forth in the then current plan disclosure documents provided.

(c) **Net asset value.** The program manager, or its delegate, will calculate a net asset value for each portfolio (or series thereof) of the investment fund as described in the then current plan disclosure documents.

(d) **Chinese Investments.** The Program Managers, or its delegate, will provide investment options that comply with prohibited investments, as outlined in A.C.A. § 25-1-1203~~, et seq.~~

20 CAR § 930-105. Program distribution and participation.

(a) **Program distribution.**

(1) Except as otherwise indicated in the Achieving a Better Life Experience Program Act, Arkansas Code § 20-3-101 et seq., interest, dividends, and capital gains

from funds invested in the Achieving a Better Life Experience Program are exempt from Arkansas income taxes.

(2) A qualified distribution from an account established under the Achieving a Better Life Experience Program is exempt from Arkansas income tax with respect to the designated beneficiary's income.

(3)(A) Nonqualified distributions from an account established under the Achieving a Better Life Experience Program are subject to Arkansas income tax.

(B) The nonqualified distribution is taxable to the party, account owner, or designated beneficiary who actually makes the withdrawal.

(C) Earnings on a contribution that are included in a refund are subject to Arkansas income tax.

(b) **Program participation.**

(1) **Opening an account.**

(A) An eligible individual must complete an Account Application Form and any other documents required by the Achieving a Better Life Experience Program Committee, the program manager, this part, or applicable federal and state law, regulation, or rule and submit such documents to the program manager along with the initial minimum account contribution as set forth in the then current plan disclosure documents.

(B) A designated beneficiary is limited to one (1) account.

(C) The acceptance by the program manager for processing an Account Application Form and an initial contribution does not constitute the agreement of the program manager to open an account.

(D) The program manager has the right, but not the obligation, to reject an Account Application Form that does not contain all information requested on the Account Application Form.

(E) There shall be no restrictions on the age of the designated beneficiary except as may be deemed necessary to comply with applicable law.

(2) **Entering into a Participation Agreement.** Subsequent to or concurrently with opening an account, an eligible individual must provide the

information required by and agree by virtue of opening an account to be bound by a Participation Agreement.

(3) **Assigning accounts to portfolios and series.** The program manager will assign each account to a portfolio or portfolios based upon information submitted by the account owner.

(4) **Contributions to an account.**

(A) **Form of contribution.**

(i) Contributions may be made by check, wire transfer, payroll direct deposit, automated clearing house (ACH), electronic funds transfer (EFT), rollover from another ABLE or Section 529 Plan account, or by such other method as set forth in the then current plan disclosure documents.

(ii) Contributions may not be made by:

(a) Cash;

(b) Money orders;

(c) Travelers checks;

(d) Foreign checks not in United States dollars;

(e) Checks dated over one hundred eighty (180) days;

(f) Checks post-dated more than seven (7) days;

(g) Checks with unclear instructions;

(h) Securities;

(i) Noncash assets;

(j) Charges on debit or credit cards; or

(k) Any other payment method prohibited by the then current plan disclosure documents.

(iii) In order for an account owner to make contributions by employer payroll deduction, the account owner's employer must be able to meet the program manager's operational and administrative requirements for payroll contributions.

(iv) Any person may make contributions to an account that is established to meet the qualified disability expenses of the designated beneficiary of the account.

(B) **Amount of contribution.**

(i) The minimum initial and minimum subsequent contribution amount:

(a) Are as set forth in the then current plan disclosure documents; and

(b) May, from time to time, be revised subject to the approval of the committee.

(ii) The contribution maximum for an account for a designated beneficiary is as set forth in the then current plan disclosure documents.

(C) **Crediting of contributions.**

(i) The program manager generally shall credit contributions to an account as of the same business day as received in good order as determined by the program manager, provided such contributions are delivered to and accepted by the program manager by 4:00 p.m. eastern time on such business day, or upon such other business day as may be set forth in the then current plan disclosure documents.

(ii) The program manager generally shall credit contributions made by electronic fund transfer to an account generally the next business day after the transfer is received in good order as determined by the program manager, provided such contributions are delivered to and accepted by the program manager by 10:00 p.m. eastern time on such business day, or upon such business day, or upon such other business day as may be set forth in the then current plan disclosure documents.

(D) **Accounting of contributions.**

(i) On the business day of the investment of a contribution by the program manager, units (or additional units) of the applicable portfolio or portfolios will generally be reflected in the records of the Achieving a Better Life Experience Program for the applicable account.

(ii) Contributions made by check, which are received in good order, will generally be considered received by the Achieving a Better Life Experience Program in a given year if received on or before December 31 of the same year, provided the checks are subsequently paid.

(iii) Contributions made pursuant to an electronic funds transfer will generally be considered received by the Achieving a Better Life Experience Program in a given year if initiated by the account owner on or before 10:00 p.m. eastern time on December 31 of such year, provided the funds are subsequently withdrawn from an account owner's checking or savings account at another financial institution.

(iv) Contributions made pursuant to an automatic investment plan will generally be considered received by the Achieving a Better Life Experience Program in the year the automatic investment debit has been deducted from an account owner's checking or savings account at another financial institution.

(E) **Investment of contributions.** A contribution to an account is generally invested in units of the portfolio or portfolios designated by the account owner or assigned by the program manager and/or the committee on the same business day as the crediting of the contribution to an account, or upon such other business day as may be set forth in the then current plan disclosure documents.

(F) **Accounting for contribution.** On the business day following the investment of a contribution by the program manager, units (or additional units) of the applicable portfolio or portfolios will generally be reflected in the records of the Achieving a Better Life Experience Program for the applicable account.

(G) **Overfunding an account.**

(i) Any contribution will generally be returned in the event the contribution exceeds the contribution maximum for the designated beneficiary.

(ii) At the program manager's discretion, a penalty may be imposed on contributions that exceed the contribution maximum.

(iii) The program manager may refuse contributions that it determines, in its sole discretion, appear to constitute an abuse of the Achieving a Better Life Experience Program.

(H) **Rollover contributions.**

(i) Rollover contributions to an account must be accompanied by an incoming rollover form (or such other form as approved by the committee) executed by

the account owner and submitted in good order as determined by the program manager.

(ii) An incoming rollover form (or other approved form) must include all information the program manager and/or committee may require in order to process the rollover contribution in accordance with all requirements of the Achieving a Better Life Experience Program, including those specified in this part, the plan disclosure documents, and applicable federal and state law or rule.

(iii) The program manager has the right, but not the obligation, to reject an applicable form that does not contain all information requested.

(iv) The program manager may record the entire amount of the contribution as earnings unless the incoming rollover form (or other approved form) is accompanied by a statement from the administrator or manager of the qualified ABLE program from which the rollover contribution is made detailing the amount of the rollover contribution that constitutes principal and the amount of the rollover contribution that constitutes earnings, together with such other information as the committee and/or program manager may require.

(v) Rollover contributions to an account may be subject to federal income tax and/or penalties as required by then current federal law or rule.

(vi) Reporting and payment of any such federal or state taxes or penalties shall be the obligation of the account owner.

(5) **Changes to an account.**

(A) **Change in designated beneficiary.**

(i) To change the designated beneficiary of an account, the account owner must complete a Designated Beneficiary Change Form or such other form as the committee shall approve (and any additional required documentation) and submit it in good order as determined by the program manager in accordance with all requirements of the Achieving a Better Life Experience Program, including those specified in this part, the plan disclosure documents, and applicable federal or state law or rule.

(ii) The program manager has the right, but not the obligation, to reject an applicable form that does not contain all information requested.

(iii) If the account owner's request is in good order (as determined by the program manager), the designated beneficiary on the account will be changed to the new designated beneficiary on the records of the Achieving a Better Life Experience Program.

(B) **Partial transfer of account assets to new designated beneficiary.**

(i) To transfer some, but not all, assets from one account to another account, the account owner must provide such information as is necessary for the program manager to process such transaction in accordance with all requirements of the Achieving a Better Life Experience Program, including those specified in this part, the plan disclosure documents, and applicable federal law or rule.

(ii) If the account owner's request is in good order as determined by the program manager the amount specified by the account owner for transfer from the account will be transferred to on the records of the Achieving a Better Life Experience Program to an account for the benefit of the new designated beneficiary.

(C) **Successor account owner.**

(i) An account owner may name a successor account owner if permitted by the applicable form, and to the extent permissible in accordance with the plan disclosure documents and applicable law.

(ii) On notification to the program manager of the death of the account owner, accompanied by a death certificate or other proof of death recognized under applicable law and such other information as the program manager requires, the program manager will change the account owner for the account on the records of the Achieving a Better Life Experience Program.

(iii) In the event a qualified successor account owner is not named on the Account Application Form or the named successor account owner does not qualify for or accept the account, and the account owner has not disposed of the account otherwise in a will, trust, or other testamentary disposition, the account will become part of the account owner's estate.

(D) **Change in account owner.**

(i) The account owner may transfer ownership of an account to another eligible individual, if the transfer is made without consideration.

(ii) The account owner will be responsible for any adverse federal and state tax consequences arising from such a change.

(iii) A change of account owner must be accompanied by an account information change form or such other form as approved by the committee and submitted in good order as determined by the program manager.

(E) **Account owner direction of the investment of contributions.**

(i) Account owners cannot direct the investment of contributions (or the earnings on contributions) once they have been used to purchase units of the designated portfolio or portfolios.

(ii) Account owners may change how investments are allocated up to two (2) times per year among the available portfolio options in accordance with the then current plan disclosure documents and applicable law or rule.

(F) **General.** The ability of account owners to affect changes in an account and the consequences to account owners may be affected by subsequent changes in federal and state legislation.

(6) **Penalties for misrepresentations.** In the event an account owner makes any material misrepresentation in any oral or written communication with the committee or the program manager, the program manager may:

(A) Terminate an account owner's account;

(B) Charge a penalty of up to fifteen percent (15%) on the investment earnings of the account; and

(C) Seek to recover any losses incurred by the Achieving a Better Life Experience Program, the committee, or the program manager as a result of such misrepresentation.

20 CAR § 930-106. Federal reporting requirements.

(a) The Achieving a Better Life Experience Program will comply with all reporting responsibilities as outlined in the federal guidelines.

(b) The Treasurer of State, or the Treasurer of State's designee, will compile or cause to be compiled the needed information to complete any reports.

State of Arkansas *As Engrossed: H3/10/25*
95th General Assembly **A Bill**
Regular Session, 2025 HOUSE BILL 1063

By: Representatives J. Mayberry, *Ray*
By: Senator Crowell

For An Act To Be Entitled

AN ACT TO AMEND THE ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM ACT; TO AMEND THE DEFINITIONS OF "DISABILITY CERTIFICATION" AND "ELIGIBLE INDIVIDUAL" TO CHANGE THE DISABILITY ONSET AGE FROM TWENTY-SIX TO FORTY-SIX; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM ACT; AND TO AMEND THE DEFINITIONS OF "DISABILITY CERTIFICATION" AND "ELIGIBLE INDIVIDUAL" TO CHANGE DISABILITY ONSET AGE FROM TWENTY-SIX TO FORTY-SIX.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 20-3-103(4), concerning the definition of "disability certification" under the Achieving a Better Life Experience Program Act, is amended to read as follows:

(4) "Disability certification" means, with respect to an individual, a certification to the satisfaction of the United States Secretary of the Treasury by the individual or the parent or guardian of the individual that:

(A) Certifies that:

(i)(a)(1) The individual has a medically determinable physical or mental impairment that:

(A) Results in marked and severe

functional limitations; and

(B) Can be expected to result in death; or

(2) Has lasted or can be expected to last for a continuous period of not less than twelve (12) months; or

(b) The individual is blind within the meaning of § 1614(a)(2) of the Social Security Act; and

(ii) The blindness or disability occurred before the individual attained ~~twenty-six (26)~~ forty-six (46) years of age; and

(B) Includes a copy of the individual's diagnosis relating to the individual's relevant impairment or impairments, signed by a physician meeting the criteria of § 1861(r)(1) of the Social Security Act;

SECTION 2. Arkansas Code § 20-3-103(5), concerning the definition of "eligible individual" under the Achieving a Better Life Experience Program Act, is amended to read as follows:

(5) "Eligible individual" means an individual who for a taxable year:

(A) Is entitled to benefits based on blindness or disability under Title II or Title XVI of the Social Security Act, 42 U.S.C. § 301 et seq., and the blindness or disability is a preexisting condition that occurred before the date on which the individual attained ~~twenty-six (26)~~ forty-six (46) years of age; or

(B) Has a disability certification filed with the United States Secretary of the Treasury for the taxable year;

SECTION 3. DO NOT CODIFY. Effective date.

This act is effective on and after January 1, 2026.

/s/J. Mayberry

APPROVED: 4/17/25

State of Arkansas *As Engrossed: H3/3/25 H3/5/25 S4/7/25*
95th General Assembly **A Bill**
Regular Session, 2025 HOUSE BILL 1352

By: Representatives Beaty Jr., *Achor, Andrews, Barker, Beck, Bentley, S. Berry, Breaux, Brooks, A. Brown, K. Brown, M. Brown, N. Burkes, R. Burkes, Joey Carr, John Carr, Cavenaugh, Childress, C. Cooper, Cozart, Crawford, Dalby, Eaton, Evans, Furman, Gazaway, Gramlich, Hall, Hawk, Hollowell, L. Johnson, Long, Lundstrum, Lynch, Maddox, McAlindon, McClure, M. McElroy, McGrew, B. McKenzie, McNair, Milligan, J. Moore, Nazarenko, Painter, Pearce, Perry, Pilkington, Puryear, Ray, R. Scott Richardson, Richmond, Rose, Rye, Schulz, M. Shepherd, Torres, Tosh, Underwood, Unger, Vaught, Walker, Wing, Wooten*
By: Senator B. Johnson

For An Act To Be Entitled

AN ACT TO AMEND VARIOUS LAWS CONCERNING ACTIONS RELATED TO CERTAIN FOREIGN ENTITIES; TO WITHHOLD FUNDING FOR STATE-SUPPORTED INSTITUTIONS OF HIGHER EDUCATION WITH A CONFUCIUS INSTITUTE OR SIMILAR INSTITUTE RELATED TO THE PEOPLE'S REPUBLIC OF CHINA; TO PROHIBIT A STATE-SUPPORTED INSTITUTION OF HIGHER EDUCATION FROM INVESTING IN CHINESE FUNDS; TO PROHIBIT THE ESTABLISHMENT OF SISTER CITIES WITH CERTAIN PROHIBITED FOREIGN PARTIES; TO PROHIBIT THE INVESTMENT OF RETIREMENT AND PENSION FUNDS IN CHINESE FUNDS; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND VARIOUS LAWS CONCERNING ACTIONS RELATED TO CERTAIN FOREIGN ENTITIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 60, Subchapter 1, is amended to add additional sections to read as follows:

6-60-123. Prohibited institutes.

(a) The state shall withhold funding for a state-supported institution of higher education that has a Confucius Institute or similar institute related to the People's Republic of China, including without limitation a Chinese cultural center.

(b)(1) A state-supported institution of higher education shall certify annually that the state-supported institution of higher education does not have a prohibited institution described in subsection (a) of this section.

(2) A state-supported institution of higher education shall abolish any existing Confucius Institute or similar institute related to the People's Republic of China by December 31, 2025.

(3) If a state-supported institution of higher education does not certify that it does not have a prohibited institution as required by subdivision (b)(1) of this section, state funding for the state-supported institution of higher education shall be withheld.

6-60-124. Prohibited investments.

A state-supported institution of higher education shall not invest in a *Chinese company or a restricted investment product consistent with § 25-1-1301 et seq.*

SECTION 2. Arkansas Code Title 14, Chapter 1, Subchapter 1, is amended to add an additional section to read as follows:

14-1-111. Certain sister cities prohibited — Definition.

(a) As used in this section, "prohibited foreign party" means a:

(1) Citizen or resident of a country subject to International Traffic in Arms Regulations, 22 C.F.R. § 126.1, as existing on January 1, 2025;

(2) Foreign government formed within a country subject to International Traffic in Arms Regulations, 22 C.F.R. § 126.1, as existing on January 1, 2025; or

(3) Party other than an individual or a government that is created or organized under the laws of a foreign government within a country subject to International Traffic in Arms Regulations, 22 C.F.R. § 126.1, as existing on January 1, 2025.

(b) A municipality shall not form a sister city with a prohibited foreign party.

(c) A sister city formed between a municipality and a prohibited foreign party before the effective date of this section shall be terminated.

SECTION 3. Arkansas Code Title 25, Chapter 1, is amended to add an additional subchapter to read as follows:

Subchapter 13 — Investment of Funds in Chinese Company

25-1-1301. Definitions.

As used in this subchapter:

(1)(A) "Chinese company" means a company, other than a United States person or United States subsidiary as defined by 15 C.F.R. § 772.1, as it existed on January 1, 2025, that:

(i) Is domiciled, incorporated, issued, or listed in the People's Republic of China;

(ii) Is headquartered in the People's Republic of China;

(iii) Has its principal place of business in the People's Republic of China;

(iv) Is controlled by the government of the People's Republic of China, the Communist Party of China, the People's Liberation Army, or any instrumentality thereof, including without limitation the State-owned Assets Supervision and Administration Commission of the State Council or the National Social Security Fund; or

(v) Is majority-owned by an entity controlled by the government of the People's Republic of China, the Communist Party of China, the People's Liberation Army, or any instrumentality thereof, including the State-owned Assets Supervision and Administration Commission of the State Council or the National Social Security Fund.

(B) "Chinese company" does not include a parent company that has one (1) or more subsidiaries or affiliates that meet the definition under subdivision (1)(A) of this section if the parent company does not:

(i) Meet the criteria in subdivision (1)(A); and

(ii) Recognize more than fifty percent (50%) of the total annual global revenue of the parent company and subsidiaries from The People's Republic of China and Hong Kong Special Administrative Region combined;

(2) "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or any other entity or business association, including without limitation all wholly-owned subsidiaries, majority-owned subsidiaries, and parent companies, or an affiliate that exists for the purpose of making a profit;

(3) "Control" means:

(A) The same as defined in the Investment Company Act of 1940, 15 U.S.C. § 80a-2, as it existed on January 1, 2025; or

(B) Involvement in an entity's governance structure, *monitoring, or internal human resources decisions of an entity;*

(4) "Fiduciary" means a person who:

(A) Exercises authority to invest or manage the assets of a state or local fund;

(B) Provides investment advice for a fee or other direct or indirect compensation with respect to the assets of a state or local fund or has authority or responsibility to provide investment advice; or

(C) Is a member of a public investment entity;

(5) "Investment product" means a commingled fund or a collective investment, including without limitation a mutual fund or an index fund, in which a public investment entity, state fund, or local fund together with one (1) or more other investors share ownership or interest in the investments;

(6) "Private equity" means an asset class consisting *of equity or debt in companies or real property* that are not publicly traded on a *listed stock exchange, whether owned directly by a public investment entity or indirectly through a limited partnership or other company;*

(7) "Public investment entity" means:

(A) A state or local board, political subdivision, or other governing body within the *state other than an individually directed defined contribution plan that* is responsible for investing or managing a state or local fund, including without limitation public pension funds;

(B) Public retirement funds;

(C) City, county, or other local or municipal entity investment funds;

(D) Institution of higher education *public funds or* a qualified tuition program under 26 U.S.C. § 529, as it existed on January 1,

2025;

(E) The Treasurer of State; and

(F) Other state-sponsored funds;

(8) “Restricted investment product” means an investment in a Chinese company or an investment product that holds one (1) or more *publicly-traded investments* in a Chinese company; and

(9) "Venture capital” means an investment of capital to a business at any stage of its development before the business makes a public offering of stock.

25-1-1302. Prohibited investments.

(a) Notwithstanding any other statutes, except as provided in § 25-1-1305, this subchapter restricts the investment and financial decisions of all public investment entities.

(b) A public investment entity, a service provider contracted by a public investment entity, and all other fiduciaries *shall not knowingly*:

(1) Invest state or local funds in a Chinese company or restricted investment product after the effective date of this subchapter; or

(2) Deposit state or local funds in a Chinese company that is a bank or financial institution after the effective date of this subchapter.

25-1-1303. Reporting requirements.

(a) Within six (6) months of the effective date of this subchapter and at least annually each year before July 1, a public investment entity shall:

(1) Make a good faith effort to identify all investments in a Chinese company or restricted investment product.

(A) The good faith effort to identify all investments required under subdivision (1) of this section shall include at least one (1) of the following:

(i) A review of publicly available information on where companies are incorporated, headquartered, and conduct business, including without limitation information provided by non-profit organizations, research firms, and government entities;

(ii) Contact with asset managers or other applicable service providers contracted by the public investment entity for information on investments the service provider has made on behalf of the public

investment entity;

(iii) Use of an independent research firm for *assistance; or*

(iv) Reliance on the representations of an investment manager, investment advisor, or investment index provider as to the identification of a Chinese company within an investment product; and

(2) Publish a report listing all the Chinese companies or restricted investment products in which the public investment entity *currently has investments.*

(b) If a public investment entity has determined the public investment entity has no investments required to be reported under subsection (a) of this section, the public investment entity shall file a report indicating that there are no investments to report.

25-1-1304. Mandatory divestment.

(a)(1) If a public investment entity reports an investment in a Chinese company or a restricted investment product under § 25-1-1303, the public investment entity shall establish a plan to divest from the Chinese company or restricted investment product.

(2) The public investment entity shall complete the divestment required under subdivision (a)(1) of this section as soon as financially prudent.

(3) Notwithstanding subdivision (a)(2) of this section, a public investment entity shall remove one hundred percent (100%) of investments in a Chinese company or a restricted investment product from a fund's assets within twelve (12) months after the public investment entity first reports the investment in the Chinese company or restricted investment product.

(b) Divestment as required by subsection (a) of this section is not required from a restricted investment product if:

(1) Less than one percent (1%) of the value of the restricted investment product is made up of investments in Chinese companies; *or*

(2) The cost over the next five (5) years to the public investment entity of divesting from the restricted investment product is *greater than one percent (1%) of the value of the public investment entity's total investment portfolio.*

(c)(1) If an investment is subject to divestment under this subchapter

but is locked into a maturity date and an early divestment would result in a financial penalty or loss and cause a negative financial impact to the state, the investment is exempt from divestiture under this subchapter in order to prevent financial harm to the state and to ensure that the fiduciary duty for the state is met.

(2) Exemption from divestiture under subdivision (c)(1) of this section shall extend no more than twelve (12) months after the maturity date or after the date on which the divestment would not result in a financial penalty or loss, whichever occurs first.

25-1-1305. Exemption for private equity and venture capital investments.

(a) This subchapter does not restrict a private equity or venture capital investment made in a Chinese company before the effective date of this subchapter.

(b) After the effective date of this subchapter, a public investment entity, a service provider contracted by a public investment entity, or any other fiduciary shall not enter a private equity or venture capital investment in a Chinese company.

25-1-1306. Conflicts.

With respect to an action taken in compliance with this subchapter, including without limitation all good faith determinations regarding investing in a Chinese company or restricted investment product, a public investment entity is exempt from any conflicting *state statutory* or common law obligations, including without limitation an obligation regarding the choice of an asset manager, investment fund, or investment of a fund investment portfolio.

25-1-1307. Immunity.

(a) The state and its officers, agents, and employees and a public investment entity and its board members, executive director, officers, agents, and employees are immune from civil liability for any act or omission related to the removal of an asset from a fund under this subchapter.

(b) In addition to the immunity provided under subsection (a) of this section, an officer, agent, and employee of the state and a board member,

executive director, officer, agent, and employee of a public investment entity are entitled to indemnification from the public investment entity for all losses, costs, and expenses, including without limitation reasonable attorney's fees associated with defending against a claim or suit relating to this subchapter.

25-1-1308. Severability.

If any provision of this subchapter or the application of this subchapter to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this subchapter which can be given effect without the invalid provision or application, and to this end, the provisions of this subchapter are declared severable.

/s/Beaty Jr.

APPROVED: 4/21/25