

1 ENGROSSED HOUSE AMENDMENT  
2 TO  
3 ENGROSSED SENATE BILL NO. 1005 By: Crain and Mazzei of the  
Senate  
4 and  
5 Echols of the House  
6  
7 [ financing disability expenses - Temporary  
8 Assistance for Needy Families - Oklahoma Achieving  
9 a Better Life Experience (ABLE) Savings Plan Act -  
10 codification - effective date ]  
11  
12  
13 AUTHOR: Add the following House Coauthors: Sherrer, Bennett and  
McDaniel (Jeannie)  
14  
15 AUTHOR: Add the following Senate Coauthors: Paddack, Pittman and  
Griffin  
16  
17 AMENDMENT NO. 1. Strike the stricken title, enacting clause and  
entire bill and insert  
18  
19 "An Act relating to financing disability expenses;  
20 amending 56 O.S. 2011, Section 230.52, as amended by  
21 Section 1, Chapter 263, O.S.L. 2012 (56 O.S. Supp.  
22 2015, Section 230.52), which relates to Temporary  
23 Assistance for Needy Families; exempting certain  
24 resources from benefit determination criteria;  
creating the Oklahoma Achieving a Better Life  
Experience (ABLE) Savings Plan Act; providing short  
title; defining terms; specifying duties of State  
Treasurer; requiring Treasurer to implement program  
subject to certain provisions; authorizing Treasurer  
to implement program through use of financial  
institutions; authorizing Treasurer to solicit

1 certain proposals; prescribing criteria by which the  
2 Treasurer may select financial institutions;  
3 authorizing the Treasurer to enter into certain  
4 contract and setting certain terms and procedures  
5 therefor; allowing the Treasurer to select more than  
6 one financial institution under certain conditions;  
7 requiring the program manager to perform certain  
8 duties for program; establishing procedures related  
9 to nonrenewal of contracts; allowing Treasurer to  
10 terminate contract for good cause; prescribing means  
11 by which a person can open an account; allowing any  
12 person to contribute to an account; requiring  
13 contributions to accounts be in cash; allowing  
14 withdrawal of certain funds in accordance with  
15 certain provisions; providing for changing of  
16 beneficiaries; providing for certain penalty for  
17 nonqualified withdrawals; allowing Treasurer to  
18 adjust certain penalty; providing for the collection  
19 of certain penalties; authorizing account owner to  
20 direct certain investment; providing for the  
21 transfer of certain accounts when the Treasurer  
22 terminates authority of a financial institution to  
23 hold certain accounts; requiring the Treasurer to  
24 adopt certain rules; requiring financial  
institutions to comply with certain reporting  
requirements; requiring program managers to provide  
statements to account owners; exempting certain  
resources from garnishment, attachment and other  
processes; providing for codification; and providing  
an effective date.

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

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

Section 230.52 A. Except for specific exceptions, conditions  
or restrictions authorized by the Statewide Temporary Assistance  
Responsibility System (STARS) and rules promulgated by the

1 Commission for Human Services pursuant thereto, the following are  
2 the minimum mandatory requirements for the Temporary Assistance for  
3 Needy Families (TANF) program:

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

8 2. Single parents receiving temporary assistance pursuant to  
9 the TANF program shall participate in work activities for a minimum  
10 of twenty (20) hours per week during the month. Two-parent families  
11 receiving temporary assistance pursuant to the TANF program shall  
12 participate in work activities for a minimum of thirty-five (35)  
13 hours per week during the month;

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

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

- 1           a.     (1)   unsubsidized employment which is full-time  
2                       employment or part-time employment that is not  
3                       directly supplemented by federal or state funds,  
4           (2)   subsidized private sector employment which is  
5                       employment in a private for-profit enterprise or  
6                       a private not-for-profit enterprise that is  
7                       directly supplemented by federal or state funds.  
8                       Prior to receiving any subsidy or incentive, the  
9                       employer shall enter into a written contract with  
10                      the Department, and  
11           (3)   subsidized public sector employment which is  
12                       employment by an agency of a federal, state, or  
13                       local governmental entity which is directly  
14                       supplemented by federal or state funds. Prior to  
15                       receiving any subsidy or incentive, the employer  
16                       shall enter into a written contract with the  
17                       Department.

18           Subsidized hourly employment or unsubsidized hourly  
19           employment pursuant to this subparagraph shall only be  
20           approved by the Department as work activity if such  
21           employment is subject to:

- 22                   (a)   the federal minimum wage requirements  
23                               pursuant to the Fair Labor Standards Act of  
24                               1938, as amended,

1 (b) the federal Social Security tax and Medicare  
2 tax, and

3 (c) regulations promulgated pursuant to the  
4 federal Occupational Safety and Health Act  
5 of 1970 and rules promulgated by the State  
6 Department of Labor pursuant thereto,

7 b. a program of work experience,

8 c. on-the-job training,

9 d. assisted job search which may include supervised or  
10 unsupervised job-seeking activities,

11 e. job readiness assistance which may include, but is not  
12 limited to:

13 (1) orientation in the work environment and basic  
14 job-seeking and job retention skills,

15 (2) instruction in completing an application for  
16 employment and writing a resume, and

17 (3) instruction in conducting oneself during a job  
18 interview, including appropriate dress,

19 f. job skills training which is directly related to  
20 employment in a specific occupation for which there is  
21 a written commitment by an employer to offer  
22 employment to a recipient who successfully completes  
23 the training. Job skills training includes, but is  
24 not limited to, customized training designed to meet

1 the needs of a specific employer or a specific  
2 industry,

3 g. community service programs which are job-training  
4 activities provided in areas where sufficient public  
5 or private sector employment is not available. Such  
6 activities are linked to both education or training  
7 and activities that substantially enhance a  
8 recipient's employability,

9 h. literacy and adult basic education programs,

10 i. vocational-educational programs, not to exceed twelve  
11 (12) months for any individual, which are directed  
12 toward vocational-educational training and education  
13 directly related to employment,

14 j. education programs which are directly related to  
15 specific employment opportunities, if a recipient has  
16 not received a high school diploma or General  
17 Equivalency Degree, and

18 k. child care for other STARS recipients. The recipient  
19 must meet training and licensing requirements for  
20 child care providers as required by the Oklahoma Child  
21 Care Facilities Licensing Act;

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

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

4       7. For single-parent families, except for teen parents,  
5 educational activities, other than vocational-technical training, do  
6 not count toward meeting the required twenty (20) hours of work  
7 activity. For two-parent families, educational activities, except  
8 vocational-technical training, do not count toward meeting the  
9 required thirty-five (35) hours of work activity;

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

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

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

17       11. The following recipient resources are exempt from resource  
18 determination criteria:

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

22           b. individual development accounts established pursuant  
23 to the Family Savings Initiative Act, or individual  
24 development accounts established prior to November 1,

1 1998, pursuant to the provisions of Section 230.54 of  
2 this title in an amount not to exceed Two Thousand  
3 Dollars (\$2,000.00),

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

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

10 e. account balances and distributions from savings  
11 accounts established pursuant to the Oklahoma  
12 Achieving a Better Life Experience (ABLE) Savings Plan  
13 Act;

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

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

20 14. The Department shall, beginning November 1, 2012, screen  
21 all adult applicants for TANF to determine if they are engaged in  
22 the illegal use of a controlled substance or substances. If the  
23 Department has made a determination that the applicant is engaged in  
24 the illegal use of a controlled substance or substances, the



1 applicant's request for TANF cash benefits shall be denied. The  
2 Commission for Human Services shall adopt rules to implement the  
3 requirements of this paragraph consistent with the following:

- 4 a. the Department shall create a controlled substance  
5 screening process to be administered at the time of  
6 application. The process shall, at a minimum, include  
7 a Substance Abuse Subtle Screening Inventory (SASSI)  
8 or other similar screening methods. If necessary to  
9 establish a reasonable expectation of certainty, the  
10 Department is authorized to use further screening  
11 methods, which may include, but are not limited to, a  
12 clinical interview, consideration of the Department's  
13 history with the applicant, and an Addictions Severity  
14 Index (ASI). If the Department has reasonable cause  
15 to believe that the applicant is engaged in the  
16 illegal use of a controlled substance or substances,  
17 the Department is authorized, though not required, to  
18 request administration of a chemical drug test, such  
19 as urinalysis. The cost of all such initial  
20 screenings shall not be borne by the applicant,
- 21 b. if at any time during the controlled substance  
22 screening process, the applicant refuses to  
23 participate, that refusal shall lead to a denial of  
24 TANF benefits,

1           c.    if the Department, as the result of a controlled  
2                substance screening process, has determined that the  
3                applicant is engaged in the illegal use of a  
4                controlled substance or substances, the applicant's  
5                request for TANF cash benefits shall be denied,  
6                subject to the following:

7                (1)   if there has not already been a chemical drug  
8                      test administered as part of the controlled  
9                      substance screening process, the applicant may  
10                     submit proof of a negative chemical drug test  
11                     from a state-certified laboratory to challenge  
12                     the Department's finding that the applicant is  
13                     engaged in the illegal use of a controlled  
14                     substance or substances. Proof of the chemical  
15                     drug test must be submitted to the Department no  
16                     later than the tenth calendar day following  
17                     denial. If denial is communicated by mail, the  
18                     ~~ten (10) day~~ ten-day window begins on the day  
19                     after the date of mailing of the denial notice to  
20                     the applicant's last-known address. The denial  
21                     notice is considered to be mailed on the date  
22                     that appears on the notice, unless otherwise  
23                     indicated by the facts,

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

5 (a) if the applicant is denied due to the  
6 provisions of this paragraph, the Department  
7 shall provide a list of substance abuse  
8 treatment programs to the denied applicant,

9 (b) if an applicant has successfully complied  
10 with a recommended substance abuse treatment  
11 program after the date of denial, the  
12 applicant may be approved for cash benefits  
13 after six (6) months have passed since the  
14 date of denial, rather than the required one  
15 (1) year, and

16 (3) if an applicant has been denied TANF cash  
17 benefits two times due to the provisions of this  
18 subparagraph, the applicant shall be ineligible  
19 for TANF benefits for a period of three (3) years  
20 from the date of the second denial,

21 d. child-only cases and minor parents under eighteen (18)  
22 years of age are not subject to the provisions of this  
23 paragraph, and  
24

1           e.    in cases where the application for TANF benefits is  
2               not for child-only benefits, but there is not a parent  
3               who has been deemed eligible for cash benefits under  
4               the provisions of this paragraph, any cash benefits  
5               for which the dependent children of the family are  
6               still eligible shall not be affected and may be  
7               received and administered by an appropriate third  
8               party approved by the Department for the benefit of  
9               the members of the household;

10       15.   a.   As a condition of participating in the STARS, all  
11               recipients are deemed to have given authorization for  
12               the release of any and all information necessary to  
13               allow all state and federal agencies to meet the  
14               program needs of the recipient.

15           b.    The recipient shall be provided a release form to sign  
16               in order to obtain the required information. Failure  
17               to sign the release form may result in case closure;  
18               and

19       16.   The recipient shall comply with all other conditions and  
20       requirements of the STARS, and rules of the Commission promulgated  
21       pursuant thereto.

22       B.   1.   Agencies of this state involved in providing services to  
23       recipients pursuant to the STARS shall exchange information as  
24       necessary for each agency to accomplish objectives and fulfill

1 obligations created or imposed by the STARS and rules promulgated  
2 pursuant thereto.

3 2. Information received pursuant to the STARS shall be  
4 maintained by the applicable agency and, except as otherwise  
5 provided by this subsection, shall be disclosed only in accordance  
6 with any confidentiality provisions applicable to the agency  
7 originating the information.

8 3. The various agencies of the state shall execute operating  
9 agreements to facilitate information exchanges pursuant to the  
10 STARS.

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

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

14 2. Provide for the closure of the TANF case when the adult  
15 recipient refuses to cooperate with agreed-upon work activities or  
16 other case requirements pursuant to the TANF program;

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

19 4. Deny temporary assistance to fugitive felons.

20 D. In order to ensure that the needy citizens of this state are  
21 receiving necessary benefits, the Department shall maintain a  
22 listing of all recipients receiving public assistance. The listing  
23 shall reflect each recipient's income, Social Security number, and  
24 the programs in which the recipient is participating including, but

1 not limited to, TANF, food stamps, child care, and medical  
2 assistance.

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

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

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

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

13 As used in this act:

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

15 2. "ABLE account" means an individual trust account or savings  
16 account owned by the designated beneficiary of the account and  
17 established to pay qualified disability expenses as prescribed in  
18 this act. Money and assets in the accounts established under the  
19 Oklahoma ABLE Program or an ABLE Program in any other state shall  
20 not be considered for the purpose of determining eligibility to  
21 receive, or the amount of, any assistance or benefits from local or  
22 state means-tested programs;

23

24

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

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

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

9       6. "Designated beneficiary" means:

- 10       a. with respect to an account, the individual who is the  
11 owner of the ABLE account and who either established  
12 the account at a time when he or she was eligible or  
13 who has succeeded the former designated beneficiary in  
14 that capacity,
- 15       b. if the designated beneficiary is not able to exercise  
16 signature authority over his or her ABLE account or  
17 chooses to establish an ABLE account but not exercise  
18 signature authority, references to the designated  
19 beneficiary with respect to his or her actions include  
20 actions by the designated beneficiary's designated  
21 representative under a power of attorney or, if none,  
22 a parent or legal guardian of the designated  
23 beneficiary, and  
24

1           c.     in the case of a change in beneficiaries described in  
2                 subsection E of Section 6 of this act, the individual  
3                 who is the new beneficiary;

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

9           8.    "Disability certification" means, with respect to an  
10                individual, a certification by the individual or the parent or  
11                guardian of the individual that:

12           a.    the individual has a medically determinable physical  
13                 or mental impairment, which results in marked and  
14                 severe functional limitations, and which can be  
15                 expected to result in death or which has lasted or can  
16                 be expected to last for a continuous period of not  
17                 less than twelve (12) months, or is blind within the  
18                 meaning of Section 1614(a)(2) of the Social Security  
19                 Act, and

20           b.    a copy of the individual's diagnosis relating to the  
21                 individual's relevant impairment or impairments,  
22                 signed by a physician meeting the criteria of Section  
23                 1861(r)(1) of the Social Security Act, can be  
24                 provided;



1        9. "Eligible individual" means, for a taxable year, an  
2 individual who either:

3            a. is entitled during that taxable year to benefits based  
4                on blindness or disability under the Social Security  
5                Act, or

6            b. is the subject of a disability certification filed for  
7                such taxable year;

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

12        11. "Internal Revenue Code" means the Internal Revenue Code of  
13 1986, as amended;

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

16        13. "Qualified disability expenses" means any expenses related  
17 to the eligible individual's blindness or disability which are made  
18 for the benefit of an eligible individual who is the designated  
19 beneficiary, including education, housing, transportation,  
20 employment training and support, assistive technology and personal  
21 support services, health, prevention and wellness, financial  
22 management and administrative expenses, legal fees, expenses for  
23 oversight and monitoring, funeral and burial expenses and other  
24

1 expenses approved under Section 529A of the Internal Revenue Code;  
2 and

3 14. "Qualified withdrawal" means a withdrawal from an account  
4 to pay the qualified disability expenses of the designated  
5 beneficiary of the account, but only if the withdrawal is made in  
6 accordance with this act.

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

10 Subject to the availability of funding, the Oklahoma State  
11 Treasurer shall establish and administer the Oklahoma ABLE Savings  
12 Plan and in doing so, shall:

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

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

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

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

1        5. Interpret, in policies, guidelines and procedures, the  
2 provisions of the Oklahoma ABLE Savings Plan Act broadly in light of  
3 its purpose and objectives;

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

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

16        8. Develop procedures to assist in the administration and  
17 implementation of this act. Any guidelines or procedures affecting  
18 existing or potential participants in the Oklahoma ABLE Savings Plan  
19 may only be implemented after reasonable notice to the public and a  
20 public hearing in a manner similar to requirements of the  
21 Administrative Procedures Act.

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

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

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

12       C. The Treasurer may select as program depositories and  
13 managers, the financial institution or institutions from among  
14 bidding financial institutions that demonstrate the most  
15 advantageous combination, both to potential program participants and  
16 this state, of the following factors:

- 17       1. Financial stability and integrity;
- 18       2. The safety of the investment instruments being offered by  
19 the financial institution, taking into account any insurance  
20 provided with respect to these instruments;
- 21       3. The ability of the financial institution to ensure that the  
22 plan it offers tracks requirements of the Internal Revenue Code,  
23 regulations of the Internal Revenue Service, other pertinent federal  
24

1 and state laws and regulations, and rules and requirements of the  
2 Regents;

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

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

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

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

17 8. The minimum initial deposit and minimum contributions that  
18 the financial institution will require and the willingness of the  
19 financial institution to accept contributions through payroll  
20 deduction plans and other deposit plans; and

21 9. Any other benefits to this state or its residents included  
22 in the proposal, including an account opening fee payable to the  
23 Treasurer by the account owner and an additional fee from the  
24

1 financial institution for statewide program marketing by the  
2 Treasurer.

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

6 E. The Treasurer may determine a minimum term for contracts  
7 executed between the Treasurer and a financial institution pursuant  
8 to this section and shall establish procedures by which a contract  
9 may be renewed.

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

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

17 2. The Treasurer concludes that the choice of instrument  
18 vehicles is in the best interest of program participants and will  
19 not interfere with the promotion of the program.

20 G. A program manager shall:

21 1. Take all action required to keep the program in compliance  
22 with the requirements of this act and shall not take action contrary  
23 to this act or its contract to manage the program so that it is  
24

1 treated as a qualified plan under Section 529A of the Internal  
2 Revenue Code;

3 2. Keep adequate records of each account, keep each account  
4 segregated from each other account and provide the Treasurer with  
5 the information necessary to prepare statements required by federal  
6 and state law or regulation or file these statements on behalf of  
7 the Treasurer;

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

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

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

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

20 H. If a contract executed between the Treasurer and a financial  
21 institution pursuant to this section is not renewed, all of the  
22 following conditions apply at the end of the term of the nonrenewed  
23 contract:

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

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

4        3. No new accounts may be placed with that financial  
5 institution.

6        I. The Treasurer may terminate a contract with a financial  
7 institution at any time for good cause. If a contract is terminated  
8 pursuant to this section, the Treasurer shall take custody of  
9 accounts held at that financial institution and shall seek to  
10 promptly transfer the accounts to another financial institution that  
11 is selected as a program manager and into investment instruments as  
12 similar to the original investments as possible.

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

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

19        1. Completing an application in the form prescribed by the  
20 Treasurer;

21        2. Paying the one-time application fee established by the  
22 Treasurer;

23        3. Making the minimum contribution required by the Treasurer or  
24 by opening an account; and



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

3       B. Any person may make contributions to an account after the  
4 account is opened.

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

6       D. Account owners may withdraw all or part of the balance from  
7 an account on sixty (60) days' notice, or a shorter period as may be  
8 authorized by the Treasurer, under rules prescribed by the  
9 Treasurer. These rules shall include provisions that will generally  
10 enable the Treasurer or program manager to determine if a withdrawal  
11 is a nonqualified withdrawal or a qualified withdrawal. The rules  
12 may, but need not, require one or more of the following:

13       1. Account owners seeking to make a qualified withdrawal or  
14 other withdrawal that is not a nonqualified withdrawal shall provide  
15 certifications, copies of bills for qualified disability expenses or  
16 other supporting material; and

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

19       E. An account owner may change the designated beneficiary of an  
20 account to an individual as provided under Section 529A of the  
21 Internal Revenue Code.

22       F. An account owner may make the changes, transfers and  
23 withdrawals described in Section 529A of the Internal Revenue Code  
24 to an account that is owned by the account owner. If a change of

1 beneficiary or transfer causes the total account balance for all  
2 accounts under the program for the new beneficiary to exceed the  
3 maximum account balance limit, the excess amount shall be rejected  
4 and returned to the account owner as provided in Section 529A of the  
5 Internal Revenue Code.

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

8 H. Separate records and accounting shall be maintained for each  
9 account for each designated beneficiary.

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

13 J. If the Treasurer terminates the authority of a financial  
14 institution to hold accounts and accounts must be moved from that  
15 financial institution to another financial institution, the  
16 Treasurer shall select the financial institution and type of  
17 investment to which the balance of the account is moved unless the  
18 Internal Revenue Service provides guidance stating that allowing the  
19 account owner to select among several financial institutions that  
20 are then contractors would not cause a plan to cease to be a  
21 qualified state tuition plan.

22 K. No account owner may use an interest in an account as  
23 security for a loan. Any pledge of an interest in an account is of  
24 no force and effect.

1 L. The Treasurer shall adopt guidelines and procedures to  
2 prevent contributions on behalf of a designated beneficiary in  
3 excess of those allowed pursuant to Section 529A of the Internal  
4 Revenue Code to pay the qualified disability expenses of the  
5 designated beneficiaries.

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

10 N. The program manager shall make such reports with respect to  
11 contributions, distributions and other matters that the Treasurer  
12 may require pursuant to federal and state law reporting  
13 requirements. The statement shall identify the contributions made  
14 during a preceding twelve-month period, the total contributions made  
15 through the end of the period, the value of the account as of the  
16 end of this period, distributions made during this period and any  
17 other matters that the Treasurer requires be reported to the account  
18 owner.

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

22 Account balances and distributions from savings accounts  
23 established pursuant to the Oklahoma Achieving a Better Life  
24 Experience (ABLE) Savings Plan Act shall be exempt from levy and

1 sale, garnishment, attachment or any other process whatsoever, and  
2 shall be unassignable.

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

4 Passed the House of Representatives the 21st day of April, 2016.

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7 Presiding Officer of the House of  
8 Representatives

9 Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 2016.

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12 Presiding Officer of the Senate  
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