

RESOLUTION

Supporting Enhancements to the Stephen Beck Jr., Achieving a Better Life Experience (ABLE) Act (I.R.C. §529A)

- Whereas** State Treasurers, 529A Qualified ABLE Program Administrators, other state officials and program managers and other state officials are tasked with the development, implementation and oversight of ABLE programs, which provide important savings opportunities for individuals with disabilities and their families, allowing them to manage the additional expenses that accompany having a disability, to maintain health, independence and quality of life and to protect federal benefits; and
- Whereas** H. R. 1, which was signed into law on December 22, 2017, adopted the provisions of the ABLE Financial Planning Act (allowing rollovers from 529 college savings accounts to ABLE accounts and making ABLE contributions eligible for the federal Savers' credit) and the ABLE to Work Act (allowing individuals with disabilities with earned income to make increased ABLE contributions), both of which NAST supported and worked to implement; and
- Whereas** the ABLE Age Adjustment Act would raise the age of onset of disability from 26 to 46 enabling individuals who acquire a disability after age 26 to open ABLE accounts; and
- Whereas** the ABLE Act would benefit from additional enhancements to (i) eliminate obstacles to opening and saving in ABLE accounts and (ii) increase the breadth and reach of ABLE accounts, with minimal or insignificant cost to the federal government, as follows:
1. **Eliminate the Medicaid payback provision from § 529A.** The onerous Medicaid payback provisions are a significant barrier to individuals utilizing an ABLE account. Several states have passed or are considering legislation, unless prohibited by federal law, which prohibits or prevents state Medicaid offices from seeking recovery under § 529A; however, that leaves inconsistent treatment across the country.
 2. **Increase or eliminate the annual contribution limit and allow 5-year advance payment option.** Treating ABLE accounts in a manner similar to 529 college savings accounts will enhance the usefulness of ABLE programs and recognize the significant, ongoing need for resources for many with disabilities.
 3. **Allow lump sum contributions in excess of the annual contribution limit in cases of structured settlements and annuities, insurance settlements, court-ordered judgments/settlements, inheritances, early retirement payouts related to a disability and back pay from the Social Security**

Administration). This commonsense change will enhance the usefulness of ABLE programs in stabilizing the financial circumstances of individuals with disabilities and their families and avoid more complex and expensive arrangements to address these situations.

4. **Allow multiple accounts for the benefit of the same beneficiary, similar to 529 college savings accounts, and eliminate the requirement that the account owner and beneficiary be the same person.** These changes would provide added flexibility and eliminate administrative burdens related to opening, funding and maintaining ABLE accounts. The current provision fails to recognize familial barriers to saving in a single account and the unintended consequence of allowing a competent 18-year-old to acquire control of a custodial account.
5. **Make permanent the ABLE Financial Planning Act provision and the ABLE to Work Act provision of the Tax Cuts and Jobs Act.** Currently, these provisions will sunset on January 1, 2026, which creates uncertainty and confusion for ABLE account owners and interested ABLE eligible individuals in knowing how their account will be impacted by future changes to the law. By making these provisions permanent, Congress will be affirming to ABLE account owners and those interested in ABLE accounts that they can continue to use ABLE to meet their savings goals.
6. **Allow greater flexibility in ABLE accounts for beneficiaries with a spouse, either by allowing the account to be rolled over to a spouse with a disability and/or by allowing joint ABLE account ownership for married couples with disabilities (with an annual contribution limit of twice the annual contribution limit).** Currently only one individual may be the account owner and the beneficiary and the definition of family in § 529A is limited to siblings. Adopting the definition of member of the family from § 529 would address the first part of this item.
7. **Clarify that use of a checking account option in an ABLE account is not considered investment direction within the meaning of § 529A.** The transactional nature of ABLE accounts, with individuals using their accounts both for short, mid and long term savings goals AND for monthly expenses related to their disability requires the encouragement of allowing free use of both investment options and a user-friendly checking account within an ABLE account.

NOW, THEREFORE BE IT RESOLVED, that the National Association of State Treasurers urge the President and the Congress of the United States to pass the ABLE Age Adjustment Act, [HR1219 / S331](#), (or substantially similar bills in subsequent Congresses) and the other ABLE plan enhancements described above in a timely manner to enhance and expand opportunities for individuals with disabilities and their families to save for their future needs in ABLE programs.

Approved for renewal this 20th Day of September 2021, by the National Association of State Treasurers. Originally approved in 2018.