

RESOLUTION

Supporting Enhancements to the Stephen Beck Jr., Achieving a Better Life Experience (ABLE) Act

Whereas ABLE Programs created under § 529A of the Internal Revenue Code (the ABLE Act) provide important savings opportunities for individuals with disabilities and their families, allowing them to maintain health, independence, and quality of life without jeopardizing federal benefits; and

Whereas ABLE Programs are established and maintained by States, or agencies or instrumentalities of states, who are tasked with the development, implementation, and oversight of ABLE Programs; and

Whereas H. R. 1, the Tax Cuts and Jobs Act, 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 the ABLE to Work Act (allowing individuals with disabilities with earned income to make increased ABLE contributions and making ABLE contributions eligible for the federal Saver's Credit), both of which NAST supported and worked to implement; and

Whereas the provisions of the ABLE Financial Planning Act and the ABLE to Work Act incorporated into the Tax Cuts and Jobs Act are set to expire on January 1, 2026; and

Whereas the ABLE Act would benefit from making permanent the provisions of the Tax Cuts and Jobs Act and from additional enhancements to (i) eliminate obstacles to opening and saving in ABLE accounts, and (ii) increase the breadth and reach of ABLE accounts, including the following:

1. **Make all of the following policies a part of permanent legislation: ABLE to Work Contributions, Saver's Credit for ABLE, and 529-to-ABLE rollovers.** Currently, these provisions are part of temporary legislation that will sunset on January 1, 2026, removing key tax incentives and creating confusion for ABLE account owners. By making these policies permanent, Congress will continue to incentivize workplace savings and provide flexibility for families whose higher education plans have changed.
2. **Exempt ABLE accounts and balances from Medicaid recovery.** The burdensome threat of Medicaid recovery is a significant barrier to the utilization of ABLE accounts, often deterring individuals and their families from opening an ABLE account. Several states have passed legislation to

prevent state Medicaid offices from seeking recovery under § 529A; however, this leaves inconsistent recovery standards across the country. Federal legislation to fully exempt ABLÉ account balances from Medicaid recovery, including under § 529A, would effectively cure this concern among ABLÉ account owners and reduce administrative burden on state administrators and program managers.

3. **Address Medicaid recovery statute-of-limitations issues.** Until Medicaid recovery is removed, inconsistencies in applicable statutes of limitations (or, in some cases, the total lack of any State statute of limitations) on distributions after death should be addressed through regulation. ABLÉ Programs must wait to distribute funds until the applicable Medicaid recovery statute of limitations has passed, but there is no clear standard for such statute of limitations, hindering distributions. A unified distribution period will greatly reduce administrative burdens and uncertainty for state administrators, program managers, and families until such time as accounts are exempt from Medicaid recovery.
4. **Make ABLÉ programs more useful by allowing eligible individuals to save more money.** This goal could be achieved through many different means, including easing or eliminating contribution limits, allowing for multiple ABLÉ accounts, and allowing for lump-sum contributions related to insurance settlements and inheritances, or easing income-counting rules for ABLÉ contributions, for example. Current § 529A restrictions on establishing and contributing to an ABLÉ account artificially prevent account owners from saving to their full potential and create unnecessary and costly operational challenges for program administrators. Allowing more savings is a commonsense change that would put ABLÉ accounts on par with their sister accounts under § 529. It also frees individuals and families from having to pursue more complex and expensive legal arrangements.
5. **Allow employers to contribute to an employee's ABLÉ account in lieu of contributions to an employer-sponsored retirement plan and exempt these contributions from benefits income-counting rules.** People with disabilities who receive means-tested benefits are disincentivized from participating in workplace retirement plans, and associated benefits, like matching contributions from an employer. Congress has already recognized that ABLÉ plans serve as a workplace savings solution for employees with disabilities and employers. Allowing employers to match an employee's payroll contribution into an ABLÉ account, without these contributions affecting income limits for benefits programs, aligns with the workplace savings options available to other employees and helps close the growing retirement gap for a vulnerable population.
6. **Engage the Social Security Administration as a key partner to increase awareness of ABLÉ accounts.** The existence of ABLÉ programs and their intersectionality with SSA benefits programs makes collaboration between

the SSA and ABLE Programs essential. A working partnership will ensure that SSA policy related to ABLE is updated regularly; that field staff are trained to disseminate accurate information about ABLE accounts to SSA beneficiaries; and that other SSA staff (including Administrative Judges) involved in determinations and appeals properly consider ABLE accounts in their judgments. These efforts will curb misinformation that creates unwarranted fear of ABLE accounts among those receiving SSA benefits.

7. **Conduct outreach to Department of the Treasury to confirm standards for post-death payments.** Currently, federal regulations do not contain clear direction for how to categorize and report post-death distribution of funds to an account owner's estate. This lack of clarity produces confusion for families (who are seeking to avoid unintended tax penalties) and program administrators.
8. **Build relationships with other federal agencies, including HUD, DOL, and the VA.** Dissemination of accurate information by federal agencies is critical to the success and reputation of ABLE programs. Yet agencies often lack awareness and training on ABLE rules and application. Establishing relationships with federal benefits agencies will help provide training and awareness to individuals who are in a position to make benefits determinations, as well as increase general awareness amongst ABLE-eligible populations.

NOW, THEREFORE BE IT RESOLVED, that the National Association of State Treasurers and the ABLE Savings Plans Network urge the President and the Congress of the United States to implement and assist with the ABLE 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.

*This resolution shall remain in effect until amended or rescinded.