



State of Rhode Island  
Office of the General Treasurer

**James A. Diossa**  
General Treasurer

30 April 2025

The Honorable Marvin Abney  
Chair, House Committee on Finance

The Honorable Members of the House Committee on Finance

**RE:** 2025-H 5973, *An Act Relating to State Affairs and Government – Office of Health and Human Services*

Chair Abney:

I write in strong support of 2025-H 5973, introduced by Representative Cortvriend at my request. **This bill would repeal a payback provision that has remained *unused* since 2016 but has materially chilled savings through the Rhode Island Achieving a Better Life Experience (“ABLE”) Program.** Should this bill pass, funds saved through an ABLE account would remain with the heirs of a disabled Rhode Islander following their death, rather than be subject to potential state clawback. Currently, at least fourteen states<sup>1</sup> have prohibited the practice of Medicaid clawback, reassuring those with disabilities and their families the hard-earned money they save will remain theirs.

First enacted in 2015, the ABLE Act was intended to ease financial strains faced by individuals with disabilities<sup>2</sup> by making tax-free savings accounts available for qualified disability expenses.<sup>3</sup> R.I. Gen. Laws § 42-7.2-20.1. Through this account, a qualified beneficiary can deposit funds, receive third-party contributions, and accrue savings without impacting eligibility for state and federal public assistance programs.<sup>4</sup> See R.I. Gen. Laws § 42-7.2-20.7. Living with a disability –

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<sup>1</sup> Including Arkansas, California, Delaware, Florida, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Nebraska, Pennsylvania, Tennessee, and Virginia.

<sup>2</sup> An individual is considered “disabled” under the ABLE Act if the individual is entitled to benefits based on blindness or disability under the Social Security Act or have a disability certification filed with the federal Secretary of Treasury and the disability manifested itself before age 46. See R.I. Gen. Laws § 42-7.2-20.2 (7) (adopting the definition under 26 U.S.C. § 529A).

<sup>3</sup> Qualified disability expenses can include education, housing, transportation, employment training and support, assistive technology, health, prevention and wellness, financial management and administrative services, legal fees, expenses for ABLE account oversight and monitoring, funeral and burial, and basic living expenses. See R.I. Gen. Laws § 42-7.2-20.1 (3).

<sup>4</sup> Across Rhode Island, thousands of disabled individuals and their families depend on public benefits for income, health care, food, and housing assistance. However, eligibility for these public benefits (such as Supplemental Security

or caring for one with a disability – can be quite expensive. Proper healthcare, housing, education, and assistive technologies all come with a cost that families and those with disabilities must cover.

**However, ABLE enrollment is stunted by an unused discretionary power.** Under current law, the state is considered a “creditor of [an ABLE] account in the event of the death of the designated beneficiary.” R.I. Gen. Laws § 42-7.2-20.8. This provision allows the state to seek repayment for certain expenditures the state made on behalf of a disabled Rhode Islander during their lifetime from an ABLE account. This is commonly referred to as a Medicaid “clawback” or “payback” provision. If the state exercises this discretionary power, the decedent’s heirs only receive assets after funeral costs have been paid and the state has recollected its share of remaining account assets.

**This legislation will not have a measurable fiscal impact, if any at all.** With about 720 accounts across the state, the average ABLE account in Rhode Island has just over \$8,000 in savings. Federal law also limits annual contributions to ABLE accounts to just \$19,000. These are not simply high dollar accounts from which the state could seek recovery.

**Indeed, the state has *never* exercised this discretionary power in the decade since this program was first created and therefore has never reaped any financial benefit from retaining the authority to seek repayment.** Further, disabled Rhode Islanders and their families – apprehensive that the state *could* seek repayment – often turn to alternative savings vehicles like trusts. But in many circumstances, trusts and other alternatives are less advantageous than the benefits afforded by an ABLE account. For example, a trust may be considered an asset under means/resource tests for benefit eligibility, requires an attorney to create, and is considerably less liquid than an ABLE account. **And if those that are otherwise eligible for ABLE *do not* enroll and save through the program, the state is not realizing a material fiscal benefit anyway.**

This would not create a loophole that is potentially be subject to abuse. **ABLE withdrawals for non-qualified ABLE expenses are subject to a 10% federal tax penalty and applicable state taxes (such as those by a family member following the death of the account beneficiary).** As such, there are sufficient guardrails already in place to ensure individuals do not secrete funds through ABLE.

If you have any further questions, please do not hesitate to reach out to me directly or to my Director of Policy and Intergovernmental Affairs, Robert Craven, Jr., at [Robert.CravenJr@treasury.ri.gov](mailto:Robert.CravenJr@treasury.ri.gov).

Respectfully,



James A. Diossa  
General Treasurer

cc: The Honorable Terri Cortvriend

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Income, the Supplemental Nutrition Assistance Program, and Medicaid) generally depends on a means/resource test that restricts eligibility to individuals with less than \$2,000 in liquid assets, including savings.