



State of Rhode Island
Office of the General Treasurer

James A. Diossa
General Treasurer

12 May 2026

The Honorable Marvin Abney
Chair, House Committee on Finance

The Honorable Members of the House Committee on Finance

RE: 2026-H 8184, *An Act Relating to State Affairs and Government – Office of Health and Human Services*

Chair Abney:

I write in strong support of 2026-H 8184, which would repeal a discretionary payback provision that has remained *unused* since 2016 but has materially stunted enrollment in Rhode Island’s Achieving a Better Life Experience (“ABLE”) Program. This legislation would ensure that funds saved through an ABLE account would remain with the heirs of a disabled Rhode Islander following their death, rather than be subject to a state clawback provision. **Rhode Island would join at least *nineteen* states¹ that have already prohibited this practice, providing disabled residents and their families the assurance that the money they save will remain theirs.**

First enacted in 2015, the ABLE Act was intended to ease financial burdens faced by individuals with disabilities² by providing access to tax-free savings accounts available for qualified disability expenses.³ R.I. Gen. Laws § 42-7.2-20.1. A qualified beneficiary may deposit funds, receive third-party contributions, and accumulate savings without affecting eligibility for means-tested public assistance programs. *See* R.I. Gen. Laws § 42-7.2-20.7. Living with a disability – or caring for

¹ Including [Alabama](#), Arkansas (Ark. Code Ann. § 20-3-109), California (Cal. Welf. & Inst. Code § 4885(b)), Delaware (Del. Code tit. 16, § 9607A), Florida (Fla. Stat. Ann. § 1009.986), Illinois (Ill. Comp. Stat. 505/16.6 (o)), Iowa (Iowa Code § 249A.53), Kansas (Kan. Stat. § 75-655), Kentucky, Louisiana (La. Stat. § 17:3088.1), Maine (Me. Rev. Stat. tit. 5, § 156), Maryland (Md. Code, Educ. § 18-19C-10), Mississippi (Miss. Code § 43-28-23), Nebraska (Neb. Rev. Stat. § 77-1403), North Carolina (N.C. Gen. Stat. § 147-86.73), Oregon (Or. Rev. Stat. § 178.380), Pennsylvania (Pa. Stat. § 4666.503), Tennessee (Tenn. Code § 71-4-813), and Virginia (Va. Code § 23.1-707).

² 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).

³ 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).

someone who does – can be quite expensive. Healthcare, housing, education, and assistive technologies represent significant and ongoing costs that individuals and families must bear, often with limited financial resources.

Under current Rhode Island law, the state is a “creditor of [an ABLÉ] account in the event of the death of the designated beneficiary.” R.I. Gen. Laws § 42-7.2-20.8. This provision authorizes the state to seek reimbursement from an ABLÉ account for Medicaid expenditures made on the beneficiary’s behalf during their lifetime – commonly referred to as a Medicaid “clawback” or “payback” provision. Were the state to exercise this discretionary authority, the decedent’s heirs would only receive remaining account assets after state and federal reimbursement claims have been satisfied

In the decade since the General Assembly established the ABLÉ program, the state has *never* exercised this authority and has therefore derived no financial benefit from retaining the ability to seek repayment. Nevertheless, the mere existence of the clawback provision has had a measurable chilling effect on enrollment. Apprehensive that the state *could* seek repayment, families have increasingly turned to alternative savings vehicles – most notably special needs trusts. These alternatives may be considered an asset under certain means-tested benefit programs, require an attorney to create, and are considerably less liquid than an ABLÉ account. **But special needs trusts do not have an analogous payback requirement, meaning that when eligible individuals forgo ABLÉ accounts in favor of these alternatives, the state loses any theoretical recovery interest it might otherwise have had.**

This legislation will not eliminate a material funding source and will not create a loophole that would be subject to abuse. Rhode Island currently has about 780 active ABLÉ accounts, with an average balance of under \$11,000 – these are modest savings accounts, not vehicles for significant asset accumulation. Federal law further limits ABLÉ contributions to \$19,000 per year and imposes a 10% penalty on non-qualified withdrawals (such as those by a family member following the death of the account beneficiary).

Repealing the clawback provision would cost the state nothing that it has ever collected, while meaningfully expanding access to a program that serves some of our state’s most vulnerable residents.

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.

Respectfully,



James A. Diossa
General Treasurer

cc: The Honorable Terri Cortvriend