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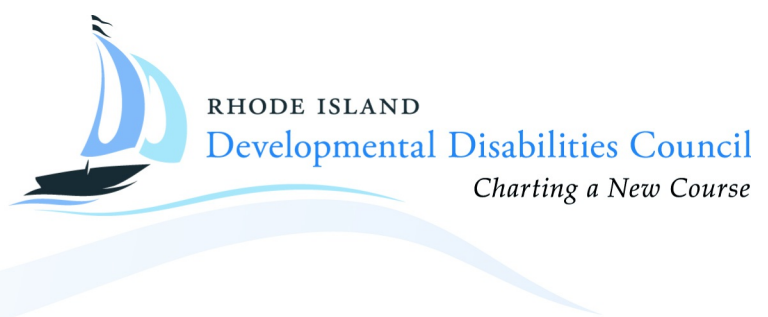
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May 26, 2026

**RE: Senate Bill 2091 – An Act Relating To Human Services – Public Assistance Act**

Chair DiPalma and members of the Senate Committee on Finance,

I write to urge the Senate Committee on Finance to give strong consideration to Chair LaMountain's Senate Bill 2091. 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 claw back.

Currently, at least fourteen states have prohibited the practice of Medicaid claw back, 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 by making tax-free savings accounts available for qualified disability expenses. 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. Living with a disability – 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." 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 "claw back" 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 recouped its share of remaining account assets. This legislation will not have a measurable fiscal impact, if any at all.

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.

Furthermore, 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, if not specifically written to avoid it, 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 subject to abuse. ABLE withdrawals for non-qualified ABLE expenses are subject to a 10% federal tax penalty and applicable state taxes.

If you have any questions or concerns, please contact me at any time at 401.737.1238 or [keyinnerney@riddc.org](mailto:keyinnerney@riddc.org).

A handwritten signature in black ink, appearing to read 'Kevin Nerney', written over a light blue horizontal line.

Kevin Nerney  
Rhode Island Developmental Disabilities Council