



## RESOLUTION

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

**Whereas** State Treasurers, 529 Qualified Tuition Program administrators 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, and to maintain health, independence and quality of life; 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 ([HR 1874/S 817](#)) would raise the age of onset of disability from 26 to 46 enabling individuals who become disabled 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 which prohibits state Medicaid offices from seeking recovery under § 529A; however, that leaves inconsistent treatment across the country.
2. **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.

3. **Increase or eliminate the annual contribution limit; 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.
4. **Allow lump sum contributions (up to the maximum contribution amount) in certain circumstances (including insurance settlements, court-ordered judgments, inheritances and early retirement payouts related to a disability).** This common sense 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.
5. **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.
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.

**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, [HR1874/S817](#), (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 this 5<sup>th</sup> Day of February 2018, by the  
National Association of State Treasurers



Hon. Elizabeth Pearce  
NAST President & Vermont State Treasurer