

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

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Legislative Document

No. 1637

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S.P. 526

In Senate, April 25, 2019

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**An Act To Prevent Medicaid Payment from a Savings Account  
Established under the Federal ABLÉ Act of 2014**

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Submitted by the Treasurer of State pursuant to Joint Rule 204.  
Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator LIBBY of Androscoggin.  
Cosponsored by Representative RILEY of Jay and  
Representatives: BRYANT of Windham, FAY of Raymond, KESCHL of Belgrade,  
MADIGAN of Waterville, McLEAN of Gorham.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 5 MRSA §156**, as enacted by PL 2017, c. 394, §1, is amended to read:

3 **§156. Authorization to establish program; payments for MaineCare benefits**  
4 **prohibited**

5 The Treasurer of State is authorized to establish in this State the ABLE ME Savings  
6 Program, referred to in this section as "the program," to allow an individual with a  
7 disability to establish a federal tax-advantaged savings account and use the funds in that  
8 account to pay for the individual's care. The program must comply with the requirements  
9 of the federal Achieving a Better Life Experience Act of 2014, Public Law 113-295.

10 The State, or any agency or instrumentality of the State, may not seek payment under  
11 the federal Internal Revenue Code, 26 United States Code, Section 529A from an  
12 account, or its proceeds, that is established under a qualified ABLE program for  
13 MaineCare benefits provided to a designated beneficiary, unless otherwise required by  
14 the United States Social Security Act, 42 United States Code, Section 1396p(b).

15 Funds held in an account established under a qualified ABLE program that complies  
16 with the requirements of the federal Achieving a Better Life Experience Act of 2014,  
17 Public Law 113-295 or distributed for the purposes of paying qualified expenses must be  
18 disregarded when determining the designated beneficiary's eligibility for any  
19 means-tested public assistance program.

20 The Treasurer of State may adopt routine technical rules pursuant to chapter 375,  
21 subchapter 2-A to implement the provisions of this section, including all terms and  
22 conditions of the program.

23 **Sec. 2. 36 MRSA §5122, sub-§2, ¶QQ** is enacted to read:

24 QQ. For tax years beginning on or after January 1, 2020, any earnings on funds in an  
25 account established under a qualified ABLE program that complies with the  
26 requirements of the federal Achieving a Better Life Experience Act of 2014, Public  
27 Law 113-295.

28 **SUMMARY**

29 This bill:

30 1. Prohibits the State, or any agency or instrumentality of the State, from seeking  
31 payment from an ABLE account or its proceeds for MaineCare benefits provided to a  
32 beneficiary, unless otherwise required by federal law;

33 2. Provides that funds held in an ABLE account must be disregarded when  
34 determining the designated beneficiary's eligibility for any means-tested public assistance  
35 program; and

1           3. Provides that earnings on funds held in an ABLÉ account are exempt from  
2 taxation by the State.