FISCAL IMPACT REPORT

SPONSOR	Thomson	**LAST UPDATED**	
		ORIGINAL DATE	1/24/24
SHORT TITLE	Accounts for Disabled Eligibility	**BILL NUMBER**	House Bill 98
		ANALYST	Chenier

REVENUE*
(dollars in thousands)

Type	FY24	FY25	FY26	FY27	FY28	Recurring or Nonrecurring	Fund Affected
		Indeterminate but Minimal				Recurring	General Fund through PIT
		Indeterminate but Minimal				Recurring	Estate Recovery Funds

Parentheses ( ) indicate revenue decreases.
*Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
Commission for the Blind (CFB)
Health Care Authority (HCA)
Developmental Disabilities Council (DDC)

SUMMARY

Synopsis of House Bill 98

House Bill 98 raises the age of individuals with disabilities eligible for "achieving a better life experience" (ABLE) accounts from 26 to 46 on January 1, 2026. ABLE accounts are federally created tax-advantaged savings accounts for those with disabilities and their families. The age is in reference to when blindness or disability occurred for an "eligible person." The change in the age in the definition of an "eligible person" in the bill has an effective date of January 1, 2026.

In addition, the bill would prevent the state from seeking estate recovery payments from an account or its proceeds for benefits provided to the beneficiary of the account. Section 2 changes have an effective date of July 1, 2024.

FISCAL IMPLICATIONS

HCA notes making more individuals eligible for ABLE accounts could, in turn, make more individuals eligible for Medicaid, raising the costs of the Medicaid program. In addition, the provision prohibiting the state from pursuing Medicaid estate recovery on ABLE accounts means the federal and state government would recover less Medicaid monies through its estate recovery program because Medicaid is a joint federal and state funded program. The Developmental Disabilities Council (DDC) said expansion of ABLE account eligibility may decrease the need for publicly funded guardians serving Office of Guardianship clients. Allowing individuals with disabilities to exercise financial independence while protecting Medicaid coverage should keep them out of state-funded guardianship, a last resort for people who require decision-making support and have no other resources.

SIGNIFICANT ISSUES

Current Medicaid policy does not exclude ABLE accounts from estate recovery. The current policy mirrors the federal definition of estate, which is the "real and personal property and other assets of an individual." ABLE accounts are included in policy as part of "other assets."

DDC said this bill would align New Mexico law with federal law and allow families to plan financially before the ABLE expansion in 2026. ABLE accounts enable eligible New Mexicans to save for disability-related expenses by putting money in tax-advantaged investments while protecting their eligibility for means-tested public benefits programs. After-tax contributions allow earnings to grow tax-deferred, and withdrawals, when used for a broad range of qualified disability expenses, are federal and state tax-free. In 2022, President Joe Biden signed the ABLE Age Adjustment Act, raising the age of onset of disability from age 26 to age 46, beginning January 1, 2026. Expanding eligibility for ABLE accounts in New Mexico would ensure that veterans and other individuals who become disabled later in life will have access to these accounts. The State Treasurer believes this expansion will make an additional 6 million to 8 million Americans eligible for ABLE programs nationwide, including 1 million military veterans.

CFB provided the following:

> The Commission for the Blind, as a federally funded vocational rehabilitation agency, should see a small but significant increase in the number of clients who are willing to engage in work activity due to the expanded age range and the ability to place earnings into an ABLE account. This should ultimately increase the number of Commission for the Blind Consumers who are successfully placed in competitive and integrated employment, and who ultimately exit entirely from federal benefit programs such as Supplemental Security Income (SSI), Social Security Disability Insurance (SSDI), Medicaid, and Medicare. This also has the potential to increase the program income earned by the Commission for the Blind.

ADMINISTRATIVE IMPLICATIONS

The state Medicaid agency would need to submit a state plan amendment (SPA) to the federal Centers for Medicare and Medicaid Services (CMS) requesting exclusion of ABLE accounts from estate recovery.

EC/al/hg