

# Union Calendar No. 456

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 647

**[Report No. 113–614, Part I]**

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2013

Mr. CRENSHAW (for himself, Mr. VAN HOLLEN, Mrs. McMORRIS RODGERS, Mr. SESSIONS, Mr. RUNYAN, Mr. MICA, Ms. TSONGAS, Mr. COFFMAN, Mr. ROE of Tennessee, Mr. COOPER, Mr. MORAN, Mr. HARPER, Mr. CONNOLLY, Mr. SARBANES, Ms. CLARKE, Mr. LARSEN of Washington, Mr. GERLACH, Mr. LARSON of Connecticut, Mr. CARSON of Indiana, Mr. TONKO, Mr. CICILLINE, Mr. RYAN of Ohio, Mr. YOUNG of Florida, Mr. HOLT, Mrs. CAPPS, Mr. BACHUS, Mr. MCGOVERN, Ms. BONAMICI, Mr. MATHESON, Mr. MILLER of Florida, Mr. NUNNELEE, Mr. STIVERS, Mr. WOMACK, Ms. HERRERA BEUTLER, Mr. JOHNSON of Ohio, Mrs. DAVIS of California, Mr. COURTNEY, Mr. KING of New York, Mrs. HARTZLER, Mr. MCKINLEY, Mr. SMITH of New Jersey, Mr. VELA, Mr. WOLF, Mrs. CAPITO, Mr. YARMUTH, Ms. BROWNLEY of California, Mr. YODER, Mr. ROONEY, Mr. MARCHANT, Mrs. BROOKS of Indiana, Ms. NORTON, Mrs. BACHMANN, Mr. HONDA, Mr. MEEHAN, Mr. BENISHEK, Mr. POE of Texas, Mr. WELCH, Mr. WALBERG, and Mr. DEUTCH) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

NOVEMBER 12, 2014

Additional sponsors: Ms. ROS-LEHTINEN, Mr. HASTINGS of Florida, Mr. MEADOWS, Mr. SCHIFF, Mr. CAPUANO, Ms. DUCKWORTH, Mr. WEBSTER of Florida, Mr. KEATING, Mr. BARLETTA, Mr. HIMES, Mr. LANGEVIN, Mr. PAYNE, Mr. DIAZ-BALART, Mr. HANNA, Ms. PINGREE of Maine, Mr. POSEY, Mr. BRADY of Pennsylvania, Mr. CLAY, Mr. LOEBSACK, Mr.

MARKEY, Mrs. ROBY, Ms. DELAURO, Mr. PRICE of North Carolina, Mr. MICHAUD, Mr. COHEN, Mr. LIPINSKI, Mr. KENNEDY, Ms. BROWN of Florida, Mr. CASTRO of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MESSER, Mr. WENSTRUP, Mr. CARNEY, Mr. MCCAUL, Mr. PEARCE, Mr. GALLEG0, Mr. CÁRDENAS, Mr. BUCSHON, Mr. YOHO, Ms. LOFGREN, Mrs. MCCARTHY of New York, Mr. MASSIE, Mr. AL GREEN of Texas, Mr. BARBER, Mr. CHABOT, Mr. POCAN, Mr. GARDNER, Mr. TIERNEY, Mr. O'ROURKE, Mr. CULBERSON, Ms. CASTOR of Florida, Mr. GRAVES of Missouri, Mr. VEASEY, Mr. HALL, Ms. WASSERMAN SCHULTZ, Mr. CRAWFORD, Mr. DELANEY, Mrs. BLACKBURN, Mr. YOUNG of Alaska, Mr. TURNER, Mr. RICHMOND, Mr. LYNCH, Mr. COLE, Mr. LOWENTHAL, Mr. THOMPSON of California, Mr. GOODLATTE, Mr. WILSON of South Carolina, Mr. KLINE, Mrs. NOEM, Mr. ANDREWS, Mr. FITZPATRICK, Mr. STUTZMAN, Mr. FINCHER, Mr. BENTIVOLIO, Ms. MOORE, Ms. SCHAKOWSKY, Mr. RUPPERSBERGER, Mr. HULTGREN, Ms. ESTY, Mr. BUTTERFIELD, Mr. LATTA, Mr. CALVERT, Mr. CUMMINGS, Mr. RAHALL, Mr. GIBSON, Mr. ROGERS of Alabama, Ms. KUSTER, Mr. BRALEY of Iowa, Mr. LUETKEMEYER, Ms. DELBENE, Mr. PETERS of Michigan, Mr. PERLMUTTER, Mr. DUFFY, Mr. MURPHY of Pennsylvania, Ms. FRANKEL of Florida, Mr. SCHNEIDER, Mr. COTTON, Mr. ROGERS of Kentucky, Ms. SHEA-PORTER, Mr. RIBBLE, Mrs. LOWEY, Mr. GIBBS, Ms. MCCOLLUM, Mr. PALLONE, Mr. BEN RAY LUJÁN of New Mexico, Mr. PAULSEN, Mrs. BEATTY, Mr. BONNER, Mr. SIRES, Mr. RODNEY DAVIS of Illinois, Mr. HUIZENGA of Michigan, Mr. CUELLAR, Mr. SALMON, Ms. EDWARDS, Mr. CASSIDY, Mr. SOUTHERLAND, Mr. WALZ, Mr. NADLER, Mr. DOYLE, Mr. BLUMENAUER, Mrs. CAROLYN B. MALONEY of New York, Ms. SPEIER, Mr. DOGGETT, Ms. MICHELLE LUJAN GRISHAM of New Mexico, Mr. SCHOCK, Ms. ROYBAL-ALLARD, Mr. BILIRAKIS, Mr. LATHAM, Mr. WITTMAN, Mr. DEFazio, Mr. GRIFFIN of Arkansas, Mrs. ELLMERS, Mr. ROTHFUS, Mr. SENSENBRENNER, Ms. WATERS, Ms. KAPTUR, Mr. THOMPSON of Pennsylvania, Mr. JONES, Mr. LANCE, Mr. MCINTYRE, Mr. FORBES, Mr. OWENS, Mr. AMODEI, Mr. BARR, Ms. TITUS, Mr. PALAZZO, Mr. GRIFFITH of Virginia, Mr. SCHWEIKERT, Ms. WILSON of Florida, Mr. DAVID SCOTT of Georgia, Mr. ROKITA, Mr. NUGENT, Mr. POLIS, Mr. ROSS, Mr. RIGELL, Mr. WALDEN, Mr. DENT, Mr. GRAYSON, Mr. LAMALFA, Mr. BISHOP of Utah, Mr. BUCHANAN, Mr. BISHOP of Georgia, Mrs. KIRKPATRICK, Mr. CARTER, Ms. SEWELL of Alabama, Mr. WHITFIELD, Mr. SMITH of Texas, Mr. HOLDING, Mr. FORTENBERRY, Mr. NEUGEBAUER, Mr. SIMPSON, Mr. TERRY, Mr. DESANTIS, Mr. RADEL, Mr. PITTENGER, Mr. FARENTHOLD, Mr. PASCRELL, Mrs. MILLER of Michigan, Mr. JOHNSON of Georgia, Ms. FUDGE, Mr. MCDERMOTT, Mr. NEAL, Ms. GRANGER, Mr. BISHOP of New York, Mr. FRANKS of Arizona, Mr. CLEAVER, Mr. MEEKS, Mr. LEWIS, Mr. JOYCE, Mr. COBLE, Mr. VISCLOSKY, Mr. HORSFORD, Mr. FARR, Mr. VARGAS, Ms. LEE of California, Mr. CRAMER, Mr. KINZINGER of Illinois, Mr. PETERSON, Ms. ESHOO, Mr. PETERS of California, Mr. NUNES, Mr. MAFFEI, Mr. BERA of California, Mr. HUFFMAN, Ms. LINDA T. SÁNCHEZ of California, Ms. SINEMA, Mr. RICE of South Carolina, Mr. ELLISON, Mr. MURPHY of Florida, Mr. COOK, Mr. JEFFRIES, Ms. HAHN, Mr. NOLAN, Mr. TAKANO, Mr. RUIZ, Mr. SCHRADER, Mr. GUTHRIE, Mr. HUDSON, Mr. LONG, Mr. TIPTON, Mr. ENGEL, Ms. BASS, Mr. GARCIA,

Mr. ENYART, Mr. SHERMAN, Mr. SERRANO, Mr. OLSON, Mr. JORDAN, Mr. HECK of Nevada, Mrs. WALORSKI, Mr. BROUN of Georgia, Mr. GINGREY of Georgia, Mr. ROYCE, Mr. MCHENRY, Mr. CONAWAY, Mr. CONYERS, Mrs. WAGNER, Mr. FLEMING, Mr. GRIMM, Mr. STOCKMAN, Mr. ISRAEL, Mr. LOBIONDO, Mr. HINOJOSA, Mr. MULVANEY, Mr. AUSTIN SCOTT of Georgia, Mr. COLLINS of Georgia, Ms. JACKSON LEE, Mr. DAINES, Mrs. NAPOLITANO, Mr. BURGESS, Mr. THORNBERRY, Mr. SHIMKUS, Mr. GENE GREEN of Texas, Mr. MCNERNEY, Mr. GARAMENDI, Mr. HURT, Mr. HECK of Washington, Mr. CARTWRIGHT, Ms. CHU, Mr. KILDEE, Mr. WESTMORELAND, Mr. KILMER, Mrs. BUSTOS, Mr. KIND, Mrs. NEGRETE MCLEOD, Ms. LORETTA SANCHEZ of California, Mr. POMPEO, Mr. MARINO, Ms. MATSUI, Ms. SCHWARTZ, Mr. CROWLEY, Mr. SWALWELL of California, Ms. MENG, Mr. SEAN PATRICK MALONEY of New York, Ms. VELÁZQUEZ, Mr. VALADAO, Mr. COSTA, Mr. HASTINGS of Washington, Ms. CLARK of Massachusetts, Mr. RUSH, Ms. JENKINS, Mr. DANNY K. DAVIS of Illinois, Mr. MCALLISTER, Mr. ROSKAM, Mr. HIGGINS, Mr. SCALISE, Mr. GUTIÉRREZ, Mr. BYRNE, Mr. SAM JOHNSON of Texas, Mr. QUIGLEY, Mr. KELLY of Pennsylvania, Mr. REICHERT, Mrs. BLACK, Mr. YOUNG of Indiana, Mr. PIERLUISI, Mr. HUNTER, Mr. DESJARLAIS, Mr. TIBERI, Mr. FRELINGHUYSEN, Ms. GABBARD, Mr. HENSARLING, Ms. SLAUGHTER, Mr. RENACCI, Mr. GOSAR, Mr. RANGEL, Mr. FLORES, Mr. FATTAH, Mr. HARRIS, Mr. DUNCAN of Tennessee, Mr. UPTON, Mr. SABLAN, Mr. MCKEON, Mr. WILLIAMS, Mr. DENHAM, Mr. FLEISCHMANN, Mr. BRADY of Texas, Mr. PRICE of Georgia, Mr. MCCLINTOCK, Mr. BARTON, Mr. REED, Mr. JOLLY, and Mr. BOUSTANY

NOVEMBER 12, 2014

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

NOVEMBER 12, 2014

The Committee on Energy and Commerce discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on February 13, 2013]

# **A BILL**

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Achieving a Better Life*  
5 *Experience Act of 2014” or the “ABLE Act of 2014”.*

6 **SEC. 2. PURPOSES.**

7 *The purposes of this Act are as follows:*

8 *(1) To encourage and assist individuals and*  
9 *families in saving private funds for the purpose of*  
10 *supporting individuals with disabilities to maintain*  
11 *health, independence, and quality of life.*

12 *(2) To provide secure funding for disability-re-*  
13 *lated expenses on behalf of designated beneficiaries*  
14 *with disabilities that will supplement, but not sup-*  
15 *plant, benefits provided through private insurance,*  
16 *the Medicaid program under title XIX of the Social*  
17 *Security Act, the supplemental security income pro-*  
18 *gram under title XVI of such Act, the beneficiary’s*  
19 *employment, and other sources.*

20 **SEC. 3. QUALIFIED ABLE PROGRAMS.**

21 *(a) IN GENERAL.—Subchapter F of chapter 1 of the*  
22 *Internal Revenue Code of 1986 is amended by inserting*  
23 *after section 529 the following new section:*

1 **“SEC. 529A. QUALIFIED ABLE PROGRAMS.**

2       “(a) *GENERAL RULE.*—A qualified ABLE program  
3 shall be exempt from taxation under this subtitle. Notwith-  
4 standing the preceding sentence, such program shall be sub-  
5 ject to the taxes imposed by section 511 (relating to imposi-  
6 tion of tax on unrelated business income of charitable orga-  
7 nizations).

8       “(b) *QUALIFIED ABLE PROGRAM.*—For purposes of  
9 this section—

10           “(1) *IN GENERAL.*—The term ‘qualified ABLE  
11 program’ means a program established and main-  
12 tained by a State, or agency or instrumentality there-  
13 of—

14                   “(A) under which a person may make con-  
15 tributions for a taxable year, for the benefit of an  
16 individual who is an eligible individual for such  
17 taxable year, to an ABLE account which is es-  
18 tablished for the purpose of meeting the qualified  
19 disability expenses of the designated beneficiary  
20 of the account,

21                   “(B) which limits a designated beneficiary  
22 to 1 ABLE account for purposes of this section,

23                   “(C) which allows for the establishment of  
24 an ABLE account only for a beneficiary who is  
25 a resident of such State or a resident of a con-  
26 tracting State, and

1           “(D) which meets the other requirements of  
2           this section.

3           “(2) CASH CONTRIBUTIONS.—A program shall  
4           not be treated as a qualified ABLE program unless  
5           it provides that no contribution will be accepted—

6                     “(A) unless it is in cash, or

7                     “(B) except in the case of contributions  
8                     under subsection (c)(1)(C), if such contribution  
9                     to an ABLE account would result in aggregate  
10                    contributions from all contributors to the ABLE  
11                    account for the taxable year exceeding the  
12                    amount in effect under section 2503(b) for the  
13                    calendar year in which the taxable year begins.

14           For purposes of this paragraph, rules similar to the  
15           rules of section 408(d)(4) (determined without regard  
16           to subparagraph (B) thereof) shall apply.

17           “(3) SEPARATE ACCOUNTING.—A program shall  
18           not be treated as a qualified ABLE program unless  
19           it provides separate accounting for each designated  
20           beneficiary.

21           “(4) NO INVESTMENT DIRECTION.—A program  
22           shall not be treated as a qualified ABLE program un-  
23           less it provides that any contributor to, or designated  
24           beneficiary under, such program may not directly or

1       *indirectly direct the investment of any contributions*  
2       *to the program (or any earnings thereon).*

3               “(5) *NO PLEDGING OF INTEREST AS SECURITY.*—  
4       *A program shall not be treated as a qualified ABLE*  
5       *program if it allows any interest in the program or*  
6       *any portion thereof to be used as security for a loan.*

7               “(6) *PROHIBITION ON EXCESS CONTRIBU-*  
8       *TIONS.*—*A program shall not be treated as a qualified*  
9       *ABLE program unless it provides adequate safe-*  
10       *guards to prevent aggregate contributions on behalf of*  
11       *a designated beneficiary in excess of the limit estab-*  
12       *lished by the State under section 529(b)(6). For pur-*  
13       *poses of the preceding sentence, aggregate contribu-*  
14       *tions include contributions under any prior qualified*  
15       *ABLE program of any State or agency or instrumen-*  
16       *tality thereof.*

17               “(c) *TAX TREATMENT.*—

18               “(1) *DISTRIBUTIONS.*—

19               “(A) *IN GENERAL.*—*Any distribution under*  
20       *a qualified ABLE program shall be includible in*  
21       *the gross income of the distributee in the manner*  
22       *as provided under section 72 to the extent not ex-*  
23       *cluded from gross income under any other provi-*  
24       *sion of this chapter.*



1           “(B) *DISTRIBUTIONS FOR QUALIFIED DIS-*  
2           *ABILITY EXPENSES.*—*For purposes of this para-*  
3           *graph, if distributions from a qualified ABLE*  
4           *program—*

5                     “(i) *do not exceed the qualified dis-*  
6                     *ability expenses of the designated bene-*  
7                     *ficiary, no amount shall be includible in*  
8                     *gross income, and*

9                     “(ii) *in any other case, the amount*  
10                    *otherwise includible in gross income shall be*  
11                    *reduced by an amount which bears the same*  
12                    *ratio to such amount as such expenses bear*  
13                    *to such distributions.*

14           “(C) *CHANGE IN BENEFICIARIES OR PRO-*  
15           *GRAMS.*—

16                    “(i) *ROLLOVERS FROM ABLE AC-*  
17                    *COUNTS.*—*Subparagraph (A) shall not*  
18                    *apply to any amount paid or distributed*  
19                    *from an ABLE account to the extent that*  
20                    *the amount received is paid, not later than*  
21                    *the 60th day after the date of such payment*  
22                    *or distribution, into another ABLE account*  
23                    *for the benefit of the same beneficiary or an*  
24                    *eligible individual who is a family member*  
25                    *of the beneficiary.*

1           “(ii) *CHANGE IN DESIGNATED BENE-*  
2           *FICIARIES.*—*Any change in the designated*  
3           *beneficiary of an interest in a qualified*  
4           *ABLE program during a taxable year shall*  
5           *not be treated as a distribution for purposes*  
6           *of subparagraph (A) if the new beneficiary*  
7           *is an eligible individual for such taxable*  
8           *year and a member of the family of the*  
9           *former beneficiary.*

10           “(iii) *LIMITATION ON CERTAIN ROLL-*  
11           *OVERS.*—*Clause (i) shall not apply to any*  
12           *transfer if such transfer occurs within 12*  
13           *months from the date of a previous transfer*  
14           *to any qualified ABLE program for the*  
15           *benefit of the designated beneficiary.*

16           “(D) *OPERATING RULES.*—*For purposes of*  
17           *applying section 72—*

18           “(i) *except to the extent provided by*  
19           *the Secretary, all distributions during a*  
20           *taxable year shall be treated as one dis-*  
21           *tribution, and*

22           “(ii) *except to the extent provided by*  
23           *the Secretary, the value of the contract, in-*  
24           *come on the contract, and investment in the*  
25           *contract shall be computed as of the close of*

1           *the calendar year in which the taxable year*  
2           *begins.*

3           “(2) *GIFT TAX RULES.*—*For purposes of chapters*  
4           *12 and 13—*

5           “(A) *CONTRIBUTIONS.*—*Any contribution to*  
6           *a qualified ABLE program on behalf of any des-*  
7           *ignated beneficiary—*

8                   “(i) *shall be treated as a completed gift*  
9                   *to such beneficiary which is not a future in-*  
10                  *terest in property, and*

11                  “(ii) *shall not be treated as a qualified*  
12                  *transfer under section 2503(e).*

13           “(B) *TREATMENT OF DISTRIBUTIONS.*—*Ex-*  
14           *cept as provided in subparagraph (C), in no*  
15           *event shall a distribution from a qualified ABLE*  
16           *program be treated as a taxable gift.*

17           “(C) *TREATMENT OF DESIGNATION OF NEW*  
18           *BENEFICIARY.*—*The taxes imposed by chapters*  
19           *12 and 13 shall apply to a transfer by reason of*  
20           *a change in the designated beneficiary under the*  
21           *program (or a contribution under paragraph*  
22           *(1)(C) to the ABLE account of a new bene-*  
23           *ficiary) during any taxable year unless, as of the*  
24           *beginning of such taxable year, the new bene-*  
25           *ficiary is both an eligible individual for such*

1           *taxable year and a member of the family of the*  
2           *former beneficiary.*

3           “(3) *ADDITIONAL TAX FOR DISTRIBUTIONS NOT*  
4           *USED FOR DISABILITY EXPENSES.—*

5                     “(A) *IN GENERAL.—The tax imposed by*  
6                     *this chapter for any taxable year on any tax-*  
7                     *payer who receives a distribution from a quali-*  
8                     *fied ABLE program which is includible in gross*  
9                     *income shall be increased by 10 percent of the*  
10                    *amount which is so includible.*

11                   “(B) *EXCEPTION.—Subparagraph (A) shall*  
12                    *not apply if the payment or distribution is made*  
13                    *to a beneficiary (or to the estate of the designated*  
14                    *beneficiary) on or after the death of the des-*  
15                    *ignated beneficiary.*

16                   “(C) *CONTRIBUTIONS RETURNED BEFORE*  
17                    *CERTAIN DATE.—Subparagraph (A) shall not*  
18                    *apply to the distribution of any contribution*  
19                    *made during a taxable year on behalf of the des-*  
20                    *ignated beneficiary if—*

21                             “(i) *such distribution is received on or*  
22                             *before the day prescribed by law (including*  
23                             *extensions of time) for filing such des-*  
24                             *ignated beneficiary’s return for such taxable*  
25                             *year, and*

1                   “(ii) such distribution is accompanied  
2                   by the amount of net income attributable to  
3                   such excess contribution.

4                   Any net income described in clause (ii) shall be  
5                   included in gross income for the taxable year in  
6                   which such excess contribution was made.

7                   “(4) LOSS OF ABLE ACCOUNT TREATMENT.—If,  
8                   during any taxable year of an eligible individual for  
9                   whose benefit any ABLE account is established, more  
10                  than 1 ABLE account for the benefit of the eligible  
11                  individual exists at the same time, each such ABLE  
12                  account other than the earliest established ABLE ac-  
13                  count shall not be treated as an ABLE account as of  
14                  the first day of such taxable year.

15                  “(d) REPORTS.—

16                  “(1) IN GENERAL.—Each officer or employee  
17                  having control of the qualified ABLE program or  
18                  their designee shall make such reports regarding such  
19                  program to the Secretary and to designated bene-  
20                  ficiaries with respect to contributions, distributions,  
21                  the return of excess contributions, and such other  
22                  matters as the Secretary may require.

23                  “(2) CERTAIN AGGREGATED INFORMATION.—For  
24                  research purposes, the Secretary shall make available  
25                  to the public reports containing aggregate informa-

1        *tion, by diagnosis and other relevant characteristics,*  
2        *on contributions and distributions from the qualified*  
3        *ABLE program. In carrying out the preceding sen-*  
4        *tence an item may not be made available to the pub-*  
5        *lic if such item can be associated with, or otherwise*  
6        *identify, directly or indirectly, a particular indi-*  
7        *vidual.*

8                *“(3) NOTICE OF ESTABLISHMENT OF ABLE AC-*  
9        *COUNT.—The trustee of an ABLE account shall sub-*  
10        *mit a notice to the Secretary upon the establishment*  
11        *of the ABLE account. Such notice shall contain the*  
12        *name and State of residence of the beneficiary and*  
13        *such other information as the Secretary may require.*

14                *“(4) ELECTRONIC DISTRIBUTION STATEMENTS.—*  
15        *For purposes of section 4 of the Achieving a Better*  
16        *Life Experience Act of 2014, States shall submit elec-*  
17        *tronically on a monthly basis to the Commissioner of*  
18        *Social Security, in the manner specified by the Com-*  
19        *missioner, statements on relevant distributions and*  
20        *account balances from all ABLE accounts.*

21                *“(5) REQUIREMENTS.—The reports and notices*  
22        *required by paragraphs (1), (2), and (3) shall be filed*  
23        *at such time and in such manner and furnished to*  
24        *such individuals at such time and in such manner as*  
25        *may be required by the Secretary.*

1       “(e) *OTHER DEFINITIONS AND SPECIAL RULES.—For*  
2 *purposes of this section—*

3               “(1) *ELIGIBLE INDIVIDUAL.—*

4                       “(A) *IN GENERAL.—An individual is an el-*  
5 *igible individual for a taxable year if during*  
6 *such taxable year—*

7                               “(i) *a disability certification with re-*  
8 *spect to such individual is filed with the*  
9 *Secretary for such taxable year, or*

10                                       “(ii) *the individual has been deter-*  
11 *mined for purposes of section 223 or 1614*  
12 *of the Social Security Act (42 U.S.C. 421,*  
13 *1382c) to meet the criteria of subparagraph*  
14 *(B) for such taxable year.*

15                       “(B) *CRITERIA.—An individual meets the*  
16 *criteria of this subparagraph for a taxable year*  
17 *if—*

18                               “(i) *in the case of an individual who*  
19 *has not attained age 19 as of the close of the*  
20 *taxable year, the individual is either blind*  
21 *(within the meaning of section 1614(a)(2)*  
22 *of the Social Security Act (42 U.S.C.*  
23 *1382c(a)(2))) or disabled within the mean-*  
24 *ing of section 1614(a)(3)(C) of such Act (42*  
25 *U.S.C. 1382c(a)(3)(C)), or*

1                   “(ii) the individual—

2                                 “(I) is either blind (within the  
3                                 meaning of section 1614(a)(2) of such  
4                                 Act (42 U.S.C. 1382c(a)(2))) or dis-  
5                                 abled within the meaning of section  
6                                 1614(a)(3)(A) of such Act, and

7                                 “(II) such blindness or disability  
8                                 occurred before the date on which the  
9                                 individual attained age 26.

10                   “(2) *DISABILITY CERTIFICATION.*—

11                                 “(A) *IN GENERAL.*—The term ‘disability  
12                                 certification’ means, with respect to an eligible  
13                                 individual, a certification to the satisfaction of  
14                                 the Secretary by the eligible individual or the  
15                                 parent or guardian of the eligible individual  
16                                 that—

17                                 “(i) the individual meets the criteria  
18                                 described in paragraph (1)(B), and

19                                 “(ii) includes a copy of the individ-  
20                                 ual’s diagnosis relating to the individual’s  
21                                 relevant impairment or impairments,  
22                                 signed by a physician meeting the criteria  
23                                 of section 1861(r)(1) of the Social Security  
24                                 Act.



1           “(B) *RESTRICTION ON USE OF CERTIFI-*  
2           *CATION.—No inference may be drawn from a*  
3           *disability certification for purposes of estab-*  
4           *lishing eligibility for benefits under title II, XVI,*  
5           *or XIX of the Social Security Act.*

6           “(3) *DESIGNATED BENEFICIARY.—The term ‘des-*  
7           *ignated beneficiary’ in connection with an ABLE ac-*  
8           *count established under a qualified ABLE program*  
9           *means—*

10           “(A) *the eligible individual designated at*  
11           *the commencement of participation in the quali-*  
12           *fied ABLE program as the beneficiary of*  
13           *amounts paid (or to be paid) to the program,*  
14           *and*

15           “(B) *in the case of a change in beneficiaries*  
16           *described in subparagraph (C)(ii) of subsection*  
17           *(c)(1), the individual who is the new beneficiary.*

18           “(4) *MEMBER OF FAMILY.—The term ‘member of*  
19           *the family’ means, with respect to any designated*  
20           *beneficiary, an individual who bears a relationship to*  
21           *such beneficiary which is described in subparagraph*  
22           *section 152(d)(2)(B). For purposes of the preceding*  
23           *sentence, a rule similar to the rule of section*  
24           *152(f)(1)(B) shall apply.*

1           “(5) *QUALIFIED DISABILITY EXPENSES.*—*The*  
2           *term ‘qualified disability expenses’ means any ex-*  
3           *penditures related to the eligible individual’s blindness or*  
4           *disability which are made for the benefit of an eligible*  
5           *individual who is the designated beneficiary, includ-*  
6           *ing the following expenses: education, housing, trans-*  
7           *portation, employment training and support, assist-*  
8           *ive technology and personal support services, health,*  
9           *prevention and wellness, financial management and*  
10           *administrative services, legal fees, expenses for over-*  
11           *sight and monitoring, funeral and burial expenses,*  
12           *and other expenses, which are approved by the Sec-*  
13           *retary under regulations and consistent with the pur-*  
14           *poses of this section.*

15           “(6) *ABLE ACCOUNT.*—*The term ‘ABLE ac-*  
16           *count’ means an account established and maintained*  
17           *under a qualified ABLE program.*

18           “(7) *CONTRACTING STATE.*—*The term ‘con-*  
19           *tracting State’ means a State without a qualified*  
20           *ABLE program which has entered into a contract*  
21           *with a State with a qualified ABLE program to pro-*  
22           *vide residents of the contracting State access to a*  
23           *qualified ABLE program.*

24           “(f) *TRANSFER TO STATE.*—*Subject to any out-*  
25           *standing payments due for qualified disability expenses, in*

1 *the case that the designated beneficiary dies, all amounts*  
2 *remaining in the qualified ABLE account not in excess of*  
3 *the amount equal to the total medical assistance paid for*  
4 *the designated beneficiary after the establishment of the ac-*  
5 *count, net of any premiums paid from the account or paid*  
6 *by or on behalf of the beneficiary to a Medicaid Buy-In*  
7 *program, under any State Medicaid plan established under*  
8 *title XIX of the Social Security Act shall be distributed to*  
9 *such State upon filing of a claim for payment by such*  
10 *State. For purposes of this paragraph, the State shall be*  
11 *a creditor of an ABLE account and not a beneficiary. Sub-*  
12 *section (c)(3) shall not apply to a distribution under the*  
13 *preceding sentence.*

14       “(g) *REGULATIONS.—The Secretary shall prescribe*  
15 *such regulations or other guidance as the Secretary deter-*  
16 *mines necessary or appropriate to carry out the purposes*  
17 *of this section, including regulations—*

18               “(1) *to enforce the 1 ABLE account per eligible*  
19 *individual limit,*

20               “(2) *providing for the information required to be*  
21 *presented to open an ABLE account,*

22               “(3) *to generally define qualified disability ex-*  
23 *penses,*

24               “(4) *developed in consultation with the Commis-*  
25 *sioner of Social Security, relating to disability certifi-*

1        *cations and determinations of disability, including*  
2        *those conditions deemed to meet the requirements of*  
3        *subsection (e)(1)(B)(ii),*

4                *“(5) to prevent fraud and abuse with respect to*  
5        *amounts claimed as qualified disability expenses,*

6                *“(6) under chapters 11, 12, and 13 of this title,*  
7        *and*

8                *“(7) to allow for transfers from one ABLE ac-*  
9        *count to another ABLE account in cases in which*  
10        *there is a change in the State of residence of an eligi-*  
11        *ble individual.”.*

12        *(b) TAX ON EXCESS CONTRIBUTIONS.—*

13                *(1) IN GENERAL.—Subsection (a) of section 4973*  
14        *of the Internal Revenue Code of 1986 (relating to tax*  
15        *on excess contributions to certain tax-favored accounts*  
16        *and annuities) is amended by striking “or” at the*  
17        *end of paragraph (4), by inserting “or” at the end of*  
18        *paragraph (5), and by inserting after paragraph (5)*  
19        *the following new paragraph:*

20                *“(6) an ABLE account (within the meaning of*  
21        *section 529A),”.*

22                *(2) EXCESS CONTRIBUTION.—Section 4973 of the*  
23        *Internal Revenue Code of 1986 is amended by adding*  
24        *at the end the following new subsection:*

1       “(h) *EXCESS CONTRIBUTIONS TO ABLE ACCOUNT.*—

2       *For purposes of this section—*

3               “(1) *IN GENERAL.*—*In the case of an ABLE ac-*  
4       *count (within the meaning of section 529A), the term*  
5       *‘excess contributions’ means the amount by which the*  
6       *amount contributed for the taxable year to such ac-*  
7       *count (other than contributions under section*  
8       *529A(c)(1)(C)) exceeds the contribution limit under*  
9       *section 529A(b)(2)(B).*”

10              “(2) *SPECIAL RULE.*—*For purposes of this sub-*  
11       *section, any contribution which is distributed out of*  
12       *the ABLE account in a distribution to which the last*  
13       *sentence of section 529A(b)(2) applies shall be treated*  
14       *as an amount not contributed.*”

15       (c) *PENALTY FOR FAILURE TO FILE REPORTS.*—*Sec-*  
16       *tion 6693(a)(2) of the Internal Revenue Code of 1986 is*  
17       *amended by striking “and” at the end of subparagraph (D),*  
18       *by redesignating subparagraph (E) as subparagraph (F),*  
19       *and by inserting after subparagraph (D) the following:*

20                      “(E) *section 529A(d) (relating to qualified*  
21                      *ABLE programs), and*”.

22       (d) *CONFORMING AMENDMENTS.*—

23              (1) *Section 26(b)(2) of the Internal Revenue*  
24       *Code of 1986 is amended by striking “and” at the end*  
25       *of subparagraph (W), by striking the period at the*

1 *end of subparagraph (X) and inserting “, and”, and*  
2 *by inserting after subparagraph (X) the following:*

3 *“(Y) section 529A(c)(3)(A) (relating to ad-*  
4 *ditional tax on ABLE account distributions not*  
5 *used for qualified disability expenses).”.*

6 *(2) The heading for part VIII of subchapter F of*  
7 *chapter 1 of the Internal Revenue Code of 1986 is*  
8 *amended by striking “**HIGHER EDUCATION**” and*  
9 *inserting “**CERTAIN**”.*

10 *(3) The item in the table of parts for subchapter*  
11 *F of chapter 1 of the Internal Revenue Code of 1986*  
12 *relating to part VIII is amended to read as follows:*

*“PART VIII. CERTAIN SAVINGS ENTITIES.”.*

13 *(4) The table of sections for part VIII of sub-*  
14 *chapter F of chapter 1 of the Internal Revenue Code*  
15 *of 1986 is amended by inserting after the item relat-*  
16 *ing to section 529 the following new item:*

*“Sec. 529A. Qualified ABLE programs.”.*

17 *(e) EFFECTIVE DATE.—*

18 *(1) IN GENERAL.—The amendments made by*  
19 *this section shall apply to taxable years beginning*  
20 *after December 31, 2014.*

21 *(2) REGULATIONS.—The Secretary of the Treas-*  
22 *ury (or the Secretary’s designee) shall promulgate the*  
23 *regulations or other guidance required under section*  
24 *529A(g) of the Internal Revenue Code of 1986, as*

1        *added by subsection (a), not later than 6 months after*  
2        *the date of the enactment of this Act.*

3    **SEC. 4. TREATMENT OF ABLE ACCOUNTS UNDER CERTAIN**  
4                                    **FEDERAL PROGRAMS.**

5        *(a) ACCOUNT FUNDS DISREGARDED FOR PURPOSES*  
6    *OF CERTAIN OTHER MEANS-TESTED FEDERAL PRO-*  
7    *GRAMS.—Notwithstanding any other provision of Federal*  
8    *law that requires consideration of 1 or more financial cir-*  
9    *cumstances of an individual, for the purpose of determining*  
10   *eligibility to receive, or the amount of, any assistance or*  
11   *benefit authorized by such provision to be provided to or*  
12   *for the benefit of such individual, any amount (including*  
13   *earnings thereon) in the ABLE account (within the mean-*  
14   *ing of section 529A of the Internal Revenue Code of 1986)*  
15   *of such individual, and any distribution for qualified dis-*  
16   *ability expenses (as defined in subsection (e)(5) of such sec-*  
17   *tion) shall be disregarded for such purpose with respect to*  
18   *any period during which such individual maintains, makes*  
19   *contributions to, or receives distributions from such ABLE*  
20   *account, except that, in the case of the supplemental secu-*  
21   *rity income program under title XVI of the Social Security*  
22   *Act, a distribution for housing expenses (within the mean-*  
23   *ing of such subsection) shall not be so disregarded, and in*  
24   *the case of such program, only the 1st \$100,000 of the*

1 *amount (including such earnings) in such ABLE account*  
2 *shall be so disregarded.*

3 *(b) SUSPENSION OF SSI BENEFITS DURING PERIODS*  
4 *OF EXCESSIVE ACCOUNT FUNDS.—*

5 *(1) IN GENERAL.—The benefits of an individual*  
6 *under the supplemental security income program*  
7 *under title XVI of the Social Security Act shall not*  
8 *be terminated, but shall be suspended, by reason of ex-*  
9 *cess resources of the individual attributable to an*  
10 *amount in the ABLE account (within the meaning of*  
11 *section 529A of the Internal Revenue Code of 1986)*  
12 *of the individual not disregarded under subsection (a)*  
13 *of this section.*

14 *(2) NO IMPACT ON MEDICAID ELIGIBILITY.—An*  
15 *individual who would be receiving payment of such*  
16 *supplemental security income benefits but for the ap-*  
17 *plication of the previous sentence shall be treated for*  
18 *purposes of title XIX of the Social Security Act as if*  
19 *the individual continued to be receiving payment of*  
20 *such benefits.*

21 *(c) EFFECTIVE DATE.—This section shall take effect*  
22 *on the date of the enactment of this Act.*





Union Calendar No. 456

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 647**

[Report No. 113-614, Part I]

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## **A BILL**

To amend the Internal Revenue Code of 1986 to provide for the tax treatment of ABLE accounts established under State programs for the care of family members with disabilities, and for other purposes.

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NOVEMBER 12, 2014

Reported from the Committee on Ways and Means with  
an amendment

NOVEMBER 12, 2014

The Committee on Energy and Commerce discharged;  
committed to the Committee of the Whole House on  
the State of the Union and ordered to be printed