AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 647
OFFERED BY M__.

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

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

(2) To provide secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not supplant, benefits provided through private insurance, the Medicaid program under title XIX of the Social Security Act, the supplemental security income program under title XVI of such Act, the beneficiary’s employment, and other sources.
SEC. 3. QUALIFIED ABLE PROGRAMS.

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

“SEC. 529A. QUALIFIED ABLE PROGRAMS.

“(a) GENERAL RULE.—A qualified ABLE program shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, such program shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

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

“(1) IN GENERAL.—The term ‘qualified ABLE program’ means a program established and maintained by a State, or agency or instrumentality thereof—

“(A) under which a person may make contributions for a taxable year, for the benefit of an individual who is an eligible individual for such taxable year, to an ABLE account which is established for the purpose of meeting the qualified disability expenses of the designated beneficiary of the account,

“(B) which limits a designated beneficiary to 1 ABLE account for purposes of this section,
“(C) which allows for the establishment of an ABLE account only for a beneficiary who is a resident of such State or a resident of a contracting State, and

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

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

“(A) unless it is in cash, or

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

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

“(3) SEPARATE ACCOUNTING.—A program shall not be treated as a qualified ABLE program unless it provides separate accounting for each designated beneficiary.
“(4) NO INVESTMENT DIRECTION.—A program shall not be treated as a qualified ABLE program unless it provides that any contributor to, or designated beneficiary under, such program may not directly or indirectly direct the investment of any contributions to the program (or any earnings thereon).

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

“(6) PROHIBITION ON EXCESS CONTRIBUTIONS.—A program shall not be treated as a qualified ABLE program unless it provides adequate safeguards to prevent aggregate contributions on behalf of a designated beneficiary in excess of the limit established by the State under section 529(b)(6). For purposes of the preceding sentence, aggregate contributions include contributions under any prior qualified ABLE program of any State or agency or instrumentality thereof.

“(c) TAX TREATMENT.—

“(1) DISTRIBUTIONS.—

“(A) IN GENERAL.—Any distribution under a qualified ABLE program shall be in-
cludible in the gross income of the distributee in the manner as provided under section 72 to the extent not excluded from gross income under any other provision of this chapter.

“(B) DISTRIBUTIONS FOR QUALIFIED DISABILITY EXPENSES.—For purposes of this paragraph, if distributions from a qualified ABLE program—

“(i) do not exceed the qualified disability expenses of the designated beneficiary, no amount shall be includible in gross income, and

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

“(C) CHANGE IN BENEFICIARIES OR PROGRAMS.—

“(i) ROLLOVERS FROM ABLE ACCOUNTS.—Subparagraph (A) shall not apply to any amount paid or distributed from an ABLE account to the extent that the amount received is paid, not later than the 60th day after the date of such pay-
ment or distribution, into another ABLE account for the benefit of the same beneficiary or an eligible individual who is a family member of the beneficiary.

“(ii) CHANGE IN DESIGNATED BENEFICIARIES.—Any change in the designated beneficiary of an interest in a qualified ABLE program during a taxable year shall not be treated as a distribution for purposes of subparagraph (A) if the new beneficiary is an eligible individual for such taxable year and a member of the family of the former beneficiary.

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

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

“(i) except to the extent provided by the Secretary, all distributions during a taxable year shall be treated as one distribution, and
“(ii) except to the extent provided by the Secretary, the value of the contract, income on the contract, and investment in the contract shall be computed as of the close of the calendar year in which the taxable year begins.

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

“(A) CONTRIBUTIONS.—Any contribution to a qualified ABLE program on behalf of any designated beneficiary—

“(i) shall be treated as a completed gift to such beneficiary which is not a future interest in property, and

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

“(B) TREATMENT OF DISTRIBUTIONS.—Except as provided in subparagraph (C), in no event shall a distribution from a qualified ABLE program be treated as a taxable gift.

“(C) TREATMENT OF DESIGNATION OF NEW BENEFICIARY.—The taxes imposed by chapters 12 and 13 shall apply to a transfer by reason of a change in the designated beneficiary under the program (or a contribution under
paragraph (1)(C) to the ABLE account of a new beneficiary) during any taxable year unless, as of the beginning of such taxable year, the new beneficiary is both an eligible individual for such taxable year and a member of the family of the former beneficiary.

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

“(A) IN GENERAL.—The tax imposed by this chapter for any taxable year on any taxpayer who receives a distribution from a qualified ABLE program which is includible in gross income shall be increased by 10 percent of the amount which is so includible.

“(B) EXCEPTION.—Subparagraph (A) shall not apply if the payment or distribution is made to a beneficiary (or to the estate of the designated beneficiary) on or after the death of the designated beneficiary.

“(C) CONTRIBUTIONS RETURNED BEFORE CERTAIN DATE.—Subparagraph (A) shall not apply to the distribution of any contribution made during a taxable year on behalf of the designated beneficiary if—
“(i) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such designated beneficiary’s return for such taxable year, and

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

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

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

“(d) REPORTS.—

“(1) IN GENERAL.—Each officer or employee having control of the qualified ABLE program or their designee shall make such reports regarding such program to the Secretary and to designated beneficiaries with respect to contributions, distribu-
tions, the return of excess contributions, and such
other matters as the Secretary may require.

“(2) CERTAIN AGGREGATED INFORMATION.—
For research purposes, such officers and employees
shall make available to the public and provide to the
Secretary reports containing aggregate information,
by diagnosis and other relevant characteristics, on
contributions and distributions from the qualified
ABLE program. In carrying out the preceding sen-
tence an item may not be made available to the pub-
lic if such item can be associated with, or otherwise
identify, directly or indirectly, a particular indi-
vidual.

“(3) NOTICE OF ESTABLISHMENT OF ABLE AC-
COUNT.—The trustee of an ABLE account shall
submit a notice to the Secretary upon the establish-
ment of the ABLE account. Such notice shall con-
tain the name and State of residence of the benefi-
ciary and such other information as the Secretary
may require.

“(4) ELECTRONIC DISTRIBUTION STATE-
MENTS.—For purposes of section 4 of the Achieving
a Better Life Experience Act of 2014, such officers
and employees shall submit electronically on a
monthly basis to the Commissioner of Social Secu-
rity, in the manner specified by the Commissioner, statements on distributions from all ABLE accounts.

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

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

“(1) ELIGIBLE INDIVIDUAL.—

“(A) IN GENERAL.—An individual is an eligible individual for a taxable year if during such taxable year—

“(i) a disability certification with respect to such individual is filed with the Secretary for such taxable year, or

“(ii) the individual has been determined for purposes of section 221 or 1614 of the Social Security Act (42 U.S.C. 421, 1382c) to meet the criteria of subparagraph (B) for such taxable year.

“(B) CRITERIA.—An individual meets the criteria of this subparagraph for a taxable year if—
“(i) in the case of an individual who has not attained age 19 as of the close of the taxable year, the individual is either blind (within the meaning of section 1614(a)(2) of the Social Security Act (42 U.S.C. 1382c(a)(2)) or disabled within the meaning of section 1614(a)(3)(C) of such Act (42 U.S.C. 1382c(a)(3)(C), or

“(ii) in the case of any other individual, the individual—

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

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

“(2) DISABILITY CERTIFICATION.—

“(A) IN GENERAL.—The term ‘disability certification’ means, with respect to an eligible individual, a certification to the satisfaction of the Secretary by the eligible individual or the parent or guardian of the eligible individual that—
“(i) the individual meets the criteria described in paragraph (1)(B), and

“(ii) includes a copy of the individual’s diagnosis relating to the individual’s relevant impairment or impairments, signed by a physician meeting the criteria of section 1861(r)(1) of the Social Security Act.

“(B) Restriction on Use of Certification.—No inference may be drawn from a disability certification for purposes of establishing eligibility for benefits under title II, XVI, or XIX of the Social Security Act.

“(3) Designated Beneficiary.—The term ‘designated beneficiary’ in connection with an ABLE account established under a qualified ABLE program means—

“(A) the eligible individual designated at the commencement of participation in the qualified ABLE program as the beneficiary of amounts paid (or to be paid) to the program, and

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

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

“(5) QUALIFIED DISABILITY EXPENSES.—The term ‘qualified disability expenses’ means any expenses related to the eligible individual’s blindness or disability which are made for the benefit of an eligible individual who is the designated beneficiary, including the following expenses: education, housing, transportation, employment training and support, assistive technology and personal support services, health, prevention and wellness, financial management and administrative services, legal fees, expenses for oversight and monitoring, funeral and burial expenses, and other expenses, which are approved by the Secretary under regulations and consistent with the purposes of this section.
“(6) ABLE account.—The term ‘ABLE account’ means an account established and maintained under a qualified ABLE program.

“(7) Contracting State.—The term ‘contracting State’ means a State without a qualified ABLE program which has entered into a contract with a State with a qualified ABLE program to provide its residents access to a qualified ABLE program.

“(f) Transfer to State.—Subject to any outstanding payments due for qualified disability expenses, in the case that the designated beneficiary dies, all amounts remaining in the qualified ABLE account not in excess of the amount equal to the total medical assistance paid for the designated beneficiary after the establishment of the account, net of any premiums paid from the account or paid by or on behalf of the beneficiary to a Medicaid Buy-In program, under any State Medicaid plan established under title XIX of the Social Security Act shall be distributed to such State upon filing of a claim for payment by such State. For purposes of this paragraph, the State shall be a creditor of an ABLE account and not a beneficiary. Subsection (c)(3) shall not apply to a distribution under the preceding sentence.
“(g) REGULATIONS.—The Secretary shall prescribe such regulations or other guidance as the Secretary determines necessary or appropriate to carry out the purposes of this section, including regulations—

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

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

“(3) to generally define disability expenses,

“(4) developed in consultation with the Commissioner of Social Security, relating to disability certifications and determinations of disability, including those conditions deemed to meet the requirements of subsection (e)(1)(B)(ii),

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

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

“(7) to allow for transfers from one ABLE account to another ABLE account in cases in which there is a change in the State of residence of an eligible individual.”.

(b) TAX ON EXCESS CONTRIBUTIONS.—

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

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

(2) Excess Contribution.—Section 4973 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(h) Excess Contributions to ABLE Account.—For purposes of this section—

“(1) In general.—In the case of an ABLE account (within the meaning of section 529A), the term ‘excess contributions’ means the amount by which the amount contributed for the taxable year to such account (other than contributions under section 529A(c)(1)(C)) exceeds the contribution limit under section 529A(b)(2)(B).

“(2) Special rule.—For purposes of this subsection, any contribution which is distributed out of the ABLE account in a distribution to which the last sentence of section 529A(b)(2) applies shall be treated as an amount not contributed.”.
(c) Penalty for Failure to File Reports.—

Section 6693(a)(2) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following:

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

(d) Conforming Amendments.—

(1) Section 26(b)(2) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of subparagraph (W), by striking the period at the end of subparagraph (X) and inserting “, and”, and by inserting after subparagraph (X) the following:

“(Y) section 529A(e)(3)(A) (relating to additional tax on ABLE account distributions not used for qualified disability expenses).”.

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

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

“PART VIII. CERTAIN SAVINGS ENTITIES.”.

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

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

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by
this section shall take apply to taxable years begin-
ning after December 31, 2014.

(2) REGULATIONS.—The Secretary of the
Treasury (or the Secretary’s designee) shall promul-
gate the regulations or other guidance required
under section 529A(g) of the Internal Revenue Code
of 1986, as added by subsection (a), not later than
6 months after the date of the enactment of this
Act.

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

(a) ACCOUNT FUNDS DISREGARDED FOR PURPOSES
OF CERTAIN OTHER MEANS-TESTED FEDERAL PRO-
GRAMS.—Notwithstanding any other provision of Federal
law that requires consideration of 1 or more financial cir-
cumstances of an individual, for the purpose of deter-
mining eligibility to receive, or the amount of, any assistance or benefit authorized by such provision to be provided to or for the benefit of such individual, any amount (including earnings thereon) in the ABLE account (within the meaning of section 529A of the Internal Revenue Code of 1986) of such individual, and any distribution for qualified disability expenses (as defined in subsection (e)(5) of such section) shall be disregarded for such purpose with respect to any period during which such individual maintains, makes contributions to, or receives distributions from such ABLE account, except that, in the case of the supplemental security income program under title XVI of the Social Security Act, a distribution for housing expenses (within the meaning of such subsection) shall not be so disregarded, and in the case of such program, only the 1st $100,000 of the amount (including such earnings) in such ABLE account shall be so disregarded.

(b) Suspension of SSI Benefits During Periods of Excessive Account Funds.—

(1) In general.—The benefits of an individual under the supplemental security income program under title XVI of the Social Security Act shall not be terminated, but shall be suspended, by reason of excess resources of the individual attributable to an amount in the ABLE account (within the meaning
of section 529A of the Internal Revenue Code of 1986) of the individual not disregarded under sub-
section (a) of this section.

(2) No impact on Medicaid eligibility.—An individual who would be receiving payment of such supplemental security income benefits but for the application of the previous sentence shall be treated for purposes of title XIX of the Social Security Act as if the individual continued to be receiving payment of such benefits.

(c) Effective Date.—This section shall take effect on the date of the enactment of this Act.