

1 **SEC. 3. QUALIFIED ABLE PROGRAMS.**

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

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

6 “(a) GENERAL RULE.—A qualified ABLE program
7 shall be exempt from taxation under this subtitle. Not-
8 withstanding the preceding sentence, such program shall
9 be subject to the taxes imposed by section 511 (relating
10 to imposition of tax on unrelated business income of chari-
11 table organizations).

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

14 “(1) IN GENERAL.—The term ‘qualified ABLE
15 program’ means a program established and main-
16 tained by a State, or agency or instrumentality
17 thereof—

18 “(A) under which a person may make con-
19 tributions for a taxable year, for the benefit of
20 an individual who is an eligible individual for
21 such taxable year, to an ABLE account which
22 is established for the purpose of meeting the
23 qualified disability expenses of the designated
24 beneficiary of the account,

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

1 “(C) which allows for the establishment of
2 an ABLE account only for a beneficiary who is
3 a resident of such State or a resident of a con-
4 tracting State, and

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

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

10 “(A) unless it is in cash, or

11 “(B) except in the case of contributions
12 under subsection (c)(1)(C), if such contribution
13 to an ABLE account would result in aggregate
14 contributions from all contributors to the
15 ABLE account for the taxable year exceeding
16 the amount in effect under section 2503(b) for
17 the calendar year in which the taxable year be-
18 gins.

19 For purposes of this paragraph, rules similar to the
20 rules of section 408(d)(4) (determined without re-
21 gard to subparagraph (B) thereof) shall apply.

22 “(3) SEPARATE ACCOUNTING.—A program shall
23 not be treated as a qualified ABLE program unless
24 it provides separate accounting for each designated
25 beneficiary.

1 “(4) NO INVESTMENT DIRECTION.—A program
2 shall not be treated as a qualified ABLE program
3 unless it provides that any contributor to, or des-
4 ignated beneficiary under, such program may not di-
5 rectly or indirectly direct the investment of any con-
6 tributions to the program (or any earnings thereon).

7 “(5) NO PLEDGING OF INTEREST AS SECUR-
8 RITY.—A program shall not be treated as a qualified
9 ABLE program if it allows any interest in the pro-
10 gram or any portion thereof to be used as security
11 for a loan.

12 “(6) PROHIBITION ON EXCESS CONTRIBU-
13 TIONS.—A program shall not be treated as a quali-
14 fied ABLE program unless it provides adequate
15 safeguards to prevent aggregate contributions on be-
16 half of a designated beneficiary in excess of the limit
17 established by the State under section 529(b)(6).
18 For purposes of the preceding sentence, aggregate
19 contributions include contributions under any prior
20 qualified ABLE program of any State or agency or
21 instrumentality thereof.

22 “(c) TAX TREATMENT.—

23 “(1) DISTRIBUTIONS.—

24 “(A) IN GENERAL.—Any distribution
25 under a qualified ABLE program shall be in-

1 cludible in the gross income of the distributee
2 in the manner as provided under section 72 to
3 the extent not excluded from gross income
4 under any other provision of this chapter.

5 “(B) DISTRIBUTIONS FOR QUALIFIED DIS-
6 ABILITY EXPENSES.—For purposes of this
7 paragraph, if distributions from a qualified
8 ABLE program—

9 “(i) do not exceed the qualified dis-
10 ability expenses of the designated bene-
11 ficiary, no amount shall be includible in
12 gross income, and

13 “(ii) in any other case, the amount
14 otherwise includible in gross income shall
15 be reduced by an amount which bears the
16 same ratio to such amount as such ex-
17 penses bear to such distributions.

18 “(C) CHANGE IN BENEFICIARIES OR PRO-
19 GRAMS.—

20 “(i) ROLLOVERS FROM ABLE AC-
21 COUNTS.—Subparagraph (A) shall not
22 apply to any amount paid or distributed
23 from an ABLE account to the extent that
24 the amount received is paid, not later than
25 the 60th day after the date of such pay-

1 ment or distribution, into another ABLE
2 account for the benefit of the same bene-
3 ficiary or an eligible individual who is a
4 family member of the beneficiary.

5 “(ii) CHANGE IN DESIGNATED BENE-
6 FICIARIES.—Any change in the designated
7 beneficiary of an interest in a qualified
8 ABLE program during a taxable year shall
9 not be treated as a distribution for pur-
10 poses of subparagraph (A) if the new bene-
11 ficiary is an eligible individual for such
12 taxable year and a member of the family of
13 the former beneficiary.

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

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

22 “(i) except to the extent provided by
23 the Secretary, all distributions during a
24 taxable year shall be treated as one dis-
25 tribution, and

1 “(ii) except to the extent provided by
2 the Secretary, the value of the contract, in-
3 come on the contract, and investment in
4 the contract shall be computed as of the
5 close of the calendar year in which the tax-
6 able year begins.

7 “(2) GIFT TAX RULES.—For purposes of chap-
8 ters 12 and 13—

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

12 “(i) shall be treated as a completed
13 gift to such beneficiary which is not a fu-
14 ture interest in property, and

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

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

21 “(C) TREATMENT OF DESIGNATION OF
22 NEW BENEFICIARY.—The taxes imposed by
23 chapters 12 and 13 shall apply to a transfer by
24 reason of a change in the designated beneficiary
25 under the program (or a contribution under

1 paragraph (1)(C) to the ABLE account of a
2 new beneficiary) during any taxable year unless,
3 as of the beginning of such taxable year, the
4 new beneficiary is both an eligible individual for
5 such taxable year and a member of the family
6 of the former beneficiary.

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

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

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

20 “(C) CONTRIBUTIONS RETURNED BEFORE
21 CERTAIN DATE.—Subparagraph (A) shall not
22 apply to the distribution of any contribution
23 made during a taxable year on behalf of the
24 designated beneficiary if—

1 “(i) such distribution is received on or
2 before the day prescribed by law (including
3 extensions of time) for filing such des-
4 ignated beneficiary’s return for such tax-
5 able year, and

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

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

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

20 “(d) REPORTS.—

21 “(1) IN GENERAL.—Each officer or employee
22 having control of the qualified ABLE program or
23 their designee shall make such reports regarding
24 such program to the Secretary and to designated
25 beneficiaries with respect to contributions, distribu-

1 tions, the return of excess contributions, and such
2 other matters as the Secretary may require.

3 “(2) CERTAIN AGGREGATED INFORMATION.—

4 For research purposes, such officers and employees
5 shall make available to the public and provide to the
6 Secretary reports containing aggregate information,
7 by diagnosis and other relevant characteristics, on
8 contributions and distributions from the qualified
9 ABLE program. In carrying out the preceding sen-
10 tence an item may not be made available to the pub-
11 lic if such item can be associated with, or otherwise
12 identify, directly or indirectly, a particular indi-
13 vidual.

14 “(3) NOTICE OF ESTABLISHMENT OF ABLE AC-

15 COUNT.—The trustee of an ABLE account shall
16 submit a notice to the Secretary upon the establish-
17 ment of the ABLE account. Such notice shall con-
18 tain the name and State of residence of the bene-
19 ficiary and such other information as the Secretary
20 may require.

21 “(4) ELECTRONIC DISTRIBUTION STATE-

22 MENTS.—For purposes of section 4 of the Achieving
23 a Better Life Experience Act of 2014, such officers
24 and employees shall submit electronically on a
25 monthly basis to the Commissioner of Social Secu-

1 rity, in the manner specified by the Commissioner,
2 statements on distributions from all ABLE ac-
3 counts.

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

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

11 “(1) ELIGIBLE INDIVIDUAL.—

12 “(A) IN GENERAL.—An individual is an el-
13 igible individual for a taxable year if during
14 such taxable year—

15 “(i) a disability certification with re-
16 spect to such individual is filed with the
17 Secretary for such taxable year, or

18 “(ii) the individual has been deter-
19 mined for purposes of section 221 or 1614
20 of the Social Security Act (42 U.S.C. 421,
21 1382c) to meet the criteria of subpara-
22 graph (B) for such taxable year.

23 “(B) CRITERIA.—An individual meets the
24 criteria of this subparagraph for a taxable year
25 if—

1 “(i) in the case of an individual who
2 has not attained age 19 as of the close of
3 the taxable year, the individual is either
4 blind (within the meaning of section
5 1614(a)(2) of the Social Security Act (42
6 U.S.C. 1382c(a)(2)) or disabled within the
7 meaning of section 1614(a)(3)(C) of such
8 Act (42 U.S.C. 1382c(a)(3)(C), or

9 “(ii) in the case of any other indi-
10 vidual, the individual—

11 “(I) is either blind (within the
12 meaning of section 1614(a)(2) of such
13 Act (42 U.S.C. 1382c(a)(2)) or dis-
14 abled within the meaning of section
15 1614(a)(3)(A) of such Act, and

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

19 “(2) DISABILITY CERTIFICATION.—

20 “(A) IN GENERAL.—The term ‘disability
21 certification’ means, with respect to an eligible
22 individual, a certification to the satisfaction of
23 the Secretary by the eligible individual or the
24 parent or guardian of the eligible individual
25 that—

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

3 “(ii) includes a copy of the individ-
4 ual’s diagnosis relating to the individual’s
5 relevant impairment or impairments,
6 signed by a physician meeting the criteria
7 of section 1861(r)(1) of the Social Security
8 Act.

9 “(B) RESTRICTION ON USE OF CERTIFI-
10 CATION.—No inference may be drawn from a
11 disability certification for purposes of estab-
12 lishing eligibility for benefits under title II,
13 XVI, or XIX of the Social Security Act.

14 “(3) DESIGNATED BENEFICIARY.—The term
15 ‘designated beneficiary’ in connection with an ABLE
16 account established under a qualified ABLE pro-
17 gram means—

18 “(A) the eligible individual designated at
19 the commencement of participation in the quali-
20 fied ABLE program as the beneficiary of
21 amounts paid (or to be paid) to the program,
22 and

23 “(B) in the case of a change in bene-
24 ficiaries described in subparagraph (C)(ii) of

1 subsection (c)(1), the individual who is the new
2 beneficiary.

3 “(4) MEMBER OF FAMILY.—The term ‘member
4 of the family’ means, with respect to any designated
5 beneficiary, an individual who bears a relationship to
6 such beneficiary which is described in subparagraph
7 section 152(d)(2)(B). For purposes of the preceding
8 sentence, a rule similar to the rule of section
9 152(f)(1)(B) shall apply.

10 “(5) QUALIFIED DISABILITY EXPENSES.—The
11 term ‘qualified disability expenses’ means any ex-
12 penses related to the eligible individual’s blindness
13 or disability which are made for the benefit of an eli-
14 gible individual who is the designated beneficiary, in-
15 cluding the following expenses: education, housing,
16 transportation, employment training and support,
17 assistive technology and personal support services,
18 health, prevention and wellness, financial manage-
19 ment and administrative services, legal fees, ex-
20 penses for oversight and monitoring, funeral and
21 burial expenses, and other expenses, which are ap-
22 proved by the Secretary under regulations and con-
23 sistent with the purposes of this section.

1 “(6) ABLE ACCOUNT.—The term ‘ABLE ac-
2 count’ means an account established and maintained
3 under a qualified ABLE program.

4 “(7) CONTRACTING STATE.—The term ‘con-
5 tracting State’ means a State without a qualified
6 ABLE program which has entered into a contract
7 with a State with a qualified ABLE program to pro-
8 vide its residents access to a qualified ABLE pro-
9 gram.

10 “(f) TRANSFER TO STATE.—Subject to any out-
11 standing payments due for qualified disability expenses,
12 in the case that the designated beneficiary dies, all
13 amounts remaining in the qualified ABLE account not in
14 excess of the amount equal to the total medical assistance
15 paid for the designated beneficiary after the establishment
16 of the account, net of any premiums paid from the account
17 or paid by or on behalf of the beneficiary to a Medicaid
18 Buy-In program, under any State Medicaid plan estab-
19 lished under title XIX of the Social Security Act shall be
20 distributed to such State upon filing of a claim for pay-
21 ment by such State. For purposes of this paragraph, the
22 State shall be a creditor of an ABLE account and not
23 a beneficiary. Subsection (c)(3) shall not apply to a dis-
24 tribution under the preceding sentence.

1 “(g) REGULATIONS.—The Secretary shall prescribe
2 such regulations or other guidance as the Secretary deter-
3 mines necessary or appropriate to carry out the purposes
4 of this section, including regulations—

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

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

9 “(3) to generally define disability expenses,

10 “(4) developed in consultation with the Com-
11 missioner of Social Security, relating to disability
12 certifications and determinations of disability, in-
13 cluding those conditions deemed to meet the require-
14 ments of subsection (e)(1)(B)(ii),

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

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

19 “(7) to allow for transfers from one ABLE ac-
20 count to another ABLE account in cases in which
21 there is a change in the State of residence of an eli-
22 gible individual.”.

23 (b) TAX ON EXCESS CONTRIBUTIONS.—

24 (1) IN GENERAL.—Subsection (a) of section
25 4973 of the Internal Revenue Code of 1986 (relating

1 to tax on excess contributions to certain tax-favored
2 accounts and annuities) is amended by striking “or”
3 at the end of paragraph (4), by inserting “or” at the
4 end of paragraph (5), and by inserting after para-
5 graph (5) the following new paragraph:

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

8 (2) EXCESS CONTRIBUTION.—Section 4973 of
9 the Internal Revenue Code of 1986 is amended by
10 adding at the end the following new subsection:

11 “(h) EXCESS CONTRIBUTIONS TO ABLE AC-
12 COUNT.—For purposes of this section—

13 “(1) IN GENERAL.—In the case of an ABLE
14 account (within the meaning of section 529A), the
15 term ‘excess contributions’ means the amount by
16 which the amount contributed for the taxable year to
17 such account (other than contributions under section
18 529A(c)(1)(C)) exceeds the contribution limit under
19 section 529A(b)(2)(B).

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

1 (c) PENALTY FOR FAILURE TO FILE REPORTS.—
2 Section 6693(a)(2) of the Internal Revenue Code of 1986
3 is amended by striking “and” at the end of subparagraph
4 (D), by redesignating subparagraph (E) as subparagraph
5 (F), and by inserting after subparagraph (D) the fol-
6 lowing:

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

9 (d) CONFORMING AMENDMENTS.—

10 (1) Section 26(b)(2) of the Internal Revenue
11 Code of 1986 is amended by striking “and” at the
12 end of subparagraph (W), by striking the period at
13 the end of subparagraph (X) and inserting “, and”,
14 and by inserting after subparagraph (X) the fol-
15 lowing:

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

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

23 (3) The item in the table of parts for sub-
24 chapter F of chapter 1 of the Internal Revenue Code

1 of 1986 relating to part VIII is amended to read as
2 follows:

“PART VIII. CERTAIN SAVINGS ENTITIES.”.

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

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

7 (e) EFFECTIVE DATE.—

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

11 (2) REGULATIONS.—The Secretary of the
12 Treasury (or the Secretary’s designee) shall promul-
13 gate the regulations or other guidance required
14 under section 529A(g) of the Internal Revenue Code
15 of 1986, as added by subsection (a), not later than
16 6 months after the date of the enactment of this
17 Act.

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

20 (a) ACCOUNT FUNDS DISREGARDED FOR PURPOSES
21 OF CERTAIN OTHER MEANS-TESTED FEDERAL PRO-
22 GRAMS.—Notwithstanding any other provision of Federal
23 law that requires consideration of 1 or more financial cir-
24 cumstances of an individual, for the purpose of deter-

1 mining eligibility to receive, or the amount of, any assist-
2 ance or benefit authorized by such provision to be provided
3 to or for the benefit of such individual, any amount (in-
4 cluding earnings thereon) in the ABLE account (within
5 the meaning of section 529A of the Internal Revenue Code
6 of 1986) of such individual, and any distribution for quali-
7 fied disability expenses (as defined in subsection (e)(5) of
8 such section) shall be disregarded for such purpose with
9 respect to any period during which such individual main-
10 tains, makes contributions to, or receives distributions
11 from such ABLE account, except that, in the case of the
12 supplemental security income program under title XVI of
13 the Social Security Act, a distribution for housing ex-
14 penses (within the meaning of such subsection) shall not
15 be so disregarded, and in the case of such program, only
16 the 1st \$100,000 of the amount (including such earnings)
17 in such ABLE account shall be so disregarded.

18 (b) SUSPENSION OF SSI BENEFITS DURING PERI-
19 ODS OF EXCESSIVE ACCOUNT FUNDS.—

20 (1) IN GENERAL.—The benefits of an individual
21 under the supplemental security income program
22 under title XVI of the Social Security Act shall not
23 be terminated, but shall be suspended, by reason of
24 excess resources of the individual attributable to an
25 amount in the ABLE account (within the meaning

1 of section 529A of the Internal Revenue Code of
2 1986) of the individual not disregarded under sub-
3 section (a) of this section.

4 (2) NO IMPACT ON MEDICAID ELIGIBILITY.—An
5 individual who would be receiving payment of such
6 supplemental security income benefits but for the
7 application of the previous sentence shall be treated
8 for purposes of title XIX of the Social Security Act
9 as if the individual continued to be receiving pay-
10 ment of such benefits.

11 (c) EFFECTIVE DATE.—This section shall take effect
12 on the date of the enactment of this Act.

