BACKGROUNDER

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How the ABLE Act Would Expand the Welfare State

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Abstract

The Achieving a Better Life Experience (ABLE) Act would establish tax-favored savings accounts for individuals with disabilities. The problem is that the ABLE Act takes a decisive step in expanding the welfare state. It eliminates asset tests for all means-tested welfare programs for families with a child who is eligible for Supplemental Security Income (SSI); it also eliminates the asset test for all welfare when disabled children become adults. Even absent the ABLE Act's impact on means-tested spending, rather than singling out another group of beneficiaries for the tax-neutral treatment of savings, Congress should end multiple taxation of savings for all Americans. Congress should not eliminate the asset test for all families with children on SSI. Congress should reform the treatment of savings for all Americans and preserve means-tested program benefits for those Americans who need them the most.

This summer, a 14-page bill with 379 co-sponsors (193 Republicans, 186 Democrats), which is little known outside the halls of Congress, was reported out of the House Ways and Means Committee.[1] The Achieving a Better Life Experience (ABLE) Act (H.R. 647) would establish tax-favored savings accounts, similar to "529" education savings accounts, for individuals with disabilities. Unlike 529s, which are restricted to funding educational expenses, ABLE account funds could be used for a broad range of expenses. Moreover, assets in ABLE accounts would not count against eligibility for federal means-tested programs. By eliminating the asset test for families whose children receive Supplemental Security Income (SSI), H.R. 647 would expand the welfare state.

Key Points

- The proposed Achieving a Better Life Experience (ABLE) Act would expand the welfare state by eliminating asset tests for all means-tested welfare programs for families with a child who is eligible for Supplemental Security Income (SSI), as long as funds are held in ABLE savings accounts.
- The ABLE Act also eliminates the asset test for all welfare when disabled children become adults.
- Policy factors, not worse health among children, are the main drivers of increased enrollment in SSI. Relatively lower and more subjective eligibility criteria combine with incentives by states and individuals to increase enrollment in SSI.
- The ABLE Act makes it easier for low-income parents to enroll their children in SSI, and more attractive to remain in the program—reducing work and increasing welfare dependence.
- Congress should reform the treatment of savings for all Americans and preserve means-tested program benefits for those Americans who need them most.

This paper, in its entirety, can be found at **http://report.heritage.org/bg2972**

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Of the bill's estimated $2.1 billion impact on the federal deficit over 10 years, the Congressional Budget Office (CBO) projects that $1.2 billion will arise from higher spending on means-tested benefits for eligible individuals, and that $0.9 billion will result from lower revenues.[2]

Eligible Beneficiaries and Expenses

Children and adults whose disability occurred before age 26 and who meet the SSI program's disability standard would be eligible to open one ABLE account in their state of residence. Anybody would be allowed to open and contribute to an ABLE account on behalf of the eligible beneficiary, but each beneficiary is restricted to one ABLE account.

Contributions from family members and friends are restricted to the annual gift tax exemption, which is $14,000 in 2014.[3] Moreover, state total contribution limits for 529 college savings plans would also extend to ABLE accounts. According to the Securities and Exchange Commission (SEC), many plans have contribution limits above $200,000.[4]

Similar to Roth IRAs, contributions would be made from after-tax income and any earnings on assets in ABLE accounts would accrue tax-free. Account funds could be used to pay for a broad range of eligible expenses, including for education, housing, transportation, health, and other items as established by the Secretary of the Treasury in regulation.

Eligibility for Means-Tested Welfare. The federal government operates more than 80 means-tested welfare programs. These programs provide cash, food, housing, medical care, training, and social services to poor and lower-income Americans. Federal and state spending on these programs totaled $943 billion in fiscal year 2013.

These means-tested programs all have income limits; individuals with earned or property income above certain levels are not eligible for assistance. Many of the programs (including Medicaid, the Supplemental Nutrition Assistance Program (SNAP), the Earned Income Tax Credit, SSI, and Section 8 housing) also have asset tests; individuals with assets above certain levels are ineligible for benefits. The purpose of asset tests is to ensure that individuals use their own resources before relying on taxpayers for support.

H.R. 647 takes a decisive step in expanding the welfare state. The bill eliminates asset tests for all means-tested welfare programs for families with a child who is eligible for SSI.[5] It also eliminates the asset test for all welfare when disabled children become adults.

Supplemental Security Income

Although it affects the entire welfare system, H.R. 647 focuses on the SSI program for disabled children. SSI is an income-support program for low-income individuals who are aged, blind, or disabled. At nearly $60 billion in federal spending in 2014, SSI is among the nation's largest means-tested welfare programs.[6] Of the 8.4 million SSI cash recipients, 1.3 million are children under the age of 18.[7]

The SSI program was originally intended to provide cash support to disabled adults who were incapable of supporting themselves. The cash grant was set at a high level because it was intended to be the sole or primary means of support for adults who could not work and who had no one to support them. The provision of the same high cash grant to children is illogical because children are never expected to work or support themselves; the general expectation is that children are supported by their parents.

1. ABLE Act of 2013, H.R. 647, 113th Cong., 1st Sess., https://www.govtrack.us/congress/bills/113/hr647 (accessed October 20, 2014).
2. Congressional Budget Office, "Cost Estimate H.R. 647: Achieving a Better Life Experience Act of 2014," August 27, 2014, http://www.cbo.gov/sites/default/files/cbofiles/attachments/hr647.pdf (accessed October 1, 2014).
3. Internal Revenue Service, "Frequently Asked Questions on Gift Taxes," September 18, 2014, http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Frequently-Asked-Questions-on-Gift-Taxes (accessed October 1, 2014).
4. U.S. Securities and Exchange Commission, "An Introduction to 529 Plans: What Is a 529 Plan?" http://www.sec.gov/investor/pubs/intro529.htm (accessed October 1, 2014).
5. ABLE Act of 2013.
6. Social Security Administration, "Justification of Estimates for Appropriations Committees Fiscal Year 2015," March 2014, http://www.ssa.gov/budget/FY15Files/2015SSI.pdf (accessed October 7, 2014).
7. Social Security Administration, "SSI Monthly Statistics, August 2014," http://www.ssa.gov/policy/docs/statcomps/ssi_monthly/2014-08/table02.html (accessed October 7, 2014).

The SSI cash grant to children is far higher than any other benefit for children in the means-tested welfare system. At an annual cost of $8,650 per child,[8] SSI benefits for children are roughly three times higher than the average child benefit in the Temporary Assistance for Needy Families (TANF) program. This high level of benefit could be justified if it were intended to offset extra medical or educational costs associated with the child's disability. But there is no link between SSI payments and any actual medical or educational costs incurred by the family. Moreover, if extra medical or educational costs did occur, they would generally be funded by Medicaid and education programs. Finally, it is unclear to which extent the high cash benefits provided to SSI children flow discretely to the child beneficiary as opposed to simply boosting the overall welfare income that the child's family receives from a variety of programs.

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The SSI cash benefit for children is neither a medical, developmental, nor an educational program. It is a simple cash transfer or welfare program for low-income parents. It can best be described as a high-benefit version of Aid to Families with Dependent Children (AFDC) and its replacement program TANF. As in AFDC and TANF, the primary beneficiaries are single-parent families with low rates of employment. Only 20 percent of SSI children reside in married couple households; two-thirds of the single parents of SSI children perform no work at all during a given month.[9] In contrast to TANF, there is no work requirement for parents of SSI children.

The typical single mother with a child on SSI receives a means-tested welfare packet from SSI, SNAP, school nutrition, Medicaid, and possibly, Women, Infants, and Children (WIC) worth a total of about $25,000 per year,[10] if she is not employed. If the mother works at a low-wage job, earning $10,000 per year, the combined value of welfare benefits and post-tax earnings can reach $43,000 per year.[11]

The SSI benefit program for children has all the negative features of the original AFDC program that led to reform of the AFDC in 1996; it discourages work and penalizes parents who marry. The ABLE Act takes a bad welfare program and makes it worse. The act makes it easier for low-income parents to enroll their children in SSI and makes it more attractive to remain in the program. As such, it will reduce the incentive to work and increase welfare dependence.

SSI Child Beneficiaries. Advocates for the ABLE Act frequently refer to children with Down syndrome and similar severe disabilities as the intended beneficiaries of the act. Relatively few SSI eligible children fit that description. Seventy percent of SSI-eligible children have a mental rather than physical disability and the standards for mental disability are vague. Around half of SSI child recipients are disabled because of "developmental disorders," "childhood and adolescent disorders not elsewhere classified," or "mood disorders."[12] As stated by Daniel Bertoni in congressional testimony for the Government Accountability Office (GAO), "Accurately diagnosing some types of mental impairments is a complex and often subjective process for (the Social Security Administration), which can sometimes be vulnerable to fraud and abuse."[13]

8. Social Security Administration, "SSI Federal Payment Amounts for 2014," http://www.socialsecurity.gov/OACT/COLA/SSI.html (accessed October 1, 2014).
9. Social Security Administration, Office of Retirement and Disability Policy, *SSI Annual Statistical Report 2012*, p. 51, http://www.ssa.gov/policy/docs/statcomps/ssi_asr/2012/index.html (accessed October 1, 2014).
10. Calculations by The Heritage Foundation.
11. The calculations are based on a single parent with one disabled and one non-disabled child. Benefits for the employed mother include the Earned Income Tax Credit, the additional child tax credit, and child-care subsidies.
12. Social Security Administration, Office of Retirement and Disability Policy, *SSI Annual Statistical Report 2013*, http://www.ssa.gov/policy/docs/statcomps/ssi_asr/2013/sect04.html#table20 (accessed October 20, 2014).
13. U.S. Government Accountability Office, "Security Income: Preliminary Observations on Children with Mental Impairment," October 27, 2011, http://www.gao.gov/assets/590/585947.html (accessed October 7, 2014).

During the 1990s, children who merely acted in age-inappropriate ways were recipients of SSI.[14] The 1996 welfare reform act curtailed some of the excesses of this problem but did not fundamentally change SSI eligibility standards. A 2012 GAO report found that "examiners sometimes lack complete information to inform their decision making and identify potential threats to program integrity" as more children enter the program.

Moreover, the Social Security Administration has fallen far behind its stewardship responsibilities. The 2012 GAO report also found that one reason for the substantial increase in SSI recipients over the past decade is that fewer children leave the program before turning 18. Their parents continue to receive welfare benefits for the child during this extended period. More than one-third of childhood continuing-disability reviews are overdue—a key check on program growth by removing ineligible recipients from the rolls.[15]

SSI Eligibility. The Social Security Administration originally relied on its medical listings of impairments to determine a child's eligibility for high cash benefits. The definition of a disabled child was relaxed after a 1990 Supreme Court ruling (*Sullivan v. Zebley*) to include more subjective functional limitations, such as behavioral problems, which caused SSI child rolls to swell. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) tightened the standard for children somewhat after *Sullivan*,[16] but awards to children with mental impairments began to increase again shortly after PRWORA.

Richard Burkhauser and Mary Daly argue that policy factors, rather than worse health among children, are the main drivers of increased enrollment in SSI. Relatively lower and more subjective eligibility criteria combine with incentives by states and individuals to increase enrollment in SSI. States face incentives to shift TANF families onto the SSI disabled-children program, thereby spending federal dollars instead of state dollars. Moreover, SSI benefits are more generous than TANF benefits and come without work requirements, which incentivize applications particularly among single mothers. Burkhauser and Daly list evidence that the greater the difference between TANF and SSI benefits, the greater the incentive for single mothers to apply for the latter.[17]

Asset-Test Elimination. H.R. 647 makes it easier for families to obtain SSI benefits for children by effectively eliminating the asset tests for the program. The current asset limit is $2,000 in liquid assets for an individual, and $3,000 for a couple. H.R. 647 raises the limit for both to $100,000 as long as the assets are held in an ABLE account. If a child qualifies for SSI, the bill also eliminates asset tests for all other means-tested programs, including SNAP, Medicaid, the Earned Income Tax Credit, and Section 8 housing. When a child receiving SSI becomes an adult, the asset limits on SSI and all other programs are effectively eliminated if the child is deemed incapable of gainful employment.[18]

14. Ron Haskins, *Work Over Welfare: The Inside Story of the 1996 Welfare Reform Law* (Washington, DC: Brookings Institution Press, 2006), pp. 175–176.
15. U.S. Government Accountability Office, "Supplemental Security Income: Better Management Oversight Needed for Children's Benefits," June 26, 2012, http://www.gao.gov/products/GAO-12-497 (accessed October 7, 2014).
16. Social Security Administration, "Disability, Welfare Reform, and Supplemental Security Income," http://www.ssa.gov/policy/docs/ssb/v65n3/v65n3p14.html (accessed October 7, 2014).
17. Richard V. Burkhauser and Mary C. Daly, "The Changing Role of Disabled Children Benefits," Federal Reserve Bank of San Francisco *Economic Letter* No. 2013-25, September 3, 2013, http://www.frbsf.org/economic-research/publications/economic-letter/2013/september/disabled-children-family-benefits-ssi-supplemental-security-income/ (accessed October 7, 2014).
18. In the original version of H.R. 647—http://www.gpo.gov/fdsys/pkg/BILLS-113hr647ih/pdf/BILLS-113hr647ih.pdf (accessed October 23, 2014)—an individual did not need to actually be eligible or receive benefits from SSI in order to become exempt from welfare asset tests. Section 3 (C) iii of the original bill empowered any future Secretary of Health and Human Services (HHS) to issue broad "certificates of disability" to any individual who is deemed to have a "medically determinable physical or mental impairment which results in marked and severe functional limitations." No further definition of these terms was provided. When the HHS Secretary issued such a certificate, the individual would become exempt from asset tests on all current and future welfare programs. In effect, the bill gave the HHS Secretary carte blanche authority to overturn all asset tests within the welfare system for a completely undefined and potentially very large population. The HHS bureaucracy would certainly give this provision in the broadest possible interpretation, exempting potentially tens of millions of individuals from asset limitations and thereby greatly expanding the future welfare state.

Fraud occurs in SSI as it does throughout the welfare system. SSI is part of 13 programs designated by the Office of Management and Budget as "high error," referring to high rates of overpayment. Typically, a recipient will conceal earnings in order to obtain higher welfare benefits. H.R. 647 facilitates this type of fraud by enabling welfare recipients to openly accumulate savings from hidden employment.[19]

To a considerable degree, the welfare state has expanded due to small incremental expansions of benefits and eligibility like those contained in H.R. 647.

The SSI program, like all means-tested welfare programs, penalizes marriage. Single mothers who marry employed fathers will have their benefits cut or eliminated. H.R. 647 exacerbates this problem. Access to the program is increased, and a single mother would be permitted to openly accumulate informal child support from the non-married father.

Building a Bigger Welfare State

Adjusting for inflation, government today spends 16 times more on means-tested welfare than it did when President Lyndon Johnson launched the War on Poverty.[20] This enormous growth of welfare did not occur overnight. To a considerable degree, the welfare state has expanded due to small incremental expansions of benefits and eligibility like those contained in H.R. 647.

Today, over 100 million persons—one in three Americans—receive benefits from at least one means-tested welfare program. Over the next 10 years, government is projected to spend over $13 trillion on welfare.[21] Congress must scale back this welfare prudently, and not expand eligibility as H.R. 647 does.

Tax-Favored Savings. The Heritage Foundation has written favorably on 529 higher education savings accounts and Coverdell accounts for K–12 and higher-education expenses, because tax-favored education savings accounts "empower families to keep more of their own money to put toward a child's private-school tuition or other education-related expenses," as Heritage Foundation analysts Lindsey Burke and Rachel Sheffield explain.[22]

More broadly, The Heritage Foundation has advocated the neutral treatment of savings by eliminating current law provisions that result in multiple layers of taxation on savings.[23] Under Heritage's "Saving the American Dream" plan,[24] savings would only be taxed when spent, and any income saved would not be taxed and would accrue tax-free gains.

The Cato Institute's Chris Edwards recently advocated a universal savings account, as is available in Canada, where a specified amount of income taxed at the point of being earned would be allowed to grow and be withdrawn tax-free and penalty-free.[25] Edwards argues that the "growth that comes from more savings and investment will raise liv-

19. "Supplemental Security Income (SSI)," PaymentAccuracy.gov, https://paymentaccuracy.gov/tracked/supplemental-security-income-ssi-2013#learnmore (accessed October 7, 2014).
20. Robert Rector and Rachel Sheffield, "The War on Poverty After 50 Years," Heritage Foundation *Backgrounder* No. 2955, September 15, 2014, http://www.heritage.org/research/reports/2014/09/the-war-on-poverty-after-50-years.
21. Robert Rector, "Examining the Means-tested Welfare State: 79 Programs and $927 Billion in Annual Spending," testimony before the Committee on the Budget, U.S. House of Representatives, May 3, 2012, http://www.heritage.org/research/testimony/2012/05/examining-the-means-tested-welfare-state.
22. Lindsey M. Burke and Rachel Sheffield, "Continuing the School Choice March: Policies to Promote Family K–12 Education Investment," Heritage Foundation *Backgrounder* No. 2683, April 25, 2012, http://www.heritage.org/research/reports/2012/04/continuing-the-school-choice-march-policies-to-promote-family-k-12-education-investment.
23. Romina Boccia and Curtis S. Dubay, "Obama's IRA Cap: A Cap on Defined-Contribution Retirement Savings Plans," Heritage Foundation *Issue Brief* No. 3935, May 15, 2013, http://www.heritage.org/research/reports/2013/05/obama-s-cap-on-defined-contribution-retirement-savings-plans.
24. Stuart M. Butler, Alison Acosta Fraser, and William W. Beach, "Saving the American Dream: The Heritage Plan to Fix the Debt, Cut Spending, and Restore Prosperity," Heritage Foundation *Special Report* No. 91, May 10, 2011, http://www.heritage.org/research/reports/2011/05/saving-the-american-dream-the-heritage-plan-to-fix-the-debt-cut-spending-and-restore-prosperity.
25. Chris Edwards and Amity Shlaes, "A Simple Tax Reform Can Help Families and Promote Economic Growth," Cato Institute, August 25, 2014, http://www.cato.org/publications/commentary/simple-tax-reform-can-help-families-promote-economic-growth (accessed October 1, 2014).

ing standards. And Americans, single or in families, middle class, lower-income or affluent, would become more self-sufficient."

Even absent the ABLE Act's impact on means-tested spending, rather than singling out another group of beneficiaries for the tax-neutral treatment of savings, Congress should end multiple taxation of savings for all Americans.[26]

A Better Approach

The primary goals of H.R. 647 can be accomplished while minimizing negative impacts, through the following changes:

- **Eligibility for ABLE accounts should be limited to children with clear clinical conditions that create severe disability**; for example, blindness or Down's syndrome.

- **Families should be permitted to place assets into ABLE accounts for any children with clear clinical conditions that create severe disability**; however, assets in ABLE accounts would count against the asset tests for families and for minor children receiving SSI or other means-tested welfare.

- **When children with severe disability grow up to become disabled adults who are incapable of gainful employment, the SSI asset test on those individuals could be eased to enable them to use ABLE funds without losing SSI eligibility.**

Congress should not eliminate the asset test for all families with children on SSI. Congress should reform the treatment of savings for all Americans and preserve means-tested program benefits for those Americans who need them the most.

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26. Boccia and Dubay, "Obama's IRA Cap.".