

111TH CONGRESS
1ST SESSION

S. 493

To amend the Internal Revenue Code of 1986 to provide for the establishment of ABLE accounts for the care of family members with disabilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 26, 2009

Mr. CASEY (for himself, Mr. HATCH, Mr. DODD, Mr. BURR, Mr. KENNEDY, and Mr. BROWNBACK) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to provide for the establishment of ABLE accounts 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
5 Life Experience Act of 2009” or the “ABLE Act of
6 2009”.

7 **SEC. 2. PURPOSES.**

8 The purposes of this Act are as follows:

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

5 (2) To provide secure funding for disability-re-
 6 lated expenses on behalf of designated beneficiaries
 7 with disabilities that will supplement, but not sup-
 8 plant, benefits provided through private insurance,
 9 the Medicaid program under title XIX of the Social
 10 Security Act, the supplemental security income pro-
 11 gram under title XVI of such Act, the beneficiary's
 12 employment, and other sources.

13 **SEC. 3. ABLE ACCOUNTS.**

14 (a) ESTABLISHMENT.—

15 (1) IN GENERAL.—Subchapter F of chapter 1
 16 of the Internal Revenue Code of 1986 (relating to
 17 exempt organizations) is amended by inserting after
 18 part VIII the following new part:

19 **“PART IX—SAVINGS FOR INDIVIDUALS WITH**
 20 **DISABILITIES**

“Sec. 530A. ABLE Accounts.

21 **“SEC. 530A. ABLE ACCOUNTS.**

22 “(a) GENERAL RULE.—An ABLE account shall be
 23 exempt from taxation under this subtitle. Notwithstanding
 24 the preceding sentence, such account shall be subject to

1 the taxes imposed by section 511 (relating to imposition
 2 of tax on unrelated business income of charitable organiza-
 3 tions).

4 “(b) DEFINITIONS AND SPECIAL RULES.—For pur-
 5 poses of this section—

6 “(1) ABLE ACCOUNTS.—The term ‘ABLE ac-
 7 count’ means a trust created or organized in the
 8 United States (and designated as an ABLE account
 9 at the time created or organized) exclusively for the
 10 purpose of paying qualified disability expenses of an
 11 individual who is an individual with a disability and
 12 who is the designated beneficiary of the trust, but
 13 only if the written governing instrument creating the
 14 trust meets the following requirements:

15 “(A) No contribution will be accepted—

16 “(i) except in the case of rollover con-
 17 tributions described in subsection (c)(4)
 18 and sections 223(c)(5)(A)(ii),
 19 408(d)(3)(A)(iii), 529(c)(3)(E), and
 20 530(d)(9), unless it is in cash,

21 “(ii) if such contribution would result
 22 in aggregate contributions for the taxable
 23 year and all preceding taxable years ex-
 24 ceeding \$500,000, and

1 “(iii) after the date on which the ac-
2 count holder attains the age of 65.

3 “(B) The trustee is—

4 “(i) a bank (as defined in section
5 408(n)),

6 “(ii) the designated beneficiary,

7 “(iii) a parent or guardian of the des-
8 ignated beneficiary, or

9 “(iv) a third-party appointed by the
10 designated beneficiary or a parent or
11 guardian of the designated beneficiary (in-
12 cluding a family member of the designated
13 beneficiary or an organization that admin-
14 isters pooled and special needs trusts) who
15 demonstrates to the satisfaction of the Sec-
16 retary that the manner in which that per-
17 son will administer the trust will be con-
18 sistent with the requirements of this sec-
19 tion.

20 “(C) No part of the trust assets will be in-
21 vested in life insurance contracts.

22 “(D) The assets of the trust shall not be
23 commingled with other property except in a
24 common trust fund or common investment
25 fund.

1 “(E) Except as provided in paragraph (4)
 2 or (5) of subsection (c), in the case that the
 3 designated beneficiary dies or ceases to be an
 4 individual with a disability, all amounts remain-
 5 ing in the trust not in excess of the amount
 6 equal to the total medical assistance paid for
 7 the designated beneficiary after the establish-
 8 ment of the trust under any State Medicaid
 9 plan established under title XIX of the Social
 10 Security Act shall be distributed to such State.

11 “(2) QUALIFIED DISABILITY EXPENSES.—

12 “(A) IN GENERAL.—The term ‘qualified
 13 disability expenses’ means any expenses
 14 which—

15 “(i) are made for the benefit of an in-
 16 dividual with a disability who is a des-
 17 ignated beneficiary of the trust, and

18 “(ii) approved under regulations es-
 19 tablished by the Secretary.

20 “(B) EXPENSES INCLUDED.—The fol-
 21 lowing expenses shall, to the extent provided
 22 under regulations established by the Secretary,
 23 be qualified disability expenses if made for the
 24 benefit of an individual with a disability who is
 25 a designated beneficiary of the trust:

1 “(i) EDUCATION.—Expenses for edu-
2 cation, including tuition for preschool thru
3 post-secondary education, books, supplies,
4 and educational materials related to such
5 education, tutors, and special education
6 services.

7 “(ii) HOUSING.—Expenses for hous-
8 ing, including rent, mortgage payments,
9 home improvements and modifications,
10 maintenance and repairs, real property
11 taxes, and utility charges.

12 “(iii) TRANSPORTATION.—Expenses
13 for transportation, including the use of
14 mass transit, the purchase or modification
15 of vehicles, and moving expenses.

16 “(iv) EMPLOYMENT SUPPORT.—Ex-
17 penses related to obtaining and maintain-
18 ing employment, including job-related
19 training, assistive technology, and personal
20 assistance supports.

21 “(v) HEALTH, PREVENTION, AND
22 WELLNESS.—Expenses for the health and
23 wellness, including premiums for health in-
24 surance, medical, vision, and dental ex-
25 penses, habilitation and rehabilitation serv-

ices, durable medical equipment, therapy, respite care, long term services and supports, and nutritional management.

“(vi) LIFE NECESSITIES.—Expenses for life necessities, including clothing, activities which are religious, cultural, or recreational, supplies and equipment for personal care, community-based supports, communication services and devices, adaptive equipment, assistive technology, personal assistance supports, financial management and administrative services, expenses for oversight, monitoring, or advocacy, funeral and burial expenses.

“(vii) OTHER APPROVED EXPENSES.—Any other expenses which are approved by the Secretary under regulations and consistent with the purposes of this section.

“(viii) ASSISTIVE TECHNOLOGY AND PERSONAL SUPPORT SERVICES.—Expenses for assistive technology and personal support with respect to any item described in clauses (i) through (vii).

1 “(3) INDIVIDUAL WITH A DISABILITY.—An in-
 2 dividual is an individual with a disability if such in-
 3 dividual—

4 “(A) would be eligible to receive supple-
 5 mental security income benefits due to blind-
 6 ness or disability under title XVI of the Social
 7 Security Act, or disability benefits under Title
 8 II of the Social Security Act, notwithstanding—

9 “(i) the income and assets tests and
 10 substantial gainful activity test required
 11 for eligibility for such benefits, and

12 “(ii) whether a determination has
 13 been made that such individual is blind or
 14 disabled, or

15 “(B) is eligible to receive or is deemed to
 16 be receiving supplemental security income bene-
 17 fits due to blindness or disability under title
 18 XVI of the Social Security Act, or disability
 19 benefits under title II of the Social Security
 20 Act.

21 “(4) RULES RELATING TO ESTATE AND GIFT
 22 TAX.—Rules similar to the rules of paragraphs (2),
 23 (4), and (5) of section 529(c) shall apply for pur-
 24 poses of this section.

1 “(5) ONLY 1 ACCOUNT PER QUALIFIED BENE-
 2 FICIARY.—No individual may have more than 1
 3 ABLE account for an individual with a disability.

4 “(c) TAX TREATMENT OF DISTRIBUTIONS.—

5 “(1) IN GENERAL.—Except as otherwise pro-
 6 vided in this subsection, any amount paid or distrib-
 7 uted out of an ABLE account shall be included in
 8 gross income by the payee or distributee, as the case
 9 may be, for the taxable year in which received in the
 10 manner as provided in section 72.

11 “(2) DISTRIBUTIONS FOR BENEFIT OF DES-
 12 IGNATED BENEFICIARY.—

13 “(A) IN GENERAL.—No amount shall be
 14 includible in gross income under paragraph (1)
 15 if the qualified disability expenses of the des-
 16 ignated beneficiary during the taxable year are
 17 not less than the aggregate distributions during
 18 the taxable year.

19 “(B) DISTRIBUTIONS IN EXCESS OF EX-
 20 PENSES.—If such aggregate distributions ex-
 21 ceed such expenses during the taxable year, the
 22 amount otherwise includible in gross income
 23 under paragraph (1) shall be reduced by the
 24 amount which bears the same ratio to the
 25 amount which would be includible in gross in-

1 come under paragraph (1) (without regard to
2 this subparagraph) as the qualified disability
3 expenses bear to such aggregate distributions.

4 “(C) DISALLOWANCE OF EXCLUDED
5 AMOUNTS AS DEDUCTION, CREDIT, OR EXCLU-
6 SION.—No deduction, credit, or exclusion shall
7 be allowed to the taxpayer under any other sec-
8 tion of this chapter for any qualified disability
9 expenses to the extent taken into account in de-
10 termining the amount of the exclusion under
11 this paragraph.

12 “(3) ADDITIONAL TAX FOR DISTRIBUTIONS NOT
13 USED FOR BENEFIT OF DESIGNATED BENE-
14 FICIARY.—

15 “(A) IN GENERAL.—The tax imposed by
16 this chapter for any taxable year on any tax-
17 payer who receives a payment or distribution
18 from an ABLE account shall be increased by
19 10 percent of the amount thereof which is in-
20 cludible in gross income under paragraph (1).

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

1 “(C) CONTRIBUTIONS RETURNED BEFORE
 2 CERTAIN DATE.—Subparagraph (A) shall not
 3 apply to the distribution of any contribution
 4 made during a taxable year if—

5 “(i) such distribution is made before
 6 the 60th day after the date on which the
 7 contribution was made, and

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

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

14 “(4) ROLLOVERS.—Paragraph (1) shall not
 15 apply to any amount paid or distributed from an
 16 ABLE account to the extent that the amount re-
 17 ceived is paid, not later than the 60th day after the
 18 date of such payment or distribution, into—

19 “(A) another ABLE account for the ben-
 20 efit of—

21 “(i) the same beneficiary, or

22 “(ii) an individual who—

23 “(I) is the spouse of such indi-
 24 vidual with a disability, or bears a re-
 25 lationship to such individual with a

1 disability which is described in section
 2 152(d)(2), and

3 “(II) is also an individual with a
 4 disability, or

5 “(B) any trust which is described in sub-
 6 paragraph (A) or (C) of section 1917(d)(4) of
 7 the Social Security Act and which is for the
 8 benefit of an individual described in clause (i)
 9 or (ii) of subparagraph (A).

10 The preceding sentence shall not apply to any pay-
 11 ment or distribution if it applied to any prior pay-
 12 ment or distribution during the 12-month period
 13 ending on the date of the payment or distribution.

14 “(5) CHANGE IN BENEFICIARY.—Any change in
 15 the beneficiary of an ABLE account shall not be
 16 treated as a distribution for purposes of paragraph
 17 (1) if the new beneficiary is an individual described
 18 in paragraph (4)(A)(ii) as of the date of the change.

19 “(d) TAX TREATMENT OF ACCOUNTS.—Rules similar
 20 to the rules of paragraphs (2) and (4) of section 408(e)
 21 shall apply to any ABLE account.

22 “(e) COMMUNITY PROPERTY LAWS.—This section
 23 shall be applied without regard to any community property
 24 laws.

1 “(f) CUSTODIAL ACCOUNTS.—For purposes of this
2 section, a custodial account shall be treated as a trust if—

3 “(1) the assets of such account are held by a
4 bank (as defined in section 408(n) or another person
5 who demonstrates, to the satisfaction of the Sec-
6 retary, that the manner in which he will administer
7 the account will be consistent with the requirements
8 of this section, and

9 “(2) the custodial account would, except for the
10 fact that it is not a trust, constitute an account de-
11 scribed in subsection (b)(1).

12 For purposes of this title, in the case of a custodial ac-
13 count treated as a trust by reason of the preceding sen-
14 tence, the custodian of such account shall be treated as
15 the trustee thereof.

16 “(g) REPORTS.—The trustee of an ABLE account
17 shall make such reports regarding such account to the
18 Secretary and to the beneficiary of the account with re-
19 spect to contributions, distributions, and such other mat-
20 ters as the Secretary may require. The reports required
21 by this subsection shall be filed at such time and in such
22 manner and furnished to such individuals at such time and
23 in such manner as may be required.

24 “(h) INFLATION ADJUSTMENT.—

1 “(1) IN GENERAL.—In the case of any taxable
 2 year beginning after 2010, the \$500,000 dollar
 3 amount under subsection (b)(1)(A)(i)(II) shall be in-
 4 creased by an amount equal to—

5 “(A) such dollar amount, multiplied by

6 “(B) the cost of living adjustment deter-
 7 mined under section 1(f)(3) for the calendar
 8 year in which the taxable year begins, deter-
 9 mined by substituting ‘calendar year 2009’ for
 10 ‘calendar year 1992’ in subparagraph (B)
 11 thereof.

12 “(2) ROUNDING.—If any amount as adjusted
 13 under paragraph (1) is not a multiple of \$1,000,
 14 such amount shall be rounded to the next lowest
 15 multiple of \$1,000.

16 “(i) REGULATIONS.—The Secretary, in consultation
 17 with the Secretary of Health and Human Services, shall
 18 prescribe regulations to carry out the purposes of this sec-
 19 tion, including regulations—

20 “(1) to ensure that individuals do not have
 21 more than 1 ABLE account, and

22 “(2) to prevent fraud and abuse with respect to
 23 amounts claimed as qualified disability expenses.”.

24 (2) CONFORMING AMENDMENTS.—

25 (A) TAX ON EXCESS CONTRIBUTIONS.—

1 (i) IN GENERAL.—Subsection (a) of
 2 section 4973 of the Internal Revenue Code
 3 of 1986 is amended by striking “or” at the
 4 end of paragraph (4), by inserting “or” at
 5 the end of paragraph (5), and by inserting
 6 after paragraph (5) the following new
 7 paragraph:

8 “(6) an ABLE account (within the meaning of
 9 section 530A),”.

10 (ii) EXCESS CONTRIBUTIONS.—Sec-
 11 tion 4973 of such Code is amended by add-
 12 ing at the end the following new sub-
 13 section:

14 “(h) EXCESS CONTRIBUTIONS TO ABLE AC-
 15 COUNTS.—For purposes of this section, in the case of an
 16 ABLE account (within the meaning of section 530A), the
 17 term ‘excess contributions’ means the sum of—

18 “(1) the amount by which the sum of the
 19 amount contributed for the taxable year to such ac-
 20 counts plus such amounts contributed for all pre-
 21 ceding taxable years exceeds the amount described in
 22 section 530A(b)(1)(A)(ii), and

23 “(2) the amount determined under this section
 24 for the preceding taxable year, reduced by the dis-

1 contributions from such account which were includible
 2 in gross income under section 530A(c)(1).

3 For purposes of this section, an amount which is distrib-
 4 uted out of an ABLE account in a distribution to which
 5 section 530A(c)(3)(C) applies shall be treated as an
 6 amount not contributed.”.

7 (B) TAX ON PROHIBITED TRANS-
 8 ACTIONS.—

9 (i) IN GENERAL.—Paragraph (1) of
 10 section 4975(e) of such Code (defining
 11 plan) is amended by redesignating sub-
 12 paragraph (G) as subparagraph (H), by
 13 striking “or” at the end of subparagraph
 14 (F), and by adding after subparagraph (F)
 15 the following:

16 “(G) an ABLE account described in sec-
 17 tion 530A, or”.

18 (ii) EXEMPTION.—Subsection (d) of
 19 section 4975 of such Code (relating to ex-
 20 emptions) is amended by striking “or” at
 21 the end of paragraph (22), by striking the
 22 period at the end of paragraph (23) and
 23 inserting “; or”, and by inserting after
 24 paragraph (23) the following:

1 “(24) in the case of an ABLE account, any
 2 transaction to provide housing or other services by
 3 a family member to or for the designated beneficiary
 4 of the trust to the extent that such transaction does
 5 not exceed the fair market value of the housing or
 6 service (as the case may be) provided.”.

7 (iii) SPECIAL RULE.—Subsection (c)
 8 of section 4975 of such Code (relating to
 9 tax on prohibited transactions) is amended
 10 by adding at the end the following new
 11 paragraph:

12 “(7) SPECIAL RULE FOR ABLE ACCOUNTS.—An
 13 individual for whose benefit an ABLE account is es-
 14 tablished and any contributor to such account shall
 15 be exempt from the tax imposed by this section with
 16 respect to any transaction concerning such account
 17 (which would otherwise be taxable under this sec-
 18 tion) if section 530A(d) applies with respect to such
 19 transaction.”.

20 (C) ROLLOVERS FROM CERTAIN OTHER
 21 TAX FAVORED ACCOUNTS.—

22 (i) QUALIFIED TUITION PROGRAMS.—
 23 Paragraph (3) of section 529(e) of such
 24 Code is amended by adding at the end the
 25 following new subparagraph:

1 “(E) CONTRIBUTIONS TO ABLE AC-
 2 COUNT.—Subparagraph (A) shall not apply to
 3 that portion of any distribution which, within
 4 60 days of such distribution, is contributed to
 5 an ABLE account for the benefit of the des-
 6 ignated beneficiary.”.

7 (ii) EDUCATION SAVINGS AC-
 8 COUNTS.—Subsection (d) of section 530 of
 9 such Code is amended by adding at the
 10 end the following new paragraph:

11 “(10) CONTRIBUTIONS TO ABLE ACCOUNT.—
 12 Paragraph (1) shall not apply to any amount paid
 13 or distributed from a Coverdell education savings ac-
 14 count to the extent that the amount received is paid,
 15 not later than the 60th day after the date of such
 16 payment or distribution, into an ABLE account for
 17 the benefit of the same beneficiary.”.

18 (iii) HEALTH SAVINGS ACCOUNTS.—
 19 Subparagraph (A) of section 223(f)(5) is
 20 amended—

21 (I) by inserting “(i)” before “into
 22 a health savings account”, and

23 (II) by inserting “or (ii) into an
 24 ABLE account for the benefit of such

1 beneficiary” before “not later than the
2 60th day”.

3 (iv) CERTAIN IRAS.—Subparagraph
4 (A) of section 408(d)(3) is amended by
5 striking “or” at the end of clause (i), by
6 striking the period at the end of clause (ii)
7 and inserting “; or”, and by inserting after
8 clause (ii) the following new clause:

9 “(iii) the entire amount received (in-
10 cluding money and other property) is paid
11 into an ABLE account for the benefit of
12 the child or grandchild of such individual
13 not later than the 60th day after the day
14 on which the payment or distribution is re-
15 ceived.”.

16 (D) REPORTS.—Paragraph (2) of section
17 6693(a) of such Code is amended by striking
18 “and” at the end of subparagraph (D), by
19 striking the period at the end of subparagraph
20 (E) and inserting “and”, and by inserting after
21 subparagraph (E) the following new subpara-
22 graph:

23 “(F) section 530A(g) (relating to ABLE
24 accounts).”.

1 (E) EXCLUSION FROM INCOME UNDER
 2 SSI.—Subsection (b) of section 1612 of the So-
 3 cial Security Act (42 U.S.C. 1382a) is amended
 4 by striking “or” at the end of paragraph (22),
 5 by striking the period at the end of paragraph
 6 (23) and inserting “; or”, and by inserting after
 7 paragraph (23) the following:
 8 “(24) any contribution to an ABLE account.”.

9 (F) CLERICAL AMENDMENT.—The table of
 10 parts for subchapter F of chapter 1 of such
 11 Code is amended by inserting after the item re-
 12 lating to part VIII the following new item:

“PART IX. SAVINGS FOR INDIVIDUALS WITH DISABILITIES.”.

13 (b) ANNUAL REPORTS.—

14 (1) IN GENERAL.—The Secretary of the Treas-
 15 ury, in consultation with the Secretary of Health
 16 and Human Services, shall report annually to Con-
 17 gress on the usage of ABLE accounts under section
 18 530A of the Internal Revenue Code of 1986.

19 (2) CONTENTS OF REPORT.—Any report under
 20 paragraph (1) shall include—

21 (A) the number of people with an ABLE
 22 accounts,

23 (B) the total amount of contributions to
 24 such accounts,

1 (C) the total amount and nature of dis-
 2 tributions from such accounts,

3 (D) issues relating to the abuse of such ac-
 4 counts, if any, and

5 (E) the amounts repaid from such ac-
 6 counts to State Medicaid programs established
 7 under title XIX of the Social Security Act.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to taxable years beginning after
 10 the date of the enactment of this Act.

11 **SEC. 4. DEDUCTION FOR CONTRIBUTIONS TO ABLE AC-**
 12 **COUNTS.**

13 (a) DEDUCTION.—

14 (1) IN GENERAL.—Part VII of subchapter A of
 15 chapter 1 of the Internal Revenue Code of 1986 is
 16 amended by redesignating section 224 as section
 17 225 and inserting after section 223 the following
 18 new section:

19 **“SEC. 224. CONTRIBUTIONS TO ABLE ACCOUNTS.**

20 **“(a) ALLOWANCE OF DEDUCTION.—**In the case of a
 21 qualified individual, there shall be allowed as a deduction
 22 an amount equal so much of the qualified disability sav-
 23 ings contributions made during the taxable year as do not
 24 exceed \$2,000.

25 **“(b) LIMITATIONS.—**

“(1) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

“(A) IN GENERAL.—The amount which would (but for this paragraph) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under subparagraph (B).

“(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph is the amount which bears the same ratio to the amount which would be so taken into account as—

“(i) the excess of—

“(I) the taxpayer’s modified adjusted gross income for the taxable year, over

“(II) the applicable amount, bears to

“(ii) the phaseout amount.

“(C) APPLICABLE AMOUNT; PHASEOUT AMOUNT.—For purposes of subparagraph (B), the applicable amount and the phaseout amount shall be determined as follows:

	“The applicable amount is:	The phaseout amount is:
In the case of a joint return	\$60,000	\$10,000

	“The appli- cable amount is:	The phase- out amount is:
In the case of a head of household	\$45,000	\$7,500
In any other case	\$30,000	\$5,000.

1 “(D) MODIFIED ADJUSTED GROSS IN-
2 COME.—For purposes of this paragraph, the
3 term ‘modified adjusted gross income’ means
4 the adjusted gross income of the taxpayer for
5 the taxable year increased by any amount ex-
6 cluded from gross income under section 911,
7 931, or 933.

8 “(E) INFLATION ADJUSTMENT.—In the
9 case of any taxable year beginning in a calendar
10 year after 2010, each of the applicable amounts
11 in the second column of the table in subpara-
12 graph (C) shall be increased by an amount
13 equal to—

14 “(i) such dollar amount, multiplied by

15 “(ii) the cost-of-living adjustment de-
16 termined under section 1(f)(3) for the cal-
17 endar year in which the taxable year be-
18 gins, determined by substituting ‘calendar
19 year 2009’ for ‘calendar year 1992’ in sub-
20 paragraph (B) thereof.

1 Any increase determined under the preceding
 2 sentence shall be rounded to the nearest mul-
 3 tiple of \$500.

4 “(2) EARNED INCOME LIMITATION.—The
 5 amount of any deduction allowed under subsection
 6 (a) with respect to any taxpayer shall not exceed the
 7 earned income (as defined by section 32(c)(2)) of
 8 such taxpayer for such taxable year

9 “(c) QUALIFIED INDIVIDUAL.—For purposes of this
 10 section, the term ‘qualified individual’ means an individual
 11 with a disability (as defined in section 530A(b)) who is
 12 the designated beneficiary of an ABLE accounts (as de-
 13 fined by section 530A(a)).

14 “(d) QUALIFIED DISABILITY SAVINGS CONTRIBU-
 15 TIONS.—The term ‘qualified disability savings contribu-
 16 tions’ means, with respect to any taxable year, the aggre-
 17 gate contributions made by the taxpayer to the ABLE ac-
 18 count for an individual with a disability (as so defined)
 19 with respect to which such taxpayer is the qualified indi-
 20 vidual.

21 “(e) TREATMENT OF CONTRIBUTIONS BY DEPEND-
 22 ENT.—If a deduction under section 151 with respect to
 23 an individual is allowed to another taxpayer for a taxable
 24 year beginning in the calendar year in which such individ-
 25 ual’s taxable year begins—

1 “(1) no deduction shall be allowed under sub-
 2 section (a) to such individual for such individual’s
 3 taxable year, and

4 “(2) any qualified disability savings contribu-
 5 tions made by such individual during such taxable
 6 year shall be treated for purposes of this section as
 7 made by such other taxpayer.”.

8 (2) CONFORMING AMENDMENTS.—The table of
 9 sections for part VII of subchapter A of chapter 1
 10 of the Internal Revenue Code of 1986 is amended
 11 redesignating the item relating to section 224 as re-
 12 lating to section 225 and by inserting after the item
 13 relating to section 223 the following new item:

“Sec. 224. Contributions to ABLE accounts.”.

14 (b) STUDY.—

15 (1) IN GENERAL.—The Secretary of the Treas-
 16 ury (or the Secretary’s delegate), in consultation
 17 with the Secretary of Health and Human Services,
 18 shall conduct a study on the use of ABLE accounts
 19 (as defined by section 530A(a) of the Internal Rev-
 20 enue Code) and the effect of the deduction allowed
 21 under section 224 of such Code for contributions to
 22 such accounts. Such study shall consider the effect
 23 that a tax credit or a refundable matching tax credit
 24 would have on the use of and contributions to such
 25 accounts.

1 (2) REPORT.—Not later than 5 years after the
 2 date of the enactment of this Act, the Secretary of
 3 the Treasury shall report to Congress on the study
 4 conducted under paragraph (1).

5 (c) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to taxable years beginning after
 7 the date of the enactment of this Act .

8 **SEC. 5. TREATMENT OF ABLE ACCOUNTS UNDER CERTAIN**
 9 **FEDERAL PROGRAMS.**

10 (a) TREATMENT AS A MEDICAID EXCEPTED
 11 TRUST.—Paragraph (4) of section 1917(d) of the Social
 12 Security Act (42 U.S.C. 1396p(d)(4)) is amended by add-
 13 ing at the end the following new subparagraph:

14 “(D) A trust which is an ABLE account de-
 15 scribed in section 530A(b)(1) of the Internal Rev-
 16 enue Code of 1986.”.

17 (b) ACCOUNT FUNDS DISREGARDED FOR PURPOSES
 18 OF CERTAIN OTHER MEANS-TESTED FEDERAL PRO-
 19 GRAMS.—Notwithstanding any other provision of Federal
 20 law that requires consideration of 1 or more financial cir-
 21 cumstances of an individual, for the purpose of deter-
 22 mining eligibility to receive, or the amount of, any assist-
 23 ance or benefit authorized by such provision to be provided
 24 to or for the benefit of such individual, any amount (in-
 25 cluding earnings thereon) in any ABLE account of such

1 individual, and any distribution for qualified disability ex-
2 penses (as defined in section 530A(b)(2)) shall be dis-
3 regarded for such purpose with respect to any period dur-
4 ing which such individual maintains, makes contributions
5 to, or receives distributions from such ABLE account.

○