

S. 2606

At the request of Mr. DODD, the names of the Senator from Minnesota (Mr. COLEMAN) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. 2606, a bill to reauthorize the United States Fire Administration, and for other purposes.

S. 2618

At the request of Ms. KLOBUCHAR, the name of the Senator from New Jersey (Mr. MENENDEZ) was added as a cosponsor of S. 2618, a bill to amend the Public Health Service Act to provide for research with respect to various forms of muscular dystrophy, including Becker, congenital, distal, Duchenne, Emery-Dreifuss Facioscapulohumeral, limb-girdle, myotonic, and oculopharyngeal muscular dystrophies.

S. 2639

At the request of Mr. JOHNSON, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 2639, a bill to amend title 38, United States Code, to provide for an assured adequate level of funding for veterans health care.

S. 2657

At the request of Mr. KERRY, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2657, a bill to require the Secretary of Commerce to prescribe regulations to reduce the incidence of vessels colliding with North Atlantic right whales by limiting the speed of vessels, and for other purposes.

S. 2668

At the request of Mr. KERRY, the names of the Senator from New York (Mr. SCHUMER) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 2668, a bill to amend the Internal Revenue Code of 1986 to remove cell phones from listed property under section 280F.

S. 2701

At the request of Mr. NELSON of Nebraska, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2701, a bill to direct the Secretary of Veterans Affairs to establish a national cemetery in the eastern Nebraska region to serve veterans in the eastern Nebraska and western Iowa regions.

S. 2703

At the request of Mrs. DOLE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2703, a bill to reduce the reporting and certification burdens for certain financial institutions of sections 302 and 404 of the Sarbanes-Oxley Act of 2002.

S. 2713

At the request of Mr. VITTER, the names of the Senator from Alabama (Mr. SESSIONS), the Senator from South Carolina (Mr. DEMINT), the Senator from Oklahoma (Mr. INHOFE) and the Senator from Oklahoma (Mr. COBURN) were added as cosponsors of S. 2713, a bill to prohibit appropriated funds from being used in contravention of section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.

S. 2714

At the request of Mr. VITTER, the names of the Senator from Alabama

(Mr. SESSIONS), the Senator from South Carolina (Mr. DEMINT), the Senator from Oklahoma (Mr. INHOFE), the Senator from Oklahoma (Mr. COBURN) and the Senator from North Carolina (Mrs. DOLE) were added as cosponsors of S. 2714, a bill to close the loophole that allowed the 9/11 hijackers to obtain credit cards from United States banks that financed their terrorists activities, to ensure that illegal immigrants cannot obtain credit cards to evade United States immigration laws, and for other purposes.

S. 2731

At the request of Mr. BIDEN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2731, a bill to authorize appropriations for fiscal years 2009 through 2013 to provide assistance to foreign countries to combat HIV/AIDS, tuberculosis, and malaria, and for other purposes.

S.J. RES. 28

At the request of Mr. DORGAN, the names of the Senator from California (Mrs. BOXER) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S.J. Res. 28, a joint resolution disapproving the rule submitted by the Federal Communications Commission with respect to broadcast media ownership.

S. RES. 118

At the request of Mr. LEVIN, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. Res. 118, a resolution urging the Government of Canada to end the commercial seal hunt.

S. RES. 138

At the request of Mr. SALAZAR, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. Res. 138, a resolution honoring the accomplishments and legacy of Cesar Estrada Chavez.

S. RES. 390

At the request of Mr. KOHL, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. Res. 390, a resolution designating March 11, 2008, as National Funeral Director and Mortician Recognition Day.

S. RES. 476

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. Res. 476, a resolution designating March 25, 2008, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

AMENDMENT NO. 4148

At the request of Mr. KENNEDY, the names of the Senator from Connecticut (Mr. DODD), the Senator from Maryland (Ms. MIKULSKI), the Senator from New York (Mrs. CLINTON), the Senator from New Jersey (Mr. MENENDEZ) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of amendment No. 4148 intended to be proposed to S. Con. Res. 70, an original concurrent resolution setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD:

S. 2741. A bill to amend the Internal Revenue Code of 1986 to provide for disability savings accounts, and for other purposes; to the Committee on Finance.

Mr. DODD. Mr. President, I rise today to introduce the Disability Savings Act of 2008. This important legislation is designed to help individuals with disabilities live full and productive lives for all their years.

As we all know, disability is a part of human experience. The U.S. Census Bureau reports nearly 20 percent of Americans have some level of disability while 12.5 percent reported a severe disability. We should do what we can to make it possible for these Americans to live independently, exert control and choice over their lives, and fully participate in their communities. One of the key ways we can accomplish this goal is to help individuals with disabilities and their families save money for disability related expenses, especially those expected over the course of full life.

Over the years, Congress has provided incentives to American families to save for various long term goals: college education, home ownership, and retirement. These incentives have given families the tools to help their children, well after they have left the home.

But for families who have a child with a disability, particularly a cognitive disability, these goals may not match their needs. Many of these children will depend on Medicaid, Social Security Disability Insurance, and Supplemental Security Income. They cannot risk losing these benefits. And they may never get to the point where they can consider college or home ownership.

These individuals will frequently incur significant additional costs related to services and supports necessary to maintain health and independence. Parents also have to worry about what will happen to their children after they are gone.

The World Institute on Disability reports that over 1/3 of adults with disabilities live in households with income of \$15,000 or less. According to the 2005 American Community Survey, median earnings for individuals with disabilities were a little more than half of the median income of those without disabilities.

It is common for families to provide for individuals with significant disabilities who cannot support themselves. These families often do this at great cost to themselves both financially and emotionally. They do it out of love, and they do not ask to be relieved of their burdens. But they are hoping that we can provide the tools to help them ensure their loved ones can lead full lives for many years.

That is why I am introducing the Disability Savings Act of 2008. This bill

will encourage individuals with disabilities and their families to save money for their unique disability-related needs in Disability Savings Accounts. These accounts will provide a tax-advantaged mechanism for individuals with disabilities to save money.

The interest on these accounts, with a balance of up to \$250,000, will be tax free. Expenditures from the accounts for specific qualified services such as education, medical services, employment training and support, and transportation, will not be subject to income tax. The accounts will be easier to manage, and use than other existing savings mechanisms for individuals with disabilities. To be sure these accounts are available to low and moderate income earners, there will be a refundable matching tax credit of up to \$1000 for contributions. Account holders can even roll funds from college savings plans and special needs trusts for the same beneficiary into the Disability Savings Account without penalty. These accounts will supplement, not supplant, benefits provided by other, sources such as Medicaid, private insurance, and Supplemental Security Income, SSI, and the assets held within them will not be counted against eligibility for those programs.

In order to be eligible to have a Disability Savings Account, beneficiaries must be determined to be blind or disabled by the Social Security Administration or the Disability Determination Service of a state, and be under the age of 65. The accounts can be held and managed through a financial institution by the beneficiary, their spouse or family member, or a legal guardian.

I hope that my colleagues will see the benefit of this approach and join me in this effort. I urge them to co-sponsor this legislation and work with me to give individuals with disabilities and their families the tools they need to live healthy independent lives.

Mr. President, I ask unanimous consent that the text of the bill and a letter of support be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2741

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Disability Savings Act of 2008".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Disability is a natural part of the human experience. Individuals with disabilities have the right to live independently, to exert control and choice over their own lives, and to fully participate in and contribute to their communities through full integration and inclusion in the economic, political, social, cultural, and educational mainstream of American society.

(2) Americans with disabilities are more likely to live in poverty than those without disabilities. According to the World Institute on Disability, over one-third of adults with disabilities live in households with income of

\$15,000 or less compared to only 12 percent of those without disabilities. According to the 2005 American Community Survey, median annual earnings for individuals without a disability were \$25,000 compared with \$12,800 for those with a severe disability.

(3) Families often provide the primary financial assistance necessary for individuals with significant disabilities who cannot support themselves. Families supporting members with disabilities often experience substantial negative effects on the vocational and economic health of the family.

(4) Individuals with disabilities often incur significant additional costs related to services and supports necessary to maintain the health and independence needed to fully participate in society.

(5) Throughout the years policymakers have provided incentives to Americans to save money for purposes such as home ownership, education and retirement. Many of these benefits do not meet the savings needs of individuals with disabilities and their families.

(6) Encouraging individuals with disabilities and their families to save funds will allow them to achieve greater control, choice, participation in community, security, and independence in their lives.

#### SEC. 3. 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. 4. DISABILITY SAVINGS ACCOUNTS.

(a) IN GENERAL.—Subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to exempt organizations) is amended by adding at the end the following new part:

##### "PART IX—DISABILITY SAVINGS ENTITIES

"Sec. 530A. Disability savings accounts.

##### "SEC. 530A. DISABILITY SAVINGS ACCOUNTS.

"(a) DISABILITY SAVINGS ACCOUNT DEFINED.—For purposes of this section, the term 'disability savings account' means a trust created or organized in the United States by a qualified individual exclusively for the benefit of a qualified beneficiary, but only if the written governing instrument creating the trust meets the following requirements:

"(1) No contribution shall be accepted—

"(A) unless it is in cash, or

"(B) if such contribution would result in the total aggregate contributions to such account exceeding \$1,000,000.

"(2) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section or who has so demonstrated with respect to any individual retirement plan.

"(3) A qualified individual is designated for the purpose of administering requests for distributions from the trust.

"(4) No part of the trust assets will be invested in life insurance contracts.

"(5) The assets of the trust shall not be commingled with other property except in a common trust fund or common investment fund.

"(6) Except as provided in subsection (c)(6), in the case that the qualified beneficiary

dies or ceases to be a qualified beneficiary, all amounts remaining in the trust up to an amount equal to the total medical assistance paid for the qualified beneficiary under any State Medicaid plan established under title XIX of the Social Security Act shall be distributed to each such State.

##### "(b) TAX TREATMENT OF INCOME.—

"(1) IN GENERAL.—A disability savings account which has a value of \$250,000 or less for any taxable year shall be exempt from taxation under this subtitle. Notwithstanding the preceding sentence, a disability savings account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable organizations).

"(2) TAXABLE ACCOUNTS.—Any disability savings account which is not exempt from tax under paragraph (1) shall be taxed in the same manner as a qualified disability trust (as defined in section 642(b)(2)(C)(ii)).

"(3) DETERMINATION OF VALUE.—The value of a disability savings account shall be deemed to be in excess of \$250,000 for a taxable year if the daily balance of such account (determined as of the close of business on any business day) exceeds \$250,000 for the majority of business days during such taxable year.

##### "(c) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Any distribution from a disability savings account shall be included in the gross income of the qualified beneficiary in the manner provided in section 72.

"(2) DISTRIBUTIONS FOR QUALIFIED SERVICES OR PRODUCTS.—

"(A) IN GENERAL.—No amount shall be included in gross income under paragraph (1) if such amount is distributed—

"(i) for a qualified service or product, and

"(ii) except as otherwise provided by the Secretary, by means of an electronic fund transfer to the person who provided the qualified service or product.

"(B) QUALIFIED SERVICE OR PRODUCT.—

"(i) IN GENERAL.—The term 'qualified service or product' means any service or product which is provided to a qualified beneficiary on account of such beneficiary's disability.

"(ii) CERTAIN SERVICES AND PRODUCTS INCLUDED.—Such term shall include preschool education, postsecondary education, tutoring, special education services, training, employment supports, personal assistance supports, community-based supports, respite care, clothing, assistive technology, home modifications, therapy, nutritional management, out-of-pocket medical, vision, or dental expenses, transportation services, vehicle purchases or modifications, insurance premiums, habilitation and rehabilitation services, funeral and burial expenses, and any other service or product consistent with the purposes of this section and allowed under regulations established by the Secretary, in consultation with the Secretary of Health and Human Services.

"(iii) PROHIBITED SERVICES AND PRODUCTS.—Such term shall not include any service or product paid for by a third-party payer, such as private insurance or a Medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

"(C) DISALLOWANCE OF EXCLUDED AMOUNTS AS DEDUCTION, CREDIT, OR EXCLUSION.—No deduction, credit, or exclusion shall be allowed to the taxpayer under any other section of this chapter for any qualified service or product to the extent taken into account in determining the amount of exclusion under this paragraph.

"(3) EXCEPTION FOR DISTRIBUTIONS RETURNED BEFORE CERTAIN DATE.—Paragraph (1) shall not apply to any distribution made from a disability savings account during a taxable year on behalf of the qualified beneficiary if the qualified beneficiary makes a

contribution to such disability savings account in an amount equal to the amount of such distribution before the date that is 180 days after such distribution was made.

“(4) ADDITIONAL TAX FOR DISTRIBUTIONS NOT USED FOR QUALIFIED SERVICES OR PRODUCTS.—The tax imposed by this chapter for any taxable year on any taxpayer who receives a payment or distribution from a disability savings account which is includible in gross income shall be increased by 10 percent of the amount which is so includible.

“(5) ROLLOVER CONTRIBUTIONS.—Paragraph (1) shall not apply to any amount paid or distributed from a disability savings account to the extent that the amount received is paid, not later than the 60th day after the date of such payment or distribution, into—

“(A) another disability savings account for the benefit of—

“(i) the same qualified beneficiary, or

“(ii) an individual who—

“(I) is the spouse of the qualified beneficiary or bears a relationship to the qualified beneficiary which is described in section 152(d)(2), and

“(II) is a qualified beneficiary, or

“(B) any trust which is described in subparagraph (A) or (C) of section 1917(d)(4) of the Social Security Act and which is for the benefit of and individual described in clause (i) or (ii) of subparagraph (A).

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

“(6) CHANGE IN BENEFICIARY.—Any change in the beneficiary of a disability savings account shall not be treated as a distribution for purposes of paragraph (1) if the new beneficiary is an individual described in paragraph (5)(A)(ii) as of the date of the change.

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

“(1) QUALIFIED BENEFICIARY.—The term ‘qualified beneficiary’ means any individual who—

“(A) is under the age of 65, and

“(B) has—

“(i) been determined by the Commissioner of Social Security or the Disability Determination Service of a State to be—

“(I) blind (as determined under section 1614(a)(2) of the Social Security Act, but without regard to any income or asset eligibility requirements that apply under such title), or

“(II) disabled (as determined under section 1614(a)(3) of the Social Security Act, but without regard to any income or asset eligibility requirements that apply under such title, or under section 216(d) of such Act), and

“(ii) not been determined by the Commissioner of Social Security or the Disability Determination Service of a State to be no longer blind or disabled (as so defined).

The term ‘Disability Determination Service’ means, with respect to each State, the entity that has an agreement with the Commissioner of Social Security to make disability determinations for purposes of title II or XVI of the Social Security Act.

“(2) QUALIFIED INDIVIDUAL.—The term ‘qualified individual’ means, with respect to any disability savings account—

“(A) the qualified beneficiary,

“(B) any individual—

“(i) who is the spouse of the qualified beneficiary or bears a relationship to the qualified beneficiary which is described in section 152(d)(2), or

“(ii) provides over one half of such qualified beneficiary’s support,

“(C) the legal guardian of the qualified beneficiary, or

“(D) in the case of any qualified beneficiary who is in the legal custody of a State or any agency thereof, any individual appointed for purposes of this paragraph by a court of competent jurisdiction.

“(3) ACCOUNT TERMINATIONS, ETC.—

“(A) PROHIBITED TRANSACTIONS.—If, during any taxable year of the qualified individual designated under subsection (a)(3), such qualified individual or the qualified beneficiary of the disability savings account engages in any transaction prohibited under section 4975, such account ceases to be an disability savings account as of the first day of such taxable year.

“(B) EFFECT OF PLEDGING ACCOUNT AS SECURITY.—If, during any taxable year of the qualified beneficiary, the qualified beneficiary uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to the qualified beneficiary.

“(4) ONLY 1 ACCOUNT PER QUALIFIED BENEFICIARY.—No individual who is a qualified beneficiary may have more than 1 disability savings account. The Secretary may promulgate regulations necessary to carry out the purposes of this paragraph.

“(e) REPORTS.—The trustee of a disability savings account shall make such reports regarding such account to the Secretary and to the qualified individual designated under subsection (a)(3) with respect to contributions, distributions, fees (including the maximum, minimum, and average fees for such accounts), and such other matters as the Secretary may require. The reports required by this subsection 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.

“(f) REGULATIONS.—The Secretary, in consultation with the Secretary of Health and Human Services, shall prescribe such regulations as may be necessary to carry out the purposes of this section and to prevent the abuse of such purposes.”.

(b) ROLLOVERS FROM QUALIFIED TUITION PROGRAMS.—Paragraph (3) of section 529(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(E) ROLLOVERS TO DISABILITY SAVINGS ACCOUNTS.—

“(i) IN GENERAL.—Subparagraph (A) shall not apply to that portion of any distribution which, within 60 days of such distribution, is transferred to a disability savings account with respect to which the designated beneficiary is the qualified beneficiary (as defined by section 530A(d)(1)).

“(ii) LIMITATION.—Clause (i) shall not apply to any transfer if a prior transfer described in clause (i) has occurred at any time preceding such transfer.”.

(c) TAX ON PROHIBITED TRANSACTIONS.—

(1) IN GENERAL.—Paragraph (1) of section 4975(e) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of subparagraph (F), by redesignating subparagraph (G) as subparagraph (F), and by inserting after subparagraph (F) the following new subparagraph:

“(G) a disability savings account described in section 530A(a), or”.

(2) SPECIAL RULE.—Section 4975(c) of such Code is amended by adding at the end the following new paragraph:

“(7) SPECIAL RULE FOR DISABILITY SAVINGS ACCOUNTS.—A qualified beneficiary (as defined by section 530A(d)(1)) shall be exempt from the tax imposed by this section with respect to any transaction concerning a disability savings account (as defined by section 530A(a)) which would otherwise be taxable under this section if, with respect to such transaction, the account ceases to be a disability savings account by reason of the

application of section 530A(d)(3)(A) to such account.”.

(d) FAILURE TO PROVIDE REPORTS ON DISABILITY SAVINGS ACCOUNTS.—Paragraph (2) of section 6693(a) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting “and”, and by inserting after subparagraph (E) the following new subparagraph:

“(F) section 530A(e) (relating to disability savings accounts).”.

(e) ANNUAL REPORTS TO CONGRESS.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services and the Commissioner of Social Security, shall report annually to Congress on the usage of disability savings accounts.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commissioner of Social Security for fiscal years beginning with fiscal year 2007, such sums as may be necessary for certifying and recertifying individuals as qualified beneficiaries for purposes of section 530A(d)(1) of the Internal Revenue Code of 1986 (as added by subsection (a)). Amounts appropriated pursuant to the preceding sentence may be used by the Commissioner, as appropriate, for making payments to States for certifications and recertifications of individuals as such beneficiaries that are made under an agreement entered into between the Commissioner and by the Disability Determination Service for the State.

(g) CLERICAL AMENDMENT.—The table of parts for subchapter F of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“PART IX—DISABILITY SAVINGS ENTITIES”.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

#### SEC. 5. MATCHING TAX CREDIT FOR CONTRIBUTIONS TO DISABILITY SAVINGS ACCOUNTS.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

#### “SEC. 36. DISABILITY SAVINGS ACCOUNT MATCHING CONTRIBUTIONS.

“(a) ALLOWANCE OF CREDIT.—In the case of a qualified individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 50 percent of so much of the qualified disability savings contributions made during the taxable year as do not exceed \$2,000.

“(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 phase-out amount is:
In the case of a joint return .....	\$60,000	\$10,000
In the case of a head of household .....	\$45,000	\$7,500
In any other case .....	\$30,000	\$5,000

“(D) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term ‘modified adjusted gross income’ means the adjusted gross income of the taxpayer for the taxable year increased by any amount excluded from gross income under section 911, 931, or 933.

“(E) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2008, each of the applicable amounts in the second column of the table in subparagraph (C) shall be increased by an amount equal to—

- “(i) such dollar amount, multiplied by
- “(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting ‘calendar year 2007’ for ‘calendar year 1992’ in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of \$500.

“(2) EARNED INCOME LIMITATION.—The amount of the credit allowable under subsection (a) to any taxpayer for any taxable year shall not exceed the earned income (as defined by section 32(c)(2)) of such taxpayer for such taxable year.

“(c) QUALIFIED INDIVIDUAL.—For purposes of this section, the term ‘qualified individual’ means the individual designated as the qualified individual of the disability savings account (as defined in section 530A(a)).

“(d) QUALIFIED DISABILITY SAVINGS CONTRIBUTIONS.—The term ‘qualified disability savings contributions’ means, with respect to any taxable year, the aggregate contributions made by the taxpayer to the disability savings account (as so defined) with respect to which such taxpayer is the qualified individual.

“(e) TREATMENT OF CONTRIBUTIONS BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual’s taxable year begins—

“(1) no credit shall be allowed under subsection (a) to such individual for such individual’s taxable year, and

“(2) any qualified disability savings contributions made by such individual during such taxable year shall be treated for purposes of this section as made by such other taxpayer.”

(b) REFUNDABLE AMOUNT CREDITED TO INDIVIDUAL DISABILITY ACCOUNT.—

(1) TRANSFER OF AMOUNT TO DISABILITY SAVINGS ACCOUNTS.—Section 6402 of the Internal Revenue Code of 1986 (relating to authority to make credits or refunds) is amended by adding at the end the following new subsection:

“(1) SPECIAL RULE FOR OVERPAYMENTS ATTRIBUTABLE TO CREDIT FOR CONTRIBUTIONS TO DISABILITY SAVINGS FUNDS.—

“(1) IN GENERAL.—In the case of any overpayment attributable to the credit allowed under section 36, the Secretary shall transfer such amount to the disability savings account to which the taxpayer made a qualified disability savings contribution.

“(2) TRANSFERS TO MORE THAN 1 ACCOUNT.—If the taxpayer made qualified disability savings contributions to more than 1 disability savings account, the Secretary shall transfer the overpayment described in paragraph (1) to each such disability savings account in an

amount that bears the same ratio to the amount of such overpayment as—

“(A) the amount of qualified disability savings contributions made by such taxpayer to such disability savings account, bears to

“(B) the amount of qualified disability savings contribution made by such taxpayer to all disability savings accounts.

“(3) QUALIFIED DISABILITY SAVINGS CONTRIBUTION.—For purposes of this subsection, the term ‘qualified disability savings contribution’ has the meaning given such term by section 36(d).”

(2) SEPARATE ACCOUNTING FOR REFUNDABLE AMOUNTS.—

(A) IN GENERAL.—Section 530A(a) of such Code, as added by this Act, is amended by adding at the end the following new paragraph:

“(7) The trust provides a separate accounting for contributions transferred by the Secretary under section 6402(l).”

(B) SPECIAL RULES FOR CONTRIBUTIONS ATTRIBUTABLE TO DISABILITY SAVINGS ACCOUNT CREDIT.—Section 530A of such Code, as added by this Act, is amended by adding at the end the following new subsection:

“(g) SPECIAL RULES FOR CONTRIBUTIONS ATTRIBUTABLE TO CREDIT FOR DISABILITY SAVINGS ACCOUNT CONTRIBUTIONS.—

“(1) INCREASE IN ADDITIONAL TAX.—In the case of a distribution which includes an amount transferred by the Secretary under section 6402(l) (including any earnings attributable to such amount) and which, but for this paragraph, would be includible in gross income—

“(A) such amount shall not be included in gross income, and

“(B) subsection (c)(4) shall be applied by substituting ‘100 percent’ for ‘10 percent’.

“(2) ORDERING RULES.—For purposes of applying this subsection to any distribution from a disability savings account—

“(A) IN GENERAL.—Except as provided in subparagraph (B), such distribution shall be treated as made—

“(i) first from amounts contributed to the account other than by reason of section 6402(l), and

“(ii) second from amounts transferred by the Secretary under section 6402(l).

“(B) EXCEPTION FOR DISTRIBUTIONS FOR QUALIFIED SERVICES OR PRODUCTS.—In the case of a distribution for qualified services or products, such distribution shall be treated as made—

“(i) first from amounts transferred by the Secretary under section 6402(l), and

“(ii) second from other amounts contributed to the account.”

(c) CONFORMING AMENDMENTS.—

(1) Section 1324(b)(2) of title 31, United States Code, is amended by inserting before the period at the end “, or enacted by the Disability Savings Act of 2008”.

(2) The table of sections for subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 36 and inserting the following:

“Sec. 36. Disability savings account matching contributions.

“Sec. 37. Overpayments of tax.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2007.

**SEC. 6. CREDIT TO INSTITUTIONS FOR MAINTAINING DISABILITY SAVINGS ACCOUNTS.**

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

**“SEC. 450. DISABILITY SAVINGS ACCOUNT INVESTMENT CREDIT.**

“(a) DETERMINATION OF AMOUNT.—For purposes of section 38, the disability savings account investment credit determined under this section with respect to any eligible entity for any taxable year is an amount equal to the disability savings account investment provided by such eligible entity during the taxable year.

“(b) DISABILITY SAVINGS ACCOUNT INVESTMENT.—For purposes of this section, the term ‘disability savings account investment’ means an amount equal to \$50 with respect to each disability savings account (as defined in section 530A(a)) maintained—

“(1) as of the end of such taxable year, but only if such taxable year is within the 7-taxable-year period beginning with the taxable year in which such Account is opened, and

“(2) with a balance of not less than \$100 (other than the taxable year in which such account is opened).

“(c) ELIGIBLE ENTITY.—For purposes of this section, except as provided in regulations, the term ‘eligible entity’ means any entity which is the trustee of a disability savings account (as so defined).

“(d) DENIAL OF DOUBLE BENEFIT.—

“(1) IN GENERAL.—No deduction or credit (other than under this section) shall be allowed under this chapter with respect to any expense which is attributable to the maintenance of a disability savings account.

“(2) DETERMINATION OF AMOUNT.—Solely for purposes of paragraph (1), the amount attributable to the maintenance of a disability savings account shall be deemed to be the dollar amount of the credit allowed under this section for each taxable year such disability savings account is maintained.”

(b) CREDIT TREATED AS BUSINESS CREDIT.—Section 38(b) of such Code (relating to current year business credit) is amended by striking “plus” at the end of paragraph (30), by striking the period at the end of paragraph (31) and inserting “, plus”, and by adding at the end the following new paragraph:

“(32) the disability savings account investment credit determined under section 450(a).”

(c) CONFORMING AMENDMENT.—The table of sections for subpart C of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

“Sec. 450. Disability savings account investment credit.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2007.

**SEC. 7. TREATMENT OF DISABILITY SAVINGS ACCOUNTS UNDER CERTAIN FEDERAL PROGRAMS.**

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

“(D) A trust which is a disability savings account described in section 530A(a) of the Internal Revenue Code of 1986.”

(b) ACCOUNT FUNDS DISREGARDED FOR PURPOSES OF CERTAIN OTHER MEANS-TESTED FEDERAL PROGRAMS.—

(1) IN GENERAL.—For purposes of determining eligibility for any applicable program, any amount (including earnings thereon) in any disability savings account (as defined in section 530A(a) of the Internal Revenue Code of 1986) established for the benefit of such individual and any distribution for qualified services or products (as defined in section 530A(c)(2)(B)) from such account shall be disregarded with respect to any period during which such individual maintains, makes contributions to, or receives distributions from such disability savings account.

(2) APPLICABLE PROGRAM.—For purposes of this subsection, the term “applicable program” means—

(A) the temporary assistance for needy families program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

(B) a State program funded under part B or E of title IV of such Act (42 U.S.C. 621 et seq., 670 et seq.);

(C) a State program funded under part D of title IV of such Act (42 U.S.C. 651 et seq.);

(D) the supplemental security income program established under title XVI of such Act (42 U.S.C. 1381 et seq.);

(E) the Medicaid program under title XIX of the such Act (42 U.S.C. 1396 et seq.);

(F) the State children’s health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.);

(G) the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

(H) the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786);

(I) a child nutrition program, as defined in section 25(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769f(b)); and

(J) any Federal low-income housing assistance program.

#### SEC. 8. MARKETING, OUTREACH, AND EDUCATION FOR DISABILITY SAVINGS ACCOUNTS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish a program for marketing, outreach, and education related to disability savings accounts (as defined in section 530A(a) of the Internal Revenue Code of 1986). Such program may utilize contracts with nonprofit organizations established for the purpose of assisting individuals with disabilities.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the program established under subsection (a).

EASTER SEALS,

Washington, DC, March 10, 2008.

Hon. CHRIS DODD,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR DODD: Easter Seals has long been concerned that individuals with disabilities and their families have too few options to save for the future. Currently, individuals must have exceptionally low incomes in order to access essential public services and supports. In those situations in which an individual’s family wants to save for the future, a complicated web of state rules that guide special needs trust must be followed, and in nearly every circumstance, families cannot navigate the system without the assistance of an attorney.

For these reasons, Easter Seals is pleased to support the Disability Savings Act of 2008. This legislation clearly identifies the essential need to establish new protocols that en-

able families with limited incomes to effectively save financial resources to meet the future needs of their family member with a disability. Such protocols must be easy for a family to navigate without a lawyer and must not impose barriers to future benefits such as those available through the Medicaid program. Easter Seals looks forward to working with you to see that legislation that can help these families is enacted in 2008.

As the leading non-profit provider of services for individuals with autism, developmental disabilities, physical and mental disabilities, and other special needs, Easter Seals works to ensure that individuals with disabilities can live, learn, work and play in their communities. Thank you for considering our views.

Sincerely,

KATHERINE BEH NEAS,  
Vice President, Government Relations.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 479—DESIGNATING MARCH 20, 2008, AS “SECOND ANNUAL NATIONAL NATIVE HIV/AIDS AWARENESS DAY”

Ms. MURKOWSKI (for herself, Mr. TESTER, Mr. SMITH, and Mr. BAUCUS) submitted the following resolution; which was considered and agreed to:

S. RES. 479

Whereas the number of human immunodeficiency virus and acquired immunodeficiency syndrome (hereafter “HIV/AIDS”) cases among American Indian and Alaska Native communities has been increasing at an alarming rate and poses a significant threat to the public health of Native communities;

Whereas American Indians and Alaska Natives have the 3rd highest rate of HIV/AIDS infection in the United States, after Blacks and Hispanics;

Whereas, according to the Centers for Disease Control and Prevention HIV/AIDS Surveillance Report published in 2005, the rate per 100,000 persons of HIV/AIDS diagnosis for American Indians and Alaska Natives was 10.4;

Whereas American Indians and Alaska Natives experience the highest disease and mortality rates in the United States compared to other racial and ethnic groups, due to socioeconomic factors that include consistently high rates of poverty, inadequate education, and a lack of access to quality health services;

Whereas certain risk factors exist among Indian and Alaska Native populations that elevate the threat of the HIV/AIDS epidemic, including high rates of sexually transmitted diseases and substance abuse;

Whereas, according to the 2005 Centers for Disease Control and Prevention Sexually Transmitted Disease Surveillance Report, American Indians and Alaska Natives have the 2nd highest infection rates of gonorrhea and chlamydia in the United States and the 3rd highest infection rate of syphilis;

Whereas, according to the 2005 National Survey on Drug Use and Health, American Indians and Alaska Natives had a 12.8 percent higher rate of illicit drug use than any other races or ethnicities;

Whereas, during the years 1997–2004, of persons who had received a diagnosis of HIV/AIDS, American Indians and Alaska Natives had survived a shorter time than had Asians and Pacific Islanders, Whites, or Hispanics;

Whereas, after 9 years, 67 percent of American Indians and Alaska Natives who had been diagnosed with HIV/AIDS were alive, compared to 66 percent of Blacks, 74 percent of Hispanics, 75 percent of Whites, and 81 percent of Asians and Pacific Islanders;

Whereas, from 2001 through 2004, the estimated number of HIV/AIDS cases increased among Whites, Asians and Pacific Islanders, and American Indians and Alaska Natives, and decreased among Blacks and Hispanics; and

Whereas, from 2000 through 2004, the estimated number of deaths among persons with AIDS decreased among Whites, Blacks, and Asians and Pacific Islanders, but increased among American Indians and Alaska Natives: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the seriousness of the spread and threat of the human immunodeficiency virus and acquired immunodeficiency syndrome (HIV/AIDS) epidemic in American Indian and Alaska Native communities;

(2) encourages Federal, State, and tribal governments as well as Indian organizations and health care providers to coordinate efforts in HIV/AIDS testing and in the promotion of prevention activities to further efforts in the reduction of HIV/AIDS infection rates among American Indians and Alaska Natives; and

(3) designates March 20, 2008, as “Second Annual National Native HIV/AIDS Awareness Day”.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 4153. Mr. BURR submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 70, setting forth the congressional budget for the United States Government for fiscal year 2009 and including the appropriate budgetary levels for fiscal years 2008 and 2010 through 2013; which was ordered to lie on the table.

SA 4154. Mr. REED (for himself, Ms. COLLINS, Mr. BAUCUS, Mr. BINGAMAN, Mr. BOND, Mr. BROWN, Mrs. CLINTON, Mr. DODD, Mr. DURBIN, Mr. KENNEDY, Mr. KERRY, Ms. MIKULSKI, Mr. OBAMA, Ms. SNOWE, Mr. SUNUNU, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 70, supra; which was ordered to lie on the table.

SA 4155. Mr. BROWN (for himself and Ms. STABENOW) submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 70, supra; which was ordered to lie on the table.

SA 4156. Mrs. FEINSTEIN (for herself, Mr. SMITH, Mr. DURBIN, Mr. SUNUNU, Mr. DODD, Mr. COLEMAN, Mr. LEAHY, Mr. CORKER, Mrs. BOXER, Mr. MARTINEZ, Mr. VOINOVICH, Mr. MENENDEZ, Ms. MIKULSKI, Mr. LEVIN, Mrs. CLINTON, Mr. HAGEL, Mr. BINGAMAN, Mr. KERRY, and Ms. CANTWELL) submitted an amendment intended to be proposed by her to the concurrent resolution S. Con. Res. 70, supra; which was ordered to lie on the table.

SA 4157. Mr. ALLARD submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 70, supra; which was ordered to lie on the table.

SA 4158. Mr. ALLARD submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 70, supra; which was ordered to lie on the table.

SA 4159. Mr. ALLARD submitted an amendment intended to be proposed by him to the concurrent resolution S. Con. Res. 70, supra; which was ordered to lie on the table.

SA 4160. Mr. BAUCUS (for himself, Mr. BAYH, Mr. PRYOR, Mr. NELSON, of Florida, Mr. SALAZAR, Mr. ROCKEFELLER, Mr. TESTER, Mr. BROWN, Mr. MENENDEZ, Mr. BINGAMAN, Mr. CONRAD, Mr. LAUTENBERG, and Ms. LANDRIEU) proposed an amendment to the concurrent resolution S. Con. Res. 70, supra.

SA 4161. Mr. MARTINEZ submitted an amendment intended to be proposed by him