

119TH CONGRESS  
1ST SESSION

# H. R. 4644

To amend the Internal Revenue Code of 1986 to allow employers to contribute to ABLE accounts in lieu of retirement plan contributions.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 23, 2025

Ms. DAVIDS of Kansas (for herself and Mr. FITZPATRICK) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to allow employers to contribute to ABLE accounts in lieu of retirement plan contributions.

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 “ABLE Employment  
5       Flexibility Act”.

1 **SEC. 2. PROTECTING WORKING ABLE INDIVIDUALS FROM**  
2 **LOSING BENEFITS BECAUSE OF RETIREMENT**  
3 **PLAN RULES.**

4 (a) IN GENERAL.—Section 414 of the Internal Rev-  
5 enue Code of 1986 is amended by adding at the end the  
6 following new subsection:

7 “(dd) ABLE ACCOUNT CONTRIBUTIONS.—

8 “(1) IN GENERAL.—An applicable employer  
9 plan (as defined in subsection (v)(6)(A)) which is a  
10 defined contribution plan shall not be treated as fail-  
11 ing to meet any requirement of this title solely be-  
12 cause the plan provides that an eligible ABLE indi-  
13 vidual may elect for a plan year that employer con-  
14 tributions which would otherwise be made under the  
15 terms of the plan for such plan year shall (in lieu  
16 of contribution to the plan) be contributed by the  
17 employer to a qualified ABLE program described in  
18 section 529A on behalf of such eligible ABLE indi-  
19 vidual.

20 “(2) TREATMENT OF CONTRIBUTIONS.—

21 “(A) NO DEDUCTION FOR AMOUNTS CON-  
22 TRIBUTED TO ABLE ACCOUNT.—Except as pro-  
23 vided in subparagraph (B), a contribution to a  
24 qualified ABLE program pursuant to an elec-  
25 tion under paragraph (1) shall not be treated as  
26 a contribution to an applicable employer plan.

1                   “(B) APPLICATION OF NONDISCRIMINA-  
2                   TION RULES.—Under rules prescribed by the  
3                   Secretary, for purposes of applying sections  
4                   401(a)(4), 401(k)(3), 401(k)(12), 401(k)(13),  
5                   401(m)(2),           403(b)(12),           408(k)(3),  
6                   408(p)(2)(iii), 408(p)(2)(B), 410, and 416, con-  
7                   tributions made to a qualified ABLE program  
8                   pursuant to an election under paragraph (1)  
9                   shall be treated as if such contributions were  
10                  made to the plan.

11               “(3) UNIVERSAL AVAILABILITY.—Paragraph  
12               (1) shall not apply unless the plan provides that the  
13               election described therein is available to all eligible  
14               ABLE individuals who are eligible to participate in  
15               the plan.

16               “(4) CASH OR DEFERRED ARRANGEMENT.—A  
17               plan shall not fail to be treated as including a quali-  
18               fied cash or deferred arrangement described in sec-  
19               tion 401(k)(1) solely because such plan provides for  
20               the election described in paragraph (1).

21               “(5) ELIGIBLE ABLE INDIVIDUAL.—For pur-  
22               poses of this subsection, the term ‘eligible ABLE in-  
23               dividual’ means an employee who, as of the first day  
24               of a plan year, is an eligible individual within the

1 meaning of section 529A(e)(1) for the taxable year  
2 containing such first day of the plan year.

3 “(6) TREATMENT OF PERMISSIVE WITH-  
4 DRAWALS.—An eligible ABLE individual may direct  
5 amounts eligible for withdrawal from an eligible con-  
6 tribution arrangement pursuant to section 414(w) to  
7 be contributed to a qualified ABLE program de-  
8 scribed in section 529A on behalf of such eligible  
9 ABLE individual.”.

10 (b) TREATMENT AS BENEFICIARY CONTRIBUTION.—  
11 Section 529A(b)(7) of the Internal Revenue Code of 1986  
12 is amended by redesignating subparagraph (B) as sub-  
13 paragraph (C) and by inserting after subparagraph (A)  
14 the following new subparagraph:

15 “(B) EMPLOYER CONTRIBUTIONS.—Con-  
16 tributions made to a qualified ABLE program  
17 by an employer on behalf of a designated bene-  
18 ficiary described in this paragraph pursuant to  
19 paragraph (1) or (6) of section 414(dd) shall be  
20 treated as made by the designated beneficiary.”.

21 (c) CLARIFICATION OF AVAILABILITY OF EMPLOYER  
22 CONTRIBUTIONS.—Section 529A(e) of the Internal Rev-  
23 enue Code of 1986 is amended by adding at the end the  
24 following new paragraph:

1           “(7) EMPLOYER CONTRIBUTIONS.—An em-  
2           ployer of an eligible individual may contribute to any  
3           qualified ABLE program for which the eligible indi-  
4           vidual is the designated beneficiary, including  
5           through a contribution matching a contribution  
6           made by such eligible individual to the qualified  
7           ABLE program.”.

8           (d) DEDUCTION FOR CONTRIBUTIONS REMITTED BY  
9           EMPLOYER TO A QUALIFIED ABLE PROGRAM.—Not later  
10          than 1 year after the date of the enactment of this Act,  
11          the Secretary of the Treasury shall—

12                (1) amend the regulations under section 162 of  
13                the Internal Revenue Code of 1986 to confirm that  
14                contributions made by an employer to a qualified  
15                ABLE program described in section 529A of such  
16                Code on behalf of an eligible ABLE individual de-  
17                scribed in section 414(dd)(5) of such Code who is an  
18                employee of such employer shall be considered a rea-  
19                sonable allowance for salaries or other compensation  
20                for personal service if such contribution for a year,  
21                taking into account all other contributions to such  
22                qualified ABLE program, does not exceed the max-  
23                imum contribution described in section  
24                529A(b)(2)(B) of such Code with respect to such in-  
25                dividual; and

1           (2) update the publications issued for employers  
2           to encourage employers offering a retirement plan  
3           with automatic enrollment to notify employees who  
4           elect not to contribute to the plan and who may be  
5           eligible to contribute to a qualified ABLE program  
6           to notify such employees of the possibility of a con-  
7           tribution under section 529A(b)(2)(B)(ii) of such  
8           Code.

9           (e) EFFECTIVE DATE.—

10           (1) IN GENERAL.—Except as provided in para-  
11           graph (2), the amendments made by this section  
12           shall apply to plan and taxable years beginning after  
13           the date of the enactment of this Act.

14           (2) CLARIFICATIONS.—The amendment made  
15           by subsection (c) and the amendments made pursu-  
16           ant to subsection (d)(1) shall apply to plan and tax-  
17           able years beginning before, on, or after the date of  
18           the enactment of this Act.

19           (f) MODEL AMENDMENT AUTHORITY.—The Sec-  
20           retary of the Treasury (or such Secretary's delegate) shall  
21           promulgate model amendments which plans may adopt to  
22           implement contributions to qualified ABLE programs pur-  
23           suant to the amendments made by this section.

24           (g) CONTRIBUTIONS DISREGARDED FOR PURPOSES  
25           OF CERTAIN MEANS-TESTED FEDERAL PROGRAMS.—

1           (1) IN GENERAL.—Notwithstanding any other  
2       provision of Federal law that requires consideration  
3       of one or more financial circumstances (including in-  
4       come) of an individual, for the purpose of deter-  
5       mining eligibility to receive, or the amount of, any  
6       assistance or benefit authorized by such provision to  
7       be provided to or for the benefit of such individual,  
8       a contribution to a qualified ABLE program pursu-  
9       ant to paragraph (1) or (6) of section 414(dd) of the  
10      Internal Revenue Code of 1986 shall be disregarded  
11      (including disregarded as income) for such purpose  
12      with respect to any period during which such indi-  
13      vidual maintains, makes contributions to, or receives  
14      distributions from such ABLE program.

15          (2) CROSS REFERENCE.—For additional rules  
16      relating to the treatment of qualified ABLE pro-  
17      grams for purposes of certain means-tested Federal  
18      programs, see section 103 of the Stephen Beck, Jr.,  
19      ABLE Act of 2014 (division B of Public Law 113–  
20      295).

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