

116TH CONGRESS
2D SESSION

S. _____

To amend the Internal Revenue Code of 1986 to eliminate limitations on contributions to health savings accounts.

IN THE SENATE OF THE UNITED STATES

Mr. PAUL introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend the Internal Revenue Code of 1986 to eliminate limitations on contributions to health savings accounts.

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 “Health Savings Ac-
5 counts For All Act of 2020”.

6 **SEC. 2. REPEAL OF CONTRIBUTION LIMITATIONS.**

7 (a) IN GENERAL.—Subsection (b) of section 223 of
8 the Internal Revenue Code of 1986 is amended to read
9 as follows:

1 “(b) DENIAL OF DEDUCTION TO DEPENDENTS.—No
2 deduction shall be allowed under this section to any indi-
3 vidual with respect to whom a deduction under section 151
4 is allowable to another taxpayer for a taxable year begin-
5 ning in the calendar year in which such individual’s tax-
6 able year begins.”.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Subparagraph (A) of section 223(d)(1) of
9 the Internal Revenue Code of 1986 is amended—

10 (A) by striking “subsection (f)(5)” and in-
11 serting “subsection (f)(4)”, and

12 (B) by striking “accepted—” and all that
13 follows and inserting “accepted unless it is in
14 cash.”.

15 (2) Subsection (f) of section 223 of such Code
16 is amended by striking paragraph (3) and by redesi-
17 gnating paragraphs (4) through (8) as paragraphs
18 (3) through (7), respectively.

19 (3) Subsection (g) of section 223 of such Code
20 is amended—

21 (A) by striking “subsections (b)(2) and
22 (c)(2)(A)” both places it appears and inserting
23 “subsection (c)(2)(A)”, and

24 (B) by amending subparagraph (B) to read
25 as follows:

1 “(B) the cost-of-living adjustment deter-
2 mined under section 1(f)(3) for the calendar
3 year in which such taxable year begins deter-
4 mined by substituting ‘calendar year 2003’ for
5 ‘calendar year 2016’ in subparagraph (A)(ii)
6 thereof.”.

7 (4) Section 26(b)(2) of such Code is amended—

8 (A) by striking “, 223(b)(8)(B)(i)(II),” in
9 subparagraph (S), and

10 (B) by striking “223(f)(4)” in subpara-
11 graph (U) and inserting “223(f)(3)”.

12 (5) Paragraph (1) of section 106(d) of such
13 Code is amended by striking “under an accident or
14 health plan” and all that follows and inserting
15 “under an accident or health plan.”.

16 (6) Subparagraph (C) of section 106(e)(4) of
17 such Code is amended by striking “223(f)(5)” and
18 inserting “223(f)(4)”.

19 (7) Subparagraph (C) of section 408(d)(9) of
20 such Code is amended—

21 (A) by striking “LIMITATIONS.—” in the
22 heading and all that follows through “(ii) ONE-
23 TIME TRANSFER.—” in clause (ii), and insert-
24 ing “ONE-TIME TRANSFER.—”,

1 (B) by redesignating subclauses (I) and
2 (II) as clauses (i) and (ii) and moving such
3 clauses 2 ems to the left, and

4 (C) by striking “subclause (II)” in clause
5 (i), as so redesignated, and inserting “clause
6 (ii)”.

7 (8) Section 4973 of such Code is amended by
8 striking subsection (g) and by redesignating sub-
9 section (h) as subsection (g).

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

13 **SEC. 3. FREEDOM FROM MANDATE.**

14 (a) IN GENERAL.—Section 223 of the Internal Rev-
15 enue Code of 1986, as amended by section 2, is further
16 amended by striking subsections (c) and (g) and by red-
17 ignating subsections (d), (e), (f), and (h) as subsections
18 (c), (d), (e), and (f), respectively.

19 (b) CONFORMING AMENDMENTS.—

20 (1) Subsection (a) of section 223 of the Inter-
21 nal Revenue Code of 1986 is amended to read as fol-
22 lows:

23 “(a) DEDUCTION ALLOWED.—In the case of an indi-
24 vidual, there shall be allowed as a deduction for the tax-
25 able year an amount equal to the aggregate amount paid

1 in cash during such taxable year by or on behalf of such
2 individual to a health savings account of such individual.”.

3 (2) Subsection (c)(1)(A) of section 223 of such
4 Code, as amended by section 2 and redesignated by
5 subsection (a), is further amended by striking “sub-
6 section (f)(4)” and inserting “subsection (e)(4)”.

7 (3) Subparagraph (U) of section 26(b)(2) of
8 such Code, as amended by section 2, is further
9 amended by striking “section 223(f)(3)” and insert-
10 ing “section 223(e)(3)”.

11 (4) Sections 35(g)(3), 220(f)(5)(A),
12 848(e)(1)(B)(v), 4973(a)(5), and 6051(a)(12) of
13 such Code are each amended by striking “section
14 223(d)” each place it appears and inserting “section
15 223(c)”.

16 (5) Section 106(d)(1) of such Code is amend-
17 ed—

18 (A) by striking “who is an eligible indi-
19 vidual (as defined in section 223(c)(1))”, and

20 (B) by striking “section 223(d)” and in-
21 serting “section 223(c)”.

22 (6) Section 106(e) of such Code is amended—

23 (A) by striking paragraphs (3) and (4) and
24 by redesignating paragraph (5) as paragraph
25 (4),

1 (B) by inserting after paragraph (2) the
2 following new paragraph:

3 “(3) TREATMENT AS ROLLOVER CONTRIBU-
4 TION.—A qualified HSA distribution shall be treated
5 as a rollover contribution described in section
6 223(e)(4).”, and

7 (C) by striking “to any eligible individual
8 covered under a high deductible health plan of
9 the employer” in paragraph (4)(B)(ii) (as so re-
10 designated) and inserting “to any employee
11 with respect to whom a health savings account
12 has been established”.

13 (7) Section 408(d)(9)(A) of such Code is
14 amended by striking “who is an eligible individual
15 (as defined in section 223(e)) and”.

16 (8) Section 877A(g)(6) of such Code is amend-
17 ed by striking “223(f)(4)” and inserting
18 “223(e)(4)”.

19 (9) Section 4975 of such Code is amended—

20 (A) in subsection (c)(6)—

21 (i) by striking “section 223(d)” and
22 inserting “section 223(c)”, and

23 (ii) by striking “section 223(e)(2)”
24 and inserting “section 223(d)(2)”, and

1 (B) in subsection (e)(1)(E), by striking
2 “section 223(d)” and inserting “section
3 223(c)”.

4 (10) Subsection (b) of section 4980G of such
5 Code is amended to read as follows:

6 “(b) RULES AND REQUIREMENTS.—

7 “(1) IN GENERAL.—An employer meets the re-
8 quirements of this subsection for any calendar year
9 if the employer makes available comparable con-
10 tributions to the health savings accounts of all com-
11 parable participating employees for each coverage
12 period during such calendar year.

13 “(2) COMPARABLE CONTRIBUTIONS.—

14 “(A) IN GENERAL.—For purposes of para-
15 graph (1), the term ‘comparable contributions’
16 means contributions—

17 “(i) which are the same amount, or

18 “(ii) if the employees are covered by a
19 health plan, which are the same percentage
20 of the annual deductible limit under the
21 plan covering the employees.

22 “(B) PART-YEAR EMPLOYEES.—In the
23 case of an employee who is employed by the em-
24 ployer for only a portion of the calendar year,
25 a contribution to the health savings account of

1 such employee shall be treated as comparable if
2 it is an amount which bears the same ratio to
3 the comparable amount (determined without re-
4 gard to this subparagraph) as such portion
5 bears to the entire calendar year.

6 “(3) COMPARABLE PARTICIPATING EMPLOYEES.—For purposes of paragraph (1), the term
7 ‘comparable participating employees’ means all em-
8 ployees who are covered (if at all) under the same
9 health plan of the employer and have the same cat-
10 egorY of coverage. For purposes of the preceding
11 sentence, the categories of coverage are self-only and
12 family coverage.
13

14 “(4) PART-TIME EMPLOYEES.—

15 “(A) IN GENERAL.—Paragraph (3) shall
16 be applied separately with respect to part-time
17 employees and other employees.

18 “(B) PART-TIME EMPLOYEE.—For pur-
19 poses of subparagraph (A), the term ‘part-time
20 employee’ means any employee who is custom-
21 arily employed for fewer than 30 hours per
22 week.”.

23 (11) Section 4980G(d) of such Code is amended
24 by striking “section 4980E” and inserting “this sec-
25 tion”.

1 (12) Section 6693(a)(2)(C) of such Code is
2 amended by striking “section 223(h)” and inserting
3 “section 223(f)”.

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

7 **SEC. 4. ALLOWANCE OF DISTRIBUTIONS FOR PRESCRIP-**
8 **TION AND OVER-THE-COUNTER MEDICINES**
9 **AND DRUGS.**

10 (a) HSAs.—Paragraph (2)(A) of section 223(c) of
11 the Internal Revenue Code of 1986, as redesignated by
12 section 3, is amended by adding at the end the following:
13 “The term ‘qualified medical expenses’ shall include an
14 amount paid for any prescription or over-the-counter med-
15 icine or drug.”.

16 (b) ARCHER MSAs.—Section 220(d)(2)(A) of the In-
17 ternal Revenue Code of 1986 is amended—

18 (1) by striking “section 223(d)(2)(D)” and in-
19 serting “section 223(c)(2)(B)”, and

20 (2) by adding at the end the following: “The
21 term ‘qualified medical expenses’ shall include an
22 amount paid for any prescription or over-the-counter
23 medicine or drug.”.

24 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS
25 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sub-

1 section (f) of section 106 of the Internal Revenue Code
2 of 1986 is amended to read as follows:

3 “(f) REIMBURSEMENTS FOR ALL MEDICINES,
4 DRUGS, AND MENSTRUAL CARE PRODUCTS.—For pur-
5 poses of this section and section 105—

6 “(1) reimbursement for expenses incurred for
7 any prescription or over-the-counter medicine or
8 drug shall be treated as a reimbursement for med-
9 ical expenses, and

10 “(2) expenses incurred for menstrual care prod-
11 ucts (as defined in section 223(c)(2)(B)) shall be
12 treated as incurred for medical care.”.

13 (d) EFFECTIVE DATES.—

14 (1) DISTRIBUTIONS FROM SAVINGS AC-
15 COUNTS.—The amendments made by subsections (a)
16 and (b) shall apply to amounts paid in taxable years
17 beginning after the date of the enactment of this
18 Act.

19 (2) REIMBURSEMENTS.—The amendment made
20 by subsection (c) shall apply to expenses incurred in
21 plan years beginning after the date of the enactment
22 of this Act.

1 **SEC. 5. PURCHASE OF HEALTH INSURANCE FROM HSA.**

2 (a) IN GENERAL.—Paragraph (2) of section 223(c)
3 of the Internal Revenue Code of 1986, as redesignated by
4 section 3, is amended—

5 (1) by striking subparagraphs (B) and (C), and

6 (2) by redesignating subparagraph (D) as sub-
7 paragraph (B).

8 (b) CONFORMING AMENDMENT.—Paragraph (2) of
9 section 223(c) of the Internal Revenue Code of 1986, as
10 amended by the preceding sections of this Act, is further
11 amended by striking “and any dependent (as defined in
12 section 152, determined without regard to subsections
13 (b)(1), (b)(2), and (d)(1)(B) thereof) of such individual”
14 and inserting “any dependent (as defined in section 152,
15 determined without regard to subsections (b)(1), (b)(2),
16 and (d)(1)(B) thereof) of such individual, and any child
17 (as defined in section 152(f)(1)) of such individual who
18 has not attained the age of 27 before the end of such indi-
19 vidual’s taxable year”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply with respect to insurance pur-
22 chased after the date of the enactment of this Act in tax-
23 able years beginning after such date.

1 **SEC. 6. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES**
2 **INCURRED BEFORE ESTABLISHMENT OF AC-**
3 **COUNT.**

4 (a) IN GENERAL.—Paragraph (2) of section 223(c)
5 of the Internal Revenue Code of 1986, as amended and
6 redesignated by the preceding sections of this Act, is fur-
7 ther amended by adding at the end the following new sub-
8 paragraph:

9 “(C) CERTAIN MEDICAL EXPENSES IN-
10 CURRED BEFORE ESTABLISHMENT OF ACCOUNT
11 TREATED AS QUALIFIED.—An expense shall not
12 fail to be treated as a qualified medical expense
13 solely because such expense was incurred before
14 the establishment of the health savings account
15 if such expense was incurred—

16 “(i) during either—

17 “(I) the taxable year in which the
18 health savings account was estab-
19 lished, or

20 “(II) the preceding taxable year,
21 in the case of a health savings ac-
22 count established after the taxable
23 year in which such expense was in-
24 curred but before the time prescribed
25 by law for filing the return for such

1 taxable year (not including extensions
2 thereof), and

3 “(ii) for medical care which (but for
4 the fact that it was incurred before the es-
5 tablishment of the account) otherwise
6 meets the requirements of the preceding
7 subparagraphs.”.

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

11 **SEC. 7. ADMINISTRATIVE ERROR CORRECTION BEFORE**
12 **DUE DATE OF RETURN.**

13 (a) IN GENERAL.—Paragraph (3) of section 223(e)
14 of the Internal Revenue Code of 1986, as amended and
15 redesignated by the preceding sections of this Act, is
16 amended by adding at the end the following new subpara-
17 graph:

18 “(D) EXCEPTION FOR ADMINISTRATIVE
19 ERRORS CORRECTED BEFORE DUE DATE OF RE-
20 TURN.—Subparagraph (A) shall not apply if
21 any payment or distribution is made to correct
22 an administrative, clerical, or payroll contribu-
23 tion error and if—

24 “(i) such distribution is received by
25 the individual on or before the last day

1 prescribed by law (including extensions of
2 time) for filing such individual's return for
3 such taxable year, and

4 “(ii) such distribution is accompanied
5 by the amount of net income attributable
6 to such contribution.

7 Any net income described in clause (ii) shall be
8 included in the gross income of the individual
9 for the taxable year in which it is received.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 this section shall take effect on the date of the enactment
12 of this Act.

13 **SEC. 8. ALLOWING HSA ROLLOVER TO CHILD OR PARENT**
14 **OF ACCOUNT HOLDER.**

15 (a) IN GENERAL.—Paragraph (7)(A) of section
16 223(e) of the Internal Revenue Code of 1986, as redesign-
17 nated by the preceding sections of this Act, is amended—

18 (1) by inserting “, child, parent, or grand-
19 parent” after “surviving spouse”,

20 (2) by inserting “, child, parent, or grand-
21 parent, as the case may be,” after “the spouse”,

22 (3) by inserting “, CHILD, PARENT, OR GRAND-
23 PARENT” after “SPOUSE” in the heading thereof,
24 and

1 (4) by adding at the end the following: “In the
2 case of a child who acquires such beneficiary’s inter-
3 est and with respect to whom a deduction under sec-
4 tion 151 is allowable to another taxpayer for a tax-
5 able year beginning in the calendar year in which
6 such individual’s taxable year begins, such health
7 savings account shall be treated as a health savings
8 account of such child.”.

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

12 **SEC. 9. CREDIT FOR CONTRIBUTIONS TO AN HSA.**

13 (a) **IN GENERAL.**—Subpart A of part IV of sub-
14 chapter A of chapter 1 of the Internal Revenue Code of
15 1986 is amended by inserting after section 25D the fol-
16 lowing new section:

17 **“SEC. 25E. CONTRIBUTIONS TO A HEALTH SAVINGS AC-**
18 **COUNT.**

19 “(a) **ALLOWANCE OF CREDIT.**—In the case of an in-
20 dividual, there shall be allowed as a credit against the tax
21 imposed by this subtitle for the taxable year an amount
22 equal to so much of the qualified HSA contributions of
23 the individual as does not exceed \$5,000 (\$10,000 in the
24 case of a joint return).

25 “(b) **QUALIFIED HSA CONTRIBUTION.**—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion, the term ‘qualified HSA contribution’ means
3 an amount paid in cash during the taxable year by
4 or on behalf of an individual to a health savings ac-
5 count (as defined in section 223(c)) of such indi-
6 vidual.

7 “(2) EXCEPTION FOR AMOUNTS NOT USED FOR
8 QUALIFIED MEDICAL EXPENSES.—The amount
9 taken into account as qualified HSA contributions of
10 the individual under paragraph (1) for a taxable
11 year shall be reduced by the amount of any distribu-
12 tion from such health savings account during such
13 taxable year which is not used exclusively to pay the
14 qualified medical expenses of the account beneficiary
15 (within the meaning of section 223(e)(2)).

16 “(c) COORDINATION WITH DEDUCTION.—For co-
17 ordination rule, see section 223(b)(1).”.

18 (b) CLERICAL AMENDMENT.—The table of sections
19 for subpart A of part IV of subchapter A of chapter 1
20 of the Internal Revenue Code of 1986 is amended by in-
21 serting after the item relating to section 25D the following
22 new item:

 “Sec. 25E. Contributions to a health savings account.”.

23 (c) CONFORMING AMENDMENT.—Subsection (b) of
24 section 223 of the Internal Revenue Code of 1986, as

1 amended by section 2, is further amended to read as fol-
2 lows:

3 “(b) SPECIAL RULES.—

4 “(1) COORDINATION WITH CREDIT.—The
5 amount taken into account under subsection (a) with
6 respect to any individual shall be reduced (but not
7 below zero) by the amount of any credit allowed
8 under section 25E for qualified HSA contributions
9 with respect to the individual.

10 “(2) DENIAL OF DEDUCTION TO DEPEND-
11 ENTS.—No deduction shall be allowed under this
12 section to any individual with respect to whom a de-
13 duction under section 151 is allowable to another
14 taxpayer for a taxable year beginning in the cal-
15 endar year in which such individual’s taxable year
16 begins.”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 the date of the enactment of this Act.

20 **SEC. 10. EQUIVALENT BANKRUPTCY PROTECTIONS FOR**
21 **HEALTH SAVINGS ACCOUNTS AS RETIRE-**
22 **MENT FUNDS.**

23 (a) IN GENERAL.—Section 522 of title 11, United
24 States Code, is amended by adding at the end the fol-
25 lowing new subsection:

1 “(r) TREATMENT OF HEALTH SAVINGS AC-
2 COUNTS.—For purposes of this section, any health savings
3 account (as described in section 223 of the Internal Rev-
4 enue Code of 1986) shall be treated in the same manner
5 as an individual retirement account described in section
6 408 of such Code.”.

7 (b) EFFECTIVE DATE.—The amendment made by
8 this section shall apply to cases commencing under title
9 11, United States Code, after the date of the enactment
10 of this Act.