

118TH CONGRESS
1ST SESSION

H. R. 6857

To amend the Internal Revenue Code of 1986 to modernize health savings accounts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 19, 2023

Mr. GALLAGHER introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to modernize health savings accounts, 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 “Simplify and Expand
5 Health Savings Accounts Act”.

6 **SEC. 2. MODERNIZATION OF HEALTH SAVINGS ACCOUNTS.**

7 (a) IN GENERAL.—Section 223 of the Internal Rev-
8 enue Code of 1986 is amended to read as follows:

1 **“SEC. 223. HEALTH SAVINGS ACCOUNTS.**

2 “(a) DEDUCTION ALLOWED.—In the case of an indi-
 3 vidual who is an eligible individual for any month during
 4 the taxable year, there shall be allowed as a deduction for
 5 the taxable year an amount equal to the aggregate amount
 6 paid in cash during such taxable year by or on behalf of
 7 such individual to a health savings account of such indi-
 8 vidual.

9 “(b) LIMITATIONS.—

10 “(1) IN GENERAL.—The amount allowable as a
 11 deduction under subsection (a) to an individual for
 12 the taxable year shall not exceed the sum of the
 13 monthly limitations for months during such taxable
 14 year that the individual is an eligible individual.

15 “(2) MONTHLY LIMITATION.—The monthly lim-
 16 itation for any month is $\frac{1}{12}$ of—

17 “(A) in the case of an eligible individual
 18 who has self-only coverage under a qualified
 19 plan as of the first day of such month, the an-
 20 nual limitation determined under the following
 21 table:

“In the case of a plan with an actu- arial value of:	The annual limitation is:
Less than 55 percent	\$10,000
At least 55 percent and less than 65 percent.	\$8,600
At least 65 percent	\$7,200

1 “(B) in the case of an eligible individual
 2 who has family coverage under a qualified plan
 3 as of the first day of such month, the annual
 4 limitation determined under the following table:

“In the case of a plan with an actu- arial value of:	The annual limitation is:
Less than 55 percent	\$20,000
At least 55 percent and less than 65 percent.	\$17,200
At least 65 percent	\$14,400.

5 “(3) ADDITIONAL CONTRIBUTIONS FOR INDI-
 6 VIDUALS 55 OR OLDER.—In the case of an individual
 7 who has attained age 55 before the close of the tax-
 8 able year, the applicable limitation under subpara-
 9 graphs (A) and (B) of paragraph (2) shall be in-
 10 creased by \$1,000.

11 “(4) COORDINATION WITH OTHER CONTRIBU-
 12 TIONS.—The limitation which would (but for this
 13 paragraph) apply under this subsection to an indi-
 14 vidual for any taxable year shall be reduced (but not
 15 below zero) by the sum of—

16 “(A) the aggregate amount contributed to
 17 health savings accounts of such individual
 18 which is excludable from the taxpayer’s gross
 19 income for such taxable year under section
 20 106(d) (and such amount shall not be allowed
 21 as a deduction under subsection (a)), and

1 “(B) the aggregate amount contributed to
2 health savings accounts of such individual for
3 such taxable year under section 408(d)(9) (and
4 such amount shall not be allowed as a deduc-
5 tion under subsection (a)).

6 “(5) SPECIAL RULE FOR MARRIED INDIVID-
7 UALS.—In the case of individuals who are married
8 to each other, if either spouse has family coverage—

9 “(A) both spouses shall be treated as hav-
10 ing only such family coverage (and if such
11 spouses each have family coverage under dif-
12 ferent plans, as being covered under the plan
13 with the highest actuarial value), and

14 “(B) the limitation under paragraph (1)
15 (after the application of subparagraph (A) and
16 without regard to any additional contribution
17 amount under paragraph (3)) shall be divided
18 equally between them unless they agree on a
19 different division.

20 “(6) DENIAL OF DEDUCTION TO DEPEND-
21 ENTS.—No deduction shall be allowed under this
22 section to any individual with respect to whom a de-
23 duction under section 151 is allowable to another
24 taxpayer for a taxable year beginning in the cal-

1 endar year in which such individual's taxable year
2 begins.

3 “(7) INCREASE IN LIMIT FOR INDIVIDUALS BE-
4 COMING ELIGIBLE INDIVIDUALS AFTER THE BEGIN-
5 NING OF THE YEAR.—

6 “(A) IN GENERAL.—For purposes of com-
7 puting the limitation under paragraph (1) for
8 any taxable year, an individual who is an eligi-
9 ble individual during the last month of such
10 taxable year shall be treated—

11 “(i) as having been an eligible indi-
12 vidual during each of the months in such
13 taxable year, and

14 “(ii) as having been enrolled, during
15 each of the months such individual is
16 treated as an eligible individual solely by
17 reason of clause (i), in the same qualified
18 plan in which the individual was enrolled
19 for the last month of such taxable year.

20 “(B) FAILURE TO MAINTAIN QUALIFIED
21 PLAN COVERAGE.—

22 “(i) IN GENERAL.—If, at any time
23 during the testing period, the individual is
24 not an eligible individual, then—

1 “(I) gross income of the indi-
2 vidual for the taxable year in which
3 occurs the first month in the testing
4 period for which such individual is not
5 an eligible individual is increased by
6 the aggregate amount of all contribu-
7 tions to the health savings account of
8 the individual which could not have
9 been made but for subparagraph (A),
10 and

11 “(II) the tax imposed by this
12 chapter for any taxable year on the
13 individual shall be increased by 10
14 percent of the amount of such in-
15 crease.

16 “(ii) EXCEPTION FOR DISABILITY OR
17 DEATH.—Subclauses (I) and (II) of clause
18 (i) shall not apply if the individual ceased
19 to be an eligible individual by reason of the
20 death of the individual or the individual
21 becoming disabled (within the meaning of
22 section 72(m)(7)).

23 “(iii) TESTING PERIOD.—The term
24 ‘testing period’ means the period beginning
25 with the last month of the taxable year re-

1 ferred to in subparagraph (A) and ending
2 on the last day of the 12th month fol-
3 lowing such month.

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

6 “(1) ELIGIBLE INDIVIDUAL.—The term ‘eligible
7 individual’ means, with respect to any month, any
8 individual if such individual is covered under a quali-
9 fied plan as of the 1st day of such month.

10 “(2) QUALIFIED PLAN.—

11 “(A) IN GENERAL.—The term ‘qualified
12 health plan’ means any health plan, including
13 employer plans, individual plans, short term
14 plans, Medicare, Medicaid, VA health care,
15 TRICARE, health care sharing ministries, and
16 association health plans.

17 “(B) EXCLUSION OF CERTAIN PLANS.—
18 Such term does not include a health plan if
19 substantially all of its coverage is—

20 “(i) coverage for any benefit provided
21 by permitted insurance, or

22 “(ii) coverage (whether through insur-
23 ance or otherwise) for accidents, disability,
24 dental care, vision care, or long-term care.

1 “(3) PERMITTED INSURANCE.—The term ‘per-
2 mitted insurance’ means—

3 “(A) insurance if substantially all of the
4 coverage provided under such insurance relates
5 to—

6 “(i) liabilities incurred under workers’
7 compensation laws,

8 “(ii) tort liabilities,

9 “(iii) liabilities relating to ownership
10 or use of property, or

11 “(iv) such other similar liabilities as
12 the Secretary may specify by regulations,

13 “(B) insurance for a specified disease or
14 illness, and

15 “(C) insurance paying a fixed amount per
16 day (or other period) of hospitalization.

17 “(4) FAMILY COVERAGE.—The term ‘family
18 coverage’ means any coverage other than self-only
19 coverage.

20 “(d) HEALTH SAVINGS ACCOUNT.—For purposes of
21 this section—

22 “(1) IN GENERAL.—The term ‘health savings
23 account’ means a trust created or organized in the
24 United States as a health savings account exclusively
25 for the purpose of paying the qualified medical ex-

1 penses of the account beneficiary, but only if the
2 written governing instrument creating the trust
3 meets the following requirements:

4 “(A) Except in the case of a rollover con-
5 tribution described in subsection (f)(5) or sec-
6 tion 220(f)(5), no contribution will be accept-
7 ed—

8 “(i) unless it is in cash, or

9 “(ii) to the extent such contribution,
10 when added to previous contributions to
11 the trust for the calendar year, exceeds the
12 sum of the dollar amounts in effect under
13 paragraphs (2) and (3) of subsection (b) or
14 are excludible from gross income under
15 section 106(d).

16 “(B) The trustee is a bank (as defined in
17 section 408(n)), an insurance company (as de-
18 fined in section 816), or another person who
19 demonstrates to the satisfaction of the Sec-
20 retary that the manner in which such person
21 will administer the trust will be consistent with
22 the requirements of this section.

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

1 “(D) The assets of the trust will not be
2 commingled with other property except in a
3 common trust fund or common investment
4 fund.

5 “(E) The interest of an individual in the
6 balance in his account is nonforfeitable.

7 “(2) QUALIFIED MEDICAL EXPENSES.—

8 “(A) IN GENERAL.—The term ‘qualified
9 medical expenses’ means, with respect to an ac-
10 count beneficiary, amounts paid by such bene-
11 ficiary for medical care (as defined in section
12 213(d)) for such individual, the spouse of such
13 individual, and any dependent (as defined in
14 section 152, determined without regard to sub-
15 sections (b)(1), (b)(2), and (d)(1)(B) thereof)
16 of such individual, but only to the extent such
17 amounts are not compensated for by insurance
18 or otherwise. For purposes of this subpara-
19 graph, amounts paid for menstrual care prod-
20 ucts shall be treated as paid for medical care.

21 “(B) HEALTH INSURANCE MAY NOT BE
22 PURCHASED FROM ACCOUNT.—

23 “(i) IN GENERAL.—Subparagraph (A)
24 shall not apply to any payment for insur-
25 ance.

1 “(ii) EXCEPTIONS.—Clause (i) shall
2 not apply to any expense for coverage
3 under—

4 “(I) a health plan during any pe-
5 riod of continuation coverage required
6 under any Federal law,

7 “(II) a qualified long-term care
8 insurance contract (as defined in sec-
9 tion 7702B(b)),

10 “(III) a health plan during a pe-
11 riod in which the individual is receiv-
12 ing unemployment compensation
13 under any Federal or State law, or

14 “(IV) in the case of an account
15 beneficiary who has attained the age
16 specified in section 1811 of the Social
17 Security Act, any health insurance
18 other than a medicare supplemental
19 policy (as defined in section 1882 of
20 the Social Security Act).

21 “(iii) EXCEPTION FOR INTEGRATED
22 HEALTH PLANS.—Clause (i) shall not
23 apply to any expense for coverage under an
24 integration eligible health plan which is in-

1 tegrated with the health savings account
2 within the meaning of section 106(d).

3 “(iv) EXCEPTION FOR DIRECT PRI-
4 MARY CARE SERVICE ARRANGEMENTS.—

5 “(I) IN GENERAL.—A direct pri-
6 mary care service arrangement shall
7 not be treated as insurance for pur-
8 poses of clause (i)).

9 “(II) DIRECT PRIMARY CARE
10 SERVICE ARRANGEMENT DEFINED.—

11 For purposes of this clause, the term
12 ‘direct primary care service arrange-
13 ment’ means an arrangement under
14 which an individual is provided med-
15 ical care (as defined in section
16 213(d)(1), determined without regard
17 to subparagraph (E) thereof) con-
18 sisting solely of primary care services
19 provided by primary care practitioners
20 (as defined in section 1833(x)(2)(A)
21 of the Social Security Act, determined
22 without regard to clause (ii) thereof),
23 if the sole compensation for such care
24 is a fixed periodic fee.

1 “(C) MENSTRUAL CARE PRODUCT.—For
2 purposes of this paragraph, the term ‘menstrual
3 care product’ means a tampon, pad, liner, cup,
4 sponge, or similar product used by individuals
5 with respect to menstruation or other genital-
6 tract secretions.

7 “(3) ACCOUNT BENEFICIARY.—The term ‘ac-
8 count beneficiary’ means the individual on whose be-
9 half the health savings account was established.

10 “(4) CERTAIN RULES TO APPLY.—Rules similar
11 to the following rules shall apply for purposes of this
12 section:

13 “(A) Section 219(d)(2) (relating to no de-
14 duction for rollovers).

15 “(B) Section 219(f)(3) (relating to time
16 when contributions deemed made).

17 “(C) Except as provided in section 106(d),
18 section 219(f)(5) (relating to employer pay-
19 ments).

20 “(D) Section 408(g) (relating to commu-
21 nity property laws).

22 “(E) Section 408(h) (relating to custodial
23 accounts).

24 “(e) TAX TREATMENT OF ACCOUNTS.—

1 “(1) IN GENERAL.—A health savings account is
2 exempt from taxation under this subtitle unless such
3 account has ceased to be a health savings account.
4 Notwithstanding the preceding sentence, any such
5 account is subject to the taxes imposed by section
6 511 (relating to imposition of tax on unrelated busi-
7 ness income of charitable, etc. organizations).

8 “(2) ACCOUNT TERMINATIONS.—Rules similar
9 to the rules of paragraphs (2) and (4) of section
10 408(e) shall apply to health savings accounts, and
11 any amount treated as distributed under such rules
12 shall be treated as not used to pay qualified medical
13 expenses.

14 “(f) TAX TREATMENT OF DISTRIBUTIONS.—

15 “(1) AMOUNTS USED FOR QUALIFIED MEDICAL
16 EXPENSES.—Any amount paid or distributed out of
17 a health savings account which is used exclusively to
18 pay qualified medical expenses of any account bene-
19 ficiary shall not be includible in gross income.

20 “(2) INCLUSION OF AMOUNTS NOT USED FOR
21 QUALIFIED MEDICAL EXPENSES.—Any amount paid
22 or distributed out of a health savings account which
23 is not used exclusively to pay the qualified medical
24 expenses of the account beneficiary shall be included
25 in the gross income of such beneficiary.

1 “(3) EXCESS CONTRIBUTIONS RETURNED BE-
2 FORE DUE DATE OF RETURN.—

3 “(A) IN GENERAL.—If any excess con-
4 tribution is contributed for a taxable year to
5 any health savings account of an individual,
6 paragraph (2) shall not apply to distributions
7 from the health savings accounts of such indi-
8 vidual (to the extent such distributions do not
9 exceed the aggregate excess contributions to all
10 such accounts of such individual for such year)
11 if—

12 “(i) such distribution is received by
13 the individual on or before the last day
14 prescribed by law (including extensions of
15 time) for filing such individual’s return for
16 such taxable year, and

17 “(ii) such distribution is accompanied
18 by the amount of net income attributable
19 to such excess contribution.

20 Any net income described in clause (ii) shall be
21 included in the gross income of the individual
22 for the taxable year in which it is received.

23 “(B) EXCESS CONTRIBUTION.—For pur-
24 poses of subparagraph (A), the term ‘excess
25 contribution’ means any contribution (other

1 than a rollover contribution described in para-
2 graph (5) or section 220(f)(5)) which is neither
3 excludable from gross income under section
4 106(d) nor deductible under this section.

5 “(4) ADDITIONAL TAX ON DISTRIBUTIONS NOT
6 USED FOR QUALIFIED MEDICAL EXPENSES.—

7 “(A) IN GENERAL.—The tax imposed by
8 this chapter on the account beneficiary for any
9 taxable year in which there is a payment or dis-
10 tribution from a health savings account of such
11 beneficiary which is includible in gross income
12 under paragraph (2) shall be increased by 20
13 percent of the amount which is so includible.

14 “(B) EXCEPTION FOR DISABILITY OR
15 DEATH.—Subparagraph (A) shall not apply if
16 the payment or distribution is made after the
17 account beneficiary becomes disabled within the
18 meaning of section 72(m)(7) or dies.

19 “(C) EXCEPTION FOR DISTRIBUTIONS
20 AFTER MEDICARE ELIGIBILITY.—Subparagraph
21 (A) shall not apply to any payment or distribu-
22 tion after the date on which the account bene-
23 ficiary attains the age specified in section 1811
24 of the Social Security Act.

1 “(5) ROLLOVER CONTRIBUTION.—An amount is
2 described in this paragraph as a rollover contribu-
3 tion if it meets the requirements of subparagraphs
4 (A) and (B).

5 “(A) IN GENERAL.—Paragraph (2) shall
6 not apply to any amount paid or distributed
7 from a health savings account to the account
8 beneficiary to the extent the amount received is
9 paid into a health savings account for the ben-
10 efit of such beneficiary not later than the 60th
11 day after the day on which the beneficiary re-
12 ceives the payment or distribution.

13 “(B) LIMITATION.—This paragraph shall
14 not apply to any amount described in subpara-
15 graph (A) received by an individual from a
16 health savings account if, at any time during
17 the 1-year period ending on the day of such re-
18 ceipt, such individual received any other amount
19 described in subparagraph (A) from a health
20 savings account which was not includible in the
21 individual’s gross income because of the appli-
22 cation of this paragraph.

23 “(C) ROLLOVER FROM FSA, ARCHER MSA,
24 AND HRA.—An amount is described in this sub-
25 paragraph for a calendar year as a rollover con-

1 tribution if the amount is the remaining balance
2 in a health flexible spending account, Archer
3 MSA, or health reimbursement arrangement
4 that is contributed to the health savings ac-
5 count for a taxable year ending on or before
6 one year after the date of the enactment of this
7 subparagraph.

8 “(6) COORDINATION WITH MEDICAL EXPENSE
9 DEDUCTION.—For purposes of determining the
10 amount of the deduction under section 213, any pay-
11 ment or distribution out of a health savings account
12 for qualified medical expenses shall not be treated as
13 an expense paid for medical care.

14 “(7) TRANSFER OF ACCOUNT INCIDENT TO DI-
15 VORCE.—The transfer of an individual’s interest in
16 a health savings account to an individual’s spouse or
17 former spouse under a divorce or separation instru-
18 ment described in clause (i) of section 121(d)(3)(C)
19 shall not be considered a taxable transfer made by
20 such individual notwithstanding any other provision
21 of this subtitle, and such interest shall, after such
22 transfer, be treated as a health savings account with
23 respect to which such spouse is the account bene-
24 ficiary.

1 “(8) TREATMENT AFTER DEATH OF ACCOUNT
2 BENEFICIARY.—

3 “(A) TREATMENT IF DESIGNATED BENE-
4 FICIARY IS SPOUSE.—If the account bene-
5 ficiary’s surviving spouse acquires such bene-
6 ficiary’s interest in a health savings account by
7 reason of being the designated beneficiary of
8 such account at the death of the account bene-
9 ficiary, such health savings account shall be
10 treated as if the spouse were the account bene-
11 ficiary.

12 “(B) OTHER CASES.—

13 “(i) IN GENERAL.—If, by reason of
14 the death of the account beneficiary, any
15 person acquires the account beneficiary’s
16 interest in a health savings account in a
17 case to which subparagraph (A) does not
18 apply—

19 “(I) such account shall cease to
20 be a health savings account as of the
21 date of death, and

22 “(II) an amount equal to the fair
23 market value of the assets in such ac-
24 count on such date shall be includible
25 if such person is not the estate of

1 such beneficiary, in such person's
2 gross income for the taxable year
3 which includes such date, or if such
4 person is the estate of such bene-
5 ficiary, in such beneficiary's gross in-
6 come for the last taxable year of such
7 beneficiary.

8 “(ii) SPECIAL RULES.—

9 “(I) REDUCTION OF INCLUSION
10 FOR PREDEATH EXPENSES.—The
11 amount includible in gross income
12 under clause (i) by any person (other
13 than the estate) shall be reduced by
14 the amount of qualified medical ex-
15 penses which were incurred by the de-
16 cedent before the date of the dece-
17 dent's death and paid by such person
18 within 1 year after such date.

19 “(II) DEDUCTION FOR ESTATE
20 TAXES.—An appropriate deduction
21 shall be allowed under section 691(c)
22 to any person (other than the dece-
23 dent or the decedent's spouse) with
24 respect to amounts included in gross

1 income under clause (i) by such per-
2 son.

3 “(g) COST-OF-LIVING ADJUSTMENT.—

4 “(1) IN GENERAL.—In the case of any taxable
5 year beginning after December 31, 2024, each dollar
6 amount in paragraphs (2) and (3) of subsection (c)
7 shall be increased by an amount equal to—

8 “(A) such dollar amount, multiplied by

9 “(B) the cost-of-living adjustment deter-
10 mined under section 1(f)(3) for the calendar
11 year in which such taxable year begins deter-
12 mined by substituting ‘2023’ for ‘2016’ in sub-
13 paragraph (A)(ii) thereof.

14 “(2) ROUNDING.—If any increase under para-
15 graph (1) is not a multiple of \$50, such increase
16 shall be rounded to the nearest multiple of \$50.

17 “(h) REPORTS.—The Secretary may require—

18 “(1) the trustee of a health savings account to
19 make such reports regarding such account to the
20 Secretary and to the account beneficiary with re-
21 spect to contributions, distributions, the return of
22 excess contributions, and such other matters as the
23 Secretary determines appropriate, and

24 “(2) any person who provides an individual with
25 a qualified health plan to make such reports to the

1 Secretary and to the account beneficiary with re-
2 spect to such plan as the Secretary determines ap-
3 propriate.”.

4 (b) EMPLOYER CONTRIBUTIONS TO HEALTH SAV-
5 INGS ACCOUNTS.—

6 (1) IN GENERAL.—Section 106(d) is amended
7 to read as follows:

8 “(d) CONTRIBUTIONS TO HEALTH SAVINGS AC-
9 COUNTS.—

10 “(1) IN GENERAL.—In the case of an employee
11 who is an eligible individual, amounts contributed by
12 such employee’s employer to any health savings ac-
13 count of such employee shall be treated as employer-
14 provided coverage for medical expenses under an ac-
15 cident or health plan to the extent—

16 “(A) such amounts do not exceed twice the
17 limitation in effect under section 223(b)(2) (de-
18 termined without regard to this subsection)
19 which is applicable to such employee for such
20 taxable year,

21 “(B) such amounts are contributed to an
22 account which is integrated with an integration
23 eligible health plan,

1 “(C) such employer does not offer such
2 employee coverage under any other accident or
3 health plan,

4 “(D) such employer offers such amounts
5 only to members of a qualified class of employ-
6 ees and offers such amounts to all members of
7 any such qualified class,

8 “(E) such employer offers employees an
9 opportunity to elect not to receive such amounts
10 at least once per year and upon termination
11 from employment, and

12 “(F) such employee is not covered under
13 any health insurance offered by an employer of
14 such employee’s spouse.

15 “(2) INTEGRATION ELIGIBLE HEALTH PLAN.—
16 For purposes of this subsection, the term ‘integra-
17 tion eligible health plan’ means—

18 “(A) any bronze, silver, or gold plan of-
19 fered through an Exchange established under
20 the Patient Protection and Affordable Care Act,

21 “(B) entitlement to benefits under part A
22 of title XVIII of the Social Security Act and en-
23 rollment under part B of such title, including
24 enrollment under a Medicare Advantage plan
25 under part C of such title,

1 “(C) in the case of any individual who has
2 not attained age 30 or is determined by the
3 Secretary (after consultation with the Secretary
4 of Health and Human Services) to have a hard-
5 ship, coverage under a catastrophic plan, and

6 “(D) in the case of any student, coverage
7 under a health plan which is conditioned on
8 maintaining status as being such a student.

9 “(3) INTEGRATION OF PLANS AND AC-
10 COUNTS.—For purposes of this subsection, an ac-
11 count shall be treated as integrated with an integra-
12 tion eligible health plan (and such plan shall be
13 treated as integrated with such account) for any
14 month if—

15 “(A) the employee is the account bene-
16 ficiary of such account and such employee is
17 covered under an integration eligible health
18 plan for such month,

19 “(B) the employer verifies that the em-
20 ployee is so covered by requiring the submission
21 of documentation to such employer, and

22 “(C) the employer makes contributions to
23 such account for such month which are not less
24 than the excess (if any) of—

1 “(i) the adjusted monthly premiums
2 for the applicable second lowest cost silver
3 plan with respect to the taxpayer, over

4 “(ii) $\frac{1}{12}$ of 9.5 percent of the tax-
5 payer’s household income (within the
6 meaning of section 36B).

7 “(4) QUALIFIED CLASS.—For purposes of this
8 subsection—

9 “(A) IN GENERAL.—The term ‘qualified
10 class’ means only the following: All employees;
11 Full-time employees; Part-time employees; Sea-
12 sonal employees; Employees covered under a
13 collective bargaining agreement; Employees in a
14 waiting period; Foreign employees who work
15 abroad; Employees working in the same geo-
16 graphic location (same insurance rating area,
17 State, or multi-State region); Salaried workers;
18 Non-Salaried workers (such as hourly workers);
19 Temporary employees of staffing firms.

20 “(B) RULES RELATED TO CLASS SIZE.—

21 “(i) MINIMUM CLASS SIZE.—A class
22 shall not be treated as a qualified class un-
23 less in consisting of at least the following
24 number of employees:

1 “(I) In the case of an employer
2 with fewer than 100 employees, the
3 lesser of 10 employees or all employ-
4 ees of the employer.

5 “(II) In the case of an employer
6 with at least 100 and not more than
7 200 employees, 10 percent of the
8 number of such employees (if not a
9 whole number, rounded down to the
10 next lowest whole number).

11 “(III) In the case of an employer
12 with more than 200 employees, 20
13 employees.

14 “(ii) COMBINATION OF CLASSES.—
15 Two or more qualified classes described in
16 subparagraph (A) may be combined if each
17 such class separately would not satisfy the
18 requirement of clause (i).

19 “(C) PERMITTED VARIATION WITHIN
20 QUALIFIED CLASSES.—An employer shall not
21 fail to meet the requirements of paragraph
22 (1)(D) solely because the amounts offered to
23 members of a qualified class vary on the basis
24 of—

25 “(i) number of dependents,

1 “(ii) age, if such variation based on
2 age does not exceed a ratio of 3:1, and

3 “(iii) chronic health condition, if such
4 variation based on chronic health condition
5 does not exceed a ratio of 1.2:1.

6 “(5) COORDINATION WITH ACA PROVISIONS.—

7 In the case of an integration eligible health plan
8 which is integrated with a health savings account—

9 “(A) such plan shall be treated as an eligi-
10 ble employer-sponsored plan described in sec-
11 tion 5000A(f)(1)(B),

12 “(B) if an individual receives contributions
13 to such account which are excludible from the
14 gross income of such individual under this sec-
15 tion during any taxable year, no credit shall be
16 allowed under section 36B with respect to such
17 individual for such taxable year, and

18 “(C) for purposes of section
19 36B(c)(2)(C)(i)(II), the employee’s required
20 contribution with respect to such plan shall be
21 treated as being equal to the excess (if any)
22 of—

23 “(i) the adjusted monthly premiums
24 for the applicable second lowest cost silver
25 plan with respect to the taxpayer, over

1 “(ii) the contributions made the em-
2 ployer to such health savings account
3 which are excludible from the gross income
4 of the employee under this section.

5 “(6) NO CONSTRUCTIVE RECEIPT.—No amount
6 shall be included in the gross income of any em-
7 ployee solely because the employee may choose be-
8 tween the contributions referred to in paragraph (1)
9 and employer contributions to another health plan of
10 the employer.

11 “(7) SPECIAL RULE FOR DEDUCTION OF EM-
12 PLOYER CONTRIBUTIONS.—Any employer contribu-
13 tion to a health savings account, if otherwise allow-
14 able as a deduction under this chapter, shall be al-
15 lowed only for the taxable year in which paid.

16 “(8) EMPLOYER HEALTH SAVINGS ACCOUNT
17 CONTRIBUTIONS REQUIRED TO BE SHOWN ON RE-
18 TURN.—Every individual required to file a return
19 under section 6012 for the taxable year shall include
20 on such return the aggregate amount contributed by
21 employers to the health savings accounts of such in-
22 dividual or such individual’s spouse for such taxable
23 year.

1 “(9) HEALTH SAVINGS ACCOUNT CONTRIBU-
2 TIONS NOT PART OF COBRA COVERAGE.—Paragraph
3 (1) shall not apply for purposes of section 4980B.

4 “(10) DEFINITIONS.—Terms used in this sub-
5 section which are also used in section 223 shall have
6 the same respective meanings as when used in such
7 section.

8 “(11) REGULATIONS.—The Secretaries of
9 Treasury, Labor, and Health and Human Services
10 shall each issue such regulations or other guidance
11 as may be necessary or appropriate to carry out the
12 purposes of this subsection, including regulations or
13 other guidance to—

14 “(A) prevent employers from offering plans
15 integrated with health savings accounts selec-
16 tively to sicker workers, and

17 “(B) establish a safe harbor that helps em-
18 ployers determine whether contributions to
19 health savings accounts with respect to which
20 there is an integrated health plan comply with
21 affordability requirements under the Patient
22 Protection and Affordable Care Act and the
23 amendments made by such Act.

24 “(12) CROSS REFERENCE.—For penalty on fail-
25 ure by employer to make comparable contributions

1 to the health savings accounts of comparable em-
2 ployees, see section 4980G.”.

3 (2) NONAPPLICATION OF ERISA.—Contributions
4 by an employer to a health savings account (as de-
5 fined in section 223 of the Internal Revenue Code of
6 1986), and an integration eligible health plan which
7 is integrated with such account (within the meaning
8 of such section), shall not be treated as a plan for
9 purposes of the Employee Retirement Income Secu-
10 rity Act of 1974 if—

11 (A) receipt of such contributions by the
12 employee is voluntary,

13 (B) the employer does not select or en-
14 dorse the integration eligible health plan which
15 is integrated with such account,

16 (C) no premiums, other than premiums for
17 the integration eligible health plan which is in-
18 tegrated with such account, are paid from the
19 account,

20 (D) the employer receives no consideration
21 (money or other benefit) in connection with the
22 employee selecting or renewing a plan, and

23 (E) each participant is notified annually
24 that such contributions and such plan are not
25 subject to the requirements of such Act.

1 (c) TERMINATION OF CERTAIN OTHER HEALTH
2 CARE RELATED TAX BENEFITS.—

3 (1) EXCLUSION LIMITED TO SELF-FUNDED
4 MAJOR MEDICAL PLAN OF EMPLOYERS.—Section
5 105(b) of such Code is amended by striking “paid,”
6 and inserting “paid under a self-funded major med-
7 ical plan of the employer”.

8 (2) EXCLUSION NOT APPLICABLE TO HEALTH
9 REIMBURSEMENT ARRANGEMENTS.—Section 105(h)
10 of such Code is amended to read as follows:

11 “(h) EXCLUSION NOT APPLICABLE TO HEALTH RE-
12 IMBURSEMENT ARRANGEMENTS.—Subsection (b) shall
13 not apply to health reimbursement arrangements.”.

14 (3) REPEAL OF EXCLUSIONS FROM INCOME FOR
15 ARCHER MSAS AND FSAS.—Section 106 of such Code
16 is amended by striking subsections (b), (e), and (g).

17 (4) TERMINATION OF DEDUCTION FOR CON-
18 TRIBUTIONS TO ARCHER MSAS.—Section 220(a) of
19 such Code is amended by adding at the end the fol-
20 lowing: “No amount shall be allowed as a deduction
21 under the preceding sentence for any taxable year
22 beginning after one year after the date of the enact-
23 ment of this sentence.”.

1 (d) BANKRUPTCY PROTECTIONS.—Section 522 of
2 title 11, United States Code, is amended by adding at the
3 end the following new subsection:

4 “(r) For purposes of this section, any health savings
5 account (as described in section 223 of the Internal Rev-
6 enue Code of 1986) shall be treated in the same manner
7 as an individual retirement account described in section
8 408 of such Code.”.

9 (e) ROLLOVER OF FSA, ARCHER MSA, HRA TO
10 HEALTH SAVINGS ACCOUNT.—Notwithstanding any other
11 provision of law, if the remaining balance in a health flexi-
12 ble spending arrangement, Archer MSA, or health reim-
13 bursement arrangement is transferred to a health savings
14 account before the end of any taxable year ending on or
15 before one year after the date of the enactment of this
16 Act, such transfer shall be treated as a rollover to the
17 health savings account under section 223(f)(5) of the In-
18 ternal Revenue Code of 1986 and the distribution from
19 the health flexible spending arrangement, Archer MSA, or
20 health reimbursement arrangement shall not be includible
21 in gross income.

22 (f) EFFECTIVE DATES.—

23 (1) IN GENERAL.—The amendments made by
24 subsections (a) and (b) shall apply to taxable years

1 beginning after the date of the enactment of this
2 Act.

3 (2) **TERMINATION OF CERTAIN OTHER HEALTH**
4 **CARE RELATED TAX BENEFITS.**—The amendments
5 made by subsection (c) shall apply to taxable years
6 beginning after the date which is 1 year after the
7 date of the enactment of this Act.

8 (3) **BANKRUPTCY PROTECTIONS.**—The amend-
9 ment made by subsection (d) shall apply to cases
10 commencing under title 11, United States Code,
11 after the date of the enactment of this Act.

12 **SEC. 3. UNUSED PREMIUM TAX CREDITS MAY BE DEPOS-**
13 **ITED IN HEALTH SAVINGS ACCOUNTS.**

14 (a) **IN GENERAL.**—Section 36B is amended by redес-
15 ignating subsection (h) as subsection (i) and by inserting
16 after subsection (g) the following new subsection:

17 “(h) **EXCESS CREDIT MAY BE DEPOSITED INTO A**
18 **HEALTH SAVINGS ACCOUNT.**—

19 “(1) **IN GENERAL.**—If the amount described in
20 subparagraph (B) of subsection (b)(2) exceeds the
21 amount described in subparagraph (A) of such sub-
22 section with respect to any coverage month and an
23 election under paragraph (2) is in effect with respect
24 to the applicable taxpayer, the Secretary shall de-

1 posit such excess into a health savings account of
2 such taxpayer.

3 “(2) ELECTION TO DEPOSIT EXCESS CREDIT
4 INTO A HEALTH SAVINGS ACCOUNT.—A taxpayer
5 may elect (at such time and in such manner as the
6 Secretary may provide) to have the Secretary deposit
7 the excess described in paragraph (1) into a health
8 savings account of the taxpayer. Any such election
9 shall only be treated as being in effect if the tax-
10 payer provides the Secretary with such information
11 as the Secretary may require to allow the Secretary
12 to make such deposit.

13 “(3) COORDINATION WITH HEALTH SAVINGS
14 ACCOUNT RULES.—Any amount deposited in a
15 health savings account by the Secretary under this
16 subsection shall—

17 “(A) be includible in the gross income of
18 the applicable taxpayer, and

19 “(B) be taken into account as an amount
20 paid to such account for purposes of this sec-
21 tion.

22 “(4) TREATMENT OF DEPOSITS.—For purposes
23 of section 1324 of title 31, United States Code, any
24 deposit made under this subsection shall be treated
25 as a credit allowed under this section.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 the date of the enactment of this Act.

4 **SEC. 4. ONE-TIME APPLICATION OF SAVER’S CREDIT TO**
5 **CONTRIBUTIONS TO HEALTH SAVINGS AC-**
6 **COUNTS.**

7 (a) IN GENERAL.—In the case of an applicable tax-
8 able year, contributions to any health savings account of
9 the taxpayer during such taxable year shall be treated as
10 a qualified retirement savings contribution for purposes
11 of section 25B of the Internal Revenue Code of 1986.

12 (b) APPLICABLE TAXABLE YEAR.—For purposes of
13 this section, the term “applicable taxable year” means any
14 taxable year elected by the taxpayer (at such time and
15 in such manner as the Secretary of the Treasury may pro-
16 vide) which begins during the 3-year period beginning 1
17 year after the date of the enactment of this Act. A tax-
18 payer may not elect not more than 1 applicable taxable
19 year under this subsection.

20 **SEC. 5. GRANTS FOR HEALTH SAVINGS ACCOUNT ASSIST-**
21 **ANCE AND OUTREACH.**

22 (a) IN GENERAL.—The Administrator shall establish
23 a grant program to provide assistance to eligible entities
24 to carry out the activities described in subsection (c).

1 (b) APPLICATION.—An eligible entity shall submit an
2 application to the Administrator in such time and in such
3 manner as the Administrator may require, providing that
4 such application requires a demonstration of the existence
5 of a relationship with, or the ability to establish a relation-
6 ship with, an employer, employee, self-employed indi-
7 vidual, or consumer eligible to enroll in a health savings
8 account.

9 (c) USE OF FUNDS.—An eligible entity receiving a
10 grant under this section shall use such funds to—

11 (1) distribute fair and impartial information to
12 consumers about health savings accounts, including
13 the availability of such accounts and how such ac-
14 counts may be utilized;

15 (2) conduct activities to raise public awareness
16 of health savings accounts;

17 (3) facilitate enrollment in health savings ac-
18 counts; and

19 (4) refer individuals enrolled in a health savings
20 account to the appropriate official, organization, or
21 State agency for the purpose of addressing a com-
22 plaint, grievance, or other question with respect to
23 such health savings account.

1 (d) AMOUNT.—The Administrator may distribute up
2 to \$5,000,000 annually to be divided among grant recipi-
3 ents under this section.

4 (e) REPORT.—Not later than one year after the date
5 on which the last of the grant periods awarded under this
6 section ends, the Administrator shall submit a report to
7 the Congress on the effectiveness of the grants provided
8 under this section.

9 (f) DEFINITIONS.—In this section:

10 (1) ADMINISTRATOR.—The term “Adminis-
11 trator” means the Administrator of the Centers for
12 Medicare & Medicaid Services.

13 (2) CONSUMER.—The term “consumer” means
14 an individual enrolled in, or seeking to enroll in, a
15 health savings account.

16 (3) ELIGIBLE ENTITY.—The term “eligible enti-
17 ty” includes the following:

18 (A) A State.

19 (B) Trade.

20 (C) Industry.

21 (D) Professional associations.

22 (E) Commercial fishing industry organiza-
23 tions.

24 (F) Ranching and farming organizations.

1 (G) Community and consumer-focused
2 nonprofit groups.

3 (H) Chambers of commerce.

4 (I) Unions.

5 (J) Small business development centers (as
6 defined in section 21 of the Small Business Act
7 (15 U.S.C. 648)).

8 (K) Other entities capable of carrying out
9 the activities described under subsection (b).

10 (4) HEALTH SAVINGS ACCOUNT.—The term
11 “health savings account” has the meaning given
12 such term in section 223 of the Internal Revenue
13 Code of 1986.

14 (5) STATE.—The term “State” means each of
15 the several States, the District of Columbia, each
16 territory and possession of the United States, and
17 each federally recognized Indian Tribe.

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