

117TH CONGRESS  
1ST SESSION

# S. 125

To amend the Internal Revenue Code of 1986 to prohibit treatment of certain distributions and reimbursements for certain abortions as qualified medical expenses.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 28, 2021

Mr. LEE (for himself, Mr. INHOFE, Mrs. BLACKBURN, Mr. BRAUN, Mr. PAUL, Mr. RUBIO, Mr. HAGERTY, Mr. ROUNDS, and Mr. SASSE) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to prohibit treatment of certain distributions and reimbursements for certain abortions as qualified medical expenses.

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 “Protecting Life in  
5 Health Savings Accounts Act”.

6 **SEC. 2. DISTRIBUTIONS FOR CERTAIN ABORTIONS NOT**  
7 **QUALIFIED.**

8 (a) HSAs.—

1           (1) IN GENERAL.—Subparagraph (A) of section  
2           223(d)(2) of the Internal Revenue Code of 1986 is  
3           amended by adding at the end the following: “Such  
4           term shall not include any amount paid for an abor-  
5           tion (other than an excluded abortion).”.

6           (2) EXCLUDED ABORTION.—Section 223(d)(2)  
7           of such Code is amended by adding at the end the  
8           following new subparagraph:

9                   “(E) EXCLUDED ABORTION.—For pur-  
10                   poses of this paragraph, the term ‘excluded  
11                   abortion’ means any abortion—

12                           “(i) with respect to a pregnancy that  
13                           is the result of an act of rape or incest, or

14                                   “(ii) with respect to which the woman  
15                           suffers from a physical disorder, physical  
16                           injury, or physical illness, including a life-  
17                           endangering physical condition caused by  
18                           or arising from the pregnancy itself, that  
19                           would, as certified by a physician, place  
20                           the woman in danger of death unless the  
21                           abortion is performed.”.

22           (b) ARCHER MSAS.—Subparagraph (A) of section  
23           220(d)(2) of the Internal Revenue Code of 1986 is amend-  
24           ed by adding at the end the following: “Such term shall  
25           not include any amount paid for an abortion (other than

1 an excluded abortion (as defined in section  
2 223(d)(2)(E)).”.

3 (c) HEALTH FLEXIBLE SPENDING ARRANGEMENTS  
4 AND HEALTH REIMBURSEMENT ARRANGEMENTS.—Sec-  
5 tion 106 of the Internal Revenue Code of 1986 is amended  
6 by adding at the end the following new subsection:

7 “(h) PROHIBITION ON REIMBURSEMENTS FOR ABOR-  
8 TIONS.—For purposes of this section and section 105, re-  
9 imbursement for expenses incurred for an abortion (other  
10 than an excluded abortion (as defined in section  
11 223(d)(2)(E)) shall not be treated as a reimbursement for  
12 medical expenses.”.

13 (d) RETIREE HEALTH ACCOUNTS.—Section 401(h)  
14 of the Internal Revenue Code of 1986 is amended by in-  
15 serting “(other than an expense for an abortion (other  
16 than an excluded abortion (as defined in section  
17 223(d)(2)(E)))” after “sickness, accident, hospitalization,  
18 and medical expenses” in the matter preceding paragraph  
19 (1).

20 (e) EFFECTIVE DATES.—

21 (1) IN GENERAL.—Except as provided in para-  
22 graph (2), the amendments made by this section  
23 shall apply to amounts paid with respect to taxable  
24 years beginning after December 31, 2021.

1           (2) REIMBURSEMENTS.—The amendment made  
2           by subsection (c) shall apply to expenses incurred  
3           with respect to taxable years beginning after Decem-  
4           ber 31, 2021.

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