

117TH CONGRESS
2D SESSION

S. 5302

To amend the Internal Revenue Code of 1986 to increase the limitations on contributions to health savings accounts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 20, 2022

Mr. PAUL (for himself and Ms. LUMMIS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 to increase the limitations on contributions to 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 “Health Savings Ac-
5 counts For All Act of 2022”.

6 **SEC. 2. INCREASE IN CONTRIBUTION LIMITATIONS.**

7 (a) IN GENERAL.—Subsection (b) of section 223 of
8 the Internal Revenue Code of 1986 is amended—

9 (1) in paragraph (1), by striking “the sum of”
10 and all that follows through the period and inserting

1 “an amount equal to the applicable dollar amount
 2 under paragraph (1)(B) of section 402(g) (as ad-
 3 justed pursuant to paragraph (4) of such section)
 4 with respect to such taxable year.”,

5 (2) by striking paragraphs (2), (3), (5), (7),
 6 and (8),

7 (3) by inserting after paragraph (1) the fol-
 8 lowing:

9 “(2) ADDITIONAL CONTRIBUTIONS FOR INDI-
 10 VIDUALS 50 OR OLDER.—In the case of an individual
 11 who has attained age 50 before the close of the tax-
 12 able year, the amount of the limitation under para-
 13 graph (1) shall be increased by an amount equal to
 14 the applicable dollar amount under subparagraph
 15 (B)(i) of section 414(v)(2) (as adjusted pursuant to
 16 subparagraph (C) of such section).”,

17 (4) in paragraph (4), by striking the flush mat-
 18 ter following subparagraph (C), and

19 (5) by redesignating paragraphs (4) and (6) as
 20 paragraphs (3) and (4), respectively.

21 (b) CONFORMING AMENDMENTS.—

22 (1) Subparagraph (A) of section 223(d)(1) of
 23 the Internal Revenue Code of 1986 is amended by
 24 striking “the sum of—” and all that follows through

1 the period and inserting “the amount determined
2 under subsection (b)(1).”.

3 (2) Subsection (g) of section 223 of such Code
4 is amended—

5 (A) by striking “subsections (b)(2) and
6 (c)(2)(A)” both places it appears and inserting
7 “subsection (c)(2)(A)”, and

8 (B) by amending subparagraph (B) to read
9 as follows:

10 “(B) the cost-of-living adjustment deter-
11 mined under section 1(f)(3) for the calendar
12 year in which such taxable year begins deter-
13 mined by substituting ‘calendar year 2003’ for
14 ‘calendar year 2016’ in subparagraph (A)(ii)
15 thereof.”.

16 (3) Section 26(b)(2)(S) of such Code is amend-
17 ed by striking “, 223(b)(8)(B)(i)(II),”.

18 (4) Section 408(d)(9)(C)(i)(I) of such Code is
19 amended by striking “computed on the basis of the
20 type of coverage under the high deductible health
21 plan covering the individual”.

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

1 **SEC. 3. FREEDOM FROM MANDATE.**

2 (a) IN GENERAL.—Section 223 of the Internal Rev-
 3 enue Code of 1986, as amended by section 2, is further
 4 amended by striking subsections (c) and (g) and by redes-
 5 ignating subsections (d), (e), (f), and (h) as subsections
 6 (c), (d), (e), and (f), respectively.

7 (b) CONFORMING AMENDMENTS.—

8 (1) Subsection (a) of section 223 of the Inter-
 9 nal Revenue Code of 1986 is amended to read as fol-
 10 lows:

11 “(a) DEDUCTION ALLOWED.—In the case of an indi-
 12 vidual, there shall be allowed as a deduction for the tax-
 13 able year an amount equal to the aggregate amount paid
 14 in cash during such taxable year by or on behalf of such
 15 individual to a health savings account of such individual.”.

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

20 (3) Subparagraph (U) of section 26(b)(2) of
 21 such Code, as amended by section 2, is further
 22 amended by striking “section 223(f)(3)” and insert-
 23 ing “section 223(e)(3)”.

24 (4) Sections 35(g)(3), 220(f)(5)(A),
 25 848(e)(1)(B)(v), 4973(a)(5), and 6051(a)(12) of
 26 such Code are each amended by striking “section

1 223(d)” each place it appears and inserting “section
2 223(c)”.

3 (5) Section 106(d)(1) of such Code is amend-
4 ed—

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

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

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

10 (A) by striking paragraphs (3) and (4) and
11 by redesignating paragraph (5) as paragraph
12 (4),

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

15 “(3) TREATMENT AS ROLLOVER CONTRIBU-
16 TION.—A qualified HSA distribution shall be treated
17 as a rollover contribution described in section
18 223(e)(4).”, and

19 (C) by striking “to any eligible individual
20 covered under a high deductible health plan of
21 the employer” in paragraph (4)(B)(ii) (as so re-
22 designated) and inserting “to any employee
23 with respect to whom a health savings account
24 has been established”.

1 (7) Section 408(d)(9)(A) of such Code is
 2 amended by striking “who is an eligible individual
 3 (as defined in section 223(c)) and”.

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

7 (9) Section 4973(g) of such Code is amended—

8 (A) by striking “section 223(d)” and in-
 9 serting “section 223(c)”,

10 (B) in paragraph (1), by striking “or
 11 223(f)(5)” and inserting “or 223(e)(5)”,

12 (C) in paragraph (2)(A), by striking “sec-
 13 tion 223(f)(2)” and inserting “section
 14 223(e)(2)”, and

15 (D) in the flush matter at the end, by
 16 striking “section 223(f)(3)” and inserting “sec-
 17 tion 223(e)(3)”.

18 (10) Section 4975 of such Code is amended—

19 (A) in subsection (c)(6)—

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

22 (ii) by striking “section 223(e)(2)”
 23 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 (11) 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 EMPLOY-
 7 EES.—For purposes of paragraph (1), the term
 8 ‘comparable participating employees’ means all em-
 9 ployees who are covered (if at all) under the same
 10 health plan of the employer and have the same cat-
 11 egory of coverage. For purposes of the preceding
 12 sentence, the categories of coverage are self-only and
 13 family coverage.

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

1 (13) 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. AMOUNTS PAID FOR HEALTH INSURANCE OR DI-**
 8 **RECT PRIMARY CARE SERVICE ARRANGE-**
 9 **MENT.**

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

13 (1) in subparagraph (A), by inserting “or pur-
 14 suant to an arrangement under which an individual
 15 is provided coverage restricted to primary care serv-
 16 ices in exchange for a fixed periodic fee or payment
 17 for primary care services” after “menstrual care
 18 products”,

19 (2) by striking subparagraphs (B) and (C), and

20 (3) by redesignating subparagraph (D) as sub-
 21 paragraph (B).

22 (b) CONFORMING AMENDMENT.—Paragraph (2) of
 23 section 223(c) of the Internal Revenue Code of 1986, as
 24 amended by the preceding sections of this Act, is further
 25 amended by striking “and any dependent (as defined in

1 section 152, determined without regard to subsections
 2 (b)(1), (b)(2), and (d)(1)(B) thereof) of such individual”
 3 and inserting “any dependent (as defined in section 152,
 4 determined without regard to subsections (b)(1), (b)(2),
 5 and (d)(1)(B) thereof) of such individual, and any child
 6 (as defined in section 152(f)(1)) of such individual who
 7 has not attained the age of 27 before the end of such indi-
 8 vidual’s taxable year”.

9 (c) TECHNICAL AMENDMENTS.—

10 (1) Section 220(d)(2)(A) of the Internal Rev-
 11 enue Code of 1986 is amended by striking “section
 12 223(d)(2)(D)” and inserting “section 223(c)(2)(B)”.

13 (2) Subsection (f) of section 106 of the Internal
 14 Revenue Code of 1986 is amended by striking “sec-
 15 tion 223(d)(2)(D)” and inserting “section
 16 223(c)(2)(B)”.

17 (d) EFFECTIVE DATES.—

18 (1) IN GENERAL.—The amendments made by
 19 subsections (a) and (b) shall apply with respect to
 20 amounts paid after the date of the enactment of this
 21 Act in taxable years beginning after such date.

22 (2) TECHNICAL AMENDMENTS.—The amend-
 23 ments made by subsection (c) shall apply with re-
 24 spect to taxable years beginning after the date of en-
 25 actment of this Act.

1 **SEC. 5. 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. 6. ADMINISTRATIVE ERROR CORRECTION BEFORE**
12 **DUE DATE OF RETURN.**

13 (a) IN GENERAL.—Paragraph (4) 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. 7. ALLOWING HSA ROLLOVER TO CHILD OR PARENT**
 14 **OF ACCOUNT HOLDER.**

15 (a) IN GENERAL.—Paragraph (8)(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. 8. COVERAGE FOR AMOUNTS PAID FOR VITAMINS, DI-**
 13 **ETARY SUPPLEMENTS, GYM MEMBERSHIPS,**
 14 **AND WEARABLE FITNESS TRACKERS.**

15 (a) IN GENERAL.—Paragraph (2) of section 223(c)
 16 of the Internal Revenue Code of 1986, as amended by the
 17 preceding provisions of this Act, is amended—

18 (1) in subparagraph (A), by inserting “, quali-
 19 fied wellness expenses,” after “menstrual care prod-
 20 ucts”, and

21 (2) by adding at the end the following:

22 “(C) QUALIFIED WELLNESS EXPENSES.—
 23 For purposes of this paragraph, the term
 24 ‘qualified wellness expenses’ means amounts
 25 paid for—

1 “(i) vitamins,

2 “(ii) dietary supplements (as defined
3 in section 201(ff) of the Federal Food,
4 Drug, and Cosmetic Act (21 U.S.C.
5 321(ff))),

6 “(iii) membership at a gym or fitness
7 facility, or

8 “(iv) wearable fitness trackers.”.

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. EQUIVALENT BANKRUPTCY PROTECTIONS FOR**
13 **HEALTH SAVINGS ACCOUNTS AS RETIRE-**
14 **MENT FUNDS.**

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

18 “(r) TREATMENT OF HEALTH SAVINGS AC-
19 COUNTS.—For purposes of this section, any health savings
20 account (as described in section 223 of the Internal Rev-
21 enue Code of 1986) shall be treated in the same manner
22 as an individual retirement account described in section
23 408 of such Code.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply to cases commencing under title

1 11, United States Code, after the date of the enactment
2 of this Act.

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