

118TH CONGRESS  
1ST SESSION

# H. R. 5608

To allow individuals to elect to receive contributions to a health savings account in lieu of reduced cost-sharing under health insurance obtained through a health insurance Exchange.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 20, 2023

Mr. STEUBE (for himself and Mrs. CAMMACK) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To allow individuals to elect to receive contributions to a health savings account in lieu of reduced cost-sharing under health insurance obtained through a health insurance Exchange.

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 “Affordable Care and  
5       Comprehensive Economic Support through Savings Act”  
6       or the “ACCESS Act”.

1 **SEC. 2. HEALTH SAVINGS ACCOUNT CONTRIBUTIONS IN**  
2 **LIEU OF REDUCED COST-SHARING.**

3 (a) IN GENERAL.—Section 223 of the Internal Rev-  
4 enue Code of 1986 is amended by adding at the end the  
5 following new subsection:

6 “(i) HEALTH SAVINGS ACCOUNT CONTRIBUTIONS IN  
7 LIEU OF REDUCED COST-SHARING FOR EXCHANGE-PRO-  
8 VIDED PLANS.—

9 “(1) IN GENERAL.—In the case of any eligible  
10 insured who is enrolled in an Exchange-provided  
11 high deductible health plan for any month and who  
12 elects (at such time and in such manner as the Sec-  
13 retary may provide) the application of this sub-  
14 section—

15 “(A) section 1402 of the Patient Protec-  
16 tion and Affordable Care Act shall not apply to  
17 such individual for such month,

18 “(B) the health insurance issuer offering  
19 such plan shall make a payment to a health  
20 savings account of such individual for such  
21 month in an amount equal to  $\frac{1}{12}$  of the annual  
22 reduced cost-sharing actuarial equivalent  
23 amount, and

24 “(C) the Secretary shall make payments to  
25 such health insurance issuer in amounts which

1           are equal to the payments made by such issuer  
2           under subparagraph (B).

3           “(2) ANNUAL REDUCED COST-SHARING ACTU-  
4           ARIAL EQUIVALENT AMOUNT.—For purposes of this  
5           section, the term ‘annual reduced cost-sharing actu-  
6           arial equivalent amount’ means, with respect to any  
7           Exchange-provided high deductible health plan en-  
8           rolled in by an eligible insured, an amount that  
9           would produce an actuarial value equal to the actu-  
10          arial value of the reduction in cost-sharing (as deter-  
11          mined under section 1402 of the Patient Protection  
12          and Affordable Care Act and without regard to any  
13          election under this subsection) for the plan year de-  
14          termined by taking into account the household in-  
15          come of the eligible insured.

16          “(3) RESTRICTION ON DISTRIBUTIONS.—

17                 “(A) IN GENERAL.—Any trust which re-  
18                 ceives a payment described in paragraph (1)(B)  
19                 shall not be treated as a health savings account  
20                 for purposes of this section unless the terms of  
21                 such trust require that, during any month dur-  
22                 ing which such a payment is received, no dis-  
23                 tribution may be made from such trust unless  
24                 such distribution is made to satisfy a charge  
25                 properly made to a qualified medical debit card.

1 “(B) QUALIFIED MEDICAL DEBIT CARD.—

2 For purposes of this paragraph, the term  
3 ‘qualified medical debit card’ means a debit  
4 card which—

5 “(i) is issued by a bank (as defined in  
6 section 408(n)),

7 “(ii) is provided by the trustee of the  
8 health savings account to the designated  
9 beneficiary, and

10 “(iii) is encoded in such a manner  
11 that the only expenses which may charged  
12 with such card are amounts paid for med-  
13 ical care (as defined in section 213(d)).

14 “(4) RECAPTURE OF EXCESS PAYMENTS.—For  
15 purposes of applying the recapture rules of section  
16 36B(f)(2)—

17 “(A) payments made to the health savings  
18 account of an individual under paragraph  
19 (1)(B) shall be treated as an advance payment  
20 of the credit allowed under section 36B, and

21 “(B) the credit allowed under section 36B  
22 shall be treated as having been increased by the  
23 payments which would have been made to the  
24 health savings account of such individual under  
25 paragraph (1)(B) if such payments had been

1           determined using the household income of such  
2           individual for the taxable year referred to in  
3           such section.

4           “(5) OTHER DEFINITIONS AND SPECIAL  
5 RULES.—For purposes of this section—

6                   “(A) EXCHANGE-PROVIDED HIGH DEDUCT-  
7           IBLE HEALTH PLAN.—The term ‘Exchange-pro-  
8           vided high deductible health plan’ means, with  
9           respect to any eligible insured, any high deduct-  
10          ible health plan enrolled in by such eligible in-  
11          sured through an Exchange established under  
12          the Patient Protection and Affordable Care Act.

13                   “(B) ELIGIBLE INSURED.—The term ‘eli-  
14          gible insured’ has the meaning given such term  
15          in section 1402(b) of the Patient Protection  
16          and Affordable Care Act.

17                   “(C) COORDINATION WITH CONTRIBUTION  
18          LIMITS; ETC.—The payments described in para-  
19          graph (1)(B) shall not fail to be taken into ac-  
20          count under this section as contributions to the  
21          health savings account to which paid and such  
22          payments shall not be required to be made to  
23          the extent that the eligible insured does not  
24          have a health savings account or such account

1 is prohibited from accepting such payment by  
 2 reason of subsection (d)(1)(A)(ii).”.

3 (b) REQUIREMENTS RELATED TO EXCHANGE-PRO-  
 4 VIDED HIGH DEDUCTIBLE HEALTH PLANS.—Section  
 5 1301(a) of the Patient Protection and Affordable Care Act  
 6 (42 U.S.C. 18021(a)) is amended by adding at the end  
 7 the following new paragraph:

8 “(5) REQUIREMENTS RELATED TO HIGH DE-  
 9 DUCTIBLE HEALTH PLANS.—

10 “(A) REQUIREMENT TO OFFER HIGH DE-  
 11 DUCTIBLE HEALTH PLAN AS ALTERNATIVE.—A  
 12 health plan in the silver level of coverage in the  
 13 individual market which is not a high deductible  
 14 health plan shall not be treated as a qualified  
 15 health plan unless the health insurance issuer  
 16 offering such plan offers a high deductible  
 17 health plan which is actuarially equivalent to  
 18 such plan to any individual who would be an eli-  
 19 gible insured (as defined in section 1402(b)) if  
 20 such individual were enrolled in such plan.

21 “(B) REQUIREMENT TO MAKE HEALTH  
 22 SAVINGS ACCOUNT CONTRIBUTIONS UPON ELEC-  
 23 TION OF ELIGIBLE INSURED.—A high deduct-  
 24 ible health plan shall not be treated as a quali-  
 25 fied health plan unless the health insurance

1 issuer offering such plan complies with the re-  
2 quirement of section 223(i)(1)(B) of such Code  
3 with respect to such plan.

4 “(C) DETERMINATION OF ACTUARIAL  
5 VALUE.—For purposes of this Act, the actuarial  
6 value of a high deductible health plan shall take  
7 into account payments made by the issuer to a  
8 health savings account of the enrollee pursuant  
9 to such plan.

10 “(D) HIGH DEDUCTIBLE HEALTH PLAN.—  
11 For purposes of this paragraph, the term ‘high  
12 deductible health plan’ has the meaning given  
13 such term by section 223 of the Internal Rev-  
14 enue Code of 1986.”.

15 (c) PUBLIC EDUCATION.—Beginning on January 1,  
16 2025, each health insurance issuer offering coverage  
17 through an Exchange established under the Patient Pro-  
18 tection and Affordable Care Act, and each such Exchange,  
19 shall provide all prospective enrollees—

20 (1) information regarding the availability of in-  
21 surer-provided health savings account contributions  
22 in lieu of reduced cost-sharing for silver level high  
23 deductible health plans selected in the Exchange,  
24 and

1           (2) information regarding how to establish and  
2       use a health savings account.

3       (d) PERMANENT APPROPRIATION FOR COST-SHAR-  
4   ING REDUCTION PAYMENTS AND HSA CONTRIBUTIONS  
5   MADE IN LIEU OF SUCH PAYMENTS.—Necessary amounts  
6   are appropriated to the Secretary of the Treasury for  
7   making payments described in section 1402(d)(3) of the  
8   Patient Protection and Affordable Care Act, and pay-  
9   ments described in section 223(i)(1)(C) of the Internal  
10   Revenue Code of 1986 (as added by this section), for  
11   months beginning after December 31, 2024.

12       (e) EFFECTIVE DATE.—The amendments made by  
13   this section shall apply to months beginning after Decem-  
14   ber 31, 2024.

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