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**AMENDMENT**

**OFFERED BY MR. PAULSEN OF MINNESOTA**

At the end of subtitle B of title V of division A, add the following:

1 **PART 4—IMPROVEMENTS RELATED TO HEALTH**  
2 **SAVING ACCOUNTS**

3 **SEC. 581. ALLOW BOTH SPOUSES TO MAKE CATCH-UP CON-**  
4 **TRIBUTIONS TO THE SAME HSA ACCOUNT.**

5 (a) IN GENERAL.—Paragraph (3) of section 223(b)  
6 of the Internal Revenue Code of 1986 is amended by add-  
7 ing at the end the following new subparagraph:

8 “(C) SPECIAL RULE WHERE BOTH  
9 SPOUSES ARE ELIGIBLE INDIVIDUALS WITH 1  
10 ACCOUNT.—If—

11 “(i) an individual and the individual’s  
12 spouse have both attained age 55 before  
13 the close of the taxable year, and

14 “(ii) the spouse is not an account ben-  
15 eficiary of a health savings account as of  
16 the close of such year,

17 the additional contribution amount shall be 200  
18 percent of the amount otherwise determined  
19 under subparagraph (B).”.

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

4 **SEC. 582. PROVISIONS RELATING TO MEDICARE.**

5 (a) INDIVIDUALS OVER AGE 65 ONLY ENROLLED IN  
6 MEDICARE PART A.—Section 223(b)(7) of the Internal  
7 Revenue Code of 1986 (relating to contribution limitation  
8 on Medicare eligible individuals) is amended by adding at  
9 the end the following new sentence: “This paragraph shall  
10 not apply to any individual during any period the individ-  
11 ual’s only entitlement to such benefits is an entitlement  
12 to hospital insurance benefits under part A of title XVIII  
13 of such Act pursuant to an enrollment for such hospital  
14 insurance benefits under section 226(a)(1) of such Act.”.

15 (b) MEDICARE BENEFICIARIES PARTICIPATING IN  
16 MEDICARE ADVANTAGE MSA MAY CONTRIBUTE THEIR  
17 OWN MONEY TO THEIR MSA.—Subsection (b) of section  
18 138 of such Code is amended by striking paragraph (2)  
19 and by redesignating paragraphs (3) and (4) as para-  
20 graphs (2) and (3), respectively.

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

1 **SEC. 583. INDIVIDUALS ELIGIBLE FOR VETERANS BENE-**  
2 **FITS FOR A SERVICE-CONNECTED DIS-**  
3 **ABILITY.**

4 (a) **IN GENERAL.**—Section 223(c)(1) of the Internal  
5 Revenue Code of 1986 (defining eligible individual) is  
6 amended by adding at the end the following new subpara-  
7 graph:

8 “(C) **SPECIAL RULE FOR INDIVIDUALS ELI-**  
9 **GIBLE FOR CERTAIN VETERANS BENEFITS.**—  
10 For purposes of subparagraph (A)(ii), an indi-  
11 vidual shall not be treated as covered under a  
12 health plan described in such subparagraph  
13 merely because the individual receives periodic  
14 hospital care or medical services for a service-  
15 connected disability under any law administered  
16 by the Secretary of Veterans Affairs but only if  
17 the individual is not eligible to receive such care  
18 or services for any condition other than a serv-  
19 ice-connected disability.”.

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

1 **SEC. 584. INDIVIDUALS ELIGIBLE FOR INDIAN HEALTH**  
2 **SERVICE ASSISTANCE.**

3 (a) **IN GENERAL.**—Section 223(c)(1) of the Internal  
4 Revenue Code of 1986, as amended by this Act, is amend-  
5 ed by adding at the end the following new subparagraph:

6 “(D) **SPECIAL RULE FOR INDIVIDUALS EL-**  
7 **IGIBLE FOR ASSISTANCE UNDER INDIAN**  
8 **HEALTH SERVICE PROGRAMS.**—For purposes of  
9 subparagraph (A)(ii), an individual shall not be  
10 treated as covered under a health plan de-  
11 scribed in such subparagraph merely because  
12 the individual receives hospital care or medical  
13 services under a medical care program of the  
14 Indian Health Service or of a tribal organiza-  
15 tion.”

16 (b) **EFFECTIVE DATE.**—The amendment made by  
17 this section shall apply to taxable years beginning after  
18 the date of the enactment of this Act.

19 **SEC. 585. FSA AND HRA TERMINATION TO FUND HSAS.**

20 (a) **ELIGIBLE INDIVIDUALS INCLUDE FSA AND HRA**  
21 **PARTICIPANTS.**—Section 223(c)(1)(B) of the Internal  
22 Revenue Code of 1986 is amended—

23 (1) by striking “and” at the end of clause (ii),

24 (2) by striking the period at the end of clause

25 (iii) and inserting “, and”, and

1 (3) by inserting after clause (iii) the following  
2 new clause:

3 “(iv) coverage under a health flexible  
4 spending arrangement or a health reim-  
5 bursement arrangement in the plan year a  
6 qualified HSA distribution as described in  
7 section 106(e) is made on behalf of the in-  
8 dividual if after the qualified HSA dis-  
9 tribution is made and for the remaining  
10 duration of the plan year, the coverage  
11 provided under the health flexible spending  
12 arrangement or health reimbursement ar-  
13 rangement is converted to—

14 “(I) coverage that does not pay  
15 or reimburse any medical expense in-  
16 curred before the minimum annual de-  
17 ductible under section 223(c)(2)(A)(i)  
18 (prorated for the period occurring  
19 after the qualified HSA distribution is  
20 made) is satisfied,

21 “(II) coverage that, after the  
22 qualified HSA distribution is made,  
23 does not pay or reimburse any med-  
24 ical expense incurred after the quali-  
25 fied HSA distribution is made other

1 than preventive care as defined in sec-  
2 tion 223(c)(2)(3),

3 “(III) coverage that, after the  
4 qualified HSA distribution is made,  
5 pays or reimburses benefits for cov-  
6 erage described in section  
7 223(c)(1)(B)(ii) (but not through in-  
8 surance or for long-term care serv-  
9 ices),

10 “(IV) coverage that, after the  
11 qualified HSA distribution is made,  
12 pays or reimburses benefits for per-  
13 mitted insurance as defined in section  
14 223(c)(1)(B)(i) or coverage described  
15 in section 223(c)(1)(B)(ii) (but not  
16 for long-term care services),

17 “(V) coverage that, after the  
18 qualified HSA distribution is made,  
19 pays or reimburses only those medical  
20 expenses incurred after an individual’s  
21 retirement (and no expenses incurred  
22 before retirement), or

23 “(VI) coverage that, after the  
24 qualified HSA distribution is made, is  
25 suspended, pursuant to an election

1           made on or before the date the indi-  
2           vidual elects a qualified HSA distribu-  
3           tion or, if later, on the date of the in-  
4           dividual enrolls in a high deductible  
5           health plan (as defined in section  
6           223(c)(2)), that does not pay or reim-  
7           burse, at any time, any medical ex-  
8           pense incurred during the suspension  
9           period except as defined in subclauses  
10          (I) through (V) above.”.

11          (b) QUALIFIED HSA DISTRIBUTION SHALL NOT AF-  
12 FECT FLEXIBLE SPENDING ARRANGEMENT.—Section  
13 106(e)(1) of such Code is amended to read as follows:

14           “(1) IN GENERAL.—A plan shall not fail to be  
15          treated as a health flexible spending arrangement  
16          under this section, section 105, or section 125, or as  
17          a health reimbursement arrangement under this sec-  
18          tion or section 105, merely because such plan pro-  
19          vides for a qualified HSA distribution.”.

20          (c) FSA BALANCES AT YEAR END SHALL NOT FOR-  
21 FEIT.—Section 125(d)(2) of such Code is amended by  
22 adding at the end the following new subparagraph:

23           “(E) EXCEPTION FOR QUALIFIED HSA DIS-  
24          TRIBUTIONS.—Subparagraph (A) shall not  
25          apply to the extent that there is an amount re-

1           maining in a health flexible spending account at  
2           the end of a plan year that an individual elects  
3           to contribute to a health savings account pursu-  
4           ant to a qualified HSA distribution (as defined  
5           in section 106(e)(2)).”

6           (d) SIMPLIFICATION OF LIMITATIONS ON FSA AND  
7 HRA ROLLOVERS.—Section 106(e)(2) of such Code (re-  
8 lating to qualified HSA distribution) is amended to read  
9 as follows:

10           “(2) QUALIFIED HSA DISTRIBUTION.—

11                   “(A) IN GENERAL.—The term ‘qualified  
12 HSA distribution’ means a distribution from a  
13 health flexible spending arrangement or health  
14 reimbursement arrangement to the extent that  
15 such distribution does not exceed the lesser  
16 of—

17                           “(i) the balance in such arrangement  
18 as of the date of such distribution, or

19                           “(ii) the amount determined under  
20 subparagraph (B).

21           Such term shall not include more than 1 dis-  
22 tribution with respect to any arrangement.

23           “(B) DOLLAR LIMITATIONS.—

24                   “(i) DISTRIBUTIONS FROM A HEALTH  
25 FLEXIBLE SPENDING ARRANGEMENT.—A

1 qualified HSA distribution from a health  
2 flexible spending arrangement shall not ex-  
3 ceed the applicable amount.

4 “(ii) DISTRIBUTIONS FROM A HEALTH  
5 REIMBURSEMENT ARRANGEMENT.—A  
6 qualified HSA distribution from a health  
7 reimbursement arrangement shall not ex-  
8 ceed—

9 “(I) the applicable amount di-  
10 vided by 12, multiplied by

11 “(II) the number of months dur-  
12 ing which the individual is a partici-  
13 pant in the health reimbursement ar-  
14 rangement.

15 “(iii) APPLICABLE AMOUNT.—For  
16 purposes of this subparagraph, the applica-  
17 ble amount is—

18 “(I) \$2,250 in the case of an eli-  
19 gible individual who has self-only cov-  
20 erage under a high deductible health  
21 plan at the time of such distribution,  
22 and

23 “(II) \$4,500 in the case of an eli-  
24 gible individual who has family cov-  
25 erage under a high deductible health

1                   plan at the time of such distribu-  
2                   tion.”.

3           (e) ELIMINATION OF ADDITIONAL TAX FOR FAILURE  
4 TO MAINTAIN HIGH DEDUCTIBLE HEALTH PLAN COV-  
5 ERAGE.—Section 106(e) of such Code is amended—

6           (1) by striking paragraph (3) and redesignating  
7 paragraphs (4) and (5) as paragraphs (3) and (4),  
8 respectively, and

9           (2) by striking subparagraph (A) of paragraph  
10 (3), as so redesignated, and redesignating subpara-  
11 graphs (B) and (C) of such paragraph as subpara-  
12 graphs (A) and (B) thereof, respectively.

13          (f) LIMITED PURPOSE FSAS AND HRAS.—Section  
14 106(e) of such Code, as amended by this section, is  
15 amended by adding at the end the following new para-  
16 graph:

17           “(5) LIMITED PURPOSE FSAS AND HRAS.—A  
18 plan shall not fail to be a health flexible spending  
19 arrangement or health reimbursement arrangement  
20 under this section or section 105 merely because the  
21 plan converts coverage for individuals who enroll in  
22 a high deductible health plan described in section  
23 223(c)(2) to coverage described in section  
24 223(c)(1)(B)(iv). Coverage for such individuals may  
25 be converted as of the date of enrollment in the high

1 deductible health plan, without regard to the period  
2 of coverage under the health flexible spending ar-  
3 rangement or health reimbursement arrangement,  
4 and without requiring any change in coverage to in-  
5 dividuals who do not enroll in a high deductible  
6 health plan.”.

7 (g) DISTRIBUTION AMOUNTS ADJUSTED FOR COST-  
8 OF-LIVING.—Section 106(e) of such Code, as amended by  
9 this section, is amended by adding at the end the following  
10 new paragraph:

11 “(6) COST-OF-LIVING ADJUSTMENT.—

12 “(A) IN GENERAL.—In the case of any  
13 taxable year beginning after December 31,  
14 2010, each of the dollar amounts in paragraph  
15 (2)(B)(iii) shall be increased by an amount  
16 equal to such dollar amount, multiplied by the  
17 cost-of-living adjustment determined under sec-  
18 tion 1(f)(3) for the calendar year in which such  
19 taxable year begins by substituting ‘calendar  
20 year 2009’ for ‘calendar year 1992’ in subpara-  
21 graph (B) thereof.

22 “(B) ROUNDING.—If any increase under  
23 paragraph (1) is not a multiple of \$50, such in-  
24 crease shall be rounded to the nearest multiple  
25 of \$50.”.

1 (h) DISCLAIMER OF DISQUALIFYING COVERAGE.—

2 Section 223(c)(1)(B) of such Code, as amended by this  
3 section, is amended—

4 (1) by striking “and” at the end of clause (iii),

5 (2) by striking the period at the end of clause

6 (iv) and inserting “, and”, and

7 (3) by inserting after clause (iv) the following  
8 new clause:

9 “(v) any coverage (including prospec-  
10 tive coverage) under a health plan that is  
11 not a high deductible health plan which is  
12 disclaimed in writing, at the time of the  
13 creation or organization of the health sav-  
14 ings account, including by execution of a  
15 trust described in subsection (d)(1)  
16 through a governing instrument that in-  
17 cludes such a disclaimer, or by acceptance  
18 of an amendment to such a trust that in-  
19 cludes such a disclaimer.”

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

1 **SEC. 586. PURCHASE OF HEALTH INSURANCE FROM HSA**  
2 **ACCOUNT.**

3 (a) **IN GENERAL.**—Paragraph (2) of section 223(d)  
4 of the Internal Revenue Code of 1986 (defining qualified  
5 medical expenses) is amended—

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

7 (2) by inserting “ and including payment for in-  
8 surance)” after “section 213(d)”.

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. 587. SPECIAL RULE FOR CERTAIN MEDICAL EXPENSES**  
13 **INCURRED BEFORE ESTABLISHMENT OF AC-**  
14 **COUNT.**

15 (a) **IN GENERAL.**—Paragraph (2) of section 223(d)  
16 of the Internal Revenue Code of 1986, as amended by this  
17 Act, is amended by adding at the end the following new  
18 subparagraph:

19 “(B) **CERTAIN MEDICAL EXPENSES IN-**  
20 **CURRED BEFORE ESTABLISHMENT OF ACCOUNT**  
21 **TREATED AS QUALIFIED.**—An expense shall not  
22 fail to be treated as a qualified medical expense  
23 solely because such expense was incurred before  
24 the establishment of the health savings account  
25 if such expense was incurred—

26 “(i) during either—



1 ternal Revenue Code of 1986 is amended by adding at the  
2 end the following: "Preventive care shall include prescrip-  
3 tion and over-the-counter drugs and medicines which have  
4 the primary purpose of preventing the onset of, further  
5 deterioration from, or complications associated with  
6 chronic conditions, illnesses, or diseases."

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

10 **SEC. 589. QUALIFIED MEDICAL EXPENSES.**

11 (a) CERTAIN EXERCISE EQUIPMENT AND PHYSICAL  
12 FITNESS PROGRAMS TREATED AS MEDICAL CARE.—

13 (1) IN GENERAL.—Subsection (d) of section  
14 213 of the Internal Revenue Code of 1986 is amend-  
15 ed by adding at the end the following new para-  
16 graph:

17 "(12) EXERCISE EQUIPMENT AND PHYSICAL  
18 FITNESS PROGRAMS.—

19 "(A) IN GENERAL.—The term 'medical  
20 care' shall include amounts paid—

21 "(i) to purchase or use equipment  
22 used in a program (including a self-di-  
23 rected program) of physical exercise,

24 "(ii) to participate, or receive instruc-  
25 tion, in a program of physical exercise, and

1                   “(iii) for membership dues in a fitness  
2                   club the primary purpose of which is to  
3                   provide access to equipment and facilities  
4                   for physical exercise.

5                   “(B) LIMITATION.—Amounts treated as  
6                   medical care under subparagraph (A) shall not  
7                   exceed \$1,000 with respect to any individual for  
8                   any taxable year.”.

9                   (2) EFFECTIVE DATE.—The amendment made  
10                  by this subsection shall apply to taxable years begin-  
11                  ning after the date of the enactment of this Act.

12                  (b) CERTAIN NUTRITIONAL AND DIETARY SUPPLE-  
13                  MENTS TO BE TREATED AS MEDICAL CARE.—

14                  (1) IN GENERAL.—Subsection (d) of section  
15                  213 of such Code, as amended by subsection (a), is  
16                  amended by adding at the end the following new  
17                  paragraph:

18                  “(13) NUTRITIONAL AND DIETARY SUPPLE-  
19                  MENTS.—

20                  “(A) IN GENERAL.—The term ‘medical  
21                  care’ shall include amounts paid to purchase  
22                  herbs, vitamins, minerals, homeopathic rem-  
23                  edies, meal replacement products, and other di-  
24                  etary and nutritional supplements.

1           “(B) LIMITATION.—Amounts treated as  
2           medical care under subparagraph (A) shall not  
3           exceed \$1,000 with respect to any individual for  
4           any taxable year.

5           “(C) MEAL REPLACEMENT PRODUCT.—  
6           For purposes of this paragraph, the term ‘meal  
7           replacement product’ means any product that—

8                   “(i) is permitted to bear labeling mak-  
9                   ing a claim described in section 403(r)(3)  
10                  of the Federal Food, Drug, and Cosmetic  
11                  Act, and

12                   “(ii) is permitted to claim under such  
13                   section that such product is low in fat and  
14                   is a good source of protein, fiber, and mul-  
15                   tiple essential vitamins and minerals.”

16           (2) EFFECTIVE DATE.—The amendment made  
17           by this subsection shall apply to taxable years begin-  
18           ning after the date of the enactment of this Act.

