

116TH CONGRESS
1ST SESSION

S. _____

To amend the Internal Revenue Code of 1986 to repeal the excise tax on high cost employer-sponsored health coverage.

IN THE SENATE OF THE UNITED STATES

Mr. HEINRICH (for himself, Mr. ROUNDS, Mrs. SHAHEEN, Mr. WICKER, Mr. PORTMAN, Mr. SULLIVAN, Ms. MURKOWSKI, Mr. GARDNER, Mr. BOOZMAN, Ms. HASSAN, Ms. DUCKWORTH, Ms. STABENOW, Mr. SCOTT of South Carolina, Mr. PETERS, Mr. INHOFE, Ms. ERNST, Mr. MURPHY, Ms. CORTEZ MASTO, Mr. CASEY, Mr. BLUMENTHAL, Mr. YOUNG, Mrs. FISCHER, Ms. HARRIS, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to repeal the excise tax on high cost employer-sponsored health coverage.

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 “Middle Class Health
5 Benefits Tax Repeal Act of 2019”.

1 **SEC. 2. REPEAL OF EXCISE TAX ON HIGH COST EMPLOYER-**
2 **SPONSORED HEALTH COVERAGE.**

3 (a) IN GENERAL.—Chapter 43 of the Internal Rev-
4 enue Code of 1986 is amended by striking section 4980I.

5 (b) CONFORMING AMENDMENTS.—

6 (1) Section 6051 of such Code is amended—

7 (A) in paragraph (14) of subsection (a), by
8 striking “section 4980I(d)(1)” and inserting
9 “subsection (g)”, and

10 (B) by adding at the end the following:

11 “(g) APPLICABLE EMPLOYER-SPONSORED COV-
12 ERAGE.—For purposes of subsection (a)(14)—

13 “(1) IN GENERAL.—The term ‘applicable em-
14 ployer-sponsored coverage’ means, with respect to
15 any employee, coverage under any group health plan
16 made available to the employee by an employer
17 which is excludable from the employee’s gross in-
18 come under section 106, or would be so excludable
19 if it were employer-provided coverage (within the
20 meaning of such section 106).

21 “(2) EXCEPTIONS.—The term ‘applicable em-
22 ployer-sponsored coverage’ shall not include—

23 “(A) any coverage (whether through insur-
24 ance or otherwise) described in section
25 9832(c)(1) (other than subparagraph (G) there-
26 of) or for long-term care, or

1 “(B) any coverage under a separate policy,
2 certificate, or contract of insurance which pro-
3 vides benefits substantially all of which are for
4 treatment of the mouth (including any organ or
5 structure within the mouth) or for treatment of
6 the eye, or

7 “(C) any coverage described in section
8 9832(c)(3) the payment for which is not exclud-
9 able from gross income and for which a deduc-
10 tion under section 162(l) is not allowable.

11 “(3) COVERAGE INCLUDES EMPLOYEE PAID
12 PORTION.—Coverage shall be treated as applicable
13 employer-sponsored coverage without regard to
14 whether the employer or employee pays for the cov-
15 erage.

16 “(4) GOVERNMENTAL PLANS INCLUDED.—Ap-
17 plicable employer-sponsored coverage shall include
18 coverage under any group health plan established
19 and maintained primarily for its civilian employees
20 by the Government of the United States, by the gov-
21 ernment of any State or political subdivision thereof,
22 or by any agency or instrumentality of any such gov-
23 ernment.

24 “(5) COST OF COVERAGE.—

1 “(A) HEALTH FSAS.—In the case of appli-
2 cable employer-sponsored coverage consisting of
3 coverage under a flexible spending arrangement
4 (as defined in section 106(c)(2)), the cost of the
5 coverage shall be equal to the amount deter-
6 mined under rules similar to the rules of section
7 4980B(f)(4) with respect to any reimbursement
8 under the arrangement reduced by the contribu-
9 tions described in subsection (a)(14)(B).

10 “(B) ARCHER MSAS AND HSAS.—In the
11 case of applicable employer-sponsored coverage
12 consisting of coverage under an arrangement
13 under which the employer makes contributions
14 described in subsection (b) or (d) of section
15 106, the cost of the coverage shall be equal to
16 the amount of employer contributions under the
17 arrangement.

18 “(C) ALLOCATION ON A MONTHLY
19 BASIS.—If cost is determined on other than a
20 monthly basis, the cost shall be allocated to
21 months in a taxable period on such basis as the
22 Secretary may prescribe.”.

23 (2) Section 9831(d)(1) of such Code is amend-
24 ed by striking “except as provided in section
25 4980I(f)(4) and”.

1 (3) The table of sections for chapter 43 of such
2 Code is amended by striking the item relating to sec-
3 tion 4980I.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2019.