

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for employer-provided free choice vouchers which allow certain employees to purchase coverage through an exchange.

IN THE SENATE OF THE UNITED STATES—111th Cong., 1st Sess.

H. R. 3590

To amend the Internal Revenue Code of 1986 to modify the first-time homebuyers credit in the case of members of the Armed Forces and certain other Federal employees, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. WYDEN to
the amendment (No. 2786) proposed by Mr. REID

Viz:

- 1 On page 164, between lines 2 and 3, insert the fol-
- 2 lowing:
- 3 **SEC. 1314. EMPLOYEE CHOICE IN HEALTH COVERAGE.**
- 4 (a) IN GENERAL.—An offering employer shall pro-
- 5 vide free choice vouchers to each qualified employee of
- 6 such employer.

1 (b) OFFERING EMPLOYER.—For purposes of this
2 section, the term “offering employer” means any employer
3 who—

4 (1) offers minimum essential coverage to its
5 employees consisting of coverage through an eligible
6 employer-sponsored plan; and

7 (2) pays any portion of the costs of such plan.

8 (c) QUALIFIED EMPLOYEE.—For purposes of this
9 section, the term “qualified employee” means, with respect
10 to any plan year of an offering employer, any employee—

11 (1) whose required contribution (as determined
12 under section 5000A(e)(1)(B)) for minimum essen-
13 tial coverage through an eligible employer-sponsored
14 plan—

15 (A) exceeds 8 percent of such employee’s
16 household income for the taxable year described
17 in section 1412(b)(1)(B) which ends with or
18 within in the plan year; and

19 (B) does not exceed 9.8 percent of such
20 employee’s household income for such taxable
21 year;

22 (2) whose household income for such taxable
23 year is not greater than 400 percent of the poverty
24 line for a family of the size involved; and

1 (3) who does not participate in a health plan of-
2 ferred by the offering employer.

3 (d) FREE CHOICE VOUCHER.—

4 (1) AMOUNT.—

5 (A) IN GENERAL.—The amount of any free
6 choice voucher provided under subsection (a)
7 shall be equal to the monthly portion of the cost
8 of the eligible employer-sponsored plan which
9 would have been paid by the employer if the
10 employee were covered under the plan with re-
11 spect to which the employer pays the largest
12 portion of the employee's premium.

13 (B) DETERMINATION OF COST.—The cost
14 of any health plan shall be determined under
15 the rules similar to the rules of section 2204 of
16 the Public Health Service Act, except that such
17 amount shall be adjusted for age and category
18 of coverage in accordance with regulations es-
19 tablished by the Secretary.

20 (2) USE OF VOUCHERS.—An Exchange shall
21 credit the amount of any free choice voucher pro-
22 vided under subsection (a) to the monthly premium
23 of any qualified health plan in the Exchange in
24 which the qualified employee is enrolled and the of-

1 fering employer shall pay any amounts so credited to
2 the Exchange.

3 (3) PAYMENT OF EXCESS AMOUNTS.—If the
4 amount of the free choice voucher exceeds the
5 amount of the premium of the qualified health plan
6 in which the qualified employee is enrolled for such
7 month, such excess shall be paid to the employee.

8 (e) OTHER DEFINITIONS.—Any term used in this
9 section which is also used in section 5000A of the Internal
10 Revenue Code of 1986 shall have the meaning given such
11 term under such section 5000A.

12 (f) EXCLUSION FROM INCOME FOR EMPLOYEE.—

13 (1) IN GENERAL.—Part III of subchapter B of
14 chapter 1 of the Internal Revenue Code of 1986 is
15 amended by inserting after section 139C the fol-
16 lowing new section:

17 **“SEC. 139D. FREE CHOICE VOUCHERS.**

18 “Gross income shall not include the amount of any
19 free choice voucher provided by an employer under section
20 1314 of the Patient Protection and Affordable Care Act
21 to the extent that the amount of such voucher does not
22 exceed the amount paid for a qualified health plan (as de-
23 fined in section 1301 of such Act) by the taxpayer.”.

24 (2) CLERICAL AMENDMENT.—The table of sec-
25 tions for part III of subchapter B of chapter 1 of

1 such Code is amended by inserting after the item re-
2 lating to section 139C the following new item:

“Sec. 139D. Free choice vouchers.”.

3 (3) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to vouchers provided
5 after December 31, 2013.

6 (g) DEDUCTION ALLOWED TO EMPLOYER.—

7 (1) IN GENERAL.—Section 162(a) of the Inter-
8 nal Revenue Code of 1986 is amended by adding at
9 the end the following new sentence: “For purposes
10 of paragraph (1), the amount of a free choice vouch-
11 er provided under section 1314 of the Patient Pro-
12 tection and Affordable Care Act shall be treated as
13 an amount for compensation for personal services
14 actually rendered.”.

15 (2) EFFECTIVE DATE.—The amendments made
16 by this subsection shall apply to vouchers provided
17 after December 31, 2013.

18 (h) VOUCHER TAKEN INTO ACCOUNT IN DETER-
19 MINING PREMIUM CREDIT.—

20 (1) IN GENERAL.—Subsection (b)(2) of section
21 36B of the Internal Revenue Code of 1986, as added
22 by section 1401, is amended by adding at the end
23 the following new flush sentence:

24 “The amount of any monthly premium under sub-
25 section subparagraph (A) and the amount of the ad-

1 justed monthly premium for the second lowest cost
2 silver plan under subparagraph (B) shall be reduced
3 by the amount of any free choice voucher provided
4 to the taxpayer under section 1314 of the Patient
5 Protection and Affordable Care Act.”.

6 (2) EFFECTIVE DATE.—The amendment made
7 by this subsection shall apply to taxable years begin-
8 ning after December 31, 2013.

9 (i) COORDINATION WITH EMPLOYER RESPONSIBIL-
10 ITIES.—

11 (1) SHARED RESPONSIBILITY PENALTY.—

12 (A) IN GENERAL.—Subsection (c) of sec-
13 tion 4980H of the Internal Revenue Code of
14 1986, as added by section 1513, is amended by
15 adding at the end the following new paragraph:

16 “(3) SPECIAL RULES FOR EMPLOYERS PRO-
17 VIDING FREE CHOICE VOUCHERS.—The assessable
18 payment imposed under paragraph (1) shall be re-
19 duced (but not below zero) by the amount of any
20 free choice voucher provided to a full-time employee
21 for any month during which such employee is en-
22 rolled in a qualified health plan with respect to
23 which an applicable premium credit or cost-sharing
24 subsidy is allowed or paid with respect to such em-
25 ployee.”.

1 (B) EFFECTIVE DATE.—The amendment
2 made by this paragraph shall apply to months
3 beginning after December 31, 2013.

4 (2) NOTIFICATION REQUIREMENT.—Section
5 18B(a)(3) of the Fair Labor Standards Act of 1938,
6 as added by section 1512, is amended—

7 (A) by inserting “and the employer does
8 not offer a free choice voucher” after “Ex-
9 change”; and

10 (B) by striking “will lose” and inserting
11 “may lose”.

12 (j) EMPLOYER REPORTING.—

13 (1) IN GENERAL.—Subsection (a) of section
14 6056 of the Internal Revenue Code of 1986, as
15 added by section 1514, is amended by inserting
16 “and every offering employer” before “shall”.

17 (2) OFFERING EMPLOYERS.—Subsection (f) of
18 section 6056 of such Code, as added by section
19 1514, is amended to read as follows:

20 “(f) DEFINITIONS.—For purposes of this section—

21 “(1) OFFERING EMPLOYER.—The term ‘offer-
22 ing employer’ means any offering employer (as de-
23 fined in section 1314(b) of the Patient Protection
24 and Affordable Care Act) if the required contribu-
25 tion (within the meaning of section

1 5000A(e)(1)(B)(i)) of any employee exceeds 8 per-
2 cent of the wages (as defined in section 3121(a))
3 paid to such employee by such employer.

4 “(2) OTHER DEFINITIONS.—Any term used in
5 this section which is also used in section 4980H
6 shall have the meaning given such term by section
7 4980H.”.

8 (3) CONFORMING AMENDMENTS.—

9 (A) The heading of section 6056 of such
10 Code, as added by section 1514, is amended by
11 striking “**LARGE**” and inserting “**CERTAIN**”.

12 (B) Section 6056(b)(2)(C) of such Code is
13 amended—

14 (i) by inserting “in the case of an ap-
15 plicable large employer,” before “the
16 length” in clause (i); and

17 (ii) by striking “applicable large em-
18 ployer” in clause (iv) and inserting “em-
19 ployer”.

20 (C) Section 6056(d)(2) of such Code is
21 amended by inserting “or offering employer”
22 after “applicable large employer”.

23 (D) Section 6056(e) of such Code is
24 amended by inserting “or offering employer”
25 after “applicable large employer”.

1 (E) Section 6724(d)(1)(B)(xxv) of such
2 Code, as added by section 1514, is amended by
3 striking “large” and inserting “certain”.

4 (F) Section 6724(d)(2)(HH) of such Code,
5 as added by section 1514, is amended by strik-
6 ing “large” and inserting “certain”.

7 (G) The table of sections for subpart D of
8 part III of subchapter A of chapter 1 of such
9 Code, as amended by section 1514, is amended
10 by striking “Large employers” in the item re-
11 lating to section 6056 and inserting “Certain
12 employers”.

13 (4) EFFECTIVE DATE.—The amendments made
14 by this subsection shall apply to periods beginning
15 after December 31, 2013.