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AMENDMENT
OFFERED BY MR. BARROW OF GEORGIA

Strike subpart B of part 1 of subtitle A of title V of division A (relating to employer responsibility) and insert the following new subpart:

1 **Subpart B—Employer Responsibility**

2 **SEC. 511. EMPLOYER SHARED RESPONSIBILITY REQUIRE-**
3 **MENT.**

4 (a) IN GENERAL.—Chapter 43 of the Internal Rev-
5 enue Code of 1986 is amended by adding at the end the
6 following:

7 **“SEC. 4980H. EMPLOYER RESPONSIBILITY TO PROVIDE**
8 **HEALTH COVERAGE.**

9 “(a) IMPOSITION OF EXCISE TAX.—If—

10 “(1) an applicable large employer fails to meet
11 the health insurance coverage requirements of sub-
12 section (c) with respect to its full-time employees,
13 and

14 “(2) any such full-time employee of the em-
15 ployer is enrolled for any month during the period
16 of such failure in a qualified health benefits plan
17 with respect to which an applicable premium credit

1 or cost-sharing subsidy is allowed or paid with re-
2 spect to the employee,
3 there is hereby imposed on such failure with respect to
4 each such employee for each such month a tax in the
5 amount determined under subsection (b).

6 “(b) AMOUNT OF TAX.—

7 “(1) IN GENERAL.—The tax determined under
8 this subsection with respect to a failure involving an
9 employee for any month described in subsection
10 (a)(2) shall be equal to $\frac{1}{12}$ of the dollar amount
11 which the Secretary of Health and Human Services
12 determines (on the basis of the most recent data
13 available) is equal to the sum of the average annual
14 credit allowed under section 36B and the average
15 annual cost-sharing subsidy under section 2247 of
16 the Social Security Act for taxable years beginning
17 in the calendar year preceding the calendar year in
18 which such month occurs. In the case of a month oc-
19 ccurring during 2013, the Secretary shall determine
20 the average annual credit and subsidy on the basis
21 of the aggregate amount of credits and subsidies
22 (expressed as an annual amount) for which appli-
23 cants were determined eligible during the initial
24 open enrollment period under section 2237(d)(2)(A)
25 of the Social Security Act.

1 “(2) OVERALL LIMITATION.—

2 “(A) IN GENERAL.—The aggregate
3 amount of tax determined under paragraph (1)
4 with respect to all employees of an applicable
5 large employer for any month shall not exceed
6 $\frac{1}{12}$ of the product of—

7 “(i) \$400, and

8 “(ii) the average number of full-time
9 employees of the employer on business
10 days during the calendar year preceding
11 the calendar year in which such month oc-
12 curs (determined in the same manner as
13 under subsection (d)(1)).

14 “(B) INDEXING.—In the case of any cal-
15 endar year after 2013, the \$400 amount under
16 subparagraph (A)(i) shall be increased by an
17 amount equal to the product of—

18 “(i) \$400, and

19 “(ii) the premium adjustment percent-
20 age (as defined in section 2242(c)(7) of
21 the Social Security Act) for the calendar
22 year.

23 If the amount of any increase under this sub-
24 paragraph is not a multiple of \$10, such in-

1 crease shall be rounded to the next lowest mul-
2 tiple of \$10.

3 “(c) HEALTH INSURANCE COVERAGE REQUIRE-
4 MENTS.—For purposes of this section—

5 “(1) IN GENERAL.—An applicable large em-
6 ployer meets the health insurance coverage require-
7 ments of this subsection if the employer—

8 “(A) in the case of an employer in the
9 small group market in a State, offers to its full-
10 time employees (and their dependents) the op-
11 portunity to enroll in a qualified health benefits
12 plan or a grandfathered health benefits plan,
13 and

14 “(B) in the case of an employer in the
15 large group market in a State, offers to its full-
16 time employees (and their dependents) the op-
17 portunity to enroll in a group health plan meet-
18 ing the requirements of section 2244 of the So-
19 cial Security Act or a grandfathered health ben-
20 efits plan.

21 “(2) EXCEPTION WHERE COVERAGE IS
22 UNAFFORDABLE OR FAILS TO PROVIDE MINIMUM
23 VALUE.—An employer shall not be treated as meet-
24 ing the requirements of this subsection with respect
25 to any employee if—

1 “(A) the employee is eligible for the credit
2 allowable under section 36B because the em-
3 ployee’s required contribution under the plan
4 described in paragraph (1) is determined to be
5 unaffordable under section 36B(c)(2)(C), or

6 “(B) in the case of a plan (other than a
7 qualified health benefits plan) offered under
8 paragraph (1), the plan’s share of the total al-
9 lowed costs of benefits provided under the plan
10 is less than 65 percent of such costs.

11 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-
12 poses of this section—

13 “(1) APPLICABLE LARGE EMPLOYER.—

14 “(A) IN GENERAL.—The term ‘applicable
15 large employer’ means, with respect to a cal-
16 endar year, an employer who employed an aver-
17 age of at least 50 employees on business days
18 during the preceding calendar year.

19 “(B) RULES FOR DETERMINING EM-
20 PLOYER SIZE.—For purposes of this para-
21 graph—

22 “(i) APPLICATION OF AGGREGATION
23 RULE FOR EMPLOYERS.—All persons treat-
24 ed as a single employer under subsection
25 (b), (c), (m), or (o) of section 414 of the

1 Internal Revenue Code of 1986 shall be
2 treated as 1 employer.

3 “(ii) EMPLOYERS NOT IN EXISTENCE
4 IN PRECEDING YEAR.—In the case of an
5 employer which was not in existence
6 throughout the preceding calendar year,
7 the determination of whether such em-
8 ployer is an applicable large employer shall
9 be based on the average number of employ-
10 ees that it is reasonably expected such em-
11 ployer will employ on business days in the
12 current calendar year.

13 “(iii) PREDECESSORS.—Any reference
14 in this subsection to an employer shall in-
15 clude a reference to any predecessor of
16 such employer.

17 “(2) APPLICABLE PREMIUM CREDIT AND COST-
18 SHARING SUBSIDY.—The term ‘applicable premium
19 credit and cost-sharing subsidy’ means—

20 “(A) any premium credit allowed under
21 section 36B (and any advance payment of the
22 credit under section 2248 of the Social Security
23 Act), and

24 “(B) any cost-sharing subsidy payment
25 under section 2247 of such Act.

1 “(3) FULL-TIME EMPLOYEE.—

2 “(A) IN GENERAL.—The term ‘full-time
3 employee’ means an employee who is employed
4 on average at least 30 hours per week.

5 “(B) SPECIAL RULES.—The Secretary
6 shall prescribe such regulations, rules, and
7 guidance as may be necessary to apply this
8 paragraph to employees who are not com-
9 pensated on an hourly basis.

10 “(4) OTHER DEFINITIONS.—Any term used in
11 this section which is also used in title XXII of the
12 Social Security Act shall have the same meaning as
13 when used in such title.

14 “(5) TAX NONDEDUCTIBLE.—For denial of de-
15 duction for the tax imposed by this section, see sec-
16 tion 275(a)(6).

17 “(e) TIME FOR PAYMENT OF TAX.—The Secretary
18 may provide for the payment of the tax imposed by this
19 section on an annual, monthly, or other periodic basis as
20 the Secretary may prescribe.”.

21 (b) CLERICAL AMENDMENT.—The table of sections
22 for chapter 43 of such Code is amended by adding at the
23 end the following new item:

 “Sec. 4980H. Employer responsibility to provide health coverage.”.

24 (c) STUDY AND REPORT OF EFFECT OF TAX ON
25 WORKERS’ WAGES.—

1 **“SEC. 6050Y. LARGE EMPLOYERS REQUIRED TO REPORT ON**
2 **HEALTH INSURANCE COVERAGE.**

3 “(a) IN GENERAL.—Every applicable large employer
4 required to meet the requirements of section 4980H(c)
5 with respect to its full-time employees during a calendar
6 year shall, at such time as the Secretary may prescribe,
7 make a return described in subsection (b).

8 “(b) FORM AND MANNER OF RETURN.—A return is
9 described in this subsection if such return—

10 “(1) is in such form as the Secretary may pre-
11 scribe, and

12 “(2) contains—

13 “(A) the name, date, and employer identi-
14 fication number of the employer,

15 “(B) a certification as to whether the em-
16 ployer offers to its full-time employees (and
17 their dependents) the opportunity to enroll in a
18 health benefits plan or a grandfathered health
19 benefits plan described in section 4980H(c) and
20 applicable to the employer,

21 “(C) if the employer certifies that the em-
22 ployer did offer to its full-time employees (and
23 their dependents) the opportunity to so enroll—

24 “(i) the months during the calendar
25 year for which coverage was available, and

1 “(ii) the monthly premium for the
2 lowest cost option in each of the enroll-
3 ment categories under each health benefits
4 plan offered to employees,

5 “(D) the name, address, and TIN of each
6 full-time employee during the calendar year and
7 the months (if any) during which such employee
8 (and any dependents) were covered under any
9 such health benefits plans and,

10 “(E) such other information as the Sec-
11 retary may require.

12 “(c) STATEMENTS TO BE FURNISHED TO INDIVID-
13 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
14 PORTED.—

15 “(1) IN GENERAL.—Every person required to
16 make a return under subsection (a) shall furnish to
17 each full-time employee whose name is required to
18 be set forth in such return under subsection
19 (b)(2)(D) a written statement showing—

20 “(A) the name and address of the person
21 required to make such return and the phone
22 number of the information contact for such per-
23 son, and

24 “(B) the information required to be shown
25 on the return with respect to such individual.

1 “(2) TIME FOR FURNISHING STATEMENTS.—

2 The written statement required under paragraph (1)
3 shall be furnished on or before January 31 of the
4 year following the calendar year for which the return
5 under subsection (a) was required to be made.

6 “(d) COORDINATION WITH OTHER REQUIRE-
7 MENTS.—To the maximum extent feasible, the Secretary
8 may provide that—

9 “(1) any return or statement required to be
10 provided under this section may be provided as part
11 of any return or statement required under section
12 6051 or 6055, and

13 “(2) in the case of an applicable large employer
14 offering a health benefits plan of a health insurance
15 issuer, the employer may enter into an agreement
16 with the issuer to include information required
17 under this section with the return and statement re-
18 quired to be provided by the issuer under section
19 6055.

20 “(e) COVERAGE PROVIDED BY GOVERNMENTAL
21 UNITS.—In the case of any applicable large employer
22 which is a governmental unit or any agency or instrumen-
23 tality thereof, the person appropriately designated for pur-
24 poses of this section shall make the returns and state-
25 ments required by this section.

1 “(f) DEFINITIONS.—For purposes of this section, any
2 term used in this section which is also used in section
3 4980H shall have the meaning given such term by section
4 4980H.”

5 (b) ASSESSABLE PENALTIES.—

6 (1) Subparagraph (B) of section 6724(d)(1) of
7 the Internal Revenue Code of 1986 (relating to defi-
8 nitions), as amended by this Act, is amended by
9 striking “or” at the end of clause (xxiii), by striking
10 “and” at the end of clause (xxiv) and inserting “or”,
11 and by inserting after clause (xxiv) the following
12 new clause:

13 “(xxv) section 6050Y (relating to re-
14 turns relating to large employers required
15 to report on health insurance coverage),
16 and”.

17 (2) Paragraph (2) of section 6724(d) of such
18 Code, as so amended, is amended by striking “or”
19 at the end of subparagraph (FF), by striking the pe-
20 riod at the end of subparagraph (GG) and inserting
21 “, or” and by inserting after subparagraph (GG) the
22 following new subparagraph:

23 “(HH) section 6050Y(c) (relating to state-
24 ments relating to large employers required to
25 report on health insurance coverage).”

