

119TH CONGRESS  
1ST SESSION

# H. R. 5463

To amend the Internal Revenue Code of 1986 to provide for the treatment of employer-provided health reimbursement arrangements that are integrated with individual market coverage, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 18, 2025

Mr. HERN of Oklahoma (for himself, Ms. VAN DUYNE, and Ms. TENNEY) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide for the treatment of employer-provided health reimbursement arrangements that are integrated with individual market coverage, and for other purposes.

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 “Choice Arrangement  
5 Act of 2025”.

1 **SEC. 2. TREATMENT OF HEALTH REIMBURSEMENT AR-**  
2 **RANGEMENTS INTEGRATED WITH INDIVIDUAL MARKET COVERAGE.**

4 (a) IN GENERAL.—Section 9815(b) of the Internal  
5 Revenue Code of 1986 is amended—

6 (1) by striking “EXCEPTION.—Notwithstanding  
7 subsection (a)” and inserting the following: “EXCEPTIONS.—  
8 TIONS.—

9 “(1) SELF-INSURED GROUP HEALTH PLANS.—  
10 Notwithstanding subsection (a)”, and

11 (2) by adding at the end the following new  
12 paragraph:

13 “(2) CUSTOM HEALTH OPTION AND INDIVIDUAL  
14 CARE EXPENSE ARRANGEMENTS.—

15 “(A) IN GENERAL.—For purposes of this  
16 subchapter, a custom health option and indi-  
17 vidual care expense arrangement shall be treat-  
18 ed as meeting the requirements of section 9802  
19 and sections 2705, 2711, 2713, and 2715 of  
20 title XXVII of the Public Health Service Act.

21 “(B) CUSTOM HEALTH OPTION AND INDIVIDUAL  
22 CARE EXPENSE ARRANGEMENTS DEFINED.—For purposes of this section, the term  
23 ‘custom health option and individual care ex-  
24 pense arrangement’ means a health reimburse-  
25 ment arrangement—  
26

1 “(i) which is an employer-provided  
2 group health plan funded solely by em-  
3 ployer contributions to provide payments  
4 or reimbursements for medical care subject  
5 to a maximum fixed dollar amount for a  
6 period,

7 “(ii) under which such payments or  
8 reimbursements may only be made for  
9 medical care provided during periods dur-  
10 ing which the individual is covered—

11 “(I) under individual health in-  
12 surance coverage (other than coverage  
13 that consists solely of excepted bene-  
14 fits), or

15 “(II) under part A and B of title  
16 XVIII of the Social Security Act or  
17 part C of such title,

18 “(iii) which meets the nondiscrimina-  
19 tion requirements of subparagraph (C),

20 “(iv) which meets the substantiation  
21 requirements of subparagraph (D), and

22 “(v) which meets the notice require-  
23 ments of subparagraph (E).

24 “(C) NONDISCRIMINATION.—

1 “(i) IN GENERAL.—An arrangement  
2 meets the requirements of this subpara-  
3 graph if an employer offering such ar-  
4 rangement to an employee within a speci-  
5 fied class of employee—

6 “(I) offers such arrangement to  
7 all employees within such specified  
8 class on the same terms, and

9 “(II) does not offer any other  
10 group health plan (other than an ac-  
11 count-based group health plan or a  
12 group health plan that consists solely  
13 of excepted benefits) to any employees  
14 within such specified class.

15 In the case of an employer who offers a  
16 group health plan provided through health  
17 insurance coverage in the small group mar-  
18 ket (that is subject to section 2701 of the  
19 Public Health Service Act) to all employees  
20 within such specified class, subclause (II)  
21 shall not apply to such group health plan.

22 “(ii) SPECIFIED CLASS OF EM-  
23 PLOYEE.—For purposes of this subpara-  
24 graph, any of the following may be des-  
25 ignated as a specified class of employee:

1 “(I) Full-time employees.

2 “(II) Part-time employees.

3 “(III) Salaried employees.

4 “(IV) Non-salaried employees.

5 “(V) Employees whose primary  
6 site of employment is in the same rat-  
7 ing area.

8 “(VI) Employees who are in-  
9 cluded in a unit of employees covered  
10 under a collective bargaining agree-  
11 ment to which the employer is subject  
12 (determined under rules similar to the  
13 rules of section 105(h)).

14 “(VII) Employees who have not  
15 met a group health plan, or health in-  
16 surance issuer offering group health  
17 insurance coverage, waiting period re-  
18 quirement that satisfies section 2708  
19 of the Public Health Service Act.

20 “(VIII) Seasonal employees.

21 “(IX) Employees who are non-  
22 resident aliens and who receive no  
23 earned income (within the meaning of  
24 section 911(d)(2)) from the employer  
25 which constitutes income from sources

1 within the United States (within the  
2 meaning of section 861(a)(3)).

3 “(X) Under such rules as the  
4 Secretary may prescribe, employees  
5 who are hired for temporary place-  
6 ment with an unrelated person that is  
7 not the common law employer.

8 “(XI) Such other classes of em-  
9 ployees as the Secretary may des-  
10 ignate.

11 An employer may designate (in such man-  
12 ner as is prescribed by the Secretary) two  
13 or more of the classes described in the pre-  
14 ceding subclauses as the specified class of  
15 employees to which the arrangement is of-  
16 fered for purposes of applying this sub-  
17 paragraph.

18 “(iii) SPECIAL RULE FOR NEW  
19 HIRES.—An employer may designate pro-  
20 spectively so much of a specified class of  
21 employees as are hired after a date set by  
22 the employer. Such subclass of employees  
23 shall be treated as the specified class for  
24 purposes of applying clause (i).

1           “(iv) RULES FOR DETERMINING TYPE  
2           OF EMPLOYEE.—For purposes for clause  
3           (ii), any determination of full-time, part-  
4           time, or seasonal employment status shall  
5           be made under rules similar to the rules of  
6           section 105(h) or 4980H, whichever the  
7           employer elects for the plan year. Such  
8           election shall apply with respect to all em-  
9           ployees of the employer for the plan year.

10           “(v) PERMITTED VARIATION.—For  
11           purposes of clause (i)(I), an arrangement  
12           shall not fail to be treated as provided on  
13           the same terms within a specified class  
14           merely because the maximum dollar  
15           amount of payments and reimbursements  
16           which may be made under the terms of the  
17           arrangement for the year with respect to  
18           each employee within such class—

19                   “(I) increases as additional de-  
20                   pendents of the employee are covered  
21                   under the arrangement, and

22                   “(II) increases with respect to a  
23                   participant as the age of the partici-  
24                   pant increases, but not in excess of an  
25                   amount equal to 300 percent of the

1 lowest maximum dollar amount with  
2 respect to such a participant deter-  
3 mined without regard to age.

4 “(D) SUBSTANTIATION REQUIREMENTS.—

5 An arrangement meets the requirements of this  
6 subparagraph if the arrangement has reason-  
7 able procedures to substantiate—

8 “(i) that the participant and any de-  
9 pendants are, or will be, enrolled in cov-  
10 erage described in subparagraph (B)(ii) as  
11 of the beginning of the plan year of the ar-  
12 rangement (or as of the beginning of cov-  
13 erage under the arrangement in the case of  
14 an employee who first becomes eligible to  
15 participate in the arrangement after the  
16 date notice is given with respect to the  
17 plan under subparagraph (E) (determined  
18 without regard to clause (iii) thereof), and

19 “(ii) any requests made for payment  
20 or reimbursement of medical care under  
21 the arrangement and that the participant  
22 and any dependents remain so enrolled.

23 “(E) NOTICE.—

24 “(i) IN GENERAL.—Except as pro-  
25 vided in clause (iii), an arrangement meets



1 the requirements of this subparagraph if,  
2 under the arrangement, each employee eli-  
3 gible to participate is, not later than 60  
4 days before the beginning of the plan year,  
5 given written notice of the employee's  
6 rights and obligations under the arrange-  
7 ment which—

8 “(I) is sufficiently accurate and  
9 comprehensive to apprise the employee  
10 of such rights and obligations, and

11 “(II) is written in a manner cal-  
12 culated to be understood by the aver-  
13 age employee eligible to participate.

14 “(ii) NOTICE REQUIREMENTS.—Such  
15 notice shall include such information as the  
16 Secretary may by regulation prescribe.

17 “(iii) NOTICE DEADLINE FOR CER-  
18 TAIN EMPLOYEES.—In the case of an em-  
19 ployee—

20 “(I) who first becomes eligible to  
21 participate in the arrangement after  
22 the date notice is given with respect  
23 to the plan under clause (i) (deter-  
24 mined without regard to this clause),  
25 or

1                   “(II) whose employer is first es-  
2                   tablished fewer than 120 days before  
3                   the beginning of the first plan year of  
4                   the arrangement,  
5                   the requirements of this subparagraph  
6                   shall be treated as met if the notice re-  
7                   quired under clause (i) is provided not  
8                   later than the date the arrangement may  
9                   take effect with respect to such em-  
10                  ployee.”.

11               (b) INCLUSION OF CHOICE ARRANGEMENT PER-  
12               MITTED BENEFITS ON W-2.—

13               (1) IN GENERAL.—Section 6051(a) of such  
14               Code is amended by striking “and” at the end of  
15               paragraph (18), by striking the period at the end of  
16               paragraph (19) and inserting “, and”, and by insert-  
17               ing after paragraph (19) the following new para-  
18               graph:

19               “(20) the total amount of permitted benefits for  
20               enrolled individuals under a custom health option  
21               and individual care expense arrangement (as defined  
22               in section 9815(b)(2)) with respect to such em-  
23               ployee.”.

24               (c) TREATMENT OF CURRENT RULES RELATING TO  
25               CERTAIN ARRANGEMENTS.—

1           (1) NO INFERENCE.—To the extent not incon-  
2           sistent with the amendments made by this section—

3                   (A) no inference shall be made from such  
4           amendments with respect to the rules pre-  
5           scribed in the Federal Register on June 20,  
6           2019, (84 Fed. Reg. 28888) relating to health  
7           reimbursement arrangements and other ac-  
8           count-based group health plans, and

9                   (B) any reference to custom health option  
10          and individual care expense arrangements shall  
11          for purposes of such rules be treated as includ-  
12          ing a reference to individual coverage health re-  
13          imbursement arrangements.

14          (2) OTHER CONFORMING OF RULES.—The Sec-  
15          retary of the Treasury, the Secretary of Health and  
16          Human Services, and the Secretary of Labor shall  
17          modify such rules as may be necessary to conform  
18          to the amendments made by this section.

19          (d) EFFECTIVE DATE.—The amendments made by  
20          this section shall apply to plan years beginning after De-  
21          cember 31, 2025.

1 **SEC. 3. PARTICIPANTS IN CHOICE ARRANGEMENT ELIGI-**  
2 **BLE FOR PURCHASE OF EXCHANGE INSUR-**  
3 **ANCE UNDER CAFETERIA PLAN.**

4 (a) IN GENERAL.—Section 125(f)(3) of the Internal  
5 Revenue Code of 1986 is amended by adding at the end  
6 the following new subparagraph:

7 “(C) EXCEPTION FOR PARTICIPANTS IN  
8 CHOICE ARRANGEMENT.—Subparagraph (A)  
9 shall not apply in the case of an employee par-  
10 ticipating in a custom health option and indi-  
11 vidual care expense arrangement (within the  
12 meaning of section 9815(b)(2)) offered by the  
13 employee’s employer.”.

14 (b) EFFECTIVE DATE.—The amendment made by  
15 this section shall apply to taxable years beginning after  
16 December 31, 2025.

17 **SEC. 4. EMPLOYER CREDIT FOR CHOICE ARRANGEMENT.**

18 (a) IN GENERAL.—Subpart D of part IV of sub-  
19 chapter A of chapter 1 of the Internal Revenue Code of  
20 1986 is amended by adding at the end the following new  
21 section:

22 **“SEC. 45BB. EMPLOYER CREDIT FOR CHOICE ARRANGE-**  
23 **MENT.**

24 “(a) IN GENERAL.—For purposes of section 38, in  
25 the case of an eligible employer, the CHOICE arrange-  
26 ment credit determined under this section for any taxable

1 year is an amount, with respect to each employee enrolled  
2 during the credit period in a CHOICE arrangement main-  
3 tained by the employer, equal to—

4 “(1) \$100 multiplied by the number of months  
5 for which the employee is so enrolled during the first  
6 year in the credit period, and

7 “(2) one-half of the dollar amount in effect  
8 under paragraph (1) for the taxable year, multiplied  
9 by the number of months for which the employee is  
10 so enrolled during the second year of the credit pe-  
11 riod.

12 “(b) ARRANGEMENT MUST CONSTITUTE MINIMUM  
13 ESSENTIAL COVERAGE.—An employee shall not be taken  
14 into account under subsection (a) unless such employee’s  
15 eligibility for the CHOICE arrangement (determined with-  
16 out regard to the employee being enrolled) would cause  
17 the employee to be treated under section 36B(c)(2) as  
18 being eligible for minimum essential coverage consisting  
19 of an eligible employer-sponsored plan (as defined in sec-  
20 tion 5000A(f)(2)).

21 “(c) DEFINITIONS.—For purposes of this section—

22 “(1) CHOICE ARRANGEMENT.—The term  
23 ‘CHOICE arrangement’ means a custom health op-  
24 tion and individual care expense arrangement (as de-  
25 fined in section 9815(b)(2)(B)).

1           “(2) CREDIT PERIOD.—The credit period with  
2       respect to an eligible employer is the first 2 one-year  
3       periods beginning with the month during which the  
4       employer first establishes a CHOICE arrangement  
5       on behalf of employees of the employer.

6           “(3) ELIGIBLE EMPLOYER.—The term ‘eligible  
7       employer’ means, with respect to any taxable year  
8       beginning in a calendar year, an employer who is not  
9       an applicable large employer for the calendar year  
10      under section 4980H.

11      “(d) INFLATION ADJUSTMENT.—

12           “(1) IN GENERAL.—In the case of any taxable  
13      year beginning in a calendar year after 2026, the  
14      dollar amount in subsection (a) shall be increased by  
15      an amount equal to—

16           “(A) such dollar amount, multiplied by

17           “(B) the cost-of-living adjustment deter-  
18      mined under section 1(f)(3) for the calendar  
19      year in which such taxable year begins by sub-  
20      stituting ‘calendar year 2025’ for ‘calendar year  
21      2016’ in subparagraph (A)(ii) thereof.

22           “(2) ROUNDING.—If any amount after adjust-  
23      ment under paragraph (1) is not a multiple of \$10,  
24      such amount shall be rounded to the next lower mul-  
25      tiple of \$10.”.

1 (b) CREDIT MADE PART OF GENERAL BUSINESS

2 CREDIT.—Section 38(b) of such Code is amended by strik-  
 3 ing “plus” at the end of paragraph (40), by striking the  
 4 period at the end of paragraph (41) and inserting “, plus”,  
 5 and by adding at the end the following new paragraph:

6 “(42) the CHOICE arrangement credit deter-  
 7 mined under section 45BB(a).”.

8 (c) CREDIT ALLOWED AGAINST ALTERNATIVE MIN-  
 9 IMUM TAX.—Section 38(c)(4)(B) of such Code is amend-  
 10 ed—

11 (1) by redesignating clauses (x), (xi), and (xii)  
 12 as clauses (xi), (xii), and (xiii), respectively, and

13 (2) by inserting after clause (ix) the following  
 14 new clause:

15 “(x) the credit determined under sec-  
 16 tion 45BB,”.

17 (d) CLERICAL AMENDMENT.—The table of sections  
 18 for subpart D of part IV of subchapter A of chapter 1  
 19 of such Code is amended by adding at the end the fol-  
 20 lowing new item:

“Sec. 45BB. Employer credit for CHOICE arrangement.”.

21 (e) EFFECTIVE DATE.—The amendments made by  
 22 this section shall apply to taxable years beginning after  
 23 December 31, 2025.

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