

Ron Wyden

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide employers the option to provide free choice vouchers to employees to pay for coverage purchased through an exchange.

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

H. R. 3590

AMENDMENT NO 3117

To amend	By <u>Wyden</u>	employers
the	To: <u>Amdt. No. 2786</u>	of
of		employee-
employee:		
	<u>8</u>	
Refer	Page(s)	and

GPO: 2008 45-608 (main)

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. WYDEN (for himself and Ms. COLLINS) ^{and Mr. BAYH} 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. 13 . OPTIONAL FREE CHOICE VOUCHERS.**
- 4 (a) IN GENERAL.—Any employer may provide a free
- 5 choice voucher to any employee of such employer, but only
- 6 if such employer offers free choice vouchers to—

1 (1) in the case of an offering employer, all em-
2 ployees of such employer who are eligible to partici-
3 pate in an employer-sponsored plan described in sub-
4 section (c)(1), and

5 (2) in the case of any other employer, all em-
6 ployees of the employer.

7 (b) FREE CHOICE VOUCHER.—

8 (1) AMOUNT.—

9 (A) OFFERING EMPLOYERS.—

10 (i) IN GENERAL.—In the case of an
11 offering employer, the amount of the free
12 choice voucher provided under subsection
13 (a) shall be equal to the monthly portion of
14 the cost of the eligible employer-sponsored
15 plan which would have been paid by the
16 employer if the employee were covered
17 under the plan with respect to which the
18 employer pays the largest portion of the
19 employee's premium. Such amount shall be
20 equal to the amount the employer would
21 pay for an employee with self-only coverage
22 unless such employee elects family cov-
23 erage (in which case such amount shall be
24 the amount the employer would pay for
25 family coverage).

1 (ii) DETERMINATION OF COST.—The
2 cost of any health plan shall be determined
3 under the rules similar to the rules of sec-
4 tion 2204 of the Public Health Service
5 Act, except that such amount may be ad-
6 justed for age and category of coverage in
7 accordance with regulations established by
8 the Secretary.

9 (B) OTHER EMPLOYERS.—In the case of
10 any other employer, the amount of the voucher
11 provided under subsection (a) shall be not
12 greater than the amount equal to the lowest
13 cost bronze plan of the individual market in the
14 rating area in which the employee resides
15 which—

16 (i) is offered through an Exchange,
17 and

18 (ii) provides—

19 (I) in the case of an employee
20 electing self-only coverage, self-only
21 coverage, and

22 (II) in any other case, family cov-
23 erage.

24 (2) USE OF VOUCHERS.—An Exchange shall
25 credit the amount of any free choice voucher pro-

1 vided under subsection (a) to the monthly premium
2 of any qualified health plan in the Exchange in
3 which the qualified employee is enrolled and the of-
4 fering employer shall pay any amounts so credited to
5 the Exchange.

6 (3) PAYMENT OF EXCESS AMOUNTS.—If the
7 amount of the free choice voucher exceeds the
8 amount of the premium of the qualified health plan
9 in which the qualified employee is enrolled for such
10 month, such excess shall be paid to the employee.
11 Any amount paid to the employee under the pre-
12 ceding sentence shall not be taken into account in
13 determining the rate of pay of the employee under
14 the Fair Labor Standards Act of 1938.

15 (e) OFFERING EMPLOYER.—For purposes of this sec-
16 tion, the term “offering employer” means any employer
17 who—

18 (1) offers minimum essential coverage to its
19 employees consisting of coverage through an eligible
20 employer-sponsored plan; and

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

22 (d) OTHER DEFINITIONS.—Any term used in this
23 section which is also used in section 5000A of the Internal
24 Revenue Code of 1986 shall have the meaning given such
25 term under such section 5000A.

1 (e) ACCELERATED ACCESS TO EXCHANGES.—Not-
2 withstanding section 1312(f)(2)(B)—

3 (1) beginning in 2015, each State may allow
4 issuers of health insurance coverage in the large
5 group market in the State to offer qualified health
6 plans in such market through an Exchange, but only
7 in connection with employers who provide free choice
8 vouchers under subsection (a); and

9 (2) if a State under paragraph (1) allows
10 issuers to offer qualified plans in the large group
11 market through an Exchange, the term “qualified
12 employer” (as defined in section 1312(f)(2)) shall
13 include a large employer that—

14 (A) provides free choice vouchers to its em-
15 ployees under subsection (a); and

16 (B) elects to make all full-time employees
17 eligible for 1 or more qualified health plans of-
18 fered in the large group market through the
19 Exchange.

20 (f) EXCLUSION FROM INCOME FOR EMPLOYEE.—

21 (1) IN GENERAL.—Part III of subchapter B of
22 chapter 1 of the Internal Revenue Code of 1986 is
23 amended by inserting after section 139C the fol-
24 lowing new section:

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

2 “Gross income shall not include the amount of any
3 free choice voucher provided by an employer under part
4 I of subtitle D of title I of the Patient Protection and
5 Affordable Care Act to the extent that the amount of such
6 voucher does not exceed the amount paid for a qualified
7 health plan (as defined in section 1301 of such Act) by
8 the taxpayer.”.

9 (2) CLERICAL AMENDMENT.—The table of sec-
10 tions for part III of subchapter B of chapter 1 of
11 such Code is amended by inserting after the item re-
12 lating to section 139C the following new item:

“Sec. 139D. Free choice vouchers.”.

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

16 (g) DEDUCTION ALLOWED TO EMPLOYER.—

17 (1) IN GENERAL.—Section 162(a) of the Inter-
18 nal Revenue Code of 1986 is amended by adding at
19 the end the following new sentence: “For purposes
20 of paragraph (1), the amount of a free choice vouch-
21 er provided under part I of subtitle D of title I of
22 the Patient Protection and Affordable Care Act shall
23 be treated as an amount for compensation for per-
24 sonal services actually rendered.”.

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

4 (h) VOUCHER TAKEN INTO ACCOUNT IN DETER-
5 MINING PREMIUM CREDIT.—

6 (1) IN GENERAL.—Subsection (b)(2) of section
7 36B of the Internal Revenue Code of 1986, as added
8 by section 1401, is amended by adding at the end
9 the following new flush sentence:

10 “The amount of any monthly premium under sub-
11 section subparagraph (A) and the amount of the ad-
12 justed monthly premium for the second lowest cost
13 silver plan under subparagraph (B) shall be reduced
14 by the amount of any free choice voucher provided
15 to the taxpayer under section _____ of the Patient
16 Protection and Affordable Care Act.”.

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

20 (i) COORDINATION WITH EMPLOYER RESPONSIBIL-
21 ITIES.—

22 (1) SHARED RESPONSIBILITY PENALTY.—

23 (A) IN GENERAL.—Subsection (e) of sec-
24 tion 4980H of the Internal Revenue Code of

1 1986, as added by section 1513, is amended by
2 adding at the end the following new paragraph:

3 “(3) SPECIAL RULES FOR EMPLOYERS PRO-
4 VIDING FREE CHOICE VOUCHERS.—The assessable
5 payment imposed under paragraph (1) shall be re-
6 duced (but not below zero) by the amount of any
7 free choice voucher provided to a full-time employee
8 under section ____ of the Patient Protection and Af-
9 fordable Care Act for any month during which such
10 employee is enrolled in a qualified health plan with
11 respect to which an applicable premium credit or
12 cost-sharing subsidy is allowed or paid with respect
13 to such employee.”.

14 (B) EFFECTIVE DATE.—The amendment
15 made by this paragraph shall apply to months
16 beginning after December 31, 2013.

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

20 (A) by inserting “and the employer does
21 not offer a free choice voucher” after “Ex-
22 change”; and

23 (B) by striking “will lose” and inserting
24 “may lose”.