

AMENDMENT

OFFERED BY MR. PRICE OF GEORGIA

Add at the end of subtitle G of title I of division A
the following new section:

1 **SEC. 165. EQUAL EMPLOYER CONTRIBUTION RULE TO PRO-**
2 **MOTE CHOICE.**

3 (a) IN GENERAL.—Section 732 of the Employee Re-
4 tirement Income Security Act of 1974 (29 U.S.C. 1191a)
5 is amended by adding at the end the following new sub-
6 section:

7 “(e) HEALTH CARE CONTRIBUTION ELECTION.—

8 “(1) IN GENERAL.—The requirements of this
9 part shall not apply in the case of health insurance
10 coverage (other than insurance described in para-
11 graph (5))—

12 “(A) which is provided to a participant or
13 beneficiary by a health insurance issuer under
14 a group health plan, and

15 “(B) with respect to which the require-
16 ments of paragraphs (2) and (3) are met.

17 “(2) CONTRIBUTION ELECTION.—The require-
18 ment of this paragraph is met with respect to health
19 insurance coverage provided to a participant or ben-

1 efficiary by any health insurance issuer under a
2 group health plan if, under such plan—

3 “(A) the participant may elect such cov-
4 erage for any period of coverage in lieu of
5 health insurance coverage otherwise provided
6 under such plan for such period, and

7 “(B) in the case of such an election, the
8 plan sponsor is required to pay to such issuer
9 for the elected coverage for such period an
10 amount which is not less than the contribution
11 amount for such health insurance coverage oth-
12 erwise provided under such plan for such pe-
13 riod.

14 “(3) PREEXISTING CONDITIONS.—

15 “(A) IN GENERAL.—The requirement of
16 this paragraph is met with respect to health in-
17 surance coverage provided to a participant or
18 beneficiary by any health insurance issuer if,
19 under such plan the requirements of section
20 701 are met with respect to the participant or
21 beneficiary.

22 “(B) ENFORCEMENT WITH RESPECT TO
23 INDIVIDUAL ELECTION.—For purposes of sub-
24 paragraph (A), any health insurance coverage
25 with respect to the participant or beneficiary

1 shall be treated as health insurance coverage
2 under a group health plan to which section 701
3 applies.

4 “(4) CONTRIBUTION AMOUNT.—

5 “(A) IN GENERAL.—For purposes of this
6 section, the term ‘contribution amount’ means,
7 with respect to any period of health insurance
8 coverage offered to a participant or beneficiary,
9 the portion of the applicable premium of such
10 participant or beneficiary under such plan
11 which is not paid by such participant or bene-
12 ficiary. In the case that the employer offers
13 more than one group health plan, the contribu-
14 tion amount shall be the average amount of the
15 applicable premiums under such plans.

16 “(B) APPLICABLE PREMIUM.—For pur-
17 poses of subparagraph (A), the term ‘applicable
18 premium’ means, with respect to any period of
19 health insurance coverage of a participant or
20 beneficiary under a group health plan, the cost
21 to the plan for such period of such coverage for
22 similarly situated beneficiaries (without regard
23 to whether such cost is paid by the plan spon-
24 sor or the participant or beneficiary).

25 “(5) EXCEPTIONS.—

1 “(A) IN GENERAL.—Insurance described in
2 this paragraph consists of insurance—

3 “(i) substantially all of the coverage
4 of which is of excepted benefits described
5 in section 733(e); or

6 “(ii) offered in the individual market
7 (as defined in paragraph (1) of section
8 2791(e) of the Public Health Service Act)
9 or small group market (as defined in para-
10 graph (5) of such section) unless the insur-
11 ance meets the requirements of subpara-
12 graph (B) and paragraphs (2) and (3).

13 “(B) INSURANCE REQUIREMENTS.—For
14 purposes of subparagraph (A)(ii), the require-
15 ments of this paragraph are met with respect to
16 insurance if such insurance provides coverage
17 for medical care (as defined in section
18 733(a)(2)).”.

19 (b) CONFORMING AMENDMENT RELATING TO FIDU-
20 CIARY RULES.—Section 404 of such Act (29 U.S.C. 1104)
21 is amended by adding at the end the following new sub-
22 section:

23 “(e) The plan sponsor of a group health plan (as de-
24 fined in section 733(a)) shall not be treated as breaching
25 any of the responsibilities, obligations, or duties imposed

1 upon fiduciaries by this title in the case of any individual
2 who is a participant or beneficiary under such plan solely
3 because of the extent to which the plan sponsor provides,
4 in the case of such individual, some or all of such benefits
5 by means of payment of contribution amounts pursuant
6 to a contribution election under section 732(e), irrespec-
7 tive of the amount or type of benefits that would otherwise
8 be provided to such individual under such plan.”.

