

111TH CONGRESS  
1ST SESSION

# H. R. 2399

To amend the Social Security Act and the Internal Revenue Code of 1986 to assure comprehensive, affordable health insurance coverage for all Americans through an American Health Benefits Program.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2009

Mr. LANGEVIN introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Social Security Act and the Internal Revenue Code of 1986 to assure comprehensive, affordable health insurance coverage for all Americans through an American Health Benefits Program.

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; FINDINGS; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “American Health Benefits Program Act of 2009”.

6 (b) FINDINGS.—Congress finds the following:

1           (1) UNINSURED AMERICANS AND LACK OF AC-  
2           CESS TO CHOICES.—(A) In 2007, 45 million Ameri-  
3           cans were uninsured, over 80 percent of whom were  
4           employed (or dependents of individuals who were  
5           employed).

6           (B) Health care providers provided to unin-  
7           sured Americans \$41 billion in care for which they  
8           were not compensated by the individuals or through  
9           insurance.

10          (C) Only 15 percent of employers providing  
11          health benefits are able to offer their employees a  
12          choice between two or more health plans.

13          (2) COST GROWTH OF EMPLOYER COVERAGE.—  
14          (A) Premiums for employer-sponsored health insur-  
15          ance in the United States have been rising four  
16          times faster on average than workers' earnings since  
17          1999.

18          (B) The employer cost of health benefits per el-  
19          igible, enrolled worker is 18.3 percent of payroll.

20          (C) In 2007, 48 percent of all small businesses  
21          with three to 199 employees not offering health ben-  
22          efits list high premiums as the cause.

23          (3) ADMINISTRATIVE EFFICIENCY OF USING  
24          FEHBP MODEL FOR PROVIDING HEALTH INSURANCE  
25          COVERAGE.—(A) The private insurance market pre-

1       sents increasing administrative challenges for em-  
2       ployers in seeking out, contracting with, and admin-  
3       istering health benefits.

4               (B) The Federal Employee Health Benefits  
5       Program (FEHBP) currently manages negotiations  
6       with health insurers over premiums and benefits on  
7       behalf of 8.6 million Federal employees and retirees  
8       and their dependents.

9               (C) Overhead costs for employers providing  
10       health benefits coverage can be over 30 percent for  
11       employers with fewer than 10 employees and about  
12       12 percent for employers with more than 500 em-  
13       ployees.

14              (D) In comparison, the overhead cost of cov-  
15       erage provided under FEHBP is about 3 percent.

16              (4) EXPANSION OF FEHBP MODEL TO COVER  
17       UNINSURED AND OTHER AMERICANS.—Requiring  
18       participation in an FEHBP-style program would ex-  
19       pand consumer choice, ensure portability and con-  
20       tinuity of coverage, improve incentives for cost con-  
21       tainment, and stabilize the burden on businesses.

22              (5) SAVINGS FROM IMPLEMENTATION OF  
23       HEALTH INFORMATION TECHNOLOGY.—Properly im-  
24       plemented and widely adopted health information  
25       technology could significantly improve the quality,

1 safety and efficiency of health care delivery while  
 2 saving an estimated \$77 billion per year.

3 (c) TABLE OF CONTENTS.—The table of contents of  
 4 this Act is as follows:

Sec. 1. Short title; findings; table of contents.

Sec. 2. Establishment of American Health Benefits Program.

“TITLE XXII—AMERICAN HEALTH BENEFITS PROGRAM

“Sec. 2201. Establishment of program.

“Sec. 2202. Eligibility; requirement of coverage.

“Sec. 2203. Qualified health plans; benefits; premiums.

“Sec. 2204. Government contribution; American Health Benefits Program  
 Trust Fund.

“Sec. 2205. Premium and cost-sharing subsidies for lower income individ-  
 uals.

“Sec. 2206. Administration.

“Sec. 2207. Definitions.

Sec. 3. Collection of premiums, subsidies, and employer funding.

Sec. 4. Amendments to the Medicaid program and SCHIP.

Sec. 5. Consultation in implementation of health information technologies.

Sec. 6. Non-preemption of existing collective bargaining agreements.

Sec. 7. Health Benefits Commission.

5 **SEC. 2. ESTABLISHMENT OF AMERICAN HEALTH BENEFITS**  
 6 **PROGRAM.**

7 (a) IN GENERAL.—The Social Security Act is amend-  
 8 ed by adding at the end the following new title:

9 **“TITLE XXII—AMERICAN**  
 10 **HEALTH BENEFITS PROGRAM**

11 **“SEC. 2201. ESTABLISHMENT OF PROGRAM.**

12 “There is established under this title a program (to  
 13 be known as the ‘American Health Benefits Program’) to  
 14 provide comprehensive health insurance coverage to all  
 15 Americans who are not covered under certain Federal  
 16 health insurance programs and who are not eligible for  
 17 employer-provided insurance coverage. The coverage shall

1 be provided in a manner similar to the manner in which  
2 coverage has been provided to Members of Congress and  
3 Federal Government employees and retirees and their de-  
4 pendants under the Federal Employees Health Benefits  
5 Program (FEHBP).

6 **“SEC. 2202. ELIGIBILITY; REQUIREMENT OF COVERAGE.**

7 “(a) ELIGIBILITY.—

8 “(1) IN GENERAL.—Each AHBP-eligible indi-  
9 vidual is eligible to enroll in a qualified health plan  
10 offered under this title.

11 “(2) AHBP-ELIGIBLE INDIVIDUAL DEFINED.—

12 “(A) IN GENERAL.—For purposes of this  
13 title, the term ‘AHBP-eligible individual’ means  
14 an individual residing in the United States who  
15 is—

16 “(i) a citizen or national of the United  
17 States;

18 “(ii) an alien lawfully admitted to the  
19 United States for permanent residence;

20 “(iii) an alien admitted into the  
21 United States under section 207 of the Im-  
22 migration and Nationality Act (relating to  
23 refugees);

24 “(iv) an alien otherwise permanently  
25 residing in the United States under color

1 of law (as specified by the Administrator);  
2 or

3 “(v) an alien with the status of a non-  
4 immigrant who is within a class of long-  
5 term nonimmigrants under section  
6 101(a)(15) of the Immigration and Nation-  
7 ality Act that the Administrator deter-  
8 mines, in consultation with the Secretary  
9 of Homeland Security, to be appropriate.

10 “(B) EXCEPTIONS.—Such term does not  
11 include the following individuals:

12 “(i) INDIVIDUALS ELIGIBLE FOR  
13 QUALIFIED EMPLOYER-PROVIDED COV-  
14 ERAGE.—An individual who is eligible for  
15 employer-provided coverage, as defined in  
16 section 2207(6), whether an employee, de-  
17 pendent, or otherwise.

18 “(ii) INCARCERATED INDIVIDUALS.—  
19 An individual who is incarcerated (as spec-  
20 ified by the Administrator).

21 “(b) REQUIREMENT OF COVERAGE.—

22 “(1) IN GENERAL.—Except as provided in this  
23 subsection, each AHBP-eligible individual shall be  
24 enrolled in a qualified health plan under this title.

1           “(2) EXCEPTION FOR INDIVIDUALS DEM-  
2           ONSTRATING PUBLIC HEALTH INSURANCE COV-  
3           ERAGE.—The requirement of paragraph (1) shall  
4           not apply to an individual who demonstrates cov-  
5           erage under any of the following:

6                   “(A) MEDICARE.—Coverage under parts A  
7                   and B (or under part C) of title XVIII.

8                   “(B) MEDICAID.—Coverage under a State  
9                   plan under title XIX.

10                  “(C) TRICARE/CHAMPUS.—Coverage  
11                  under the TRICARE program under chapter  
12                  55, of title 10, United States Code.

13                  “(D) INDIAN HEALTH SERVICES.—Cov-  
14                  erage under a medical care program of the In-  
15                  dian Health Service or of a tribal organization.

16                  “(E) VETERANS HEALTH.—Coverage  
17                  under the veterans health care program under  
18                  chapter 17 of title 38, United States Code, if  
19                  the coverage for the individual involved is deter-  
20                  mined to be not less than the coverage provided  
21                  under a qualified health plan, based on the indi-  
22                  vidual’s priority for services as provided under  
23                  section 1705(a) of such title.

1           “(3) EXCEPTION FOR NONIMMIGRANTS.—The  
2 requirement of paragraph (1) shall not apply to an  
3 individual described in subsection (a)(2)(A)(v).

4           “(4) EXCEPTION BASED ON RELIGIOUS OBJEC-  
5 TION.—The requirement of paragraph (1) shall not  
6 apply to an individual who executes a written state-  
7 ment (in a form and manner specified by the Sec-  
8 retary) that—

9           “(A) the individual is conscientiously op-  
10 posed to acceptance of medical treatment of the  
11 type covered by qualified health plans; and

12           “(B) the individual’s acceptance of medical  
13 treatment covered by such a plan would be in-  
14 consistent with the individual’s sincere religious  
15 beliefs.

16           “(c) ENROLLMENT; DEFAULT ENROLLMENT.—

17           “(1) IN GENERAL.—The Administrator shall es-  
18 tablish a process for AHBP-eligible individuals to  
19 enroll in qualified health plans. Such process shall  
20 be based on the enrollment process used under  
21 FEHBP and shall provide for the dissemination of  
22 information to AHBP-eligible individuals on quali-  
23 fied health plans being offered.

24           “(2) DEFAULT ENROLLMENT.—



1           “(A) IN GENERAL.—The Administrator  
2           shall establish a procedure under which an  
3           AHBP-eligible individual who is required under  
4           subsection (b) to enroll, but is not enrolled, in  
5           a qualified health plan will be assigned to, and  
6           enrolled in, such a plan.

7           “(B) RULES.—In carrying out subpara-  
8           graph (A), the Administrator shall assign  
9           AHBP-eligible individuals and families to the  
10          basic plan the premium of which is the lowest  
11          premium for the AHBP region or other area in  
12          which the individuals or families reside.

13          “(3) CHANGES IN ENROLLMENT.—The Admin-  
14          istrator shall establish enrollment procedures that  
15          include an annual open season and permit changes  
16          in enrollment with qualified health plans at other  
17          times (such as by reason of changes in marital or  
18          dependent status). Such procedures shall be based  
19          on the enrollment procedures established under  
20          FEHBP.

21          “(d) TREATMENT OF FAMILY MEMBERS.—Enroll-  
22          ment under this title shall include both individual and  
23          family enrollment, in a manner similar to that provided  
24          under FEHBP. To the extent consistent with eligibility  
25          under subsection (a), the Administrator shall provide rules

1 similar to the rules under FEHBP for the enrollment of  
2 family members who are AHBP-eligible individuals in the  
3 same plan, except that such rules shall permit a family  
4 consisting only of a married couple to elect to enroll each  
5 spouse in a different qualified health plan.

6 “(e) CHANGES IN PLAN ENROLLMENT.—The Admin-  
7 istrator shall provide for and permit changes in the quali-  
8 fied health plan in which an individual or family is enrolled  
9 under this section in a manner similar to the manner in  
10 which such changes are provided or permitted under  
11 FEHBP. The Administrator shall provide for termination  
12 of such enrollment for an individual at the time the indi-  
13 vidual is no longer an AHBP-eligible individual.

14 “(f) ENROLLMENT GUIDES.—The Administrator  
15 shall provide for the broad dissemination of information  
16 on qualified health plans offered under this title. Such in-  
17 formation shall be provided in a comparative manner,  
18 similar to that used under FEHBP, and shall include in-  
19 formation, collected through surveys of enrollees, on meas-  
20 ures of enrollee satisfaction with the different plans.

21 **“SEC. 2203. QUALIFIED HEALTH PLANS; BENEFITS; PRE-**  
22 **MIUMS.**

23 “(a) OFFERING OF PLANS.—

24 “(1) CONTRACTS.—The Administrator shall  
25 enter into contracts with entities for the offering of

1 qualified health plans in accordance with this title.  
2 Such contracts shall be entered into in a manner  
3 similar to the process by which the Director of the  
4 Office of Personnel Management is authorized to  
5 enter into contracts with health benefits plans under  
6 FEHBP.

7 “(2) REQUIREMENTS FOR ENTITIES OFFERING  
8 PLANS.—No such contract shall be entered into with  
9 an entity for the offering of a qualified health plan  
10 in a region unless the entity—

11 “(A) is licensed as a health maintenance  
12 organization in that State or is licensed to sell  
13 group health insurance coverage in that State;

14 “(B) meets such requirements, similar to  
15 requirements under FEHBP, as the Adminis-  
16 trator may establish relating to solvency, orga-  
17 nization, structure, governance, access, and  
18 quality;

19 “(C) agrees to participate in the high-risk  
20 reinsurance pool described in subsection (d);  
21 and

22 “(D) provides assurances satisfactory to  
23 the Administrator that at least 90 percent of  
24 the premium payments for the plan will be re-  
25 turned in the form of aggregate health care

1 benefits or improvements, including health in-  
2 formation technology.

3 “(3) CONTRACTING WITH LIMITED NUMBER OF  
4 PLANS IN A REGION WITHIN TYPES OF PLANS.—

5 “(A) IN GENERAL.—The Administrator  
6 shall contract with only a limited number of  
7 qualified health plans of each type (as specified  
8 under subparagraph (B)) in each AHBP region.

9 “(B) TYPES OF PLANS.—For purposes of  
10 subparagraph (A), the Administrator shall clas-  
11 sify the different types of qualified health plans,  
12 such as fee-for-service plans, health mainte-  
13 nance plans, preferred provider plans, and other  
14 types of plans.

15 “(b) FEHBP SCOPE OF BENEFITS.—

16 “(1) COMPREHENSIVE BENEFITS.—Qualified  
17 health plans shall provide for the same scope and  
18 type of comprehensive benefits that have been pro-  
19 vided under FEHBP, including the types of benefits  
20 described in section 8904 of title 5, United States  
21 Code and including benefits previously required by  
22 regulation or direction (such as preventive benefits,  
23 including childhood immunization and cancer screen-  
24 ing, and mental health parity) under FEHBP.

1           “(2) NO EXCLUSION FOR PRE-EXISTING CONDI-  
2           TIONS.—Qualified health plans shall not impose pre-  
3           existing condition exclusions or otherwise discrimi-  
4           nate against any enrollee based on the health status  
5           of such enrollee (including genetic information relat-  
6           ing to such enrollee).

7           “(3) OTHER CONSUMER PROTECTIONS.—Quali-  
8           fied health plans also shall meet consumer and pa-  
9           tient protection requirements that the Administrator  
10          establishes, based on similar requirements previously  
11          imposed under FEHBP, including protections of pa-  
12          tients’ rights previously effected pursuant to Execu-  
13          tive Memorandum.

14          “(c) COMMUNITY-RATED PREMIUMS.—

15                 “(1) IN GENERAL.—The premiums established  
16                 for a qualified health plan under this title for indi-  
17                 vidual or family coverage shall be community-rated  
18                 and shall not vary based on age, gender, health sta-  
19                 tus (including genetic information), or other factors.

20                 “(2) COLLECTION PROCESS.—The Adminis-  
21                 trator shall establish a process for the timely and ac-  
22                 curate collection of premiums owed by enrollees, tak-  
23                 ing into account any Government contribution under  
24                 section 2204(a) and any premium subsidy referred  
25                 to in section 2205(a). Such process shall include

1 methods for payment through payroll withholding, as  
2 well as payment through automatic debiting of ac-  
3 counts with financial institutions, and shall be co-  
4 ordinated with the application of section 59B of the  
5 Internal Revenue Code of 1986. Such premiums  
6 shall be deposited into the American Health Benefits  
7 Program Trust Fund established under section  
8 2204(c).

9 “(d) HIGH-RISK REINSURANCE POOL.—The Admin-  
10 istrator shall establish an arrangement among the entities  
11 offering qualified health plans under which such entities  
12 contribute in an equitable manner (as determined by the  
13 Administrator) into a fund that provides payment to plans  
14 for a percentage (specified by the Administrator and not  
15 to exceed 90 percent) of the costs that they incur for en-  
16 rollees beyond a predetermined threshold specified from  
17 time to time by the Administrator.

18 “(e) MARKETING PRACTICES AND COSTS.—The Ad-  
19 ministrator shall monitor marketing practices with respect  
20 to qualified health plans in order to assure—

21 “(1) the accuracy of the information dissemi-  
22 nated regarding such plans; and

23 “(2) that costs of marketing are reasonable and  
24 do not exceed a percentage of total costs that is  
25 specified by the Administrator and that takes into

1 account costs of market entry for new qualified  
2 health plans.

3 **“SEC. 2204. GOVERNMENT CONTRIBUTION; AMERICAN**  
4 **HEALTH BENEFITS PROGRAM TRUST FUND.**

5 “(a) GOVERNMENT CONTRIBUTION.—

6 “(1) IN GENERAL.—The Administrator shall  
7 provide each year for a contribution under this sub-  
8 section towards the coverage provided under this  
9 title for those AHBP-eligible individuals who are re-  
10 quired to be enrolled in a qualified health plan under  
11 section 2202(b). Except as provided in this sub-  
12 section, the amount of such contribution shall be de-  
13 termined using the same methodology that is applied  
14 for purposes of determining the Government con-  
15 tribution under section 8906 of title 5, United  
16 States Code and shall not exceed 75 percent of the  
17 premium for the plan selected.

18 “(2) USE OF REGIONAL WEIGHTED AVERAGE.—  
19 Instead of computing the Government contribution  
20 using methodology under section 8906(b)(1) of title  
21 5, United States Code, based on 72 percent of the  
22 weighted average premium for qualified health plans  
23 nationally, the Administrator shall compute such  
24 contribution based on 72 percent of the weighted av-

1 erage premium for qualified health plans in each re-  
2 gion involved (as identified by the Administrator).

3 “(b) PLAN PAYMENT.—

4 “(1) IN GENERAL.—The Administrator shall  
5 provide for payment of qualified health plans of the  
6 premiums for such plans, as adjusted under this  
7 subsection.

8 “(2) RISK ADJUSTED PAYMENT.—The payment  
9 to a qualified health plan under this subsection shall  
10 be adjusted in a budget-neutral manner specified by  
11 the Administrator to reflect the actuarial risk of the  
12 enrollees in the plan compared to an average actu-  
13 arial risk.

14 “(3) REDUCTION FOR ADMINISTRATIVE EX-  
15 PENSES AND CONTINGENCY RESERVE.—The Admin-  
16 istrator shall provide for a uniform percentage re-  
17 duction in payment otherwise made to a qualified  
18 health plan under this subsection. Such percentage  
19 shall consist of the following:

20 “(A) CONTINGENCY RESERVE.—A percent-  
21 age (not to exceed 3 percent) to provide for a  
22 contingency reserve described in section  
23 2206(h)(1).

24 “(B) FEDERAL ADMINISTRATIVE COSTS.—  
25 A percentage (not to exceed 5 percent) to cover



1 Federal administrative costs in implementing  
2 this title.

3 “(c) TRUST FUND.—

4 “(1) ESTABLISHMENT.—There is hereby estab-  
5 lished a trust fund, to be known as the ‘American  
6 Health Benefits Program Trust Fund’ (in this sub-  
7 section referred to as the ‘Trust Fund’).

8 “(2) DEPOSITS.—The Trust Fund shall consist  
9 of such gifts and bequests as may be provided in  
10 section 201(i)(1) and such amounts as may be de-  
11 posited in, or appropriated to, such fund as provided  
12 in this title. There are hereby appropriated to the  
13 Trust Fund, out of any moneys in the Treasury not  
14 otherwise appropriated, amounts equivalent to 100  
15 percent of—

16 “(A) the taxes imposed by section 3451 of  
17 the Internal Revenue Code of 1986 with respect  
18 to wages reported to the Secretary of the  
19 Treasury or the Secretary’s delegate pursuant  
20 to subtitle F of such Code, as determined by  
21 the Secretary of the Treasury by applying the  
22 applicable rates of tax under such section to  
23 such wages, which wages shall be certified by  
24 the Commissioner of Social Security on the  
25 basis of records of wages established and main-

1           tained by such Commissioner in accordance  
2           with such reports;

3           “(B) the taxes imposed by section 1401(c)  
4           of the Internal Revenue Code of 1986 with re-  
5           spect to self-employment income reported to the  
6           Secretary of the Treasury or the Secretary’s  
7           delegate pursuant to subtitle F of such Code, as  
8           determined by the Secretary of the Treasury by  
9           applying the applicable rates of tax under such  
10          section to such self-employment income, which  
11          self-employment income shall be certified by the  
12          Commissioner of Social Security on the basis of  
13          records of self-employment established and  
14          maintained by such Commissioner in accord-  
15          ance with such returns; and

16          “(C) the excess of the amounts imposed  
17          under section 59B of the Internal Revenue  
18          Code of 1986 over the amounts of credits al-  
19          lowed under section 36B.

20          The amounts appropriated by the preceding sentence  
21          shall be transferred from time to time from the gen-  
22          eral fund in the Treasury to the Trust Fund, such  
23          amounts to be determined on the basis of estimates  
24          by the Secretary of the Treasury of the taxes, speci-  
25          fied in the preceding sentence, paid to or deposited

1 into the Treasury; and proper adjustments shall be  
2 made in amounts subsequently transferred to the ex-  
3 tent prior estimates were in excess of or were less  
4 than the taxes specified in such sentence.

5 “(3) APPLICATION OF TRUST FUND PROVI-  
6 SIONS.—The provisions of subsections (b) through  
7 (f) of section 1817 shall apply to the Trust Fund in  
8 the same manner as they apply to the Federal Hos-  
9 pital Insurance Trust Fund, except that, for pur-  
10 poses of this paragraph, any reference in such sub-  
11 sections to a provision of the Internal Revenue Code  
12 of 1986 is deemed a reference to the corresponding  
13 provision of such Code referred to in paragraph (2)  
14 of this subsection.

15 **“SEC. 2205. PREMIUM AND COST-SHARING SUBSIDIES FOR**  
16 **LOWER INCOME INDIVIDUALS.**

17 “(a) PREMIUM SUBSIDIES.—The Administrator, in  
18 consultation with the Secretary of the Treasury, shall as-  
19 sist individuals in estimating the amount of the premium  
20 subsidy which will be allowed to such individuals under  
21 section 36B of the Internal Revenue Code of 1986 with  
22 respect to any month, and shall take the estimated amount  
23 of such premium subsidy into account for purposes of col-  
24 lecting any premium under section 2203(c)(2).

25 “(b) COST-SHARING SUBSIDIES.—

1           “(1) NO COST-SHARING FOR INDIVIDUALS WITH  
2 FAMILY INCOME BELOW LOWEST INCOME THRESH-  
3 OLD.—In the case of a cost-sharing subsidy-eligible  
4 individual whose family income is less than the low-  
5 est income threshold, there shall be a cost-sharing  
6 subsidy so the cost-sharing is reduced to zero.

7           “(2) NO COST-SHARING FOR PREGNANT WOMEN  
8 AND CHILDREN.—In the case of a cost-sharing sub-  
9 sidy-eligible individual who is under 18 years of age  
10 or who is a pregnant woman, there shall be a cost-  
11 sharing subsidy so the cost-sharing is reduced to  
12 zero.

13           “(3) SLIDING SCALE FOR OTHER INDIVID-  
14 UALS.—In the case of cost-sharing subsidy-eligible  
15 individuals not described in paragraph (1) or (2),  
16 the Administrator, in consultation with the Sec-  
17 retary of the Treasury, shall establish a schedule of  
18 cost-sharing subsidies consistent with this para-  
19 graph. Under such schedule the amount of a cost-  
20 sharing subsidy for such individuals shall be such  
21 that—

22           “(A) the cost-sharing is nominal (as de-  
23 fined for purposes of section 1916(a)(3)) for in-  
24 dividuals whose family income is at the lowest  
25 income threshold; and

1           “(B) as the family income increases from  
2           such lowest income threshold to twice such  
3           threshold, the cost-sharing subsidy is reduced in  
4           a ratable matter to zero.

5           “(4) APPLICATION OF A PREVIOUS YEAR’S FAM-  
6           ILY INCOME.—In applying this subsection for cost-  
7           sharing subsidies for expenses incurred for services  
8           furnished in a year, family income shall be deter-  
9           mined based on the modified AGI, as defined in  
10          paragraph (7)(D), for taxable years ending in or  
11          with the previous year (or, if information on such  
12          modified AGI for such taxable years is not available  
13          on a timely basis, for the most recent taxable years  
14          for which such information is so available).

15          “(5) APPLICATION FOR SUBSIDIES.—A cost-  
16          sharing subsidy shall not be available to a cost-shar-  
17          ing subsidy-eligible individual under this subsection  
18          unless an application, in a form and manner and  
19          containing such information and in such frequency  
20          as the Administrator shall specify, has been made  
21          for such subsidy.

22          “(6) PAYMENT OF SUBSIDIES TO PLANS.—The  
23          Administrator shall establish the form of additional  
24          payments to qualified health plans to compensate  
25          such plans for cost-sharing subsidies provided to en-

1 rollees under this subsection. Such payments may be  
2 in such form as the Administrator specifies and may  
3 include—

4 “(A) a capitation payment, in an amount  
5 that reflects the per capita actuarial value of  
6 such subsidies;

7 “(B) reimbursement for the reductions in  
8 cost-sharing made to carry out this subsection;  
9 or

10 “(C) a combination of the methodologies  
11 under subparagraphs (A) and (B).

12 “(7) DEFINITIONS.—For purposes of this sub-  
13 section:

14 “(A) COST-SHARING SUBSIDY-ELIGIBLE IN-  
15 DIVIDUAL DEFINED.—The term ‘cost-sharing  
16 subsidy-eligible individual’ means an AHBP-eli-  
17 gible individual—

18 “(i) who is enrolled, and required  
19 under section 2202(b) to be enrolled, in a  
20 qualified health plan under this title;

21 “(ii) whose family income does not ex-  
22 ceed twice the lowest income threshold (as  
23 defined in subparagraph (B)); and

24 “(iii) who does not have in effect (and  
25 any of whose family members does not

1 have in effect), in a form and manner  
2 specified by the Administrator, in consulta-  
3 tion with the Secretary of the Treasury,  
4 for any portion of the year involved an ob-  
5 jection to the release of information under  
6 section 6103(l)(21) of the Internal Rev-  
7 enue Code of 1986.

8 “(B) LOWEST INCOME THRESHOLD.—The  
9 term ‘lowest income threshold’ means—

10 “(i) in the case of coverage consisting  
11 of only an individual, 125 percent of the  
12 poverty line (as defined in section 673(2)  
13 of the Community Services Block Grant  
14 Act (42 U.S.C. 9902(2)), including any re-  
15 vision required by such section) for a sin-  
16 gle individual; or

17 “(ii) in the case of coverage consisting  
18 of a family of two or more individuals, 150  
19 percent of the poverty line (as so defined)  
20 for a family of the size involved.

21 “(C) FAMILY INCOME.—The term ‘family  
22 income’ means, with respect to an AHBP-eli-  
23 ble individual who is enrolled in a qualified  
24 health plan—

1           “(i) for individual-only coverage, the  
2           modified AGI of the individual; or

3           “(ii) for coverage that includes other  
4           family members, the sum of the modified  
5           AGI of the individual and of each other in-  
6           dividual covered under the plan as a family  
7           member of the individual.

8           The Administrator, in consultation with the  
9           Secretary of the Treasury, may provide for ex-  
10          clusion from family income under clause (ii) of  
11          family members (such as children) who have de-  
12          minimis income (as specified by the Adminis-  
13          trator).

14          “(D) MODIFIED AGI DEFINED.—The term  
15          ‘modified AGI’ means adjusted gross income  
16          (as defined in section 62 of the Internal Rev-  
17          enue Code of 1986)—

18                 “(i) determined without regard to sec-  
19                 tions 135, 911, 931, and 933 of such  
20                 Code; and

21                 “(ii) increased by the amount of inter-  
22                 est received or accrued during the taxable  
23                 year which is exempt from tax under such  
24                 Code.



1           In the case of an individual filing a joint return,  
2           any reference in this subsection to the modified  
3           adjusted gross income of such individual shall  
4           be  $\frac{1}{2}$  such return's modified adjusted gross in-  
5           come.

6   **“SEC. 2206. ADMINISTRATION.**

7           “(a) APPLICATION OF FEHBP RULES.—

8                 “(1) IN GENERAL.—Except as otherwise pro-  
9           vided in this title, the program under this title shall  
10          be administered in the same manner as FEHBP.

11                “(2) SPECIFIC PROVISIONS.—In carrying out  
12          this title, the Administrator pursuant to paragraph  
13          (1) shall provide for the following:

14                   “(A) Approval and disapproval of plans as  
15                  qualified health plans.

16                   “(B) Negotiation of plan benefits (includ-  
17                  ing cost-sharing) and plan premiums.

18           “(b) ESTABLISHMENT OF HEALTH BENEFITS AD-  
19          MINISTRATION.—There is hereby established, as an inde-  
20          pendent agency in the executive branch of Government,  
21          a Health Benefits Administration (in this title referred to  
22          as the ‘Administration’).

23           “(c) DUTIES.—

24                 “(1) IN GENERAL.—The Administration shall  
25          administer the program under this title and, with re-

1 spect to application of any provision of FEHBP  
2 under this title, any reference in FEHBP to the Di-  
3 rector of the Office of Management and Budget is  
4 deemed a reference to the Administrator of Health  
5 Benefits.

6 “(2) ESTABLISHMENT OF AHBP REGIONS.—For  
7 purposes of carrying out this title, the Administrator  
8 shall divide the United States into, and establish,  
9 AHBP regions.

10 “(d) OFFICERS.—

11 “(1) ADMINISTRATOR OF HEALTH BENEFITS.—

12 “(A) IN GENERAL.—There shall be in the  
13 Administration an Administrator of Health  
14 Benefits who shall be appointed by the Presi-  
15 dent, by and with the advice and consent of the  
16 Senate.

17 “(B) COMPENSATION.—The Commissioner  
18 shall be compensated at the rate provided for  
19 level I of the Executive Schedule.

20 “(C) TERM.—The provisions of section  
21 702(a)(3) shall apply to the Commissioner of  
22 Health Benefits in the same manner as they  
23 apply to the Commissioner of Social Security,  
24 except that any reference to January 19, 2001,  
25 shall be treated as a reference to the date that

1 is January 19 of the seventh year that begins  
2 after the date of the enactment of this title.

3 “(2) DEPUTY ADMINISTRATOR.—

4 “(A) IN GENERAL.—There shall be in the  
5 Administration a Deputy Administrator for  
6 Health Benefits, who shall be appointed by the  
7 President, by and with the advice and consent  
8 of the Senate.

9 “(B) APPLICATION OF SSA PROVISIONS.—

10 The provisions of paragraphs (2) through (4) of  
11 section 702(b) shall apply to the Deputy Ad-  
12 ministrator in the same manner as they apply  
13 to the Deputy Commissioner of Social Security,  
14 except that any reference to January 19, 2001,  
15 shall be treated as a reference to the date speci-  
16 fied under paragraph (1)(C).

17 “(3) OTHER OFFICERS.—There shall be in the  
18 Administration a Chief Actuary, Chief Financial Of-  
19 ficer, and Inspector General. The provisions of sub-  
20 sections (c) through (e) of section 702 shall apply  
21 with respect to such officers in the same manner as  
22 they apply with respect to comparable officers in the  
23 Social Security Administration.

24 “(4) PERSONNEL; BUDGETARY MATTERS; SEAL  
25 OF OFFICE.—The provisions of subsections (a)(1),

1 (a)(2), (b), and (d) of section 704 shall apply to the  
2 Administrator and the Administration in the same  
3 manner as they apply to the Commissioner of Social  
4 Security and the Social Security Administration, re-  
5 spectively.

6 “(e) AUTHORITY AND RULEMAKING.—The provisions  
7 of paragraphs (4) through (7) of section 702(a) shall  
8 apply to the Administration and Administrator in the  
9 same manner as they apply to the Social Security Admin-  
10 istration and the Commissioner of Social Security.

11 “(f) USE OF REGIONAL AND FIELD OFFICES.—The  
12 Administrator shall establish such regional and field of-  
13 fices as may be appropriate for the convenient and effi-  
14 cient administration of this title.

15 “(g) COVERAGE OF ADMINISTRATION COSTS.—The  
16 Administrator shall provide for the collection of adminis-  
17 trative costs of offering coverage under this title from enti-  
18 ties offering qualified health plans in the same manner  
19 as FEHBP provides for coverage of its administrative  
20 costs.

21 “(h) CONTINGENCY RESERVES.—

22 “(1) AHBP CONTINGENCY RESERVE.—The Ad-  
23 ministrator is authorized to establish and maintain  
24 a contingency reserve for purposes of carrying out  
25 this title and is authorized to impose under section

1 2204(b)(3)(A) a premium surcharge of up to three  
2 percent in order to provide financing for such re-  
3 serve.

4 “(2) PLAN RESERVES.—A qualified health plan  
5 may establish contingency reserves, that are in addi-  
6 tion to the reserve described in paragraph (1), in a  
7 manner similar to that permitted under FEHBP.

8 **“SEC. 2207. DEFINITIONS.**

9 “For purposes of this title, except as otherwise pro-  
10 vided:

11 “(1) The term ‘Administration’ means the  
12 Health Benefits Administration established under  
13 section 2206(b).

14 “(2) The term ‘AHBP-eligible individual’  
15 means an individual described in section 2202(a)(2).

16 “(3) The term ‘AHBP region’ means a region  
17 as specified by the Administrator under section  
18 2206(c)(2).

19 “(4) The term ‘Administrator’ means the Ad-  
20 ministrator of Health Benefits appointed under sec-  
21 tion 2206(d)(1).

22 “(5) The term ‘FEHBP’ means the program  
23 under chapter 89 of title 5, United States Code, as  
24 in effect before the date of the enactment of this  
25 title.

1           “(6) The term ‘qualified employer-provided cov-  
2           erage’ means health coverage that is provided on the  
3           basis of employment and that the Administrator has  
4           certified as being equivalent to the coverage under  
5           qualified health plans. For purposes of the previous  
6           sentence, coverage provided on the basis of employ-  
7           ment is not equivalent to coverage under a qualified  
8           health plan unless the employer’s share of the cost  
9           of such coverage is not less than the Government’s  
10          share of the cost of coverage under qualified health  
11          plans.

12           “(7) The term ‘qualified health plan’ means  
13          such a plan offered under this title.”.

14          (b) EFFECTIVE DATE; COLLECTIVE BARGAINING  
15          AGREEMENTS.—

16           (1) BENEFITS.—Title XXII of the Social Secu-  
17          rity Act shall first apply to benefits for items and  
18          services furnished on or after January 1, 2012.

19           (2) EFFECT ON COLLECTIVE BARGAINING  
20          AGREEMENTS.—Nothing in this Act shall be con-  
21          strued as preventing a collectively bargained agree-  
22          ment from providing coverage that is additional to,  
23          or supplementary of, benefits provided under the  
24          American Health Benefits Program.

1 **SEC. 3. COLLECTION OF PREMIUMS, SUBSIDIES, AND EM-**  
 2 **PLOYER FUNDING.**

3 (a) PREMIUM COLLECTION.—

4 (1) IN GENERAL.—Subchapter A of chapter 1  
 5 of the Internal Revenue Code of 1986 (relating to  
 6 determination of tax liability) is amended by adding  
 7 at the end the following new part:

8 **“PART VIII—AMERICAN HEALTH BENEFITS**  
 9 **PROGRAM PREMIUMS**

“Sec. 59B. American Health Benefits Program premiums.

10 **“SEC. 59B. AMERICAN HEALTH BENEFITS PROGRAM PRE-**  
 11 **MIUMS.**

12 “(a) IN GENERAL.—In the case of a specified indi-  
 13 vidual who is enrolled in a qualified health plan under title  
 14 XXII of the Social Security Act (including by reason of  
 15 a default enrollment under section 2202(c)(2)), there is  
 16 hereby imposed (in addition to any other amount imposed  
 17 by this subtitle) for the taxable year an amount equal to  
 18 the aggregate premiums established under such title with  
 19 respect to the coverage under such title which covers such  
 20 individual for months beginning in such taxable year. The  
 21 amount imposed under this subsection shall be reduced by  
 22 the amount of any government contribution under section  
 23 2204(a) of such Act which relates to such coverage.

24 “(b) SPECIFIED INDIVIDUAL.—For purposes of this  
 25 section, the term ‘specified individual’ means, with respect

1 to coverage under title XXII of the Social Security Act  
2 for any month beginning in a taxable year—

3 “(1) in the case of self-only coverage, the indi-  
4 vidual covered under such coverage, and

5 “(2) in the case of family coverage, each indi-  
6 vidual covered under such coverage unless such indi-  
7 vidual is covered under such coverage by reason of  
8 being a member of the family (other than a spouse).

9 “(c) JOINT AND SEVERAL LIABILITY.—In the case  
10 of an individual and such individual’s spouse covered  
11 under family coverage—

12 “(1) each such individual shall be jointly and  
13 severally liable for the amount imposed under sub-  
14 section (a), and

15 “(2) the aggregate amount imposed under sub-  
16 section (a) with respect to such coverage may not  
17 exceed the amount imposed with respect to either  
18 such individual.

19 “(d) COORDINATION WITH OTHER PROVISIONS.—

20 “(1) NOT TREATED AS MEDICAL EXPENSE.—  
21 For purposes of section 213, the amount imposed by  
22 this section for any taxable year shall not be treated  
23 as an expense paid for medical care.

24 “(2) NOT TREATED AS TAX FOR CERTAIN PUR-  
25 POSES.—The amount imposed by this section shall



1 not be treated as a tax imposed by this chapter for  
2 purposes of determining—

3 “(A) the amount of any credit allowable  
4 under this chapter, or

5 “(B) the amount of the minimum tax im-  
6 posed by section 55.

7 “(3) TREATMENT UNDER SUBTITLE F.—For  
8 purposes of subtitle F, the amount imposed by this  
9 section shall be treated as if it were a tax imposed  
10 by section 1.

11 “(4) SECTION 15 NOT TO APPLY.—Section 15  
12 shall not apply to the amount imposed by this sec-  
13 tion.

14 “(5) SECTION NOT TO AFFECT LIABILITY OF  
15 POSSESSIONS, ETC.—This section shall not apply for  
16 purposes of determining liability to any possession of  
17 the United States. For purposes of section 932 and  
18 7654, the amount imposed under this section shall  
19 not be treated as a tax imposed by this chapter.

20 “(e) REGULATIONS.—The Secretary may prescribe  
21 such regulations as may be appropriate to carry out the  
22 purposes of this section.”.

23 (2) ADJUSTMENTS TO WITHHOLDING.—Sub-  
24 section (a) of section 3402 of such Code (relating to

1 income tax collected at source) is amended by add-  
2 ing at the end the following new paragraph:

3 “(3) SPECIAL RULE FOR AMOUNTS IMPOSED BY  
4 SECTION 59B.—

5 “(A) IN GENERAL.—In determining the  
6 amount required to be deducted and withheld  
7 from wages paid to an individual during any  
8 month by such individual’s employer, the  
9 amount imposed by section 59B shall be taken  
10 into account.

11 “(B) WAGES NOT REDUCED BY EXEMP-  
12 TIONS.—In determining the amount to be de-  
13 ducted and withheld by reason of subparagraph  
14 (A), the amount of wages shall not be reduced  
15 as provided in paragraph (2).”.

16 (3) CLERICAL AMENDMENT.—The table of  
17 parts for subchapter A of chapter 1 of such Code is  
18 amended by adding at the end the following new  
19 item:

“PART VIII—AMERICAN HEALTH BENEFITS PROGRAM PREMIUMS”.

20 (b) CREDIT FOR SUBSIDY AND PREPAYMENTS OF  
21 AMERICAN HEALTH BENEFITS PREMIUMS.—

22 (1) IN GENERAL.—Subpart C of part IV of sub-  
23 chapter A of chapter 1 of the Internal Revenue Code  
24 of 1986 is amended by inserting after section 36A  
25 the following new section:

1 **“SEC. 36B. SUBSIDY AND PREPAYMENT OF AMERICAN**  
2 **HEALTH BENEFITS PREMIUMS.**

3 “(a) IN GENERAL.—In the case of a specified indi-  
4 vidual (as defined in section 59B(b)), there shall be al-  
5 lowed as a credit against the tax imposed by this subtitle  
6 for the taxable year an amount equal to the sum of—

7 “(1) the aggregate amount of premiums paid  
8 (other than any government contribution under sec-  
9 tion 2204(a) of the Social Security Act) with respect  
10 to the coverage of such individual under title XXII  
11 of the Social Security Act, and

12 “(2) in the case of any premium subsidy-eligible  
13 individual, the applicable premium subsidy.

14 “(b) APPLICABLE PREMIUM SUBSIDY.—

15 “(1) IN GENERAL.—For purposes of this sec-  
16 tion, the term ‘applicable premium subsidy’ means,  
17 with respect to any premium subsidy-eligible indi-  
18 vidual, the lowest premium in effect for the calendar  
19 year in which the taxable year begins (for the type  
20 of coverage involved) for any basic plan in the  
21 AHBP region involved, as determined by the Admin-  
22 istrator of Health Benefits.

23 “(2) REDUCTION BASED ON FAMILY INCOME.—  
24 The amount otherwise determined under paragraph  
25 (1) shall be reduced (but not below zero) by an

1 amount which bears the same ratio to the amount  
2 so determined as—

3 “(A) the amount (if any) by which the tax-  
4 payer’s family income for the taxable year ex-  
5 ceeds the lowest income threshold, bears to

6 “(B) the lowest income threshold.

7 “(c) PREMIUM SUBSIDY-ELIGIBLE INDIVIDUAL.—  
8 For purposes of this section, the term ‘premium subsidy-  
9 eligible individual’ means an individual—

10 “(1) who is enrolled, and required to be en-  
11 rolled, in a qualified health plan under title XXII of  
12 the Social Security Act,

13 “(2) whose family income does not exceed twice  
14 the lowest income threshold, and

15 “(3) who does not have in effect (and, in the  
16 case of family coverage, each other individual cov-  
17 ered under such coverage does not have in effect),  
18 in a form and manner specified by the Secretary of  
19 the Treasury in consultation with the Administrator  
20 of Health Benefits, for any portion of the taxable  
21 year of such individual an objection to the release of  
22 information under section 6103(k)(10).

23 “(d) LOWEST INCOME THRESHOLD.—For purposes  
24 of this section, the term ‘lowest income threshold’ means,  
25 with respect to coverage consisting of—

1           “(1) only an individual, 125 percent of the pov-  
2           erty line (as defined in section 673(2) of the Com-  
3           munity Services Block Grant Act (42 U.S.C.  
4           9902(2)), including any revision required by such  
5           section) for a single individual for the calendar year  
6           which includes the close of the taxable year, or

7           “(2) a family of two or more individuals, 150  
8           percent of the poverty line (as so defined) for a fam-  
9           ily of the size involved for the calendar year which  
10          includes the close of the taxable year.

11          “(e) FAMILY INCOME.—For purposes of this sec-  
12          tion—

13                 “(1) IN GENERAL.—The term ‘family income’  
14                 means, with respect to a specified individual (as de-  
15                 fined in section 59B(b)) covered under coverage con-  
16                 sisting of—

17                         “(A) only such individual, the modified ad-  
18                         justed gross income of such individual, or

19                         “(B) two or more individuals, the sum of  
20                         the modified adjusted gross income of the speci-  
21                         fied individual and the modified adjusted gross  
22                         income of each other individual covered under  
23                         the plan for the taxable year that ends in or  
24                         with the taxable year of the specified individual.

1           “(2) MODIFIED ADJUSTED GROSS INCOME.—  
2           The term ‘modified adjusted gross income’ means  
3           adjusted gross income—

4                   “(A) determined without regard to sections  
5                   135, 911, 931, and 933, and

6                   “(B) increased by the amount of interest  
7                   received or accrued during the taxable year  
8                   which is exempt from tax under this title.

9           “(f) DENIAL OF CREDIT TO DEPENDENTS.—No  
10          credit shall be allowed under this section to any individual  
11          with respect to whom a deduction under section 151 is  
12          allowable to another taxpayer for a taxable year beginning  
13          in the calendar year in which such individual’s taxable  
14          year begins.

15          “(g) REGULATIONS.—The Secretary may prescribe  
16          such regulations as are necessary or appropriate to carry  
17          out this section, including regulations which provide for  
18          not taking into account individuals with de minimis in-  
19          come for purposes of determining family income for pur-  
20          poses of this section.”.

21          (2) CONFORMING AMENDMENTS.—

22                   (A) Paragraph (2) of section 1324(b) of  
23                   title 31, United States Code, is amended by in-  
24                   serting “36B,” after “36A,”.

1 (B) The table of section for subpart C of  
 2 part IV of subchapter A of chapter 1 of the In-  
 3 ternal Revenue Code of 1986 is amended by in-  
 4 serting after the item relating to section 36A  
 5 the following new item:

“Sec. 36B. Subsidy and prepayment of American Health Benefits premiums.”.

6 (c) EMPLOYER FUNDING.—

7 (1) IN GENERAL.—Subtitle C of the Internal  
 8 Revenue Code of 1986 (relating to employment  
 9 taxes) is amended by redesignating chapter 25 as  
 10 chapter 26 and by inserting after chapter 24 the fol-  
 11 lowing new chapter:

12 **“CHAPTER 25—AMERICAN HEALTH**  
 13 **BENEFITS PROGRAM**

“Sec. 3451. Tax on employers.

“Sec. 3452. Refund of tax in case of qualified employer-provided coverage.

“Sec. 3453. Instrumentalities of the United States.

14 **“SEC. 3451. TAX ON EMPLOYERS.**

15 “(a) IMPOSITION OF TAX.—In addition to other  
 16 taxes, there is hereby imposed on every employer an excise  
 17 tax, with respect to having individuals in his employ, equal  
 18 to the applicable percentage of the wages paid by him with  
 19 respect to employment.

20 “(b) APPLICABLE PERCENTAGE.—For purposes of  
 21 this section—

22 “(1) IN GENERAL.—The term ‘applicable per-  
 23 centage’ means, with respect to wages paid during

1 any taxable year of an employer of a specified firm  
 2 size and average earnings per employee, the percent-  
 3 age determined in accordance with the following  
 4 table:

“Applicable percentage (in percent)”

A firm size of:	Average earnings per employee of \$21,000 or less:	Average earnings per employee of more than \$21,000 and not in excess of \$42,000:	Average earnings per employee of more than \$42,000 and not in excess of \$83,000:	Average earnings per employee of more than \$83,000:
Less than 10 .....	4.00	5.00	6.00	8.75
10 through 25 .....	4.25	5.25	6.75	9.50
26 through 49 .....	4.50	5.50	7.25	10.00
50 through 199 .....	4.75	5.75	8.00	10.00
200 through 499 ....	5.00	6.00	8.75	10.00
500 or more .....	5.25	6.25	9.50	10.00.

5 “(2) FIRM SIZE.—The term ‘firm size’ means,  
 6 with respect to any employer for any taxable year,  
 7 the average number of employees employed by such  
 8 person during the 3 taxable years preceding such  
 9 taxable year.

10 “(3) AVERAGE EARNINGS PER EMPLOYEE.—  
 11 With respect to any employer for any taxable year—

12 “(A) IN GENERAL.—The term ‘average  
 13 earnings per employee’ means the average earn-  
 14 ings of such employer for such taxable year di-  
 15 vided by the firm size of such employer for such  
 16 taxable year.

17 “(B) AVERAGE EARNINGS.—The term ‘av-  
 18 erage earnings’ means the average taxable in-



1           come of the employer for the 3 taxable years  
2           preceding such taxable year.

3           “(4) AGGREGATION RULE.—All persons treated  
4           as a single employer under subsection (a) or (b) of  
5           section 52, or subsection (m) or (o) of section 414,  
6           shall be treated as one person.

7           “(5) INFLATION ADJUSTMENT.—In the case of  
8           a taxable year beginning after December 31, 2012,  
9           each of the dollar amounts in the table contained in  
10          paragraphs (1) shall be increased by an amount  
11          equal to—

12                   “(A) such dollar amount, multiplied by  
13                   “(B) the cost-of-living adjustment deter-  
14                   mined under section 1(f)(3) for the calendar  
15                   year in which the taxable year begins, deter-  
16                   mined by substituting ‘calendar year 2011’ for  
17                   ‘calendar year 1992’ in subparagraph (B)  
18                   thereof.

19          If any amount as increased under the preceding sen-  
20          tence is not a multiple of \$100, such amount shall  
21          be rounded to the nearest multiple of \$100.

22          “(c) NO COVER OVER TO POSSESSIONS.—Notwith-  
23          standing any other provision of law, no amount collected  
24          under this chapter shall be covered over to any possession  
25          of the United States.



1 not be exempt from the tax imposed by section 3451 un-  
 2 less such other provision of law grants a specific exemp-  
 3 tion, by reference to section 3451, from the tax imposed  
 4 by such section.”.

5 (2) SELF-EMPLOYMENT.—Section 1401 of such  
 6 Code is amended by redesignating subsection (c) as  
 7 subsection (d) and by inserting after subsection (b)  
 8 the following new subsection:

9 “(c) AMERICAN HEALTH BENEFITS PROGRAM.—In  
 10 addition to other taxes, there shall be imposed for each  
 11 taxable year, on the self-employment income of every indi-  
 12 vidual, a tax equal to the applicable percentage (as defined  
 13 in section 3451(b)) of the amount of the self-employment  
 14 income for such taxable year.”.

15 (3) CLERICAL AMENDMENT.—The table of  
 16 chapters for subtitle C of such Code is amended by  
 17 striking the item relating to chapter 25 and insert-  
 18 ing the following:

“CHAPTER 25—AMERICAN HEALTH BENEFITS PROGRAM

“CHAPTER 26—GENERAL PROVISIONS RELATING TO EMPLOYMENT TAXES”.

19 (d) ADDITIONAL TAX ON HOSPITAL REVENUES.—

20 (1) IN GENERAL.—Subchapter A of chapter 1  
 21 of the Internal Revenue Code of 1986, as amended  
 22 by this Act, is amended by adding at the end the fol-  
 23 lowing new part:

1           **“PART IX—TAX ON HOSPITAL REVENUES**

“Sec. 59D. Tax on hospital revenues.

2           **“SEC. 59D. TAX ON HOSPITAL REVENUES.**

3           “(a) IN GENERAL.—In the case of a corporation,  
4 there is hereby imposed (in addition to any other tax im-  
5 posed by this subtitle) a tax equal to 2 percent of the hos-  
6 pital revenues of such corporation.

7           “(b) HOSPITAL REVENUES.—For purposes of this  
8 section, the term ‘hospital revenues’ means, with respect  
9 to any corporation for any taxable year, the excess (if any)  
10 of—

11                   “(1) so much of such corporation’s gross in-  
12 come for such taxable year as is derived from the  
13 operation of one or more hospitals (as defined in  
14 section 1861(e) of the Social Security Act), over

15                   “(2) so much of the deductions allowed under  
16 this chapter for such taxable year as are properly al-  
17 locable to such income.

18           “(c) SECTION 15 NOT TO APPLY.—Section 15 shall  
19 not apply to the tax imposed by this section.”.

20                   (2) CONFORMING AMENDMENTS.—

21                           (A) Section 26(b)(2) of the Internal Rev-  
22 enue Code of 1986 is amended by striking  
23 “and” at the end of subparagraph (W), by  
24 striking the period at the end of subparagraph

1 (X) and inserting “, and”, and by adding at the  
2 end the following new subparagraph:

3 “(Y) section 59D (relating to tax on hos-  
4 pital revenues).”.

5 (B) Section 30A(c) of such Code is amend-  
6 ed by striking “or” at the end of paragraph (3),  
7 by striking the period at the end of paragraph  
8 (4) and inserting “, or”, and by adding at the  
9 end the following new paragraph:

10 “(5) section 59D (relating to tax on hospital  
11 revenues).”.

12 (C) Section 882(a)(1) of such Code is  
13 amended by inserting “59D,” after “59A,”.

14 (D) Section 936(a)(3) of such Code is  
15 amended by striking “or” at the end of sub-  
16 paragraph (C), by striking the period at the end  
17 of subparagraph (D) and inserting “, or”, and  
18 by adding at the end the following new sub-  
19 paragraph:

20 “(E) section 59D (relating to tax on hos-  
21 pital revenues).”.

22 (E) Section 6425(c)(1)(A) of such Code is  
23 amended by striking “plus” at the end of clause  
24 (ii), by striking “over” at the end of clause (iii)

1 and inserting “plus”, and by adding at the end  
2 the following new clause:

3 “(iv) the tax imposed by section 59D,  
4 over”.

5 (F) Section 6655(g)(1)(A) of such Code is  
6 amended by striking “plus” at the end of clause  
7 (iii), by redesignating clause (iv) as clause (v),  
8 and by inserting after clause (iii) the following  
9 new clause:

10 “(iv) the tax imposed by section 59D,  
11 plus”.

12 (G) The table of parts for subchapter A of  
13 chapter 1 of such Code is amended by adding  
14 at the end the following new item:

“PART VIII—TAX ON HOSPITAL REVENUES”.

15 (e) DISCLOSURE OF TAXPAYER RETURN INFORMA-  
16 TION TO CARRY OUT COST-SHARING SUBSIDIES.—

17 (1) IN GENERAL.—Section 6103(l) of the Inter-  
18 nal Revenue Code of 1986 is amended by adding at  
19 the end the following new paragraph:

20 “(21) DISCLOSURE OF RETURN INFORMATION  
21 TO CARRY OUT AMERICAN HEALTH BENEFITS PRO-  
22 GRAM.—

23 “(A) IN GENERAL.—The Secretary shall,  
24 upon written request from the Administrator of  
25 Health Benefits, disclose to officers, employees,

1 and contractors of the Health Benefits Admin-  
2 istration return information of a taxpayer who  
3 is, according to the records of the Secretary, a  
4 cost-sharing subsidy-eligible individual (as de-  
5 fined in section 2205(b)(7)(A) of the Social Se-  
6 curity Act) or a family member of such an indi-  
7 vidual. Such return information shall be limited  
8 to—

9 “(i) taxpayer identity information  
10 with respect to such taxpayer,

11 “(ii) the filing status of such tax-  
12 payer,

13 “(iii) the adjusted gross income of  
14 such taxpayer,

15 “(iv) the amounts excluded from such  
16 taxpayer’s gross income under sections 135  
17 and 911 to the extent such information is  
18 available,

19 “(v) the interest received or accrued  
20 during the taxable year which is exempt  
21 from the tax imposed by chapter 1 to the  
22 extent such information is available,

23 “(vi) the amounts excluded from such  
24 taxpayer’s gross income by sections 931

1           and 933 to the extent such information is  
2           available, and

3                   “(vii) the taxable year with respect to  
4           which the preceding information relates.

5                   “(B) RESTRICTION ON USE OF DISCLOSED  
6           INFORMATION.—Return information disclosed  
7           under subparagraph (A) may be used by offi-  
8           cers, employees, and contractors of the Health  
9           Benefits Administration only for the purposes  
10          of, and to the extent necessary in, establishing  
11          the appropriate amount of any cost-sharing  
12          subsidies under section 2205 of the Social Secu-  
13          rity Act.”.

14          (2) CONFORMING AMENDMENTS.—

15                  (A) Paragraph (3) of section 6103(a) of  
16          such Code is amended by striking “or (20)”  
17          and inserting “(20), or (21)”.

18                  (B) Paragraph (4) of section 6103(p) of  
19          such Code is amended by striking “(l)(16),  
20          (17), (19), or (20)” each place it appears and  
21          inserting “(l)(16), (17), (19), (20), or (21)”.

22                  (C) Paragraph (2) of section 7213(a) of  
23          such Code is amended by striking “or (20)”  
24          and inserting “(20), or (21)”.



1 (f) DISCLOSURE OF TAXPAYER RETURN INFORMA-  
2 TION TO CARRY OUT PREMIUM SUBSIDIES.—Section  
3 6103(k) of the Internal Revenue Code of 1986 is amended  
4 by adding at the end the following new paragraph:

5 “(10) DISCLOSURE OF INFORMATION TO AD-  
6 MINISTER PREMIUM SUBSIDY UNDER SECTION  
7 36B.—To the extent that Secretary determines that  
8 disclosure is necessary to permit the effective admin-  
9 istration of section 36B, the Secretary may disclose  
10 the modified adjusted gross income (as defined in  
11 section 36B) of any individual whose modified ad-  
12 justed gross income is taken into account in deter-  
13 mining the amount of any credit under such sec-  
14 tion.”.

15 (g) EFFECTIVE DATE.—

16 (1) IN GENERAL.—Except as provided in para-  
17 graph (2), the amendments made by this section  
18 shall take effect on January 1, 2012.

19 (2) SUBSECTIONS (a) AND (b).—The amend-  
20 ments made by subsections (a) and (b) shall apply  
21 to months beginning after December 31, 2011, in  
22 taxable years ending after such date.

23 (3) SUBSECTION (d).—The amendments made  
24 by subsection (d) shall apply to taxable years begin-  
25 ning after December 31, 2011.

1 **SEC. 4. AMENDMENTS TO THE MEDICAID PROGRAM AND**  
2 **SCHIP.**

3 (a) MAINTENANCE OF EFFORT IN MEDICAID PAY-  
4 MENTS.—Section 1902 of the Social Security Act (42  
5 U.S.C. 1396b) is amended by adding at the end the fol-  
6 lowing new subsection:

7 “(gg)(1) For each State fiscal year that begins on  
8 or after January 1 of the first calendar year in which cov-  
9 erage is provided under title XXII, each State shall submit  
10 a report to the Secretary on the amount of State expendi-  
11 tures for health services, as defined by the Secretary.

12 “(2) Subject to paragraph (4), if the amount so re-  
13 ported for a State fiscal year is less than the amount spec-  
14 ified in paragraph (3) for that State fiscal year, the State  
15 shall provide for payment to the Secretary of the amount  
16 of such difference. The provisions of subparagraphs (B)  
17 and (C) of section 1935(c)(1) shall apply to payment  
18 under the previous sentence in the same manner as they  
19 apply to payment under subparagraph (A) of such section,  
20 except that such payments shall be deposited into the  
21 American Health Benefits Program Trust Fund estab-  
22 lished under section 2204(c).

23 “(3) The amount specified in this paragraph for a  
24 State for—

25 “(A) the first State fiscal year described in  
26 paragraph (1), is the total amount of the State

1 share of expenditures for health services (as defined  
2 in paragraph (1)) under all public health programs  
3 operated in the State that are funded in whole or in  
4 part with State expenditures, including expenditures  
5 under this title and title XXI, for the previous State  
6 fiscal year; and

7 “(B) a subsequent State fiscal year, is the  
8 amount specified in this paragraph for the previous  
9 State fiscal year increased by the percentage change,  
10 if any, in the consumer price index for all urban con-  
11 sumers for the most recent completed Federal fiscal  
12 year.

13 “(4) The Secretary may waive payment of all or a  
14 portion of the amount otherwise payable under paragraph  
15 (2) based on criteria specified by the Secretary”.

16 (b) SUNSET OF SCHIP FUNDING.—Section 2105 of  
17 such Act (42 U.S.C. 1397ee) is amended by adding at the  
18 end the following new subsection:

19 “(h) SUNSET OF PROGRAM UPON INITIATION OF  
20 AMERICAN HEALTH BENEFITS PROGRAM.—No payment  
21 shall be made under this title to a State for items and  
22 services furnished after the effective date of the American  
23 Health Benefits Program under title XXII.”.

1           (c) REDUCTION IN MEDICAID DSH PAYMENTS.—  
2 Section 1923(f) of such Act (42 U.S.C. 1396r-4(f)) is  
3 amended—

4           (1) by redesignating paragraph (7) as para-  
5 graph (8); and

6           (2) by inserting after paragraph (6) the fol-  
7 lowing new paragraph:

8           “(7) REDUCTION IN CONNECTION WITH  
9 AHBP.—Notwithstanding the previous provisions in  
10 this paragraph, the Secretary shall provide for a  
11 phased-down reduction over a 5-fiscal-year-period  
12 beginning with fiscal year 2012 of the amount of the  
13 DSH allotment for each State so that, by the end  
14 of such period, such amount is equal to 10 percent  
15 of the amount of such allotment for such State for  
16 fiscal year 2011.”.

17 **SEC. 5. CONSULTATION IN IMPLEMENTATION OF HEALTH**  
18 **INFORMATION TECHNOLOGIES.**

19           The Administrator of Health Benefits (appointed  
20 under section 2206(d)(1) of the Social Security Act, as  
21 added by section 2(a)) shall consult with the Office of the  
22 National Coordinator for Health Information Technology  
23 and the Secretary of Health and Human Services in car-  
24 rying out the implementation of health information tech-  
25 nology in compliance with the amendments made by divi-

1 sion B of the American Recovery and Reinvestment Act  
2 of 2009 (Public Law 111–5) and regulations promulgated  
3 under section 264(c) of the Health Insurance Portability  
4 and Accountability Act of 1996).

5 **SEC. 6. NON-PREEMPTION OF EXISTING COLLECTIVE BAR-**  
6 **GAINING AGREEMENTS.**

7 Nothing in this Act shall be construed as preempting  
8 any collective bargaining agreement that is in effect as of  
9 the date of the enactment of this Act, during the period  
10 in which such agreement is in effect (without regard to  
11 any extension of such agreement effected as such date of  
12 enactment).

13 **SEC. 7. HEALTH BENEFITS COMMISSION.**

14 (a) ESTABLISHMENT.—There is established in the  
15 legislative branch an independent commission to be known  
16 as the Health Benefits Commission (in this section re-  
17 ferred to as the “Commission”).

18 (b) DUTIES OF THE COMMISSION.—

19 (1) GENERAL DUTIES.—The Commission shall  
20 examine and make recommendations regarding the  
21 major issues and cost drivers affecting the delivery  
22 of health care services as it pertains to the American  
23 Health Benefits Program under title XXII of the  
24 Social Security Act (in this section referred to as  
25 “AHBP”).

1           (2) SPECIFIC ISSUES.—The Commission shall  
2 specifically examine and make recommendations re-  
3 garding each of the following:

4           (A) A comparison of AHBP to other public  
5 health insurance programs (described in section  
6 2202(b)(2) of the Social Security Act) and the  
7 feasibility and desirability of their integration  
8 into AHBP.

9           (B) The proper implementation and utili-  
10 zation of electronic medical records and other  
11 health information technologies, including pri-  
12 vacy and interoperability issues.

13           (C) The effects of medical malpractice in-  
14 surance and “defensive medicine” on the deliv-  
15 ery and cost of health care.

16           (D) The patterns and effects of overutiliza-  
17 tion on AHBP.

18           (E) Cost and implementation factors of re-  
19 tiree health coverage under AHBP.

20           (F) A comparison of prescription drug  
21 prices under AHBP with such prices under  
22 other public health programs.

23           (G) The effects of insurance monopolies on  
24 health care costs and delivery.

25           (c) MEMBERSHIP.—

1 (1) NUMBER AND APPOINTMENT.—The Com-  
2 mission shall be composed of 9 members, of whom—

3 (A) one shall be appointed by the Presi-  
4 dent;

5 (B) two shall be appointed by the majority  
6 leader of the Senate;

7 (C) two shall be appointed by the minority  
8 leader of the Senate;

9 (D) two shall be appointed by the Speaker  
10 of the House of Representatives; and

11 (E) two shall be appointed by the minority  
12 leader of the House of Representatives.

13 Members shall first be appointed not later than 60  
14 days after the date of the enactment of this Act.

15 (2) TERMS.—

16 (A) IN GENERAL.—The terms of members  
17 of the Commission shall be for 3 years, except  
18 that of the members first appointed—

19 (i) the initial term shall be for 2 years  
20 in the case of one of the members ap-  
21 pointed under paragraph (1)(C), as speci-  
22 fied by the minority leader of the Senate,  
23 one of the members appointed under para-  
24 graph (1)(D), as specified by the Speaker  
25 of the House of Representatives, and one

1 of the members appointed under paragraph  
2 (1)(E), as specified by the minority leader  
3 of the House of Representatives; and

4 (ii) the initial term shall be for 1 year  
5 in the case of one of the members ap-  
6 pointed under paragraph (1)(B), as speci-  
7 fied by the majority leader of the Senate,  
8 one of the members appointed under para-  
9 graph (1)(C), as specified by the minority  
10 leader of the Senate and one of the mem-  
11 bers appointed under paragraph (1)(D), as  
12 specified by the minority leader of the  
13 House of Representatives.

14 (B) VACANCIES.—Any member appointed  
15 to fill a vacancy occurring before the expiration  
16 of the term for which the member’s predecessor  
17 was appointed shall be appointed only for the  
18 remainder of that term. A member may serve  
19 after the expiration of that member’s term until  
20 a successor has taken office. A vacancy in the  
21 Commission shall be filled in the manner in  
22 which the original appointment was made.

23 (3) MEETINGS.—The Commission shall meet at  
24 the call of its Chair or a majority of its members.



1           (4) QUORUM.—A quorum shall consist of 5  
2 members of the Commission, except that 3 members  
3 may conduct a hearing under subsection (e).

4           (5) VACANCIES.—A vacancy on the Commission  
5 shall be filled in the same manner in which the origi-  
6 nal appointment was made not later than 30 days  
7 after the Commission is given notice of the vacancy  
8 and shall not affect the power of the remaining  
9 members to execute the duties of the Commission.

10          (6) COMPENSATION.—While serving on the  
11 business of the Commission (including traveltime), a  
12 member of the Commission shall be entitled to com-  
13 pensation at the per diem equivalent of the rate pro-  
14 vided for level IV of the Executive Schedule under  
15 section 5315 of title 5, United States Code; and  
16 while so serving away from home and the member's  
17 regular place of business, a member may be allowed  
18 travel expenses, as authorized by the Chairman of  
19 the Commission.

20          (7) CHAIR; VICE CHAIR.—The Speaker of the  
21 House of Representatives shall designate a member  
22 of the Commission at the time of appointment of the  
23 member as Chair and a member as Vice Chair for  
24 that term of appointment, except that in the case of  
25 vacancy of the Chair or Vice Chair, the Speaker may

1 designate another member for the remainder of that  
2 member's term.

3 (8) EXPENSES.—Each member of the Commis-  
4 sion shall receive travel expenses and per diem in  
5 lieu of subsistence in accordance with sections 5702  
6 and 5703 of title 5, United States Code.

7 (d) DIRECTOR AND STAFF; EXPERTS AND CONSULT-  
8 ANTS.—The Commission may—

9 (1) employ and fix the compensation of an Ex-  
10 ecutive Director and such other personnel (not to ex-  
11 ceed 11) as may be necessary to carry out its duties  
12 (without regard to the provisions of title 5, United  
13 States Code, governing appointments in the competi-  
14 tive service), except that the rate of pay for the Ex-  
15 ecutive Director and other personnel may not exceed  
16 the rate payable for level V of the Executive Sched-  
17 ule under section 5316 of such title;

18 (2) seek such assistance and support as may be  
19 required in the performance of its duties from ap-  
20 propriate Federal departments and agencies;

21 (3) enter into contracts or make other arrange-  
22 ments, as may be necessary for the conduct of the  
23 work of the Commission (without regard to section  
24 3709 of the Revised Statutes (41 U.S.C. 5));

1           (4) make advance, progress, and other pay-  
2           ments which relate to the work of the Commission;

3           (5) provide transportation and subsistence for  
4           persons serving without compensation;

5           (6) procure supplies, services, and property by  
6           contract in accordance with applicable laws and reg-  
7           ulations and to the extent or in such amounts as are  
8           provided in appropriations Acts;

9           (7) enter into contracts with departments,  
10          agencies, and instrumentalities of the Federal Gov-  
11          ernment, State agencies, and private firms, institu-  
12          tions, and agencies, for the conduct of research or  
13          surveys, the preparation of reports, and other activi-  
14          ties necessary for the discharge of the duties of the  
15          Commission, to the extent or in such amounts as are  
16          provided in appropriations Acts;

17          (8) notwithstanding section 1342 of title 31,  
18          United States Code, accept and utilize the services  
19          of volunteers serving without compensation and re-  
20          imburse such volunteers for local travel and office  
21          supplies, and for other travel expenses, including per  
22          diem in lieu of substance, as authorized by section  
23          5703 of title 5, of such Code; and

1           (9) prescribe such rules and regulations as it  
2       deems necessary with respect to the internal organi-  
3       zation and operation of the Commission.

4 Physicians serving as personnel of the Commission may  
5 be provided a physician comparability allowance by the  
6 Commission in the same manner as Government physi-  
7 cians may be provided such an allowance by an agency  
8 under section 5948 of title 5, United States Code, and  
9 for such purpose subsection (i) of such section shall apply  
10 to the Commission in the same manner as it applies to  
11 the Tennessee Valley Authority. A person providing volun-  
12 teer services to the Commission under paragraph (8) shall  
13 be considered an employee of the Federal Government in  
14 the performance of those services for the purposes of chap-  
15 ter 81 of title 5, United States Code (relating to com-  
16 pensation for work-related injuries), chapter 11 of title 18,  
17 of such Code (relating to conflicts of interests), and chap-  
18 ter 171 of title 28, of such Code (relating to tort claims).

19       (e) POWERS OF COMMISSION.—

20           (1) HEARINGS AND OTHER ACTIVITIES.—For  
21       the purpose of carrying out its duties, the Commis-  
22       sion may hold such hearings and undertake such  
23       other activities as the Commission determines to be  
24       necessary to carry out its duties.

1           (2) COST ESTIMATES BY CONGRESSIONAL  
2 BUDGET OFFICE.—

3           (A) The Director of the Congressional  
4 Budget Office shall provide to the Commission,  
5 upon the request of the Commission, such cost  
6 estimates as the Commission determines to be  
7 necessary to carry out its duties.

8           (B) The Commission shall reimburse the  
9 Director of the Congressional Budget Office for  
10 expenses relating to the employment in the of-  
11 fice of the Director of such additional staff as  
12 may be necessary for the Director to comply  
13 with requests by the Commission under sub-  
14 paragraph (A).

15           (3) DETAIL OF FEDERAL EMPLOYEES.—Upon  
16 the request of the Commission, the head of any Fed-  
17 eral agency is authorized to detail, without reim-  
18 bursement, any of the personnel of such agency to  
19 the Commission to assist the Commission in car-  
20 rying out its duties. Any such detail shall not inter-  
21 rupt or otherwise affect the civil service status or  
22 privileges of the Federal employee.

23           (4) TECHNICAL ASSISTANCE.—Upon the re-  
24 quest of the Commission, the head of a Federal  
25 agency shall provide on a reimbursable basis such

1 technical assistance to the Commission as the Com-  
2 mission determines to be necessary to carry out its  
3 duties.

4 (5) USE OF MAILS.—The Commission may use  
5 the United States mails in the same manner and  
6 under the same conditions as Federal agencies and  
7 shall, for purposes of the frank, be considered a  
8 commission of Congress as described in section 3215  
9 of title 39, United States Code.

10 (6) OBTAINING INFORMATION.—The Commis-  
11 sion may secure directly from any Federal agency  
12 information necessary to enable it to carry out its  
13 duties, if the information may be disclosed under  
14 section 552 of title 5, United States Code. Upon re-  
15 quest of the Chairman of the Commission, the head  
16 of such agency shall furnish such information to the  
17 Commission.

18 (7) ADMINISTRATIVE SUPPORT SERVICES.—  
19 Upon the request of the Commission, the Adminis-  
20 trator of General Services shall provide to the Com-  
21 mission on a reimbursable basis such administrative  
22 support services as the Commission may request.

23 (8) PRINTING.—For purposes of costs relating  
24 to printing and binding, including the cost of per-  
25 sonnel detailed from the Government Printing Of-

1        fice, the Commission shall be deemed to be a com-  
2        mittee of the Congress.

3        (f) REPORTS.—

4            (1) INITIAL FINDINGS.—Not later than 6  
5        months after the date of the enactment of this Act,  
6        the Commission shall submit to the Administrator of  
7        Health Benefits and to appropriate committees of  
8        Congress a report which contains a statement of the  
9        initial findings of the Commission.

10           (2) INITIAL REPORT.—Not later than 18  
11        months after the date of the enactment of this Act,  
12        the Commission shall submit to such Administrator  
13        and committees an initial report which contains a  
14        detailed statement of its recommendations, findings,  
15        and conclusions of the Commission.

16           (3) ANNUAL REPORT.—Subsequently, the Com-  
17        mission shall annually submit to such Administrator  
18        and such committees a report containing such a  
19        statement.

20           (4) OTHER REPORTS.—The Commission may  
21        issue such other reports at such times as the Com-  
22        mission determines appropriate.

23           (5) SUPERMAJORITY REQUIREMENT.—The  
24        Commission shall not include in any report sub-  
25        mitted under this subsection a recommendation,

1 finding, or conclusion unless it has received the ap-  
2 proval of at least 6 members of the Commission.

3 (6) INCLUSION OF MINORITY VIEWS.—Reports  
4 under this subsection shall include as separate view-  
5 points, the views of a minority of members of the  
6 Commission.

7 (g) AUTHORIZATION OF APPROPRIATIONS.—There  
8 are authorized to be appropriated for each fiscal year be-  
9 ginning with fiscal year 2010 such sums as are necessary  
10 to carry out this section.

○