

110TH CONGRESS
1ST SESSION

S. 1886

To provide a refundable and advanceable credit for health insurance through the Internal Revenue Code of 1986, to provide for improved private health insurance access and affordability, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 26, 2007

Mr. BURR (for himself, Mr. CORKER, Mr. COBURN, Mr. MARTINEZ, and Mrs. DOLE) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide a refundable and advanceable credit for health insurance through the Internal Revenue Code of 1986, to provide for improved private health insurance access and affordability, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Every American Insured Health Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REFUNDABLE AND ADVANCEABLE CREDIT FOR
CERTAIN HEALTH INSURANCE COVERAGE

Sec. 100. Reference.

Sec. 101. Refundable and advanceable credit for certain health insurance coverage.

Sec. 102. Changes to existing tax preferences for medical coverage, etc., for individuals eligible for qualified health insurance credit or standard deduction.

TITLE II—IMPROVING PRIVATE HEALTH INSURANCE ACCESS
AND AFFORDABILITY

Sec. 201. Improving private health insurance access and affordability.

Sec. 202. Expansion of medicaid health opportunity accounts to all States.

1 **TITLE I—REFUNDABLE AND**
2 **ADVANCEABLE CREDIT FOR**
3 **CERTAIN HEALTH INSUR-**
4 **ANCE COVERAGE**

5 **SEC. 100. REFERENCE.**

6 Except as otherwise expressly provided, whenever in
7 this title an amendment or repeal is expressed in terms
8 of an amendment to, or repeal of, a section or other provi-
9 sion, the reference shall be considered to be made to a
10 section or other provision of the Internal Revenue Code
11 of 1986.

12 **SEC. 101. REFUNDABLE AND ADVANCEABLE CREDIT FOR**
13 **CERTAIN HEALTH INSURANCE COVERAGE.**

14 (a) **ADVANCEABLE CREDIT.**—Subpart A of part IV
15 of subchapter A of chapter 1 (relating to nonrefundable
16 personal credits) is amended by adding at the end the fol-
17 lowing new section:

1 **“SEC. 25E. QUALIFIED HEALTH INSURANCE CREDIT.**

2 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
3 dividual, there shall be allowed as a credit against the tax
4 imposed by this chapter for the taxable year the sum of
5 the monthly limitations determined under subsection (b)
6 for the taxpayer and the taxpayer’s spouse and depend-
7 ents.

8 “(b) MONTHLY LIMITATION.—

9 “(1) IN GENERAL.—The monthly limitation for
10 each month during the taxable year for an eligible
11 individual is $\frac{1}{12}$ th of—

12 “(A) the applicable adult amount, in the
13 case that the eligible individual is the taxpayer
14 or the taxpayer’s spouse,

15 “(B) the applicable adult amount, in the
16 case that the eligible individual is an adult de-
17 pendent, and

18 “(C) the applicable child amount, in the
19 case that the eligible individual is a child de-
20 pendent.

21 “(2) LIMITATION ON AGGREGATE AMOUNT.—
22 Notwithstanding paragraph (1), the aggregate
23 monthly limitations for the taxpayer and the tax-
24 payer’s spouse and dependents for any month shall
25 not exceed $\frac{1}{12}$ th of the applicable aggregate amount.

1 “(3) APPLICABLE AMOUNT.—For purposes of
2 this section—

“Calendar year	Applicable adult amount	Applicable child amount	Applicable aggregate amount
2009	\$2,160	\$1,620	\$5,400
2010	\$2,220	\$1,670	\$5,550
2011	\$2,290	\$1,710	\$5,710
2012	\$2,350	\$1,760	\$5,880
2013	\$2,420	\$1,810	\$6,050
2014	\$2,490	\$1,870	\$6,220
2015	\$2,560	\$1,920	\$6,400
2016	\$2,640	\$1,980	\$6,590
2017	\$2,710	\$2,030	\$6,780

3 “(4) NO CREDIT FOR INELIGIBLE MONTHS.—

4 With respect to any individual, the monthly limita-
5 tion shall be zero for any month for which such indi-
6 vidual is not an eligible individual.

7 “(c) LIMITATION BASED ON AMOUNT OF TAX.—In
8 the case of a taxable year to which section 26(a)(2) does
9 not apply, the credit allowed under subsection (a) for the
10 taxable year shall not exceed the excess of—

11 “(1) the sum of the regular tax liability (as de-
12 fined in section 26(b)) plus the tax imposed by sec-
13 tion 55, over

14 “(2) the sum of the credits allowable under this
15 subpart (other than this section) and section 27 for
16 the taxable year.

17 “(d) EXCESS CREDIT REFUNDABLE TO CERTAIN
18 TAX-FAVORED ACCOUNTS.—If—

19 “(1) the credit which would be allowable under
20 subsection (a) if only qualified refund eligible health

1 insurance were taken into account under this sec-
2 tion, exceeds

3 “(2) the limitation imposed by section 26 or
4 subsection (c) for the taxable year,
5 such excess shall be paid by the Secretary into the des-
6 ignated account of the taxpayer.

7 “(e) ELIGIBLE INDIVIDUAL.—For purposes of this
8 section—

9 “(1) IN GENERAL.—The term ‘eligible indi-
10 vidual’ means, with respect to any month, an indi-
11 vidual who—

12 “(A) is the taxpayer, the taxpayer’s
13 spouse, or the taxpayer’s dependent, and

14 “(B) is covered under qualified health in-
15 surance as of the 1st day of such month.

16 “(2) COVERAGE UNDER MEDICARE, MEDICAID,
17 SCHIP, MILITARY COVERAGE.—The term ‘eligible in-
18 dividual’ shall not include any individual who for any
19 month is—

20 “(A) entitled to benefits under part A of
21 title XVIII of the Social Security Act or en-
22 rolled under part B of such title, and the indi-
23 vidual is not a participant or beneficiary in a
24 group health plan or large group health plan

1 that is a primary plan (as defined in section
2 1862(b)(2)(A) of such Act),

3 “(B) enrolled in the program under title
4 XIX or XXI of such Act (other than under sec-
5 tion 1928 of such Act), or

6 “(C) entitled to benefits under chapter 55
7 of title 10, United States Code, including under
8 the TRICARE program (as defined in section
9 1072(7) of such title).

10 “(3) IDENTIFICATION REQUIREMENTS.—The
11 term ‘eligible individual’ shall not include any indi-
12 vidual for any month unless the policy number asso-
13 ciated with the qualified health insurance and the
14 TIN of each eligible individual covered under such
15 health insurance for such month are included on the
16 return of tax for the taxable year in which such
17 month occurs.

18 “(4) PRISONERS.—The term ‘eligible individual’
19 shall not include any individual for a month if, as
20 of the first day of such month, such individual is im-
21 prisoned under Federal, State, or local authority.

22 “(5) ALIENS.—The term ‘eligible individual’
23 shall not include any alien individual who is not a
24 lawful permanent resident of the United States.

1 “(f) HEALTH INSURANCE.—For purposes of this sec-
2 tion—

3 “(1) QUALIFIED HEALTH INSURANCE.—The
4 term ‘qualified health insurance’ means any insur-
5 ance constituting medical care which (as determined
6 under regulations prescribed by the Secretary)—

7 “(A) has a reasonable annual and lifetime
8 benefit maximum, and

9 “(B) provides coverage for inpatient and
10 outpatient care, emergency benefits, and physi-
11 cian care.

12 Such term does not include any insurance substan-
13 tially all of the coverage of which is coverage de-
14 scribed in section 223(c)(1)(B).

15 “(2) QUALIFIED REFUND ELIGIBLE HEALTH
16 INSURANCE.—The term ‘qualified refund eligible
17 health insurance’ means any qualified health insur-
18 ance which is—

19 “(A) coverage under a group health plan
20 (as defined in section 5000(b)(1)), or

21 “(B) coverage offered in a State which has
22 been deemed by the Secretary of Health and
23 Human Services to meet the refundability re-
24 quirements of section 2201 of the Social Secu-
25 rity Act.

1 “(g) DESIGNATED ACCOUNTS.—

2 “(1) DESIGNATED ACCOUNT.—For purposes of
3 this section, the term ‘designated account’ means
4 any specified account established and maintained by
5 the provider of the taxpayer’s qualified refund eligi-
6 ble health insurance—

7 “(A) which is designated by the taxpayer
8 (in such form and manner as the Secretary may
9 provide) on the return of tax for the taxable
10 year, and

11 “(B) which, under the terms of the ac-
12 count, accepts the payment described in sub-
13 paragraph (A) on behalf of the taxpayer.

14 “(2) SPECIFIED ACCOUNT.—For purposes of
15 this paragraph, the term ‘specified account’ means—

16 “(A) any health savings account under sec-
17 tion 223 or Archer MSA under section 220, or

18 “(B) any health insurance reserve account.

19 “(3) HEALTH INSURANCE RESERVE AC-
20 COUNT.—For purposes of this subsection, the term
21 ‘health insurance reserve account’ means a trust cre-
22 ated or organized in the United States as a health
23 insurance reserve account exclusively for the purpose
24 of paying the qualified medical expenses (within the
25 meaning of section 223(d)(2)) of the account bene-

1 ficiary (as defined in section 223(d)(3)), but only if
2 the written governing instrument creating the trust
3 meets the requirements described in subparagraphs
4 (B), (C), (D), and (E) of section 223(d)(1). Rules
5 similar to the rules under subsections (g) and (h) of
6 section 408 shall apply for purposes of this subpara-
7 graph.

8 “(4) TREATMENT OF PAYMENT.—Any payment
9 under subsection (d) to a designated account shall—

10 “(A) not be taken into account with re-
11 spect to any dollar limitation which applies with
12 respect to contributions to such account (or to
13 tax benefits with respect to such contributions),

14 “(B) be includible in the gross income of
15 the taxpayer for the taxable year in which the
16 payment is made (except as provided in sub-
17 paragraph (C)), and

18 “(C) be taken into account in determining
19 any deduction or exclusion from gross income in
20 the same manner as if such contribution were
21 made by the taxpayer.

22 “(h) OTHER DEFINITIONS.—For purposes of this
23 section—

24 “(1) DEPENDENT.—The term ‘dependent’ has
25 the meaning given such term by section 152 (deter-

1 mined without regard to subsections (b)(1), (b)(2),
2 and (d)(1)(B) thereof). An individual who is a child
3 to whom section 152(e) applies shall be treated as
4 a dependent of the custodial parent for a coverage
5 month unless the custodial and noncustodial parent
6 provide otherwise.

7 “(2) ADULT.—The term ‘adult’ means an indi-
8 vidual who is not a child.

9 “(3) CHILD.—The term ‘child’ means a quali-
10 fying child (as defined in section 152(e).

11 “(i) SPECIAL RULES.—

12 “(1) COORDINATION WITH MEDICAL DEDUC-
13 TION, ETC.—Any amount paid by a taxpayer for in-
14 surance to which subsection (a) applies shall not be
15 taken into account in computing the amount allow-
16 able to the taxpayer as a credit under section 35 or
17 as a deduction under section 213(a).

18 “(2) MEDICAL AND HEALTH SAVINGS AC-
19 COUNTS.—The credit allowed under subsection (a)
20 for any taxable year shall be reduced by the aggre-
21 gate amount distributed from Archer MSAs (as de-
22 fined in section 220(d)) and health savings accounts
23 (as defined in section 223(d)) which are excludable
24 from gross income for such taxable years by reason
25 of being used to pay premiums for coverage of an

1 eligible individual under qualified health insurance
2 for any month.

3 “(3) DENIAL OF CREDIT TO DEPENDENTS.—No
4 credit shall be allowed under this section to any indi-
5 vidual with respect to whom a deduction under sec-
6 tion 151 is allowable to another taxpayer for a tax-
7 able year beginning in the calendar year in which
8 such individual’s taxable year begins.

9 “(4) MARRIED COUPLES MUST FILE JOINT RE-
10 TURN.—

11 “(A) IN GENERAL.—If the taxpayer is
12 married at the close of the taxable year, the
13 credit shall be allowed under subsection (a) only
14 if the taxpayer and his spouse file a joint return
15 for the taxable year.

16 “(B) MARITAL STATUS; CERTAIN MARRIED
17 INDIVIDUALS LIVING APART.—Rules similar to
18 the rules of paragraphs (3) and (4) of section
19 21(e) shall apply for purposes of this para-
20 graph.

21 “(5) VERIFICATION OF COVERAGE, ETC.—No
22 credit shall be allowed under this section with re-
23 spect to any individual unless such individual’s cov-
24 erage (and such related information as the Secretary

1 may require) is verified in such manner as the Sec-
2 retary may prescribe.

3 “(6) INSURANCE WHICH COVERS OTHER INDI-
4 VIDUALS; TREATMENT OF PAYMENTS.—Rules similar
5 to the rules of paragraphs (7) and (8) of section
6 35(g) shall apply for purposes of this section.

7 “(j) COORDINATION WITH ADVANCE PAYMENTS.—

8 “(1) REDUCTION IN CREDIT FOR ADVANCE PAY-
9 MENTS.—With respect to any taxable year, the
10 amount which would (but for this subsection) be al-
11 lowed as a credit to the taxpayer under subsection
12 (a) shall be reduced (but not below zero) by the ag-
13 gregate amount paid on behalf of such taxpayer
14 under section 7527A for months beginning in such
15 taxable year.

16 “(2) RECAPTURE OF EXCESS ADVANCE PAY-
17 MENTS.—If the aggregate amount paid on behalf of
18 the taxpayer under section 7527A for months begin-
19 ning in the taxable year exceeds the sum of the
20 monthly limitations determined under subsection (b)
21 for the taxpayer and the taxpayer’s spouse and de-
22 pendents for such months, then the tax imposed by
23 this chapter for such taxable year shall be increased
24 by the sum of—

25 “(A) such excess, plus

1 “(B) interest on such excess determined at
2 the underpayment rate established under sec-
3 tion 6621 for the period from the date of the
4 payment under section 7527A to the date such
5 excess is paid.

6 For purposes of subparagraph (B), an equal part of
7 the aggregate amount of the excess shall be deemed
8 to be attributable to payments made under section
9 7527A on the first day of each month beginning in
10 such taxable year, unless the taxpayer establishes
11 the date on which each such payment giving rise to
12 such excess occurred, in which case subparagraph
13 (B) shall be applied with respect to each date so es-
14 tablished.

15 “(k) COST-OF-LIVING ADJUSTMENTS.—

16 “(1) IN GENERAL.—In the case of any taxable
17 year beginning in a calendar year after 2017, each
18 of the dollar amounts contained in the last row of
19 the table under subsection (b)(3) shall be increased
20 by an amount equal to such dollar amount multi-
21 plied by the blended cost-of-living adjustment.

22 “(2) BLENDED COST-OF-LIVING ADJUST-
23 MENT.—For purposes of paragraph (1), the blended
24 cost-of-living adjustment means one-half of the sum
25 of—

1 “(A) the cost-of-living adjustment deter-
 2 mined under section 1(f)(3) for the calendar
 3 year in which the taxable year begins by sub-
 4 stituting ‘calendar year 2016’ for ‘calendar year
 5 1992’ in subparagraph (B) thereof, plus

6 “(B) the cost-of-living adjustment deter-
 7 mined under section 213(d)(10)(B)(ii) for the
 8 calendar year in which the taxable year begins
 9 by substituting ‘2016’ for ‘1996’ in subclause
 10 (II) thereof.

11 “(3) ROUNDING.—Any increase determined
 12 under paragraph (2) shall be rounded to the nearest
 13 multiple of \$10.”.

14 (b) ADVANCE PAYMENT OF CREDIT.—Chapter 77
 15 (relating to miscellaneous provisions) is amended by in-
 16 serting after section 7527 the following new section:

17 **“SEC. 7527A. ADVANCE PAYMENT OF CREDIT FOR QUALI-**
 18 **FIED REFUND ELIGIBLE HEALTH INSUR-**
 19 **ANCE.**

20 “(a) IN GENERAL.—The Secretary shall establish a
 21 program for making payments on behalf of individuals to
 22 providers of qualified refund eligible health insurance (as
 23 defined in section 25E(f)(2)) for such individuals.

24 “(b) LIMITATION.—The Secretary may make pay-
 25 ments under subsection (a) only to the extent that the Sec-

1 retary determines that the amount of such payments made
 2 on behalf of any taxpayer for any month does not exceed
 3 the sum of the monthly limitations determined under sec-
 4 tion 25E(b) for the taxpayer and taxpayer’s spouse and
 5 dependents for such month.”.

6 (c) INFORMATION REPORTING.—

7 (1) IN GENERAL.—Subpart B of part III of
 8 subchapter A of chapter 61 (relating to information
 9 concerning transactions with other persons) is
 10 amended by inserting after section 6050V the fol-
 11 lowing new section:

12 **“SEC. 6050W. RETURNS RELATING TO CREDIT FOR QUALI-**
 13 **FIED REFUND ELIGIBLE HEALTH INSUR-**
 14 **ANCE.**

15 “(a) REQUIREMENT OF REPORTING.—Every person
 16 who is entitled to receive payments for any month of any
 17 calendar year under section 7527A (relating to advance
 18 payment of credit for qualified refund eligible health insur-
 19 ance) with respect to any individual shall, at such time
 20 as the Secretary may prescribe, make the return described
 21 in subsection (b) with respect to each such individual.

22 “(b) FORM AND MANNER OF RETURNS.—A return
 23 is described in this subsection if such return—

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

1 “(2) contains, with respect to each individual
2 referred to in subsection (a)—

3 “(A) the name, address, and TIN of each
4 such individual,

5 “(B) the months for which amounts pay-
6 ments under section 7527A were received,

7 “(C) the amount of each such payment,

8 “(D) the type of insurance coverage pro-
9 vided by such person with respect to such indi-
10 vidual and the policy number associated with
11 such coverage,

12 “(E) the name, address, and TIN of the
13 spouse and each dependent covered under such
14 coverage, and

15 “(F) such other information as the Sec-
16 retary may prescribe.

17 “(c) STATEMENTS TO BE FURNISHED TO INDIVID-
18 UALS WITH RESPECT TO WHOM INFORMATION IS RE-
19 QUIRED.—Every person required to make a return under
20 subsection (a) shall furnish to each individual whose name
21 is required to be set forth in such return a written state-
22 ment showing—

23 “(1) the name and address of the person re-
24 quired to make such return and the phone number
25 of the information contact for such person, and

1 “(2) the information required to be shown on
2 the return with respect to such individual.

3 The written statement required under the preceding sen-
4 tence shall be furnished on or before January 31 of the
5 year following the calendar year for which the return
6 under subsection (a) is required to be made.

7 “(d) RETURNS WHICH WOULD BE REQUIRED TO BE
8 MADE BY 2 OR MORE PERSONS.—Except to the extent
9 provided in regulations prescribed by the Secretary, in the
10 case of any amount received by any person on behalf of
11 another person, only the person first receiving such
12 amount shall be required to make the return under sub-
13 section (a).”.

14 (2) ASSESSABLE PENALTIES.—

15 (A) Subparagraph (B) of section
16 6724(d)(1) (relating to definitions) is amended
17 by redesignating clauses (xv) through (xxi) as
18 clauses (xvi) through (xxii), respectively, and by
19 inserting after clause (xiv) the following new
20 clause:

21 “(xv) section 6050W (relating to re-
22 turns relating to credit for qualified refund
23 eligible health insurance),”.

24 (B) Paragraph (2) of section 6724(d) is
25 amended by striking the period at the end of

1 subparagraph (CC) and inserting “, or” and by
 2 inserting after subparagraph (CC) the following
 3 new subparagraph:

4 “(DD) section 6050W (relating to returns
 5 relating to credit for qualified refund eligible
 6 health insurance).”.

7 (d) CONFORMING AMENDMENTS.—

8 (1) Paragraph (2) of section 1324(b) of title
 9 31, United States Code, is amended by inserting “or
 10 25E” after “section 35”.

11 (2)(A) Section 23(b)(4)(B) is amended by in-
 12 serting “and section 25D” after “this section”.

13 (B) Section 24(b)(3)(B) is amended by striking
 14 “and 25B” and inserting “, 25B, and 25D”.

15 (C) Section 25B(g)(2) is amended by striking
 16 “section 23” and inserting “sections 23 and 25D”.

17 (D) Section 26(a)(1) is amended by striking
 18 “and 25B” and inserting “25B, and 25D”.

19 (3) The table of sections for subpart A of part
 20 IV of subchapter A of chapter 1 is amended by in-
 21 serting after the item relating to section 25D the
 22 following new item:

“Sec. 25E. Qualified health insurance credit.”.

23 (4) The table of sections for chapter 77 is
 24 amended by inserting after the item relating to sec-
 25 tion 7527 the following new item:

“Sec. 7527A. Advance payment of credit for qualified refund eligible health insurance.”.

1 (5) The table of sections for subpart B of part
2 III of subchapter A of chapter 61 is amended by
3 adding at the end the following new item:

“Sec. 6050W. Returns relating to credit for qualified refund eligible health insurance.”.

4 (e) **EFFECTIVE DATE.**—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2008.

7 **SEC. 102. CHANGES TO EXISTING TAX PREFERENCES FOR**
8 **MEDICAL COVERAGE, ETC., FOR INDIVIDUALS**
9 **ELIGIBLE FOR QUALIFIED HEALTH INSUR-**
10 **ANCE CREDIT OR STANDARD DEDUCTION.**

11 (a) **EXCLUSION FOR CONTRIBUTIONS BY EMPLOYER**
12 **TO ACCIDENT AND HEALTH PLANS.**—

13 (1) **IN GENERAL.**—Section 106 (relating to con-
14 tributions by employer to accident and health plans)
15 is amended by adding at the end the following new
16 subsection:

17 “(f) **NO EXCLUSION FOR INDIVIDUALS ELIGIBLE**
18 **FOR QUALIFIED HEALTH INSURANCE CREDIT.**—Sub-
19 section (a) shall not apply with respect to any employer-
20 provided coverage under an accident or health plan for any
21 individual for any month unless such individual is de-
22 scribed in paragraph (2) or (5) of section 25E(e) for such
23 month. The amount includible in gross income by reason

1 of this subsection shall be determined under rules similar
 2 to the rules of section 4980B(f)(4).”.

3 (2) CONFORMING AMENDMENTS.—

4 (A) Section 106(b)(1) is amended—

5 (i) by inserting “gross income does
 6 not include” before “amounts contrib-
 7 uted”, and

8 (ii) by striking “shall be treated as
 9 employer-provided coverage for medical ex-
 10 penses under an accident or health plan”.

11 (B) Section 106(d)(1) is amended—

12 (i) by inserting “gross income does
 13 not include” before “amounts contrib-
 14 uted”, and

15 (ii) by striking “shall be treated as
 16 employer-provided coverage for medical ex-
 17 penses under an accident or health plan”.

18 (b) AMOUNTS RECEIVED UNDER ACCIDENT AND
 19 HEALTH PLANS.—Section 105 (relating to amounts re-
 20 ceived under accident and health plans) is amended by
 21 adding at the end the following new subsection:

22 “(f) NO EXCLUSION FOR INDIVIDUALS ELIGIBLE
 23 FOR QUALIFIED HEALTH INSURANCE CREDIT.—Sub-
 24 section (b) shall not apply with respect to any employer-
 25 provided coverage under an accident or health plan for any

1 individual for any month unless such individual is de-
2 scribed in paragraph (2) or (5) of section 25E(e) for such
3 month.”.

4 (c) SPECIAL RULES FOR HEALTH INSURANCE COSTS
5 OF SELF-EMPLOYED INDIVIDUALS.—Subsection (l) of
6 section 162 (relating to special rules for health insurance
7 costs of self-employed individuals) is amended by adding
8 at the end the following new paragraph:

9 “(6) NO DEDUCTION TO INDIVIDUALS ELIGIBLE
10 FOR QUALIFIED HEALTH INSURANCE.—Paragraph
11 (1) shall not apply for any individual for any month
12 unless such individual is described in paragraph (2)
13 or (5) of section 25E(e) for such month.”.

14 (d) EARNED INCOME CREDIT UNAFFECTED BY RE-
15 PEATED EXCLUSIONS.—Subparagraph (B) of section
16 32(c)(2) is amended by redesignating clauses (v) and (vi)
17 as clauses (vi) and (vii), respectively, and by inserting
18 after clause (iv) the following new clause:

19 “(v) the earned income of an indi-
20 vidual shall be computed without regard to
21 sections 105(f) and 106(f),”.

22 (e) MODIFICATION OF DEDUCTION FOR MEDICAL
23 EXPENSES.—Subsection (d) of section 213 is amended by
24 adding at the end the following new paragraph:

1 “(12) PREMIUMS FOR QUALIFIED HEALTH IN-
2 SURANCE.—The term ‘medical care’ does not include
3 any amount paid as a premium for coverage of an
4 eligible individual (as defined in section 25E(e))
5 under qualified health insurance (as defined in sec-
6 tion 25E(f)) for any month.”.

7 (f) DEFINITION OF WAGES FOR EMPLOYMENT TAX
8 PURPOSES.—

9 (1) FEDERAL INSURANCE CONTRIBUTIONS
10 ACT.—Subsection (a) of section 3121 is amended—

11 (A) by striking “sickness or” each place it
12 appears in paragraph (2), and

13 (B) by inserting after paragraph (2) the
14 following new paragraph:

15 “(3) any payment made to or for the benefit of
16 an employee if at the time of such payment it is rea-
17 sonable to believe that the employee will be able to
18 exclude such payment from income under section
19 104, 105, or 106;”.

20 (2) RAILROAD RETIREMENT TAX.—Subsection
21 (e) of section 3231 is amended—

22 (A) by striking “sickness or” each place it
23 appears in paragraph (1), and

24 (B) by adding at the end the following new
25 paragraph:

1 “(13) The term ‘compensation’ shall not include
2 any payment made to or for the benefit of an em-
3 ployee if at the time of such payment it is reason-
4 able to believe that the employee will be able to ex-
5 clude such payment from income under section 104,
6 105, or 106.”.

7 (3) UNEMPLOYMENT TAX.—Subsection (b) of
8 section 3306 is amended—

9 (A) by striking “sickness or” each place it
10 appears in paragraph (2), and

11 (B) by inserting after paragraph (2) the
12 following new paragraph:

13 “(3) any payment made to or for the benefit of
14 an employee if at the time of such payment it is rea-
15 sonable to believe that the employee will be able to
16 exclude such payment from income under section
17 104, 105, or 106;”.

18 (g) REPORTING REQUIREMENT.—Subsection (a) of
19 section 6051 is amended by striking “and” at the end of
20 paragraph (12), by striking the period at the end of para-
21 graph (13) and inserting “and”, and by inserting after
22 paragraph (13) the following new paragraph:

23 “(14) the total amount of employer-provided
24 coverage under an accident or health plan which is

1 includible in gross income by reason of sections
2 105(f) and 106(f).”.

3 (h) RETIRED PUBLIC SAFETY OFFICERS.—Section
4 402(l)(4)(D) is amended by adding at the end the fol-
5 lowing: “Such term shall not include any premium for cov-
6 erage by an accident or health insurance plan for any
7 month unless such individual is described in paragraph (2)
8 or (5) of section 25E(e) for such month.”.

9 (i) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to taxable years beginning after
11 December 31, 2008.

12 **TITLE II—IMPROVING PRIVATE**
13 **HEALTH INSURANCE ACCESS**
14 **AND AFFORDABILITY**

15 **SEC. 201. IMPROVING PRIVATE HEALTH INSURANCE AC-**
16 **CESS AND AFFORDABILITY.**

17 The Social Security Act is amended by adding at the
18 end the following new title:

1 **“TITLE XXII—REFUNDABILITY**
2 **DEEMING; STATE HEALTH IN-**
3 **SURANCE EXCHANGES**

4 **“Subtitle A—Refundability**
5 **Deeming**

6 **“SEC. 2201. REFUNDABILITY DEEMING.**

7 “(a) IN GENERAL.—For purposes of section 25E of
8 the Internal Revenue Code of 1986, the Secretary shall
9 deem whether a State (as defined for purposes of title
10 XIX) has taken efforts to provide its citizens with greater
11 access to affordable private health insurance. Those ef-
12 forts may include, but are not limited to, the following
13 initiatives:

14 “(1) The establishment of a State health insur-
15 ance exchange.

16 “(2) The establishment of a high risk solution,
17 such as a high risk pool, reinsurance mechanism, or
18 other State-designed high risk solution.

19 “(3) The availability of affordable coverage (as
20 defined in section 2212(b)(2), determined without
21 regard to whether such coverage is qualified ex-
22 change-based health insurance coverage (as defined
23 in section 2214).

24 “(b) MORE INDIVIDUALS COVERED.—A State shall
25 demonstrate to the Secretary that an initiative under sub-

1 section (a) is reasonably designed to operate in a manner
 2 so as to result, in combination with the qualified health
 3 insurance tax credit, in a reduction in the number of eligi-
 4 ble individuals (as defined in section 2213) in the State
 5 who do not have health insurance coverage, as measured
 6 by the Secretary based upon information obtained in the
 7 Current Population Survey.

8 “(c) REFERENCE TO REFUNDABILITY REQUIREMENT
 9 FOR APPLICATION OF REFUNDABILITY OF QUALIFIED
 10 HEALTH INSURANCE TAX CREDIT.—For rules relating to
 11 limitations on the refundability of the qualified health in-
 12 surance credit under section 25E of the Internal Revenue
 13 Code of 1986 in relation to initiatives described in sub-
 14 section (a), see section 25E(d). In this title, the term
 15 ‘qualified health insurance tax credit’ means the tax credit
 16 provided under such section.

17 **“Subtitle B—State Health** 18 **Insurance Exchanges**

19 **“SEC. 2211. STATE HEALTH INSURANCE EXCHANGES.**

20 “(a) IN GENERAL.—The Secretary shall provide a
 21 process for the review and certification of applications of
 22 each State of a State-based program as a certified health
 23 insurance exchange for the State (each in this subtitle re-
 24 ferred to as a ‘certified State health insurance exchange’
 25 or an ‘exchange’). A program shall not be treated as a

1 certified State health insurance exchange unless the Sec-
 2 retary, in consultation with the Secretary of the Treasury,
 3 determines that the program meets the requirements for
 4 an exchange under this subtitle.

5 “(b) CONTINUED CERTIFICATION.—Upon certifi-
 6 cation of a program under subsection (a), the program
 7 shall remain so certified unless the Secretary determines
 8 that the program has failed to meet any of the require-
 9 ments for an exchange under this subtitle.

10 **“SEC. 2212. REQUIREMENTS FOR EXCHANGE CERTIFI-**
 11 **CATION.**

12 “(a) GENERAL REQUIREMENTS.—

13 “(1) IN GENERAL.—The exchange shall be a
 14 means to pool individual consumers purchasing pri-
 15 vate health insurance, to provide them with greater
 16 negotiating leverage, and to provide a market where
 17 private health insurance plans can compete to offer
 18 coverage for these individuals.

19 “(2) ADMINISTRATION.—Nothing in this sub-
 20 title shall prohibit a State from either directly con-
 21 tracting with the health insurance plans partici-
 22 pating in the exchange or a third party adminis-
 23 trator to operate the exchange.

24 “(3) PLAN PARTICIPATION.—No State may re-
 25 strict or otherwise limit the ability of health insur-

1 ance plans to participate in and offer health insur-
2 ance products through an exchange, so long as the
3 providers of these plans are duly licensed under
4 State insurance laws applicable to all health insur-
5 ance providers in the State and comply with the re-
6 quirements under this subtitle.

7 “(4) BENEFITS.—A State shall not impose re-
8 quirements that health insurance plans participating
9 in the exchange provide any benefits, beyond those
10 requirements that the State imposes upon all li-
11 censed health insurance providers operating in the
12 State.

13 “(5) PRICING.—A State shall not set prices for
14 any products offered through the exchange.

15 “(6) PREMIUMS COLLECTION METHOD.—A
16 State shall ensure the existence of an effective and
17 efficient method for the collection of premiums owed
18 for qualified exchange-based health insurance cov-
19 erage.

20 “(7) MULTI-STATE POOLING ARRANGEMENTS.—
21 Nothing in this subtitle shall prohibit State health
22 insurance exchanges from organizing into a multi-
23 state pooling arrangement.

1 “(b) OFFERING OF AFFORDABLE QUALIFIED EX-
 2 CHANGE-BASED HEALTH INSURANCE COVERAGE TO ELI-
 3 GIBLE INDIVIDUALS.—

4 “(1) AFFORDABLE AND BENCHMARK COV-
 5 ERAGE.—The exchange must have one or more
 6 health insurance plans participating in the offering
 7 to each eligible individual (as defined in section
 8 2213(a)) of qualified exchange-based health insur-
 9 ance coverage (as defined in section 2214)—

10 “(A) at least one of which is affordable as
 11 determined under paragraph (2); and

12 “(B) at least one of which provides bench-
 13 mark benefits coverage described in section
 14 2113(b).

15 Private health insurance providers, duly licensed in
 16 the State, may enter into agreements with the ex-
 17 change to provide qualified exchange-based health
 18 insurance coverage and increase the choices available
 19 to eligible individuals.

20 “(2) AFFORDABLE COVERAGE.—

21 “(A) IN GENERAL.—Subject to subpara-
 22 graph (B), a State through an exchange shall
 23 meet the requirement under paragraph (1)(A)
 24 in a year by using its funds to supplement the
 25 premiums of the lowest cost plan participating

1 in the exchange (as determined by a method-
2 ology to be specified by the Secretary), so that
3 the average premium for individuals enrolling in
4 the plan will not exceed 6 percent of the State’s
5 median income.

6 “(B) EXCEPTION.—A State is not required
7 under subparagraph (A) to provide any supple-
8 mental payments if there is at least one plan
9 available in all areas of the State with average
10 premiums that are below 6 percent of the
11 State’s median income.

12 “(C) NO USE OF PRICE FIXING.—The im-
13 plementation of this paragraph shall comply
14 with subsection (a)(5).

15 “(D) APPLICATION.—

16 “(i) DISREGARDING LATE ENROLL-
17 MENT PENALTIES AND RELATED PREMIUM
18 DISINCENTIVES.—The amount of premium
19 under subparagraph (A) shall not take into
20 account any increase in premium resulting
21 from the State’s application of methods
22 permitted under subsection (a)(6).

23 “(ii) APPLICATION TO SUB-STATE
24 AREAS.—A State may apply subparagraph

1 (A) separately for different areas within
2 the State.

3 “(c) ENROLLMENT OF ELIGIBLE INDIVIDUALS.—

4 “(1) ENROLLMENT MECHANISMS.—Health in-
5 surance plans participating in the exchange in State
6 shall have uniform mechanisms designed to encour-
7 age and facilitate the enrollment of all eligible indi-
8 viduals in qualified exchange-based health insurance
9 coverage.

10 “(2) ENROLLMENT OPPORTUNITIES.—

11 “(A) IN GENERAL.—Health insurance
12 plans participating in the exchange in a State
13 shall permit the enrollment and changes of en-
14 rollment of individuals at the time they become
15 eligible individuals in the State, such as
16 through loss of group-based qualifying health
17 insurance coverage, changes in residency or
18 family composition, and other circumstances
19 specified by the Secretary.

20 “(B) ANNUAL OPEN ENROLLMENT PERI-
21 ODS.—Health insurance plans participating in
22 the exchange in a State shall permit eligible in-
23 dividuals to change enrollment among such
24 plans in an annual manner, subject to subpara-
25 graph (A).

1 “(3) LIMITATION ON PREEXISTING CONDITION
2 EXCLUSIONS.—Qualified exchange-based health in-
3 surance coverage shall meet the requirements of sec-
4 tion 9801 of the Internal Revenue Code of 1986 in
5 the same manner as if it were a group health plan.

6 “(d) PATHWAY FOR ENROLLMENT BY MEDICAID AND
7 SCHIP BENEFICIARIES.—A State through an exchange
8 shall include a pathway for eligible individuals who are en-
9 rolled (or eligible to enroll) under title XIX or XXI in such
10 State to enroll in qualified exchange-based health insur-
11 ance coverage. A State may use the program under section
12 1938 in developing such a pathway.

13 “(e) METHODS TO REDUCE ADVERSE SELECTION.—
14 Health insurance plans participating in the exchange in
15 a State shall have a mechanism to reduce adverse selection
16 in the enrollment of eligible individuals. This mechanism
17 shall be uniform for all such plans and may include wait-
18 ing periods and premium surcharges for late enrollees (or
19 individuals who otherwise do not have periods of creditable
20 coverage before enrolling through the exchange) and other
21 devices reasonably designed to reduce adverse selection in
22 the enrollment of eligible individuals consistent with the
23 requirements of subpart 1 of part B of title XXVII of the
24 Public Health Service Act (relating to portability, access,

1 and renewability requirements for health insurance cov-
 2 erage in the individual market).

3 “(f) REINSURANCE OR OTHER RISK REDISTRIBU-
 4 TION MECHANISM.—Health insurance plans participating
 5 in the exchange in a State may have a uniform mechanism
 6 that protects entities offering qualified exchange-based
 7 health insurance coverage to manage risk. Such a mecha-
 8 nism may include reinsurance, a high risk pool, or other
 9 mechanism approved by the Secretary.

10 “(g) DISSEMINATION OF COVERAGE INFORMA-
 11 TION.—Health insurance plans participating in the ex-
 12 change in a State shall ensure that there is wide dissemi-
 13 nation of information about health insurance coverage op-
 14 tions, including the plans offered and premiums and bene-
 15 fits for such plans, to eligible individuals and to employers
 16 that provide financial assistance in purchasing such cov-
 17 erage.

18 “(h) INFORMATION COORDINATION.—Health insur-
 19 ance plans participating in the exchange in a State shall
 20 report to the Secretary of the Treasury such information
 21 as is required under the Internal Revenue Code of 1986
 22 to carry out the qualified health insurance tax credit.

23 **“SEC. 2213. ELIGIBLE INDIVIDUAL.**

24 “(a) ELIGIBLE INDIVIDUAL.—In this subtitle—

1 “(1) IN GENERAL.—The term ‘eligible indi-
2 vidual’ means, with respect to a State and a month,
3 an individual who, as of the first day of the month—

4 “(A) is a resident of the State (as deter-
5 mined in accordance with guidelines specified
6 by the Secretary);

7 “(B) is citizen or national of the United
8 States, an alien lawfully admitted to the United
9 States for permanent residence or otherwise re-
10 siding in the United States under color of law,
11 or an alien otherwise lawfully residing in the
12 United States under color of law for such pe-
13 riod as the Secretary shall specify; and

14 “(C) is not covered under group-based
15 qualifying health insurance coverage.

16 “(2) GROUP-BASED QUALIFYING HEALTH IN-
17 SURANCE COVERAGE.—The term ‘group-based quali-
18 fying health insurance coverage’ means any of the
19 following::

20 “(A) GROUP HEALTH PLAN COVERAGE.—

21 “(i) IN GENERAL.—Subject to clause
22 (ii), coverage under a group health plan
23 (as defined in section 9832(a) of the Inter-
24 nal Revenue Code of 1986).

1 “(ii) EXCEPTION.—Clause (i) shall
2 not include—

3 “(I) a health plan if substantially
4 all of its coverage is coverage de-
5 scribed in section 223(c)(1)(B) of the
6 Internal Revenue Code of 1986; or

7 “(II) coverage under a group
8 health plan insofar as the plan bene-
9 fits consist (other than coverage de-
10 scribed in subclause (I)) of contribu-
11 tion towards a qualified exchange-
12 based health insurance coverage.

13 “(B) MEDICARE.—

14 “(i) IN GENERAL.—Subject to clause
15 (ii), coverage under any part of the Medi-
16 care program under title XVIII.

17 “(ii) EXCEPTION.—Clause (i) shall
18 not apply if all the coverage under Medi-
19 care is, through the direct or indirect ap-
20 plication of section 1862(b), secondary to
21 coverage under a group health plan.

22 “(C) MILITARY HEALTH CARE.—Coverage
23 under the military health program under chap-
24 ter 55 of title 10, United States Code, including

1 under the TRICARE program (as defined in
2 section 1072(7) of such title).

3 “(D) FEHBP.—Coverage under the Fed-
4 eral employees health benefit program under
5 chapter 89 of title 5, United States Code.

6 “(E) FULL VETERANS COVERAGE.—Cov-
7 erage through the Department of Veterans Af-
8 fairs if such coverage is based on enrollment of
9 an individual who is described in paragraph (1)
10 of section 1705(a) of title 38, United States
11 Code (relating to veterans with service-con-
12 nected disabilities rated 50 percent or greater).

13 “(b) RELATION TO MEDICAID/SCHIP.—Except as a
14 State may otherwise provide, an individual is not disquali-
15 fied from being an eligible individual merely because the
16 individual is enrolled under title XIX or XXI.

17 **“SEC. 2214. QUALIFIED EXCHANGE-BASED HEALTH INSUR-**
18 **ANCE COVERAGE.**

19 “In this subtitle, the term ‘qualified exchange-based
20 health insurance coverage’ means qualified health insur-
21 ance (as defined in section 25E(f)(1) of the Internal Rev-
22 enue Code of 1986) offered by a private entity through
23 an exchange.

1 **“SEC. 2215. FLEXIBILITY IN APPLICATION TO LOWER-IN-**
 2 **COME INDIVIDUALS.**

3 “(a) STATE SUPPLEMENTATION.—Nothing in this
 4 subtitle shall be construed as preventing a State from pro-
 5 viding, under a certified State health insurance exchange
 6 and at the State’s own expense, additional assistance to
 7 eligible individuals with respect to subsidizing premium
 8 and cost-sharing costs for qualified exchange-based health
 9 insurance coverage.

10 “(b) TREATMENT OF CERTAIN MEDICAID AND
 11 SCHIP BENEFICIARIES.—Nothing in this subtitle shall be
 12 construed as preventing a State Medicaid or children’s
 13 health insurance program under title XIX or XXI from
 14 permitting individuals eligible for medical assistance or
 15 child health assistance under the respective titles from ob-
 16 taining such assistance through enrollment in qualified ex-
 17 change-based health insurance coverage.”.

18 **SEC. 202. EXPANSION OF MEDICAID HEALTH OPPORTUNITY**
 19 **ACCOUNTS TO ALL STATES.**

20 Section 1938 of the Social Security Act (42 U.S.C.
 21 1396u–8) is amended—

22 (1) in subsection (a)—

23 (A) by striking paragraph (1) and insert-
 24 ing the following:

25 “(1) IN GENERAL.—Notwithstanding any other
 26 provision of this title, the Secretary shall establish a

1 program under which States may provide under
2 their State plans under this title (including such a
3 plan operating under a statewide waiver under sec-
4 tion 1115) in accordance with this section for the
5 provision of alternative benefits consistent with sub-
6 section (c) for eligible population groups in one or
7 more geographic areas of the State specified by the
8 State. An amendment under the previous sentence is
9 referred to in this section as a ‘State health oppor-
10 tunity accounts program.’; and

11 (B) in paragraph (2)—

12 (i) by striking the paragraph heading
13 and inserting “IMPLEMENTATION.—”;

14 (ii) by striking subparagraph (A) and
15 inserting the following:

16 “(A) IN GENERAL.—The program estab-
17 lished under this section shall begin on January
18 1, 2008.”; and

19 (iii) in subparagraph (B)—

20 (I) by striking clause (i) and in-
21 serting the following:

22 “(i) IN GENERAL.—Not later than
23 March 31, 2013, the Comptroller General
24 of the United States shall submit a report

1 to Congress evaluating the programs con-
2 ducted under this section.”; and

3 (II) in clause (ii), by striking
4 “2010” and inserting “2013”; and

5 (C) in paragraph (3)(E), by inserting
6 “that include plan comparison information in
7 language that is easily understood” before the
8 period;

9 (2) in subsection (b)—

10 (A) in paragraph (1), by striking “con-
11 sistent with paragraphs (2) and (3)”;

12 (B) by striking paragraphs (2) through (4)
13 and inserting the following:

14 “(2) LIMITATION ON ENROLLEES IN MEDICAID
15 MANAGED CARE ORGANIZATIONS.—Insofar as the
16 State provides for eligibility of individuals who are
17 enrolled in Medicaid managed care organizations,
18 such individuals may participate in the State health
19 opportunity account program only if the State pro-
20 vides assurances satisfactory to the Secretary that
21 the following conditions are met with respect to any
22 such organization:

23 “(A) In no case may the number of such
24 individuals enrolled in the organization who
25 participate in the program exceed 5 percent of

1 the total number of individuals enrolled in such
2 organization.

3 “(B) The proportion of enrollees in the or-
4 ganization who so participate is not signifi-
5 cantly disproportionate to the proportion of
6 such enrollees in other such organizations who
7 participate.

8 “(C) The State has provided for an appro-
9 priate adjustment in the per capita payments to
10 the organization to account for such participa-
11 tion, taking into account differences in the like-
12 ly use of health services between enrollees who
13 so participate and enrollees who do not so par-
14 ticipate.”; and

15 (C) by redesignating paragraphs (5) and
16 (6) as paragraphs (3) and (4), respectively;
17 (3) in subsection (d)—

18 (A) in paragraph (2)(C)(i)—

19 (i) in subclause (II), by striking
20 “and” at the end;

21 (ii) in subclause (III), by striking the
22 period at the end and inserting “; and”;
23 and

24 (iii) by adding at the end the fol-
25 lowing:

1 “(IV) shall provide contributions
2 into such an account on a sliding-scale
3 based on income.”; and

4 (B) in paragraph (3)(B)(ii)—

5 (i) in subclause (I), by striking “and”
6 at the end;

7 (ii) by redesignating subclause (II) as
8 subclause (III); and

9 (iii) by inserting after subclause (I),
10 the following:

11 “(II) may be transferred into a
12 health savings account established
13 under section 223 of the Internal Rev-
14 enue Code of 1986 and such transfer
15 shall be treated as a rollover contribu-
16 tion described in section 223(f) of the
17 Internal Revenue Code of 1986; and”;
18 and

19 (4) by striking “State demonstration program”
20 each place it appears and inserting “State health op-
21 portunity accounts program”.

○