

110TH CONGRESS
2D SESSION

H. R. 5348

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.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2008

Mr. LANGEVIN (for himself and Mr. SHAYS) 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

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 2008”.

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

1 (1) UNINSURED AMERICANS AND LACK OF AC-
2 CESS TO CHOICES.—(A) In 2006, 46.5 million Amer-
3 icans 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 8 percent of employers providing
11 health benefits are able to offer their employees a
12 choice between two or more health plans.

13 (2) DOUBLE-DIGIT GROWTH IN EMPLOYER
14 COSTS.—In 2003 the average per capita cost for em-
15 ployers to provide health benefits coverage increased
16 by almost 14 percent. This was the third consecutive
17 year of double-digit increases in such cost.

18 (3) ADMINISTRATIVE EFFICIENCY OF USING
19 FEHBP MODEL FOR PROVIDING HEALTH INSURANCE
20 COVERAGE.—(A) The private insurance market pre-
21 sents increasing administrative challenges for em-
22 ployers in seeking out, contracting with, and admin-
23 istering health benefits.

24 (B) The Federal Employee Health Benefits
25 Program (FEHBP) currently manages negotiations

1 with health insurers over premiums and benefits on
2 behalf of 8.6 million Federal employees and retirees
3 and their dependents.

4 (C) Overhead costs for employers providing
5 health benefits coverage can be over 30 percent for
6 employers with fewer than 10 employees and about
7 12 percent for employers with more than 500 em-
8 ployees.

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

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

17 (5) PERSONAL RESPONSIBILITY.—A recent sur-
18 vey indicates that a clear majority of Americans sees
19 securing health insurance coverage as a personal re-
20 sponsibility for themselves and others.

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

1 safety and efficiency of healthcare delivery while sav-
 2 ing 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. Promotion of use 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 Commissioner);
 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 Commissioner 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 Commissioner).

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 Commissioner 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 Commissioner
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 Commissioner 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 Com-
14 missioner 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 Commissioner 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 Com-
7 missioner shall provide for and permit changes in the
8 qualified health plan in which an individual or family is
9 enrolled under this section in a manner similar to the
10 manner in which such changes are provided or permitted
11 under FEHBP. The Commissioner shall provide for termi-
12 nation of such enrollment for an individual at the time
13 the individual is no longer an AHBP-eligible individual.

14 “(f) ENROLLMENT GUIDES.—The Commissioner
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 Commissioner 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 Commis-
16 sioner 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 Commissioner 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 Commissioner
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 Commissioner 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 Commissioner
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 Commis-
21 sioner shall establish a process for the timely and
22 accurate collection of premiums owed by enrollees,
23 taking into account any Government contribution
24 under section 2204(a) and any premium subsidy re-
25 ferred to in section 2205(a). Such process shall in-

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

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

18 “(e) MARKETING PRACTICES AND COSTS.—The
19 Commissioner shall monitor marketing practices with re-
20 spect 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 Commissioner 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 Commissioner 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 Commissioner 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 Commissioner).

3 “(b) PLAN PAYMENT.—

4 “(1) IN GENERAL.—The Commissioner 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 Commissioner 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 Com-
16 missioner 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 36.

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 Commissioner, 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 36 of the Internal Revenue Code of 1986 with re-
 22 spect 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 Commissioner, in consultation with the Secretary
17 of the Treasury, shall establish a schedule of cost-
18 sharing subsidies consistent with this paragraph.
19 Under such schedule the amount of a cost-sharing
20 subsidy for such individuals shall be such that—

21 “(A) the cost-sharing is nominal (as de-
22 fined for purposes of section 1916(a)(3)) for in-
23 dividuals whose family income is at the lowest
24 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 Commissioner shall specify, has been made
21 for such subsidy.

22 “(6) PAYMENT OF SUBSIDIES TO PLANS.—The
23 Commissioner 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 Commissioner 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 Commissioner, 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 Commissioner, 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 Commis-
13 sioner).

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 Commissioner 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 Commissioner of Health
5 Benefits.

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

10 “(d) OFFICERS.—

11 “(1) COMMISSIONER OF HEALTH BENEFITS.—

12 “(A) IN GENERAL.—There shall be in the
13 Administration a Commissioner of Health Ben-
14 efits who shall be appointed by the President,
15 by and with the advice and consent of the Sen-
16 ate.

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 COMMISSIONER.—

4 “(A) IN GENERAL.—There shall be in the
5 Administration a Deputy Commissioner 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 Com-
12 missioner in the same manner as they apply to
13 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 Commissioner 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 Commissioner 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 Commissioner 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 Commissioner 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
23 Commissioner is authorized to establish and main-
24 tain a contingency reserve for purposes of carrying
25 out this title and is authorized to impose under sec-

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

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 Commissioner under section
18 2206(c)(2).

19 “(4) The term ‘Commissioner’ means the Com-
20 missioner 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 Commissioner 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, 2011.

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 redesignating section 36 as

1 section 37 and by inserting after section 35 the fol-
2 lowing new section:

3 **“SEC. 36. SUBSIDY AND PREPAYMENT OF AMERICAN**
4 **HEALTH BENEFITS PREMIUMS.**

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

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

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

16 “(b) APPLICABLE PREMIUM SUBSIDY.—

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

1 “(2) REDUCTION BASED ON FAMILY INCOME.—

2 The amount otherwise determined under paragraph
3 (1) shall be reduced (but not below zero) by an
4 amount which bears the same ratio to the amount
5 so determined as—

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

9 “(B) the lowest income threshold.

10 “(c) PREMIUM SUBSIDY-ELIGIBLE INDIVIDUAL.—

11 For purposes of this section, the term ‘premium subsidy-
12 eligible individual’ means an individual—

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

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

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

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

4 “(1) only an individual, 125 percent of the pov-
5 erty line (as defined in section 673(2) of the Com-
6 munity Services Block Grant Act (42 U.S.C.
7 9902(2)), including any revision required by such
8 section) for a single individual for the calendar year
9 which includes the close of the taxable year, or

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

14 “(e) FAMILY INCOME.—For purposes of this sec-
15 tion—

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

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

22 “(B) two or more individuals, the sum of
23 the modified adjusted gross income of the speci-
24 fied individual and the modified adjusted gross
25 income of each other individual covered under

1 the plan for the taxable year that ends in or
2 with the taxable year of the specified individual.

3 “(2) MODIFIED ADJUSTED GROSS INCOME.—

4 The term ‘modified adjusted gross income’ means
5 adjusted gross income—

6 “(A) determined without regard to sections
7 135, 911, 931, and 933, and

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

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

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

23 (2) CONFORMING AMENDMENTS.—

1 (A) Paragraph (2) of section 1324(b) of
 2 title 31, United States Code, is amended by in-
 3 serting “or 36” after “section 35”.

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

“Sec. 36. Subsidy and prepayment of American Health Benefits premiums.
 “Sec. 37. Overpayments of tax.”.

9 (c) EMPLOYER FUNDING.—

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

15 **“CHAPTER 25—AMERICAN HEALTH**
 16 **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.

17 **“SEC. 3451. TAX ON EMPLOYERS.**

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

1 “(b) APPLICABLE PERCENTAGE.—For purposes of
2 this section—

3 “(1) IN GENERAL.—The term ‘applicable per-
4 centage’ means, with respect to wages paid during
5 any taxable year of an employer of a specified firm
6 size and average earnings per employee, the percent-
7 age determined in accordance with the following
8 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

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

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

16 “(A) IN GENERAL.—The term ‘average
17 earnings per employee’ means the average earn-
18 ings of such employer for such taxable year di-

1 vided by the firm size of such employer for such
2 taxable year.

3 “(B) AVERAGE EARNINGS.—The term ‘av-
4 erage earnings’ means the average taxable in-
5 come of the employer for the 3 taxable years
6 preceding such taxable year.

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

11 “(5) INFLATION ADJUSTMENT.—In the case of
12 a taxable year beginning after December 31, 2011,
13 each of the dollar amounts in the table contained in
14 paragraphs (1) shall be increased by an amount
15 equal to—

16 “(A) such dollar amount, multiplied by

17 “(B) the cost-of-living adjustment deter-
18 mined under section 1(f)(3) for the calendar
19 year in which the taxable year begins, deter-
20 mined by substituting ‘calendar year 2010’ for
21 ‘calendar year 1992’ in subparagraph (B)
22 thereof.

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

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

5 “(d) OTHER DEFINITIONS.—For purposes of this
6 chapter, the terms ‘wages’, ‘employer’, and ‘employment’
7 have the same respective meanings as when used in chap-
8 ter 21 and section 3121(a)(1) shall apply for purposes of
9 this chapter in the same manner as such section applies
10 for purposes of section 3101(a) and 3111(a).

11 **“SEC. 3452. REFUND OF TAX IN CASE OF QUALIFIED EM-**
12 **PLOYER-PROVIDED COVERAGE.**

13 “(a) IN GENERAL.—In the case of a person subject
14 to tax under section 3451 or section 1401(c), there shall
15 be allowed as a credit against the tax imposed by such
16 section an amount equal to the tax imposed under such
17 section with respect to the wages or self-employment in-
18 come of individuals for periods during which the individual
19 is covered by qualified employer-provided coverage (which
20 is provided by such person).

21 “(b) QUALIFIED EMPLOYER-PROVIDED COV-
22 ERAGE.—For purposes of subsection (a), the term ‘quali-
23 fied employer-provided coverage’ has the meaning given
24 that term in section 2207(6) of the Social Security Act.

1 **“SEC. 3453. INSTRUMENTALITIES OF THE UNITED STATES.**

2 “Notwithstanding any other provision of law (wheth-
 3 er enacted before or after the enactment of this section)
 4 which grants to any instrumentality of the United States
 5 an exemption from taxation, such instrumentality shall
 6 not be exempt from the tax imposed by section 3451 un-
 7 less such other provision of law grants a specific exemp-
 8 tion, by reference to section 3451, from the tax imposed
 9 by such section.”.

10 (2) SELF-EMPLOYMENT.—Section 1401 of such
 11 Code is amended by redesignating subsection (c) as
 12 subsection (d) and by inserting after subsection (b)
 13 the following new subsection:

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

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

“CHAPTER 25—AMERICAN HEALTH BENEFITS PROGRAM

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

24 (d) ADDITIONAL TAX ON HOSPITAL REVENUES.—

1 (1) IN GENERAL.—Subchapter A of chapter 1
 2 of the Internal Revenue Code of 1986 is amended by
 3 adding at the end the following new part:

4 **“PART VIII—TAX ON HOSPITAL REVENUES**

 “Sec. 59B. Tax on hospital revenues.

5 **“SEC. 59B. TAX ON HOSPITAL REVENUES.**

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

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

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

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

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

23 (2) CONFORMING AMENDMENTS.—

1 (A) Section 26(b)(2) of the Internal Rev-
2 enue Code of 1986 is amended by striking
3 “and” at the end of subparagraph (U), by
4 striking the period at the end of subparagraph
5 (V) and inserting “, and”, and by adding at the
6 end the following new subparagraph:

7 “(W) section 59B (relating to tax on hos-
8 pital revenues).”.

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

14 “(5) section 59B (relating to tax on hospital
15 revenues).”.

16 (C) Section 882(a)(1) of such Code is
17 amended by inserting “59B,” after “59A,”.

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

24 “(E) section 59B (relating to tax on hos-
25 pital revenues).”.

(E) Section 6425(c)(1)(A) of such Code is amended by striking “plus” at the end of clause (ii), by striking “over” at the end of clause (iii) and inserting “plus”, and by adding at the end the following new clause:

“(iv) the tax imposed by section 59B, over”.

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

“(iv) the tax imposed by section 59B, plus”.

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

“PART VIII—TAX ON HOSPITAL REVENUES”.

(e) DISCLOSURE OF TAXPAYER RETURN INFORMATION TO CARRY OUT COST-SHARING SUBSIDIES.—

(1) IN GENERAL.—Section 6103(l) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(21) DISCLOSURE OF RETURN INFORMATION TO CARRY OUT AMERICAN HEALTH BENEFITS PROGRAM.—

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

12 “(i) taxpayer identity information
13 with respect to such taxpayer,

14 “(ii) the filing status of such tax-
15 payer,

16 “(iii) the adjusted gross income of
17 such taxpayer,

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

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

1 “(vi) the amounts excluded from such
 2 taxpayer’s gross income by sections 931
 3 and 933 to the extent such information is
 4 available, and

5 “(vii) the taxable year with respect to
 6 which the preceding information relates.

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

16 (2) CONFORMING AMENDMENTS.—

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

20 (B) Paragraph (4) of section 6103(p) of
 21 such Code is amended by striking “(l)(16),
 22 (17), (19), or (20)” each place it appears and
 23 inserting “(l)(16), (17), (19), (20), or (21)”.

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

4 (f) DISCLOSURE OF TAXPAYER RETURN INFORMA-
5 TION TO CARRY OUT PREMIUM SUBSIDIES.—Section
6 6103(k) of the Internal Revenue Code of 1986 is amended
7 by adding at the end the following new paragraph:

8 “(10) DISCLOSURE OF INFORMATION TO AD-
9 MINISTER PREMIUM SUBSIDY UNDER SECTION 36.—
10 To the extent that Secretary determines that disclo-
11 sure is necessary to permit the effective administra-
12 tion of section 36, the Secretary may disclose the
13 modified adjusted gross income (as defined in sec-
14 tion 36) of any individual whose modified adjusted
15 gross income is taken into account in determining
16 the amount of any credit under such section.”.

17 (g) EFFECTIVE DATE.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), the amendments made by this section
20 shall take effect on January 1, 2011.

21 (2) SUBSECTIONS (a) AND (b).—The amend-
22 ments made by subsections (a) and (b) shall apply
23 to months beginning after December 31, 2010, in
24 taxable years ending after such date.

1 (3) SUBSECTION (d).—The amendments made
2 by subsection (d) shall apply to taxable years begin-
3 ning after December 31, 2010.

4 **SEC. 4. AMENDMENTS TO THE MEDICAID PROGRAM AND**
5 **SCHIP.**

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

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

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

1 “(3) The amount specified in this paragraph for a
2 State for—

3 “(A) the first State fiscal year described in
4 paragraph (1), is the total amount of the State
5 share of expenditures for health services (as defined
6 in paragraph (1)) under all public health programs
7 operated in the State that are funded in whole or in
8 part with State expenditures, including expenditures
9 under this title and title XXI, for the previous State
10 fiscal year; and

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

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

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

23 “(h) SUNSET OF PROGRAM UPON INITIATION OF
24 AMERICAN HEALTH BENEFITS PROGRAM.—No payment
25 shall be made under this title to a State for items and

1 services furnished after the effective date of the American
 2 Health Benefits Program under title XXII.”.

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

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

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

10 “(7) REDUCTION IN CONNECTION WITH
 11 AHBP.—Notwithstanding the previous provisions in
 12 this paragraph, the Secretary shall provide for a
 13 phased-down reduction over a 5-fiscal-year-period
 14 beginning with fiscal year 2011 of the amount of the
 15 DSH allotment for each State so that, by the end
 16 of such period, such amount is equal to 10 percent
 17 of the amount of such allotment for such State for
 18 fiscal year 2010.”.

19 **SEC. 5. PROMOTION OF USE OF HEALTH INFORMATION**
 20 **TECHNOLOGIES.**

21 The Commissioner of Health Benefits (appointed
 22 under section 2206(d)(1) of the Social Security Act, as
 23 added by section 2(a)), in consultation with the Secretary
 24 of Health and Human Services, shall establish new guide-

1 lines that promote the proper use and understanding of
2 health information technologies.

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

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

11 **SEC. 7. HEALTH BENEFITS COMMISSION.**

12 (a) ESTABLISHMENT.—There is established an inde-
13 pendent commission to be known as the Health Benefits
14 Commission (in this section referred to as the “Commis-
15 sion”).

16 (b) DUTIES OF THE COMMISSION.—

17 (1) GENERAL DUTIES.—The Commission shall
18 examine and make recommendations regarding the
19 major issues and cost drivers affecting the delivery
20 of healthcare services as it pertains to the American
21 Health Benefits Program under title XXII of the
22 Social Security Act (in this section referred to as
23 “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 healthcare 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) one shall be appointed by the majority
6 leader of the Senate;

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

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

11 (E) one shall be appointed by the minority
12 leader of the House of Representatives; and

13 (F) four shall be appointed by the Comp-
14 troller General of the United States, of whom
15 one shall be designated by the Comptroller Gen-
16 eral as the Chair and another as the Vice Chair
17 of the Commission.

18 (2) TERMS OF APPOINTMENT.—The term of
19 any appointment under paragraph (1) to the Com-
20 mission shall be for 3 years.

21 (3) TERMS.—

22 (A) IN GENERAL.—The terms of members
23 of the Commission shall be for 3 years, except
24 that the Comptroller General shall designate

1 staggered terms for the members first ap-
2 pointed.

3 (B) VACANCIES.—Any member appointed
4 to fill a vacancy occurring before the expiration
5 of the term for which the member's predecessor
6 was appointed shall be appointed only for the
7 remainder of that term. A member may serve
8 after the expiration of that member's term until
9 a successor has taken office. A vacancy in the
10 Commission shall be filled in the manner in
11 which the original appointment was made.

12 (4) MEETINGS.—The Commission shall meet at
13 the call of its Chair or a majority of its members.

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

17 (6) VACANCIES.—A vacancy on the Commission
18 shall be filled in the same manner in which the origi-
19 nal appointment was made not later than 30 days
20 after the Commission is given notice of the vacancy
21 and shall not affect the power of the remaining
22 members to execute the duties of the Commission.

23 (7) COMPENSATION.—While serving on the
24 business of the Commission (including traveltime), a
25 member of the Commission shall be entitled to com-

1 pensation at the per diem equivalent of the rate pro-
2 vided for level IV of the Executive Schedule under
3 section 5315 of title 5, United States Code; and
4 while so serving away from home and the member's
5 regular place of business, a member may be allowed
6 travel expenses, as authorized by the Chairman of
7 the Commission.

8 (8) CHAIR; VICE CHAIR.—The Comptroller Gen-
9 eral shall designate a member of the Commission ap-
10 pointed under paragraph (1)(F), at the time of ap-
11 pointment of the member as Chair and a member as
12 Vice Chair for that term of appointment, except that
13 in the case of vacancy of the Chair or Vice Chair,
14 the Comptroller General may designate another
15 member for the remainder of that member's term.

16 (9) EXPENSES.—Each member of the Commis-
17 sion shall receive travel expenses and per diem in
18 lieu of subsistence in accordance with sections 5702
19 and 5703 of title 5, United States Code.

20 (10) CONTINUATION OF OPERATION.—Section
21 14 of the Federal Advisory Committee Act (5 U.S.C.
22 App.) shall not apply to the Commission.

23 (d) DIRECTOR AND STAFF; EXPERTS AND CONSULT-
24 ANTS.—Subject to such review as the Comptroller General

1 deems necessary to assure the efficient administration of
2 the Commission, the Commission may—

3 (1) employ and fix the compensation of an Ex-
4 ecutive Director (subject to the approval of the
5 Comptroller General) and such other personnel (not
6 to exceed 11) as may be necessary to carry out its
7 duties (without regard to the provisions of title 5,
8 United States Code, governing appointments in the
9 competitive service);

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

13 (3) enter into contracts or make other arrange-
14 ments, as may be necessary for the conduct of the
15 work of the Commission (without regard to section
16 3709 of the Revised Statutes (41 U.S.C. 5));

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

19 (5) provide transportation and subsistence for
20 persons serving without compensation; and

21 (6) prescribe such rules and regulations as it
22 deems necessary with respect to the internal organi-
23 zation and operation of the Commission.

24 Physicians serving as personnel of the Commission may
25 be provided a physician comparability allowance by the

1 Commission in the same manner as Government physi-
2 cians may be provided such an allowance by an agency
3 under section 5948 of title 5, United States Code, and
4 for such purpose subsection (i) of such section shall apply
5 to the Commission in the same manner as it applies to
6 the Tennessee Valley Authority. For purposes of pay
7 (other than pay of members of the Commission) and em-
8 ployment benefits, rights, and privileges, all personnel of
9 the Commission shall be treated as if they were employees
10 of the United States Senate.

11 (e) POWERS OF COMMISSION.—

12 (1) HEARINGS AND OTHER ACTIVITIES.—For
13 the purpose of carrying out its duties, the Commis-
14 sion may hold such hearings and undertake such
15 other activities as the Commission determines to be
16 necessary to carry out its duties.

17 (2) STUDIES BY GAO.—Upon the request of the
18 Commission, the Comptroller General of the United
19 States shall conduct such studies or investigations as
20 the Commission determines to be necessary to carry
21 out its duties.

22 (3) COST ESTIMATES BY CONGRESSIONAL
23 BUDGET OFFICE.—

24 (A) The Director of the Congressional
25 Budget Office shall provide to the Commission,

1 upon the request of the Commission, such cost
2 estimates as the Commission determines to be
3 necessary to carry out its duties.

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

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

19 (5) TECHNICAL ASSISTANCE.—Upon the re-
20 quest of the Commission, the head of a Federal
21 agency shall provide such technical assistance to the
22 Commission as the Commission determines to be
23 necessary to carry out its duties.

24 (6) USE OF MAILS.—The Commission may use
25 the United States mails in the same manner and

1 under the same conditions as Federal agencies and
2 shall, for purposes of the frank, be considered a
3 commission of Congress as described in section 3215
4 of title 39, United States Code.

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

13 (8) ADMINISTRATIVE SUPPORT SERVICES.—
14 Upon the request of the Commission, the Adminis-
15 trator of General Services shall provide to the Com-
16 mission on a reimbursable basis such administrative
17 support services as the Commission may request.

18 (9) PRINTING.—For purposes of costs relating
19 to printing and binding, including the cost of per-
20 sonnel detailed from the Government Printing Of-
21 fice, the Commission shall be deemed to be a com-
22 mittee of the Congress.

23 (f) REPORTS.—

24 (1) INITIAL FINDINGS.—Not later than 6
25 months after the date of the enactment of this Act,

1 the Commission shall submit to the Commissioner of
2 Health Benefits and to appropriate committees of
3 Congress a report which contains a statement of the
4 initial findings of the Commission.

5 (2) INITIAL REPORT.—Not later than 18
6 months after the date of the enactment of this Act,
7 the Commission shall submit to such Commissioner
8 and committees an initial report which contains a
9 detailed statement of its recommendations, findings,
10 and conclusions of the Commission.

11 (3) ANNUAL REPORT.—Subsequently, the Com-
12 mission shall annually submit to such Commissioner
13 and such committees a report containing such a
14 statement.

15 (4) OTHER REPORTS.—The Commission may
16 issue such other reports at such times as the Com-
17 mission determines appropriate.

18 (5) SUPERMAJORITY REQUIREMENT.—The
19 Commission shall not include in any report sub-
20 mitted under this subsection a recommendation,
21 finding, or conclusion unless it has received the ap-
22 proval of at least 6 members of the Commission.

23 (g) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated for each fiscal year be-

- 1 ginning with fiscal year 2009 such sums as are necessary
- 2 to carry out this section.

