



**MEMORANDUM**

August 28, 2009

**To:** Honorable Christopher Smith  
Attention: Autumn Christensen

**From:** Bill Heniff Jr., Analyst on Congress and the Legislative Process, 7-8646

**Subject:** **Availability of Funds in the Health Insurance Exchange Trust Fund in Section 207 of H.R. 3200**

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This memorandum responds to your request regarding the availability of funds in the Health Insurance Exchange Trust Fund, as proposed in Section 207 of H.R. 3200, as introduced on July 14, 2009. Specifically, you were interested in knowing whether funds in the Trust Fund, if enacted, would be made available automatically or would require further appropriations in a subsequent act.

Section 207 of H.R. 3200 creates a trust fund entitled "Health Insurance Exchange Trust Fund." Section 207(c)(1) appropriates to the Fund amounts equal to three specified taxes: (1) taxes on individuals not obtaining acceptable coverage; (2) employment taxes on employers not providing acceptable coverage; and (3) excise taxes on failures to meet certain health coverage requirements. In addition, Section 207(c)(2) appropriates to the Fund amounts equal to the difference between the payments made from the Fund under Section 207(b) and the amounts from the three specified taxes. That is, the total amount appropriated to the Fund is equal to the amount of payments made from the Fund.

Section 207(b) of H.R. 3200 requires the "Health Choices Commissioner" (as established under Section 141 of H.R. 3200) to make payments from the Fund "to operate the Health Insurance Exchange, including payments under subtitle C (relating to affordability credits)." That is, this section provides the authority to the Commissioner to make payments from the Fund, without any subsequent legislative action.

In summary, Section 207 of H.R. 3200 creates a Health Insurance Exchange Trust Fund, appropriates amounts to the Fund, and requires payments from the Fund. If enacted, all of these actions would be authorized without any further legislative action, such as a further appropriation in a subsequent act.

Please call me if I may be of further assistance in this matter.