H.R. 11

To amend the Internal Revenue Code of 1986 to extend expiring provisions, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. THOMAS introduced the following bill; which was referred to the Committee on

A BILL

To amend the Internal Revenue Code of 1986 to extend expiring provisions, and for other purposes.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) Short Title.—This Act may be cited as the “Tax Relief and Health Care Act of 2006”.

(b) Table of Contents.—The table of contents for this Act is as follows:

1

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

DIVISION A—EXTENSION AND EXPANSION OF CERTAIN TAX RELIEF PROVISIONS, AND OTHER TAX PROVISIONS

December 7, 2006 (1:39 p.m.)
Sec. 101. Deduction for qualified tuition and related expenses.
Sec. 102. Extension and modification of new markets tax credit.
Sec. 103. Election to deduct State and local general sales taxes.
Sec. 104. Extension and modification of research credit.
Sec. 105. Work opportunity tax credit and welfare-to-work credit.
Sec. 106. Election to include combat pay as earned income for purposes of earned income credit.
Sec. 107. Extension and modification of qualified zone academy bonds.
Sec. 108. Above-the-line deduction for certain expenses of elementary and secondary school teachers.
Sec. 109. Extension and expansion of expensing of brownfields remediation costs.
Sec. 110. Tax incentives for investment in the District of Columbia.
Sec. 111. Indian employment tax credit.
Sec. 112. Accelerated depreciation for business property on Indian reservations.
Sec. 113. Fifteen-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant property.
Sec. 114. Cover over of tax on distilled spirits.
Sec. 115. Parity in application of certain limits to mental health benefits.
Sec. 116. Corporate donations of scientific property used for research and of computer technology and equipment.
Sec. 117. Availability of medical savings accounts.
Sec. 118. Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
Sec. 119. American Samoa economic development credit.
Sec. 120. Extension of bonus depreciation for certain qualified Gulf Opportunity Zone property.
Sec. 121. Authority for undercover operations.
Sec. 122. Disclosures of certain tax return information.
Sec. 123. Special rule for elections under expired provisions.

TITLE II—ENERGY TAX PROVISIONS
Sec. 201. Credit for electricity produced from certain renewable resources.
Sec. 202. Credit to holders of clean renewable energy bonds.
Sec. 203. Performance standards for sulfur dioxide removal in advanced coal-based generation technology units designed to use subbituminous coal.
Sec. 204. Deduction for energy efficient commercial buildings.
Sec. 205. Credit for new energy efficient homes.
Sec. 206. Credit for residential energy efficient property.
Sec. 207. Energy credit.
Sec. 208. Special rule for qualified methanol or ethanol fuel.
Sec. 209. Special depreciation allowance for cellulosic biomass ethanol plant property.
Sec. 211. Treatment of coke and coke gas.

TITLE III—HEALTH SAVINGS ACCOUNTS
Sec. 301. Short title.
Sec. 302. FSA and HRA terminations to fund HSAs.
Sec. 303. Repeal of annual deductible limitation on HSA contributions.
Sec. 304. Modification of cost-of-living adjustment.
Sec. 305. Contribution limitation not reduced for part-year coverage.
Sec. 306. Exception to requirement for employers to make comparable health
  savings account contributions.
Sec. 307. One-time distribution from individual retirement plans to fund HSAs.

TITLE IV—OTHER PROVISIONS

Sec. 401. Deduction allowable with respect to income attributable to domestic
  production activities in Puerto Rico.
Sec. 402. Credit for prior year minimum tax liability made refundable after pe-
  riod of years.
Sec. 403. Returns required in connection with certain options.
Sec. 404. Partial expensing for advanced mine safety equipment.
Sec. 405. Mine rescue team training tax credit.
Sec. 406. Whistleblower reforms.
Sec. 407. Frivolous tax submissions.
Sec. 408. Addition of meningococcal and human papillomavirus vaccines to list
  of taxable vaccines.
Sec. 409. Clarification of taxation of certain settlement funds made permanent.
Sec. 410. Modification of active business definition under section 355 made per-
  manent.
Sec. 411. Revision of State veterans limit made permanent.
Sec. 412. Capital gains treatment for certain self-created musical works made
  permanent.
Sec. 413. Reduction in minimum vessel tonnage which qualifies for tonnage tax
  made permanent.
Sec. 414. Modification of special arbitrage rule for certain funds made permanent.
Sec. 415. Great Lakes domestic shipping to not disqualify vessel from tonnage
  tax.
Sec. 416. Use of qualified mortgage bonds to finance residences for veterans
  without regard to first-time homebuyer requirement.
Sec. 417. Exclusion of gain from sale of a principal residence by certain em-
  ployees of the intelligence community.
Sec. 418. Sale of property by judicial officers.
Sec. 419. Premiums for mortgage insurance.
Sec. 420. Modification of refunds for kerosene used in aviation.
Sec. 421. Regional income tax agencies treated as States for purposes of con-
  fidentiality and disclosure requirements.
Sec. 422. Designation of wines by semi-generic names.
Sec. 423. Modification of railroad track maintenance credit.
Sec. 424. Modification of excise tax on unrelated business taxable income of
  charitable remainder trusts.
Sec. 425. Loans to qualified continuing care facilities made permanent.
Sec. 426. Technical corrections.

DIVISION B—MEDICARE AND OTHER HEALTH PROVISIONS

Sec. 1. Short title of division.

TITLE I—MEDICARE IMPROVED QUALITY AND PROVIDER PAYMENTS
Sec. 101. Physician payment and quality improvement.
Sec. 102. Extension of floor on Medicare work geographic adjustment.
Sec. 103. Update to the composite rate component of the basic case-mix adjusted prospective payment system for dialysis services.
Sec. 104. Extension of treatment of certain physician pathology services under Medicare.
Sec. 105. Extension of Medicare reasonable costs payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.
Sec. 106. Hospital Medicare reports and clarifications.
Sec. 107. Payment for brachytherapy.
Sec. 108. Payment process under the competitive acquisition program (CAP).
Sec. 109. Quality reporting for hospital outpatient services and ambulatory surgical center services.
Sec. 110. Reporting of anemia quality indicators for Medicare part B cancer anti-anemia drugs.
Sec. 111. Clarification of hospice satellite designation.

TITLE II—MEDICARE BENEFICIARY PROTECTIONS

Sec. 201. Extension of exceptions process for Medicare therapy caps.
Sec. 202. Payment for administration of part D vaccines.
Sec. 203. OIG study of never events.
Sec. 204. Medicare medical home demonstration project.
Sec. 205. Medicare DRA technical corrections.

TITLE III—MEDICARE PROGRAM INTEGRITY EFFORTS

Sec. 301. Offsetting adjustment in Medicare Advantage Stabilization Fund.
Sec. 302. Extension and expansion of recovery audit contractor program under the Medicare Integrity Program.
Sec. 303. Funding for the Health Care Fraud and Abuse Control Account.
Sec. 304. Implementation funding.

TITLE IV—MEDICAID AND OTHER HEALTH PROVISIONS

Sec. 401. Extension of Transitional Medical Assistance (TMA) and abstinence education program.
Sec. 402. Grants for research on vaccine against Valley Fever.
Sec. 403. Change in threshold for Medicaid indirect hold harmless provision of broad-based health care taxes.
Sec. 404. DSH allotments for fiscal year 2007 for Tennessee and Hawaii.
Sec. 405. Certain Medicaid DRA technical corrections.

DIVISION C—OTHER PROVISIONS

TITLE I—GULF OF MEXICO ENERGY SECURITY

Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. Offshore oil and gas leasing in 181 Area and 181 south Area of Gulf of Mexico.
Sec. 104. Moratorium on oil and gas leasing in certain areas of Gulf of Mexico.
Sec. 105. Disposition of qualified outer Continental Shelf revenues from 181 Area, 181 south Area, and 2002–2007 planning areas of Gulf of Mexico.
TITLE II—SURFACE MINING CONTROL AND RECLAMATION ACT
AMENDMENTS OF 2006

Sec. 200. Short title.

Subtitle A—Mining Control and Reclamation

Sec. 201. Abandoned Mine Reclamation Fund and purposes.
Sec. 202. Reclamation fee.
Sec. 203. Objectives of Fund.
Sec. 204. Reclamation of rural land.
Sec. 205. Liens.
Sec. 206. Certification.
Sec. 207. Remining incentives.
Sec. 208. Extension of limitation on application of prohibition on issuance of permit.
Sec. 209. Tribal regulation of surface coal mining and reclamation operations.

Subtitle B—Coal Industry Retiree Health Benefit Act

Sec. 211. Certain related persons and successors in interest relieved of liability if premiums prepaid.
Sec. 212. Transfers to funds; premium relief.
Sec. 213. Other provisions.

TITLE III—OTHER PROVISIONS

Sec. 301. Tobacco personal use quantity exception to not apply to delivery sales.
Sec. 302. Ethanol Tariff Schedule.
Sec. 303. Withdrawal of certain Federal land and interests in certain Federal land from location, entry, and patent under the mining laws and disposition under the mineral and geothermal leasing laws.
Sec. 304. Continuing eligibility for certain students under District of Columbia School Choice Program.
Sec. 305. Study on Establishing Uniform National Database on Elder Abuse.

DIVISION A—EXTENSION AND EXPANSION OF CERTAIN TAX RELIEF PROVISIONS, AND OTHER TAX PROVISIONS

SEC. 100. REFERENCE.

Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a
section or other provision of the Internal Revenue Code of 1986.

TITLE I—EXTENSION AND MODIFICATION OF CERTAIN PROVISIONS

SEC. 101. DEDUCTION FOR QUALIFIED TUITION AND RELATED EXPENSES.

(a) IN GENERAL.—Section 222(e) is amended by striking “2005” and inserting “2007”.

(b) CONFORMING AMENDMENTS.—Section 222(b)(2)(B) is amended—

(1) by striking “a taxable year beginning in 2004 or 2005” and inserting “any taxable year beginning after 2003”, and

(2) by striking “2004 AND 2005” in the heading and inserting “AFTER 2003”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 102. EXTENSION AND MODIFICATION OF NEW MARKETS TAX CREDIT.

(a) EXTENSION.—Section 45D(f)(1)(D) is amended by striking “and 2007” and inserting “, 2007, and 2008”.

(b) REGULATIONS REGARDING NON-METROPOLITAN COUNTIES.—Section 45D(i) is amended by striking “and”
at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting “, and”, and by adding at the end the following new paragraph:

“(6) which ensure that non-metropolitan counties receive a proportional allocation of qualified equity investments.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 103. ELECTION TO DEDUCT STATE AND LOCAL GENERAL SALES TAXES.

(a) IN GENERAL.—Section 164(b)(5)(I) is amended by striking “2006” and inserting “2008”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 104. EXTENSION AND MODIFICATION OF RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Section 41(h)(1)(B) is amended by striking “2005” and inserting “2007”.

(2) CONFORMING AMENDMENT.—Section 45C(b)(1)(D) is amended by striking “2005” and inserting “2007”.

(3) **Effective date.**—The amendments made by this subsection shall apply to amounts paid or incurred after December 31, 2005.

(b) **Increase in rates of Alternative Incremental Credit.**—

(1) **In general.**—Subparagraph (A) of section 41(c)(4) (relating to election of alternative incremental credit) is amended—

(A) by striking “2.65 percent” and inserting “3 percent”,

(B) by striking “3.2 percent” and inserting “4 percent”, and

(C) by striking “3.75 percent” and inserting “5 percent”.

(2) **Effective date.**—Except as provided in paragraph (3), the amendments made by this subsection shall apply to taxable years ending after December 31, 2006.

(3) **Transition rule.**—

(A) **In general.**—In the case of a specified transitional taxable year for which an election under section 41(c)(4) of the Internal Revenue Code of 1986 applies, the credit determined under section 41(a)(1) of such Code shall be equal to the sum of—
(i) the applicable 2006 percentage multiplied by the amount determined under section 41(c)(4)(A) of such Code (as in effect for taxable years ending on December 31, 2006), plus

(ii) the applicable 2007 percentage multiplied by the amount determined under section 41(c)(4)(A) of such Code (as in effect for taxable years ending on January 1, 2007).

(B) DEFINITIONS.—For purposes of subparagraph (A)—

(i) SPECIFIED TRANSITIONAL TAXABLE YEAR.—The term “specified transitional taxable year” means any taxable year which ends after December 31, 2006, and which includes such date.

(ii) APPLICABLE 2006 PERCENTAGE.—The term “applicable 2006 percentage” means the number of days in the specified transitional taxable year before January 1, 2007, divided by the number of days in such taxable year.

(iii) APPLICABLE 2007 PERCENTAGE.—The term “applicable 2007 percent-
age” means the number of days in the specified transitional taxable year after December 31, 2006, divided by the number of days in such taxable year.

(c) Alternative Simplified Credit for Qualified Research Expenses.—

(1) In general.—Subsection (c) of section 41 (relating to base amount) is amended by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively, and by inserting after paragraph (4) the following new paragraph:

“(5) Election of alternative simplified credit.—

“(A) In general.—At the election of the taxpayer, the credit determined under subsection (a)(1) shall be equal to 12 percent of so much of the qualified research expenses for the taxable year as exceeds 50 percent of the average qualified research expenses for the 3 taxable years preceding the taxable year for which the credit is being determined.

“(B) Special rule in case of no qualified research expenses in any of 3 preceding taxable years.—
“(i) TAXPAYERS TO WHICH SUBPARA-

GRAPH APPLIES.—The credit under this

paragraph shall be determined under this

subparagraph if the taxpayer has no qual-

fied research expenses in any one of the 3

taxable years preceding the taxable year

for which the credit is being determined.

“(ii) CREDIT RATE.—The credit de-

termined under this subparagraph shall be

equal to 6 percent of the qualified research

expenses for the taxable year.

“(C) ELECTION.—An election under this

paragraph shall apply to the taxable year for

which made and all succeeding taxable years

unless revoked with the consent of the Sec-

retary. An election under this paragraph may

not be made for any taxable year to which an

election under paragraph (4) applies.”.

(2) TRANSITION RULE FOR DEEMED REVOC-

TION OF ELECTION OF ALTERNATIVE INCREMENTAL

CREDIT.—In the case of an election under section

41(c)(4) of the Internal Revenue Code of 1986

which applies to the taxable year which includes

January 1, 2007, such election shall be treated as

revoked with the consent of the Secretary of the
Treasury if the taxpayer makes an election under section 41(c)(5) of such Code (as added by this subsection) for such year.

(3) **Effective Date.**—Except as provided in paragraph (4), the amendments made by this subsection shall apply to taxable years ending after December 31, 2006.

(4) **Transition Rule for Noncalendar Taxable Years.**—

(A) **In General.**—In the case of a specified transitional taxable year for which an election under section 41(c)(5) of the Internal Revenue Code of 1986 (as added by this subsection) applies, the credit determined under section 41(a)(1) of such Code shall be equal to the sum of—

(i) the applicable 2006 percentage multiplied by the amount determined under section 41(a)(1) of such Code (as in effect for taxable years ending on December 31, 2006), plus

(ii) the applicable 2007 percentage multiplied by the amount determined under section 41(c)(5) of such Code (as in
effect for taxable years ending on January 1, 2007).

(B) DEFINITIONS AND SPECIAL RULES.—

For purposes of subparagraph (A)—

(i) DEFINITIONS.—Terms used in this paragraph which are also used in subsection (b)(3) shall have the respective meanings given such terms in such subsection.

(ii) DUAL ELECTIONS PERMITTED.—

Elections under paragraphs (4) and (5) of section 41(c) of such Code may both apply for the specified transitional taxable year.

(iii) DEFERRAL OF DEEMED ELECTION REVOCATION.—Any election under section 41(c)(4) of the Internal Revenue Code of 1986 treated as revoked under paragraph (2) shall be treated as revoked for the taxable year after the specified transitional taxable year.

SEC. 105. WORK OPPORTUNITY TAX CREDIT AND WELFARE-TO-WORK CREDIT.

(a) IN GENERAL.—Sections 51(e)(4)(B) and 51A(f) are each amended by striking “2005” and inserting “2007”.

(b) Eligibility of Ex-Felons Determined Without Regard to Family Income.—Paragraph (4) of section 51(d) is amended by adding “and” at the end of subparagraph (A), by striking “, and” at the end of subparagraph (B) and inserting a period, and by striking all that follows subparagraph (B).

(c) Increase in Maximum Age for Eligibility of Food Stamp Recipients.—Clause (i) of section 51(d)(8)(A) is amended by striking “25” and inserting “40”.

(d) Extension of Paperwork Filing Deadline.—Section 51(d)(12)(A)(ii)(II) is amended by striking “21st day” and inserting “28th day”.

(e) Consolidation of Work Opportunity Credit with Welfare-to-Work Credit.—

(1) In general.—Paragraph (1) of section 51(d) is amended by striking “or” at the end of subparagraph (G), by striking the period at the end of subparagraph (H) and inserting “, or”, and by adding at the end the following new subparagraph:

“(I) a long-term family assistance recipient.”.

(2) Long-Term Family Assistance Recipient.—Subsection (d) of section 51 is amended by redesignating paragraphs (10) through (12) as para-
graphs (11) through (13), respectively, and by inser-
ting after paragraph (9) the following new para-
graph:

“(10) LONG-TERM FAMILY ASSISTANCE RECIPI-
ENT.—The term ‘long-term family assistance recipi-
ent’ means any individual who is certified by the
designated local agency—

“(A) as being a member of a family receiv-
ing assistance under a IV–A program (as de-
finied in paragraph (2)(B)) for at least the 18-
month period ending on the hiring date,

“(B)(i) as being a member of a family re-
ceiving such assistance for 18 months beginning
after August 5, 1997, and

“(ii) as having a hiring date which is not
more than 2 years after the end of the earliest
such 18-month period, or

“(C)(i) as being a member of a family
which ceased to be eligible for such assistance
by reason of any limitation imposed by Federal
or State law on the maximum period such as-
sistance is payable to a family, and

“(ii) as having a hiring date which is not
more than 2 years after the date of such ces-
sation.”.
(3) Increased credit for employment of long-term family assistance recipients.—Section 51 is amended by inserting after subsection (d) the following new subsection:

“(e) Credit for second-year wages for employment of long-term family assistance recipients.—

“(1) In general.—With respect to the employment of a long-term family assistance recipient—

“(A) the amount of the work opportunity credit determined under this section for the taxable year shall include 50 percent of the qualified second-year wages for such year, and

“(B) in lieu of applying subsection (b)(3), the amount of the qualified first-year wages, and the amount of qualified second-year wages, which may be taken into account with respect to such a recipient shall not exceed $10,000 per year.

“(2) Qualified second-year wages.—For purposes of this subsection, the term ‘qualified second-year wages’ means qualified wages—

“(A) which are paid to a long-term family assistance recipient, and
“(B) which are attributable to service rendered during the 1-year period beginning on the day after the last day of the 1-year period with respect to such recipient determined under subsection (b)(2).

“(3) **SPECIAL RULES FOR AGRICULTURAL AND RAILWAY LABOR.**—If such recipient is an employee to whom subparagraph (A) or (B) of subsection (h)(1) applies, rules similar to the rules of such subparagraphs shall apply except that—

“(A) such subparagraph (A) shall be applied by substituting ‘$10,000’ for ‘$6,000’, and

“(B) such subparagraph (B) shall be applied by substituting ‘$833.33’ for ‘$500’.”.

(4) **REPEAL OF SEPARATE WELFARE-TO-WORK CREDIT.**—

(A) **IN GENERAL.**—Section 51A is hereby repealed.

(B) **CLERICAL AMENDMENT.**—The table of sections for subpart F of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 51A.

(f) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section
shall apply to individuals who begin work for the employer after December 31, 2005.

(2) CONSOLIDATION.—The amendments made by subsections (b), (c), (d), and (e) shall apply to individuals who begin work for the employer after December 31, 2006.

SEC. 106. ELECTION TO INCLUDE COMBAT PAY AS EARNED INCOME FOR PURPOSES OF EARNED INCOME CREDIT.

(a) IN GENERAL.—Section 32(c)(2)(B)(vi)(II) is amended by striking “2007” and inserting “2008”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 107. EXTENSION AND MODIFICATION OF QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking “and 2005” and inserting “2005, 2006, and 2007”.

(b) SPECIAL RULES RELATING TO EXPENDITURES, ARBITRAGE, AND REPORTING.—

(1) IN GENERAL.—Section 1397E is amended—

(A) in subsection (d)(1), by striking “and” at the end of subparagraph (C)(iii), by striking
the period at the end of subparagraph (D) and
inserting “, and”, and by adding at the end the
following new subparagraph:

“(E) the issue meets the requirements of
subsections (f), (g), and (h).”, and

(B) by redesignating subsections (f), (g),
(h), and (i) as subsection (i), (j), (k), and (l),
respectively, and by inserting after subsection
(e) the following new subsections:

“(f) Special Rules Relating to Expendi-
tures.—

“(1) In general.—An issue shall be treated as
meeting the requirements of this subsection if, as of
the date of issuance, the issuer reasonably expects—

“(A) at least 95 percent of the proceeds
from the sale of the issue are to be spent for
1 or more qualified purposes with respect to
qualified zone academies within the 5-year pe-
period beginning on the date of issuance of the
qualified zone academy bond,

“(B) a binding commitment with a third
party to spend at least 10 percent of the pro-
ceeds from the sale of the issue will be incurred
within the 6-month period beginning on the
date of issuance of the qualified zone academy bond, and

“(C) such purposes will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence.

“(2) EXTENSION OF PERIOD.—Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related purposes will continue to proceed with due diligence.

“(3) FAILURE TO SPEND REQUIRED AMOUNT OF BOND PROCEEDS WITHIN 5 YEARS.—To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.
“(g) **Special Rules Relating to Arbitrage.**—

An issue shall be treated as meeting the requirements of this subsection if the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

“(h) **Reporting.**—Issuers of qualified academy zone bonds shall submit reports similar to the reports required under section 149(e).”.

(2) **Conforming Amendments.**—Sections 54(l)(3)(B) and 1400N(l)(7)(B)(ii) are each amended by striking “section 1397E(i)” and inserting “section 1397E(l)”.

(c) **Effective Dates.**—

(1) **Extension.**—The amendment made by subsection (a) shall apply to obligations issued after December 31, 2005.

(2) **Special Rules.**—The amendments made by subsection (b) shall apply to obligations issued after the date of the enactment of this Act pursuant to allocations of the national zone academy bond limitation for calendar years after 2005.
SEC. 108. ABOVE-THE-LINE DEDUCTION FOR CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) In General.—Subparagraph (D) of section 62(a)(2) is amended by striking “or 2005” and inserting “2005, 2006, or 2007”.

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 109. EXTENSION AND EXPANSION OF EXPENSING OF BROWNFIELDS REMEDIATION COSTS.

(a) Extension.—Subsection (h) of section 198 is amended by striking “2005” and inserting “2007”.

(b) Expansion.—Section 198(d)(1) (defining hazardous substance) is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following new subparagraph:

“(C) any petroleum product (as defined in section 4612(a)(3)).”.

(c) Effective Date.—The amendments made by this section shall apply to expenditures paid or incurred after December 31, 2005.

SEC. 110. TAX INCENTIVES FOR INVESTMENT IN THE DISTRICT OF COLUMBIA.

(a) Designation of Zone.—
(1) IN GENERAL.—Subsection (f) of section 1400 is amended by striking “2005” both places it appears and inserting “2007”.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to periods beginning after December 31, 2005.

(b) TAX-EXEMPT ECONOMIC DEVELOPMENT BONDS.—

(1) IN GENERAL.—Subsection (b) of section 1400A is amended by striking “2005” and inserting “2007”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to bonds issued after December 31, 2005.

(c) ZERO PERCENT CAPITAL GAINS RATE.—

(1) IN GENERAL.—Subsection (b) of section 1400B is amended by striking “2006” each place it appears and inserting “2008”.

(2) CONFORMING AMENDMENTS.—

(A) Section 1400B(e)(2) is amended—

(i) by striking “2010” and inserting “2012”, and

(ii) by striking “2010” in the heading thereof and inserting “2012”.

(B) Section 1400B(g)(2) is amended by striking “2010” and inserting “2012”.

(C) Section 1400F(d) is amended by striking “2010” and inserting “2012”.

(3) EFFECTIVE DATES.—

(A) EXTENSION.—The amendments made by paragraph (1) shall apply to acquisitions after December 31, 2005.

(B) CONFORMING AMENDMENTS.—The amendments made by paragraph (2) shall take effect on the date of the enactment of this Act.

(d) FIRST-TIME HOMEBUYER CREDIT.—

(1) IN GENERAL.—Subsection (i) of section 1400C is amended by striking “2006” and inserting “2008”.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to property purchased after December 31, 2005.

SEC. 111. INDIAN EMPLOYMENT TAX CREDIT.

(a) IN GENERAL.—Section 45A(f) is amended by striking “2005” and inserting “2007”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.
SEC. 112. ACCELERATED DEPRECIATION FOR BUSINESS
PROPERTY ON INDIAN RESERVATIONS.

(a) In General.—Section 168(j)(8) is amended by
striking “2005” and inserting “2007”.

(b) Effective Date.—The amendment made by
this section shall apply to property placed in service after
December 31, 2005.

SEC. 113. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY
FOR QUALIFIED LEASEHOLD IMPROVEMENTS
AND QUALIFIED RESTAURANT PROPERTY.

(a) In General.—Clauses (iv) and (v) of section
168(e)(3)(E) are each amended by striking “2006” and
inserting “2008”.

(b) Effective Date.—The amendments made by
subsection (a) shall apply to property placed in service
after December 31, 2005.

SEC. 114. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) In General.—Section 7652(f)(1) is amended by
striking “2006” and inserting “2008”.

(b) Effective Date.—The amendment made by
subsection (a) shall apply to articles brought into the
United States after December 31, 2005.
SEC. 115. PARITY IN APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) Amendment to the Internal Revenue Code of 1986.—Section 9812(f)(3) is amended by striking “2006” and inserting “2007”.


(c) Amendment to the Public Health Service Act.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg–5(f)) is amended by striking “2006” and inserting “2007”.

SEC. 116. CORPORATE DONATIONS OF SCIENTIFIC PROPERTY USED FOR RESEARCH AND OF COMPUTER TECHNOLOGY AND EQUIPMENT.

(a) Extension of Computer Technology and Equipment Donation.—

(1) In general.—Section 170(e)(6)(G) is amended by striking “2005” and inserting “2007”.

(2) Effective date.—The amendment made by paragraph (1) shall apply to contributions made in taxable years beginning after December 31, 2005.

(b) Expansion of Charitable Contribution Allowed for Scientific Property Used for Research
AND FOR COMPUTER TECHNOLOGY AND EQUIPMENT USED FOR EDUCATIONAL PURPOSES.—

(1) SCIENTIFIC PROPERTY USED FOR RESEARCH.—

(A) IN GENERAL.—Clause (ii) of section 170(e)(4)(B) (defining qualified research contributions) is amended by inserting “or assembled” after “constructed”.

(B) CONFORMING AMENDMENT.—Clause (iii) of section 170(e)(4)(B) is amended by inserting “or assembly” after “construction”.

(2) COMPUTER TECHNOLOGY AND EQUIPMENT FOR EDUCATIONAL PURPOSES.—

(A) IN GENERAL.—Clause (ii) of section 170(e)(6)(B) is amended by inserting “or assembled” after “constructed” and “or assembling” after “construction”.

(B) CONFORMING AMENDMENT.—Subparagraph (D) of section 170(e)(6) is amended by inserting “or assembled” after “constructed” and “or assembly” after “construction”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2005.
SEC. 117. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) In General.—Paragraphs (2) and (3)(B) of section 220(i) are each amended by striking “2005” each place it appears in the text and headings and inserting “2007”.

(b) Conforming Amendments.—

(1) Paragraph (2) of section 220(j) is amended—

(A) in the text by striking “or 2004” each place it appears and inserting “2004, 2005, or 2006”, and

(B) in the heading by striking “OR 2004” and inserting “2004, 2005, OR 2006”.

(2) Subparagraph (A) of section 220(j)(4) is amended by striking “and 2004” and inserting “2004, 2005, and 2006”.

(c) Time for Filing Reports, etc.—

(1) The report required by section 220(j)(4) of the Internal Revenue Code of 1986 to be made on August 1, 2005, or August 1, 2006, as the case may be, shall be treated as timely if made before the close of the 90-day period beginning on the date of the enactment of this Act.

(2) The determination and publication required by section 220(j)(5) of such Code with respect to calendar year 2005 or calendar year 2006, as the
case may be, shall be treated as timely if made before the close of the 120-day period beginning on the date of the enactment of this Act. If the determination under the preceding sentence is that 2005 or 2006 is a cut-off year under section 220(i) of such Code, the cut-off date under such section 220(i) shall be the last day of such 120-day period.

SEC. 118. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Section 613A(c)(6)(H) is amended by striking “‘2006’” and inserting “‘2008’”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

SEC. 119. AMERICAN SAMOA ECONOMIC DEVELOPMENT CREDIT.

(a) IN GENERAL.—For purposes of section 30A of the Internal Revenue Code of 1986, a domestic corporation shall be treated as a qualified domestic corporation to which such section applies if such corporation—

(1) is an existing credit claimant with respect to American Samoa, and
(2) elected the application of section 936 of the Internal Revenue Code of 1986 for its last taxable year beginning before January 1, 2006.

(b) SPECIAL RULES FOR APPLICATION OF SECTION.—The following rules shall apply in applying section 30A of the Internal Revenue Code of 1986 for purposes of this section:

(1) AMOUNT OF CREDIT.—Notwithstanding section 30A(a)(1) of such Code, the amount of the credit determined under section 30A(a)(1) of such Code for any taxable year shall be the amount determined under section 30A(d) of such Code, except that section 30A(d) shall be applied without regard to paragraph (3) thereof.

(2) SEPARATE APPLICATION.—In applying section 30A(a)(3) of such Code in the case of a corporation treated as a qualified domestic corporation by reason of this section, section 30A of such Code (and so much of section 936 of such Code as relates to such section 30A) shall be applied separately with respect to American Samoa.

(3) FOREIGN TAX CREDIT ALLOWED.—Notwithstanding section 30A(e) of such Code, the provisions of section 936(c) of such Code shall not apply with
respect to the credit allowed by reason of this section.

(c) Definitions.—For purposes of this section, any term which is used in this section which is also used in section 30A or 936 of such Code shall have the same meaning given such term by such section 30A or 936.

(d) Application of Section.—Notwithstanding section 30A(h) or section 936(j) of such Code, this section (and so much of section 30A and section 936 of such Code as relates to this section) shall apply to the first two taxable years of a corporation to which subsection (a) applies which begin after December 31, 2005, and before January 1, 2008.

SEC. 120. EXTENSION OF BONUS DEPRECIATION FOR CERTAIN QUALIFIED GULF OPPORTUNITY ZONE PROPERTY.

(a) In General.—Subsection (d) of section 1400N is amended by adding at the end the following new paragraph:

“(6) Extension for certain property.—

“(A) In general.—In the case of any specified Gulf Opportunity Zone extension property, paragraph (2)(A) shall be applied without regard to clause (v) thereof.
“(B) SPECIFIED GULF OPPORTUNITY ZONE
EXTENSION PROPERTY.—For purposes of this paragraph, the term ‘specified Gulf Opportunity Zone extension property’ means property—

“(i) substantially all of the use of which is in one or more specified portions of the GO Zone, and

“(ii) which is—

“(I) nonresidential real property or residential rental property which is placed in service by the taxpayer on or before December 31, 2010, or

“(II) in the case of a taxpayer who places a building described in subclause (I) in service on or before December 31, 2010, property described in section 168(k)(2)(A)(i) if substantially all of the use of such property is in such building and such property is placed in service by the taxpayer not later than 90 days after such building is placed in service.

“(C) SPECIFIED PORTIONS OF THE GO ZONE.—For purposes of this paragraph, the term ‘specified portions of the GO Zone’ means
those portions of the GO Zone which are in any county or parish which is identified by the Secretary as being a county or parish in which hurricanes occurring during 2005 damaged (in the aggregate) more than 60 percent of the housing units in such county or parish which were occupied (determined according to the 2000 Census).

“(D) ONLY PRE-JANUARY 1, 2010, BASIS OF REAL PROPERTY ELIGIBLE FOR ADDITIONAL ALLOWANCE.—In the case of property which is qualified Gulf Opportunity Zone property solely by reason of subparagraph (B)(ii)(I), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2010.”.

(b) EXTENSION NOT APPLICABLE TO INCREASED SECTION 179 EXPENSING.—Paragraph (2) of section 1400N(e) is amended by inserting “without regard to subsection (d)(6)” after “subsection (d)(2)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 101 of the Gulf Opportunity Zone Act of 2005.
SEC. 121. AUTHORITY FOR UNDERCOVER OPERATIONS.

Paragraph (6) of section 7608(c) (relating to application of section) is amended by striking “2007” both places it appears and inserting “2008”.

SEC. 122. DISCLOSURES OF CERTAIN TAX RETURN INFORMATION.

(a) DISCLOSURES TO FACILITATE COMBINED EMPLOYMENT TAX REPORTING.—

(1) IN GENERAL.—Subparagraph (B) of section 6103(d)(5) (relating to termination) is amended by striking “2006” and inserting “2007”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to disclosures after December 31, 2006.

(b) DISCLOSURES RELATING TO TERRORIST ACTIVITIES.—

(1) IN GENERAL.—Clause (iv) of section 6103(i)(3)(C) and subparagraph (E) of section 6103(i)(7) are each amended by striking “2006” and inserting “2007”.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply to disclosures after December 31, 2006.

(e) DISCLOSURES RELATING TO STUDENT LOANS.—
(1) IN GENERAL.—Subparagraph (D) of section 6103(l)(13) (relating to termination) is amended by striking “2006” and inserting “2007”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to requests made after December 31, 2006.

SEC. 123. SPECIAL RULE FOR ELECTIONS UNDER EXPIRED PROVISIONS.

(a) RESEARCH CREDIT ELECTIONS.—In the case of any taxable year ending after December 31, 2005, and before the date of the enactment of this Act, any election under section 41(c)(4) or section 280C(c)(3)(C) of the Internal Revenue Code of 1986 shall be treated as having been timely made for such taxable year if such election is made not later than the later of April 15, 2007, or such time as the Secretary of the Treasury, or his designee, may specify. Such election shall be made in the manner prescribed by such Secretary or designee.

(b) OTHER ELECTIONS.—Except as otherwise provided by such Secretary or designee, a rule similar to the rule of subsection (a) shall apply with respect to elections under any other expired provision of the Internal Revenue Code of 1986 the applicability of which is extended by reason of the amendments made by this title.
TITLE II—ENERGY TAX
PROVISIONS

SEC. 201. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

Subsection (d) of section 45 is amended by striking “January 1, 2008” each place it appears and inserting “January 1, 2009”.

SEC. 202. CREDIT TO HOLDERS OF CLEAN RENEWABLE ENERGY BONDS.

(a) IN GENERAL.—Section 54 is amended—

(1) by striking “$800,000,000” in subsection (f)(1) and inserting “$1,200,000,000”,
(2) by striking “$500,000,000” in subsection (f)(2) and inserting “$750,000,000”, and
(3) by striking “December 31, 2007” in subsection (m) and inserting “December 31, 2008”.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by paragraphs (1) and (3) of subsection (a) shall apply to bonds issued after December 31, 2006.
(2) ALLOCATIONS.—The amendment made by subsection (a)(2) shall apply to allocations or re-allocations after December 31, 2006.
SEC. 203. PERFORMANCE STANDARDS FOR SULFUR DIOXIDE REMOVAL IN ADVANCED COAL-BASED GENERATION TECHNOLOGY UNITS DESIGNED TO USE SUBBITUMINOUS COAL.

(a) In General.—Paragraph (1) of section 48A(f) (relating to advanced coal-based generation technology) is amended by adding at the end the following new flush sentence:

“For purposes of the performance requirement specified for the removal of SO\(_2\) in the table contained in subparagraph (B), the SO\(_2\) removal design level in the case of a unit designed for the use of feedstock substantially all of which is subbituminous coal shall be 99 percent SO\(_2\) removal or the achievement of an emission level of 0.04 pounds or less of SO\(_2\) per million Btu, determined on a 30-day average.”.

(b) Effective Date.—The amendment made by this section shall take apply with respect to applications for certification under section 48A(d)(2) of the Internal Revenue Code of 1986 submitted after October 2, 2006.

SEC. 204. DEDUCTION FOR ENERGY EFFICIENT COMMERCIAL BUILDINGS.

Subsection (h) of section 179D is amended by striking “December 31, 2007” and inserting “December 31, 2008”.
SEC. 205. CREDIT FOR NEW ENERGY EFFICIENT HOMES.

Subsection (g) of section 45L is amended by striking “December 31, 2007” and inserting “December 31, 2008”.

SEC. 206. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT PROPERTY.

(a) Extension.—Subsection (g) of section 25D is amended by striking “December 31, 2007” and inserting “December 31, 2008”.

(b) Clarification of Term.—

(1) Subsections (a)(1), (b)(1)(A), and (e)(4)(A)(i) of section 25D are each amended by striking “qualified photovoltaic property expenditures” and inserting “qualified solar electric property expenditures”.

(2) Section 25D(d)(2) is amended—

(A) by striking “qualified photovoltaic property expenditure” and inserting “qualified solar electric property expenditure”, and

(B) in the heading by striking “QUALIFIED PHOTOVOLTAIC PROPERTY EXPENDITURE” and inserting “QUALIFIED SOLAR ELECTRIC PROPERTY EXPENDITURE”.

SEC. 207. ENERGY CREDIT.

Section 48 is amended—
(1) by striking “January 1, 2008” both places it appears and inserting “January 1, 2009”, and
(2) by striking “December 31, 2007” both places it appears and inserting “December 31, 2008”.

SEC. 208. SPECIAL RULE FOR QUALIFIED METHANOL OR ETHANOL FUEL.

(a) Extension.—Subparagraph (D) of section 4041(b)(2) is amended by striking “October 1, 2007” and inserting “January 1, 2009”.

(b) Applicable Blender Rate.—Section 4041(b)(2)(C)(ii) is amended by striking “2007” and inserting “2008”.

(c) Clerical Amendment.—The heading for section 4041(b)(2)(B) is amended to read as follows: “QUALIFIED METHANOL AND ETHANOL FUEL PRODUCED FROM COAL”.

SEC. 209. SPECIAL DEPRECIATION ALLOWANCE FOR CELLULOSIC BIOMASS ETHANOL PLANT PROPERTY.

(a) In General.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following:

“(l) Special Allowance for Cellulosic Biomass Ethanol Plant Property.—
“(1) ADDITIONAL ALLOWANCE.—In the case of any qualified cellulosic biomass ethanol plant property—

“(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of such property, and

“(B) the adjusted basis of such property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) QUALIFIED CELLULOSIC BIOMASS ETHANOL PLANT PROPERTY.—The term ‘qualified cellulosic biomass ethanol plant property’ means property of a character subject to the allowance for depreciation—

“(A) which is used in the United States solely to produce cellulosic biomass ethanol,

“(B) the original use of which commences with the taxpayer after the date of the enactment of this subsection,
“(C) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after the date of the enactment of this subsection, but only if no written binding contract for the acquisition was in effect on or before the date of the enactment of this subsection, and

“(D) which is placed in service by the taxpayer before January 1, 2013.

“(3) CELLULOSIC BIOMASS ETHANOL.—For purposes of this subsection, the term ‘cellulosic biomass ethanol’ means ethanol produced by enzymatic hydrolysis of any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis.

“(4) EXCEPTIONS.—

“(A) ALTERNATIVE DEPRECIATION PROPERTY.—Such term shall not include any property described in section 168(k)(2)(D)(i).

“(B) TAX-EXEMPT BOND-FINANCED PROPERTY.—Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

“(C) ELECTION OUT.—If a taxpayer makes an election under this subparagraph with
respect to any class of property for any taxable
year, this subsection shall not apply to all prop-
erty in such class placed in service during such
taxable year.

“(5) SPECIAL RULES.—For purposes of this
subsection, rules similar to the rules of subpara-
graph (E) of section 168(k)(2) shall apply, except
that such subparagraph shall be applied—

“(A) by substituting ‘the date of the enact-
ment of subsection (l)’ for ‘September 10,
2001’ each place it appears therein,

“(B) by substituting ‘January 1, 2013’ for
‘January 1, 2005’ in clause (i) thereof, and

“(C) by substituting ‘qualified cellulosic
biomass ethanol plant property’ for ‘qualified
property’ in clause (iv) thereof.

“(6) ALLOWANCE AGAINST ALTERNATIVE MIN-
IMUM TAX.—For purposes of this subsection, rules
similar to the rules of section 168(k)(2)(G) shall
apply.

“(7) RECAPTURE.—For purposes of this sub-
section, rules similar to the rules under section
179(d)(10) shall apply with respect to any qualified
cellulosic biomass ethanol plant property which
ceases to be qualified cellulosic biomass ethanol plant property.

"(8) **Denial of double benefit.**—Paragraph (1) shall not apply to any qualified cellulosic biomass ethanol plant property with respect to which an election has been made under section 179C (relating to election to expense certain refineries)."

(b) **Effective date.**—The amendment made by this section shall apply to property placed in service after the date of the enactment of this Act in taxable years ending after such date.

**SEC. 210. EXPENDITURES PERMITTED FROM THE LEAKING UNDERGROUND STORAGE TANK TRUST FUND.**

(a) **In general.**—Subsection (c) of section 9508 is amended—

(1) by striking "section 9003(h)" and inserting "sections 9003(h), 9003(i), 9003(j), 9004(f), 9005(c), 9010, 9011, 9012, and 9013", and

(2) by striking "Superfund Amendments and Reauthorization Act of 1986" and inserting "Public Law 109–168".

(b) **Conforming amendments.**—Section 9014(2) of the Solid Waste Disposal Act is amended by striking
“Fund, notwithstanding section 9508(c)(1) of the Internal Revenue Code of 1986” and inserting “Fund”.

(c) **Effective Date.**—The amendments made by this section shall take effect on the date of the enactment of this Act.

**SEC. 211. TREATMENT OF COKE AND COKE GAS.**

(a) **Nonapplication of Phaseout.**—Section 45K(g)(2) is amended by adding at the end the following new subparagraph:

“(D) **Nonapplication of Phaseout.**—Subsection (b)(1) shall not apply.”.

(b) **Clarification of Qualifying Facility.**—Section 45K(g)(1) is amended by inserting “(other than from petroleum based products)” after “coke or coke gas”.

(c) **Effective Date.**—The amendments made by this section shall take effect as if included in section 1321 of the Energy Policy Act of 2005.

**TITLE III—HEALTH SAVINGS ACCOUNTS**

**SEC. 301. SHORT TITLE.**

This title may be cited as the “Health Opportunity Patient Empowerment Act of 2006”.
SEC. 302. FSA AND HRA TERMINATIONS TO FUND HSAS.

(a) IN GENERAL.—Section 106 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following new subsection:

“(e) FSA AND HRA TERMINATIONS TO FUND HSAS.—

“(1) IN GENERAL.—A plan shall not fail to be treated as a health flexible spending arrangement or health reimbursement arrangement under this section or section 105 merely because such plan provides for a qualified HSA distribution.

“(2) QUALIFIED HSA DISTRIBUTION.—The term ‘qualified HSA distribution’ means a distribution from a health flexible spending arrangement or health reimbursement arrangement to the extent that such distribution—

“(A) does not exceed the lesser of the balance in such arrangement on September 21, 2006, or as of the date of such distribution, and

“(B) is contributed by the employer directly to the health savings account of the employee before January 1, 2012.

Such term shall not include more than 1 distribution with respect to any arrangement.
“(3) ADDITIONAL TAX FOR FAILURE TO MAINTAIN HIGH DEDUCTIBLE HEALTH PLAN COVERAGE.—

“(A) IN GENERAL.—If, at any time during the testing period, the employee is not an eligible individual, then the amount of the qualified HSA distribution—

“(i) shall be includible in the gross income of the employee for the taxable year in which occurs the first month in the testing period for which such employee is not an eligible individual, and

“(ii) the tax imposed by this chapter for such taxable year on the employee shall be increased by 10 percent of the amount which is so includible.

“(B) EXCEPTION FOR DISABILITY OR DEATH.—Clauses (i) and (ii) of subparagraph (A) shall not apply if the employee ceases to be an eligible individual by reason of the death of the employee or the employee becoming disabled (within the meaning of section 72(m)(7)).

“(4) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—
“(A) Testing Period.—The term ‘testing period’ means the period beginning with the month in which the qualified HSA distribution is contributed to the health savings account and ending on the last day of the 12th month following such month.

“(B) Eligible Individual.—The term ‘eligible individual’ has the meaning given such term by section 223(c)(1).

“(C) Treatment as Rollover Contribution.—A qualified HSA distribution shall be treated as a rollover contribution described in section 223(f)(5).

“(5) Tax Treatment Relating to Distributions.—For purposes of this title—

“(A) In General.—A qualified HSA distribution shall be treated as a payment described in subsection (d).

“(B) Comparability Excise Tax.—

“(i) In General.—Except as provided in clause (ii), section 4980G shall not apply to qualified HSA distributions.

“(ii) Failure to Offer to All Employees.—In the case of a qualified HSA distribution to any employee, the failure to
offer such distribution to any eligible individual covered under a high deductible health plan of the employer shall (notwithstanding section 4980G(d)) be treated for purposes of section 4980G as a failure to meet the requirements of section 4980G(b).”.

(b) Certain FSA Coverage Disregarded Coverage.—Subparagraph (B) of section 223(c)(1) (relating to certain coverage disregarded) is amended by striking “and” at the end of clause (i), by striking the period at the end of clause (ii) and inserting “, and”, and by inserting after clause (ii) the following new clause:

“(iii) for taxable years beginning after December 31, 2006, coverage under a health flexible spending arrangement during any period immediately following the end of a plan year of such arrangement during which unused benefits or contributions remaining at the end of such plan year may be paid or reimbursed to plan participants for qualified benefit expenses incurred during such period if—
“(I) the balance in such arrangement at the end of such plan year is zero, or

“(II) the individual is making a qualified HSA distribution (as defined in section 106(e)) in an amount equal to the remaining balance in such arrangement as of the end of such plan year, in accordance with rules prescribed by the Secretary.”.

(c) Application of Section.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to distributions on or after the date of the enactment of this Act.

(2) Subsection (b).—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 303. REPEAL OF ANNUAL DEDUCTIBLE LIMITATION ON HSA CONTRIBUTIONS.

(a) In General.—Paragraph (2) of section 223(b) (relating to monthly limitation) is amended—

(1) in subparagraph (A) by striking “the lesser of—” and all that follows and inserting “$2,250.”,

and
(2) in subparagraph (B) by striking “the lesser of—” and all that follows and inserting “$4,500.”.

(b) CONFORMING AMENDMENT.—Section 223(d)(1)(A)(ii)(I) is amended by striking “subsection (b)(2)(B)(ii)” and inserting “subsection (b)(2)(B)”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 304. MODIFICATION OF COST-OF-LIVING ADJUSTMENT.

Paragraph (1) of section 223(g) (relating to cost-of-living adjustment) is amended by adding at the end the following new flush sentence:

“In the case of adjustments made for any taxable year beginning after 2007, section 1(f)(4) shall be applied for purposes of this paragraph by substituting ‘March 31’ for ‘August 31’, and the Secretary shall publish the adjusted amounts under subsections (b)(2) and (c)(2)(A) for taxable years beginning in any calendar year no later than June 1 of the preceding calendar year.”.

SEC. 305. CONTRIBUTION LIMITATION NOT REDUCED FOR PART-YEAR COVERAGE.

(a) INCREASE IN LIMIT FOR INDIVIDUALS BECOMING ELIGIBLE INDIVIDUALS AFTER BEGINNING OF THE YEAR.—Subsection (b) of section 223 (relating to limita-
(8) INCREASE IN LIMIT FOR INDIVIDUALS BECOMING ELIGIBLE INDIVIDUALS AFTER THE BEGINNING OF THE YEAR.—

(A) IN GENERAL.—For purposes of computing the limitation under paragraph (1) for any taxable year, an individual who is an eligible individual during the last month of such taxable year shall be treated—

(i) as having been an eligible individual during each of the months in such taxable year, and

(ii) as having been enrolled, during each of the months such individual is treated as an eligible individual solely by reason of clause (i), in the same high deductible health plan in which the individual was enrolled for the last month of such taxable year.

(B) FAILURE TO MAINTAIN HIGH DEDUCTIBLE HEALTH PLAN COVERAGE.—

(i) IN GENERAL.—If, at any time during the testing period, the individual is not an eligible individual, then—
“(I) gross income of the individual for the taxable year in which occurs the first month in the testing period for which such individual is not an eligible individual is increased by the aggregate amount of all contributions to the health savings account of the individual which could not have been made but for subparagraph (A), and

“(II) the tax imposed by this chapter for any taxable year on the individual shall be increased by 10 percent of the amount of such increase.

“(ii) Exception for disability or death.—Subclauses (I) and (II) of clause (i) shall not apply if the individual ceased to be an eligible individual by reason of the death of the individual or the individual becoming disabled (within the meaning of section 72(m)(7)).

“(iii) Testing period.—The term ‘testing period’ means the period beginning with the last month of the taxable year re-
ferred to in subparagraph (A) and ending on the last day of the 12th month following such month.”.

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 306. EXCEPTION TO REQUIREMENT FOR EMPLOYERS TO MAKE COMPARABLE HEALTH SAVINGS ACCOUNT CONTRIBUTIONS.

(a) In General.—Section 4980G (relating to failure of employer to make comparable health savings account contributions) is amended by adding at the end the following new subsection:

“(d) Exception.—For purposes of applying section 4980E to a contribution to a health savings account of an employee who is not a highly compensated employee (as defined in section 414(q)), highly compensated employees shall not be treated as comparable participating employees.”

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.
SEC. 307. ONE-TIME DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLANS TO FUND HSAS.

(a) IN GENERAL.—Subsection (d) of section 408 (relating to taxability of beneficiary of employees’ trust) is amended by adding at the end the following new paragraph:

“(9) DISTRIBUTION FOR HEALTH SAVINGS ACCOUNT FUNDING.—

“(A) IN GENERAL.—In the case of an individual who is an eligible individual (as defined in section 223(c)) and who elects the application of this paragraph for a taxable year, gross income of the individual for the taxable year does not include a qualified HSA funding distribution to the extent such distribution is otherwise includible in gross income.

“(B) QUALIFIED HSA FUNDING DISTRIBUTION.—For purposes of this paragraph, the term ‘qualified HSA funding distribution’ means a distribution from an individual retirement plan (other than a plan described in subsection (k) or (p)) of the employee to the extent that such distribution is contributed to the health savings account of the individual in a direct trustee-to-trustee transfer.

“(C) LIMITATIONS.—
“(i) **MAXIMUM DOLLAR LIMITATION.**—The amount excluded from gross income by subparagraph (A) shall not exceed the excess of—

“(I) the annual limitation under section 223(b) computed on the basis of the type of coverage under the high deductible health plan covering the individual at the time of the qualified HSA funding distribution, over

“(II) in the case of a distribution described in clause (ii)(II), the amount of the earlier qualified HSA funding distribution.

“(ii) **ONE-TIME TRANSFER.**—

“(I) **IN GENERAL.**—Except as provided in subclause (II), an individual may make an election under subparagraph (A) only for one qualified HSA funding distribution during the lifetime of the individual. Such an election, once made, shall be irrevocable.

“(II) **CONVERSION FROM SELF-ONLY TO FAMILY COVERAGE.**—If a
qualified HSA funding distribution is made during a month in a taxable year during which an individual has self-only coverage under a high deductible health plan as of the first day of the month, the individual may elect to make an additional qualified HSA funding distribution during a subsequent month in such taxable year during which the individual has family coverage under a high deductible health plan as of the first day of the subsequent month.

“(D) FAILURE TO MAINTAIN HIGH DEDUCTIBLE HEALTH PLAN COVERAGE.—

“(i) IN GENERAL.—If, at any time during the testing period, the individual is not an eligible individual, then the aggregate amount of all contributions to the health savings account of the individual made under subparagraph (A)—

“(I) shall be includible in the gross income of the individual for the taxable year in which occurs the first month in the testing period for which
such individual is not an eligible individual, and

“(II) the tax imposed by this chapter for any taxable year on the individual shall be increased by 10 percent of the amount which is so includible.

“(ii) Exception for disability or death.—Subclauses (I) and (II) of clause (i) shall not apply if the individual ceased to be an eligible individual by reason of the death of the individual or the individual becoming disabled (within the meaning of section 72(m)(7)).

“(iii) Testing period.—The term ‘testing period’ means the period beginning with the month in which the qualified HSA funding distribution is contributed to a health savings account and ending on the last day of the 12th month following such month.

“(E) Application of section 72.—Notwithstanding section 72, in determining the extent to which an amount is treated as otherwise includible in gross income for purposes of sub-
paragraph (A), the aggregate amount distrib-
uted from an individual retirement plan shall be
treated as includible in gross income to the ex-
tent that such amount does not exceed the ag-
gregate amount which would have been so in-
ccludible if all amounts from all individual retire-
ment plans were distributed. Proper adjust-
ments shall be made in applying section 72 to
other distributions in such taxable year and
subsequent taxable years.”.

(b) COORDINATION WITH LIMITATION ON CON-
TRIBUTIONS TO HSAS.—Section 223(b)(4) (relating to co-
ordination with other contributions) is amended by strik-
ing “and” at the end of subparagraph (A), by striking
the period at the end of subparagraph (B) and inserting
“, and”, and by inserting after subparagraph (B) the fol-
lowing new subparagraph:

“(C) the aggregate amount contributed to
health savings accounts of such individual for
such taxable year under section 408(d)(9) (and
such amount shall not be allowed as a deduc-
tion under subsection (a)).”.

(e) EFFECTIVE DATE.—The amendments made by
this section shall apply to taxable years beginning after
December 31, 2006.
TITLE IV—OTHER PROVISIONS

SEC. 401. DEDUCTION ALLOWABLE WITH RESPECT TO INCOME ATTRIBUTABLE TO DOMESTIC PRODUCTION ACTIVITIES IN PUERTO RICO.

(a) In General.—Subsection (d) of section 199 (relating to definitions and special rules) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

“(8) TREATMENT OF ACTIVITIES IN PUERTO RICO.—

“(A) In General.—In the case of any taxpayer with gross receipts for any taxable year from sources within the Commonwealth of Puerto Rico, if all of such receipts are taxable under section 1 or 11 for such taxable year, then for purposes of determining the domestic production gross receipts of such taxpayer for such taxable year under subsection (c)(4), the term ‘United States’ shall include the Commonwealth of Puerto Rico.

“(B) SPECIAL RULE FOR APPLYING WAGE LIMITATION.—In the case of any taxpayer described in subparagraph (A), for purposes of applying the limitation under subsection (b) for any taxable year, the determination of W–2
wages of such taxpayer shall be made without regard to any exclusion under section 3401(a)(8) for remuneration paid for services performed in Puerto Rico.

“(C) TERMINATION.—This paragraph shall apply only with respect to the first 2 taxable years of the taxpayer beginning after December 31, 2005, and before January 1, 2008.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

SEC. 402. CREDIT FOR PRIOR YEAR MINIMUM TAX LIABILITY MADE REFUNDABLE AFTER PERIOD OF YEARS.

(a) IN GENERAL.—Section 53 (relating to credit for prior year minimum tax liability) is amended by adding at the end the following new subsection:

“(e) SPECIAL RULE FOR INDIVIDUALS WITH LONG-TERM UNUSED CREDITS.—

“(1) IN GENERAL.—If an individual has a long-term unused minimum tax credit for any taxable year beginning before January 1, 2013, the amount determined under subsection (e) for such taxable year shall not be less than the AMT refundable credit amount for such taxable year.
“(2) AMT REFUNDABLE CREDIT AMOUNT.—For purposes of paragraph (1)—

“(A) IN GENERAL.—The term ‘AMT refundable credit amount’ means, with respect to any taxable year, the amount equal to the greater of—

“(i) the lesser of—

“(I) $5,000, or

“(II) the amount of long-term unused minimum tax credit for such taxable year, or

“(ii) 20 percent of the amount of such credit.

“(B) PHASEOUT OF AMT REFUNDABLE CREDIT AMOUNT.—

“(i) IN GENERAL.—In the case of an individual whose adjusted gross income for any taxable year exceeds the threshold amount (within the meaning of section 151(d)(3)(C)), the AMT refundable credit amount determined under subparagraph (A) for such taxable year shall be reduced by the applicable percentage (within the meaning of section 151(d)(3)(B)).
“(ii) ADJUSTED GROSS INCOME.—For purposes of clause (i), adjusted gross income shall be determined without regard to sections 911, 931, and 933.

“(3) LONG-TERM UNUSED MINIMUM TAX CREDIT.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘long-term unused minimum tax credit’ means, with respect to any taxable year, the portion of the minimum tax credit determined under subsection (b) attributable to the adjusted net minimum tax for taxable years before the 3rd taxable year immediately preceding such taxable year.

“(B) FIRST-IN, FIRST-OUT ORDERING RULE.—For purposes of subparagraph (A), credits shall be treated as allowed under subsection (a) on a first-in, first-out basis.

“(4) CREDIT REFUNDABLE.—For purposes of this title (other than this section), the credit allowed by reason of this subsection shall be treated as if it were allowed under subpart C.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 6211(b)(4)(A) is amended by striking “and 34” and inserting “34, and 53(e)”.

VerDate 0ct 09 2002 13:39 Dec 07, 2006 Jkt 000000 PO 00000 Frm 00062 Fmt 6652 Sfmt 6201 C:\TEMP\THOMAS~3.XML HOLCPC
(2) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting “or 53(e)” after “section 35”.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 403. RETURNS REQUIRED IN CONNECTION WITH CERTAIN OPTIONS.

(a) In General.—So much of section 6039(a) as follows paragraph (2) is amended to read as follows:

“shall, for such calendar year, make a return at such time and in such manner, and setting forth such information, as the Secretary may by regulations prescribe.”.

(b) Statements to Persons With Respect to Whom Information Is Furnished.—Section 6039 is amended by redesignating subsections (b) and (c) as subsection (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

“(b) Statements To Be Furnished to Persons With Respect to Whom Information Is Reported.—Every corporation making a return under subsection (a) shall furnish to each person whose name is set forth in such return a written statement setting forth such information as the Secretary may by regulations prescribe. The written statement required under the preceding sen-
tence shall be furnished to such person on or before January 31 of the year following the calendar year for which the return under subsection (a) was made.’’.

(c) CONFORMING AMENDMENTS.—

(1) Section 6724(d)(1)(B) is amended by striking “or” at the end of clause (xvii), by striking “and” at the end of clause (xviii) and inserting “or”, and by adding at the end the following new clause:

“(xix) section 6039(a) (relating to returns required with respect to certain options), and’’.

(2) Section 6724(d)(2)(B) is amended by striking “section 6039(a)” and inserting “section 6039(b)”.

(3) The heading of section 6039 and the item relating to such section in the table of sections of subpart A of part III of subchapter A of chapter 61 of such Code are each amended by striking “Information” and inserting “Returns”.

(4) The heading of subsection (a) of section 6039 is amended by striking “FURNISHING OF INFORMATION” and inserting “REQUIREMENT OF REPORTING”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to calendar years beginning after the date of the enactment of this Act.

SEC. 404. PARTIAL EXPENSING FOR ADVANCED MINE SAFETY EQUIPMENT.

(a) IN GENERAL.—Part VI of subchapter B of chapter 1 is amended by inserting after section 179D the following new section:

“SEC. 179E. ELECTION TO EXPENSE ADVANCED MINE SAFETY EQUIPMENT.

“(a) TREATMENT AS EXPENSES.—A taxpayer may elect to treat 50 percent of the cost of any qualified advanced mine safety equipment property as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified advanced mine safety equipment property is placed in service.

“(b) ELECTION.—

“(1) IN GENERAL.—An election under this section for any taxable year shall be made on the taxpayer’s return of the tax imposed by this chapter for the taxable year. Such election shall specify the advanced mine safety equipment property to which the election applies and shall be made in such manner as the Secretary may by regulations prescribe.
“(2) Election irrevocable.—Any election made under this section may not be revoked except with the consent of the Secretary.

“(c) Qualified Advanced Mine Safety Equipment Property.—For purposes of this section, the term ‘qualified advanced mine safety equipment property’ means any advanced mine safety equipment property for use in any underground mine located in the United States—

“(1) the original use of which commences with the taxpayer, and

“(2) which is placed in service by the taxpayer after the date of the enactment of this section.

“(d) Advanced Mine Safety Equipment Property.—For purposes of this section, the term ‘advanced mine safety equipment property’ means any of the following:

“(1) Emergency communication technology or device which is used to allow a miner to maintain constant communication with an individual who is not in the mine.

“(2) Electronic identification and location device which allows an individual who is not in the mine to track at all times the movements and location of miners working in or at the mine.
“(3) Emergency oxygen-generating, self-rescue device which provides oxygen for at least 90 minutes.

“(4) Pre-positioned supplies of oxygen which (in combination with self-rescue devices) can be used to provide each miner on a shift, in the event of an accident or other event which traps the miner in the mine or otherwise necessitates the use of such a self-rescue device, the ability to survive for at least 48 hours.

“(5) Comprehensive atmospheric monitoring system which monitors the levels of carbon monoxide, methane, and oxygen that are present in all areas of the mine and which can detect smoke in the case of a fire in a mine.

“(e) COORDINATION WITH SECTION 179.—No expenditures shall be taken into account under subsection (a) with respect to the portion of the cost of any property specified in an election under section 179.

“(f) REPORTING.—No deduction shall be allowed under subsection (a) to any taxpayer for any taxable year unless such taxpayer files with the Secretary a report containing such information with respect to the operation of the mines of the taxpayer as the Secretary shall require.
“(g) TERMINATION.—This section shall not apply to property placed in service after December 31, 2008.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 263(a)(1) is amended by striking “or” at the end of subparagraph (J), by striking the period at the end of subparagraph (K) and inserting “, or”, and by inserting after subparagraph (K) the following new subparagraph:

“(L) expenditures for which a deduction is allowed under section 179E.”.

(2) Section 312(k)(3)(B) is amended by striking “or 179D” each place it appears in the heading and text thereof and inserting “179D, or 179E”.

(3) Paragraphs (2)(C) and (3)(C) of section 1245(a) are each amended by inserting “179E,” after “179D,”.

(4) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179D the following new item:

“Sec. 179E. Election to expense advanced mine safety equipment.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred after the date of the enactment of this Act.
SEC. 405. MINE RESCUE TEAM TRAINING TAX CREDIT.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 (relating to business related credits) is amended by adding at the end the following new section:

```
```

```

“SEC. 45N. MINE RESCUE TEAM TRAINING CREDIT.

“(a) Amount of Credit.—For purposes of section 38, the mine rescue team training credit determined under this section with respect to each qualified mine rescue team employee of an eligible employer for any taxable year is an amount equal to the lesser of—

“(1) 20 percent of the amount paid or incurred by the taxpayer during the taxable year with respect to the training program costs of such qualified mine rescue team employee (including wages of such employee while attending such program), or

“(2) $10,000.

“(b) Qualified Mine Rescue Team Employee.—For purposes of this section, the term ‘qualified mine rescue team employee’ means with respect to any taxable year any full-time employee of the taxpayer who is—

“(1) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member as a result of completing, at a minimum, an initial 20-hour course of instruction as prescribed by

```
the Mine Safety and Health Administration’s Office of Educational Policy and Development, or

“(2) a miner eligible for more than 6 months of such taxable year to serve as a mine rescue team member by virtue of receiving at least 40 hours of refresher training in such instruction.

“(c) ELIGIBLE EMPLOYER.—For purposes of this section, the term ‘eligible employer’ means any taxpayer which employs individuals as miners in underground mines in the United States.

“(d) WAGES.—For purposes of this section, the term ‘wages’ has the meaning given to such term by subsection (b) of section 3306 (determined without regard to any dollar limitation contained in such section).

“(e) TERMINATION.—This section shall not apply to taxable years beginning after December 31, 2008.”.

(b) CREDIT MADE PART OF GENERAL BUSINESS CREDIT.—Section 38(b) is amended by striking “and” at the end of paragraph (29), by striking the period at the end of paragraph (30) and inserting “, plus”, and by adding at the end the following new paragraph:

“(31) the mine rescue team training credit determined under section 45N(a).”.

(c) NO DOUBLE BENEFIT.—Section 280C is amended by adding at the end the following new subsection:
“(e) **Mine Rescue Team Training Credit.**—No deduction shall be allowed for that portion of the expenses otherwise allowable as a deduction for the taxable year which is equal to the amount of the credit determined for the taxable year under section 45N(a).”.

(d) **Clerical Amendment.**—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end the following new item:

“Sec. 45N. Mine rescue team training credit.”.

(e) **Effective Date.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

**SEC. 406. WHISTLEBLOWER REFORMS.**

(a) **Awards to Whistleblowers.**—

(1) **In General.**—Section 7623 (relating to expenses of detection of underpayments and fraud, etc.) is amended—

(A) by striking “The Secretary” and inserting “(a) In General.—The Secretary”,

(B) by striking “and” at the end of paragraph (1) and inserting “or”,

(C) by striking “(other than interest)”,

and

(D) by adding at the end the following new subsection:

“(b) **Awards to Whistleblowers.**—
“(1) IN GENERAL.—If the Secretary proceeds with any administrative or judicial action described in subsection (a) based on information brought to the Secretary’s attention by an individual, such individual shall, subject to paragraph (2), receive as an award at least 15 percent but not more than 30 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action. The determination of the amount of such award by the Whistleblower Office shall depend upon the extent to which the individual substantially contributed to such action.

“(2) AWARD IN CASE OF LESS SUBSTANTIAL CONTRIBUTION.—

“(A) IN GENERAL.—In the event the action described in paragraph (1) is one which the Whistleblower Office determines to be based principally on disclosures of specific allegations (other than information provided by the individual described in paragraph (1)) resulting from a judicial or administrative hearing, from a governmental report, hearing, audit, or investigation, or from the news media, the Whistle-
blower Office may award such sums as it considers appropriate, but in no case more than 10 percent of the collected proceeds (including penalties, interest, additions to tax, and additional amounts) resulting from the action (including any related actions) or from any settlement in response to such action, taking into account the significance of the individual’s information and the role of such individual and any legal representative of such individual in contributing to such action.

“(B) Nonapplication of paragraph where individual is original source of information.—Subparagraph (A) shall not apply if the information resulting in the initiation of the action described in paragraph (1) was originally provided by the individual described in paragraph (1).

“(3) Reduction in or denial of award.—If the Whistleblower Office determines that the claim for an award under paragraph (1) or (2) is brought by an individual who planned and initiated the actions that led to the underpayment of tax or actions described in subsection (a)(2), then the Whistleblower Office may appropriately reduce such
award. If such individual is convicted of criminal conduct arising from the role described in the preceding sentence, the Whistleblower Office shall deny any award.

“(4) Appeal of Award Determination.—Any determination regarding an award under paragraph (1), (2), or (3) may, within 30 days of such determination, be appealed to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).

“(5) Application of this Subsection.—This subsection shall apply with respect to any action—

“(A) against any taxpayer, but in the case of any individual, only if such individual’s gross income exceeds $200,000 for any taxable year subject to such action, and

“(B) if the tax, penalties, interest, additions to tax, and additional amounts in dispute exceed $2,000,000.

“(6) Additional Rules.—

“(A) No Contract Necessary.—No contract with the Internal Revenue Service is necessary for any individual to receive an award under this subsection.
“(B) REPRESENTATION.—Any individual described in paragraph (1) or (2) may be represented by counsel.

“(C) SUBMISSION OF INFORMATION.—No award may be made under this subsection based on information submitted to the Secretary unless such information is submitted under penalty of perjury.”.

(2) ASSIGNMENT TO SPECIAL TRIAL JUDGES.—

(A) IN GENERAL.—Section 7443A(b) (relating to proceedings which may be assigned to special trial judges) is amended by striking “and” at the end of paragraph (5), by redesignating paragraph (6) as paragraph (7), and by inserting after paragraph (5) the following new paragraph:

“(6) any proceeding under section 7623(b)(4), and”.

(B) CONFORMING AMENDMENT.—Section 7443A(e) is amended by striking “or (5)” and inserting “(5), or (6)”.

(3) DEDUCTION ALLOWED WHETHER OR NOT TAXPAYER ITEMIZES.—Subsection (a) of section 62 (relating to general rule defining adjusted gross in-
come) is amended by inserting after paragraph (20) the following new paragraph:

“(21) ATTORNEYS FEES RELATING TO AWARDS TO WHISTLEBLOWERS.—Any deduction allowable under this chapter for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any award under section 7623(b) (relating to awards to whistleblowers). The preceding sentence shall not apply to any deduction in excess of the amount includible in the taxpayer’s gross income for the taxable year on account of such award.”.

(b) WHISTLEBLOWER OFFICE.—

(1) IN GENERAL.—Not later than the date which is 12 months after the date of the enactment of this Act, the Secretary of the Treasury shall issue guidance for the operation of a whistleblower program to be administered in the Internal Revenue Service by an office to be known as the “Whistleblower Office” which—

(A) shall at all times operate at the direction of the Commissioner of Internal Revenue and coordinate and consult with other divisions in the Internal Revenue Service as directed by the Commissioner of Internal Revenue,
(B) shall analyze information received from
any individual described in section 7623(b) of
the Internal Revenue Code of 1986 and either
develop the matter itself or assign it to the
appropriate Internal Revenue Service office,
and
(C) in its sole discretion, may ask for addi-
tional assistance from such individual or any
legal representative of such individual.

(2) REQUEST FOR ASSISTANCE.—The guidance
issued under paragraph (1) shall specify that any as-
sistance requested under paragraph (1)(C) shall be
under the direction and control of the Whistleblower
Office or the office assigned to investigate the mat-
ter under paragraph (1)(A). No individual or legal
representative whose assistance is so requested may
by reason of such request represent himself or her-
self as an employee of the Federal Government.

(c) REPORT BY SECRETARY.—The Secretary of the
Treasury shall each year conduct a study and report to
Congress on the use of section 7623 of the Internal Rev-
ene Code of 1986, including—

(1) an analysis of the use of such section dur-
ing the preceding year and the results of such use,
and
any legislative or administrative recommendations regarding the provisions of such section and its application.

(d) Effective Date.—The amendments made by subsection (a) shall apply to information provided on or after the date of the enactment of this Act.

SEC. 407. FRIVOLOUS TAX SUBMISSIONS.

(a) Civil Penalties.—Section 6702 is amended to read as follows:

“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.

“(a) Civil Penalty for Frivolous Tax Returns.—A person shall pay a penalty of $5,000 if—

“(1) such person files what purports to be a return of a tax imposed by this title but which—

“(A) does not contain information on which the substantial correctness of the self-assessment may be judged, or

“(B) contains information that on its face indicates that the self-assessment is substantially incorrect, and

“(2) the conduct referred to in paragraph (1)—

“(A) is based on a position which the Secretary has identified as frivolous under subsection (c), or
“(B) reflects a desire to delay or impede
the administration of Federal tax laws.

“(b) Civil Penalty for Specified Frivolous
Submissions.—

“(1) Imposition of Penalty.—Except as pro-
vided in paragraph (3), any person who submits a
specified frivolous submission shall pay a penalty of
$5,000.

“(2) Specified frivolous submission.—For
purposes of this section—

“(A) Specified frivolous submission.—The term ‘speci-
fied frivolous submission’ means a specified submission if any por-
tion of such submission—

“(i) is based on a position which the
Secretary has identified as frivolous under
subsection (c), or

“(ii) reflects a desire to delay or im-
pede the administration of Federal tax
laws.

“(B) Specified submission.—The term
‘specified submission’ means—

“(i) a request for a hearing under—
“(I) section 6320 (relating to notice and opportunity for hearing upon filing of notice of lien), or

“(II) section 6330 (relating to notice and opportunity for hearing before levy), and

“(ii) an application under—

“(I) section 6159 (relating to agreements for payment of tax liability in installments),

“(II) section 7122 (relating to compromises), or

“(III) section 7811 (relating to taxpayer assistance orders).

“(3) OPPORTUNITY TO WITHDRAW SUBMISSION.—If the Secretary provides a person with notice that a submission is a specified frivolous submission and such person withdraws such submission within 30 days after such notice, the penalty imposed under paragraph (1) shall not apply with respect to such submission.

“(c) LISTING OF FRIVOLOUS POSITIONS.—The Secretary shall prescribe (and periodically revise) a list of positions which the Secretary has identified as being frivolous for purposes of this subsection. The Secretary shall
81

not include in such list any position that the Secretary
determines meets the requirement of section

“(d) REDUCTION OF PENALTY.—The Secretary may
reduce the amount of any penalty imposed under this sec-

tion if the Secretary determines that such reduction would
promote compliance with and administration of the Fed-
eral tax laws.

“(e) PENALTIES IN ADDITION TO OTHER PEN-
ALTIES.—The penalties imposed by this section shall be
in addition to any other penalty provided by law.”.

(b) TREATMENT OF FRIVOLOUS REQUESTS FOR
HEARINGS BEFORE LEVY.—

(1) FRIVOLOUS REQUESTS DISREGARDED.—

Section 6330 (relating to notice and opportunity for
hearing before levy) is amended by adding at the
end the following new subsection:

“(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—

Notwithstanding any other provision of this section, if the
Secretary determines that any portion of a request for a
hearing under this section or section 6320 meets the re-

quirement of clause (i) or (ii) of section 6702(b)(2)(A),
then the Secretary may treat such portion as if it were
never submitted and such portion shall not be subject to
any further administrative or judicial review.”.
(2) Preclusion from raising frivolous issues at hearing.—Section 6330(e)(4) is amended—

(A) by striking “(A)” and inserting “(A)(i)”;  
(B) by striking “(B)” and inserting “(ii)”;  
(C) by striking the period at the end of the first sentence and inserting “; or”; and  
(D) by inserting after subparagraph (A)(ii) (as so redesignated) the following:

“(B) the issue meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A).”.

(3) Statement of grounds.—Section 6330(b)(1) is amended by striking “under subsection (a)(3)(B)” and inserting “in writing under subsection (a)(3)(B) and states the grounds for the requested hearing”.

(c) Treatment of frivolous requests for hearings upon filing of notice of lien.—Section 6320 is amended—

(1) in subsection (b)(1), by striking “under subsection (a)(3)(B)” and inserting “in writing under subsection (a)(3)(B) and states the grounds for the requested hearing”, and
(2) in subsection (c), by striking “and (e)” and inserting “(e), and (g)”.

(d) Treatment of Frivolous Applications for Offers-in Compromise and Installment Agreements.—Section 7122 is amended by adding at the end the following new subsection:

“(f) Frivolous Submissions, etc.—Notwithstanding any other provision of this section, if the Secretary determines that any portion of an application for an offer-in-compromise or installment agreement submitted under this section or section 6159 meets the requirement of clause (i) or (ii) of section 6702(b)(2)(A), then the Secretary may treat such portion as if it were never submitted and such portion shall not be subject to any further administrative or judicial review.”.

(e) Clerical Amendment.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6702 and inserting the following new item:

“Sec. 6702. Frivolous tax submissions.”.

(f) Effective Date.—The amendments made by this section shall apply to submissions made and issues raised after the date on which the Secretary first prescribes a list under section 6702(e) of the Internal Revenue Code of 1986, as amended by subsection (a).
SEC. 408. ADDITION OF MENINGOCOCCAL AND HUMAN 
PAPILLOMAVIRUS VACCINES TO LIST OF TAX-
ABLE VACCINES.

(a) MENINGOCOCCAL VACCINE.—Section 4132(a)(1) 
(definition of taxable vaccine) is amended by adding at the end 
the following new subparagraph:

“(O) Any meningococcal vaccine.”.

(b) HUMAN PAPILLOMAVIRUS VACCINE.—Section 
4132(a)(1), as amended by subsection (a), is amended by 
adding at the end the following new subparagraph:

“(P) Any vaccine against the human 
papillomavirus.”.

(c) EFFECTIVE DATE.—

(1) SALES, ETC.—The amendments made by 
this section shall apply to sales and uses on or after 
the first day of the first month which begins more 
than 4 weeks after the date of the enactment of this 
Act.

(2) DELIVERIES.—For purposes of paragraph 
(1) and section 4131 of the Internal Revenue Code 
of 1986, in the case of sales on or before the effective date described in such paragraph for which de-
delivery is made after such date, the delivery date shall 
be considered the sale date.
SEC. 409. CLARIFICATION OF TAXATION OF CERTAIN SETLEMENT FUNDS MADE PERMANENT.

(a) IN GENERAL.—Subsection (g) of section 468B is amended by striking paragraph (3).

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 201 of the Tax Increase Prevention and Reconciliation Act of 2005.

SEC. 410. MODIFICATION OF ACTIVE BUSINESS DEFINITION UNDER SECTION 355 MADE PERMANENT.

(a) IN GENERAL.—Subparagraphs (A) and (D) of section 355(b)(3) are each amended by striking “and on or before December 31, 2010”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 202 of the Tax Increase Prevention and Reconciliation Act of 2005.

SEC. 411. REVISION OF STATE VETERANS LIMIT MADE PERMANENT.

(a) IN GENERAL.—Subparagraph (B) of section 143(l)(3) is amended by striking clause (iv).

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 203 of the Tax Increase Prevention and Reconciliation Act of 2005.
SEC. 412. CAPITAL GAINS TREATMENT FOR CERTAIN SELF-CREATED MUSICAL WORKS MADE PERMANENT.

(a) In General.—Paragraph (3) of section 1221(b) is amended by striking “before January 1, 2011.”

(b) Effective Date.—The amendment made by this section shall take effect as if included in section 204 of the Tax Increase Prevention and Reconciliation Act of 2005.

SEC. 413. REDUCTION IN MINIMUM VESSEL TONNAGE WHICH QUALIFIES FOR TONNAGE TAX MADE PERMANENT.

(a) In General.—Paragraph (4) of section 1355(a) is amended by striking “10,000 (6,000, in the case of taxable years beginning after December 31, 2005, and ending before January 1, 2011)” and inserting “6,000”.

(b) Effective Date.—The amendment made by this section shall take effect as if included in section 205 of the Tax Increase Prevention and Reconciliation Act of 2005.

SEC. 414. MODIFICATION OF SPECIAL ARBITRAGE RULE FOR CERTAIN FUNDS MADE PERMANENT.

(a) In General.—Section 206 of the Tax Increase Prevention and Reconciliation Act of 2005 is amended by striking “and before August 31, 2009”.
(b) Effective Date.—The amendment made by this section shall take effect as if included in section 206 of the Tax Increase Prevention and Reconciliation Act of 2005.

SEC. 415. GREAT LAKES DOMESTIC SHIPPING TO NOT DISQUALIFY VESSEL FROM TONNAGE TAX.

(a) In General.—Section 1355 (relating to definitions and special rules) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

“(g) Great Lakes Domestic Shipping to Not Disqualify Vessel.—

“(1) In General.—If the electing corporation elects (at such time and in such manner as the Secretary may require) to apply this subsection for any taxable year to any qualifying vessel which is used in qualified zone domestic trade during the taxable year—

“(A) solely for purposes of subsection (a)(4), such use shall be treated as use in United States foreign trade (and not as use in United States domestic trade), and

“(B) subsection (f) shall not apply with respect to such vessel for such taxable year.
“(2) EFFECT OF TEMPORARILY OPERATING VESSEL IN UNITED STATES DOMESTIC TRADE.—In the case of a qualifying vessel to which this subsection applies—

“(A) IN GENERAL.—An electing corporation shall be treated as using such vessel in qualified zone domestic trade during any period of temporary use in the United States domestic trade (other than qualified zone domestic trade) if the electing corporation gives timely notice to the Secretary stating—

“(i) that it temporarily operates or has operated in the United States domestic trade (other than qualified zone domestic trade) a qualifying vessel which had been used in the United States foreign trade or qualified zone domestic trade, and

“(ii) its intention to resume operation of the vessel in the United States foreign trade or qualified zone domestic trade.

“(B) NOTICE.—Notice shall be deemed timely if given not later than the due date (including extensions) for the corporation’s tax return for the taxable year in which the temporary cessation begins.
“(C) Period disregard in effect.—

The period of temporary use under subparagraph (A) continues until the earlier of the date of which—

“(i) the electing corporation abandons its intention to resume operations of the vessel in the United States foreign trade or qualified zone domestic trade, or

“(ii) the electing corporation resumes operation of the vessel in the United States foreign trade or qualified zone domestic trade.

“(D) No disregard if domestic trade use exceeds 30 days.—Subparagraph (A) shall not apply to any qualifying vessel which is operated in the United States domestic trade (other than qualified zone domestic trade) for more than 30 days during the taxable year.

“(3) Allocation of income and deductions to qualifying shipping activities.—In the case of a qualifying vessel to which this subsection applies, the Secretary shall prescribe rules for the proper allocation of income, expenses, losses, and deductions between the qualified shipping activities and the other activities of such vessel.
“(4) QUALIFIED ZONE DOMESTIC TRADE.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified zone domestic trade’ means the transportation of goods or passengers between places in the qualified zone if such transportation is in the United States domestic trade.

“(B) QUALIFIED ZONE.—The term ‘qualified zone’ means the Great Lakes Waterway and the St. Lawrence Seaway.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 416. USE OF QUALIFIED MORTGAGE BONDS TO FINANCE RESIDENCES FOR VETERANS WITHOUT REGARD TO FIRST-TIME HOMEBUYER REQUIREMENT.

(a) IN GENERAL.—Section 143(d)(2) (relating to exceptions to 3-year requirement) is amended by striking “and” at the end of subparagraph (B), by adding “and” at the end of subparagraph (C), and by inserting after subparagraph (C) the following new subparagraph:

“(D) in the case of bonds issued after the date of the enactment of this subparagraph and before January 1, 2008, financing of any resi-
dence for a veteran (as defined in section 101 of title 38, United States Code), if such veteran has not previously qualified for and received such financing by reason of this subpara-
graph.”.

(b) Effective Date.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 417. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL RESIDENCE BY CERTAIN EMPLOYEES OF THE INTELLIGENCE COMMUNITY.

(a) In General.—Subparagraph (A) of section 121(d)(9) (relating to exclusion of gain from sale of principal residence) is amended by striking “duty” and all that follows and inserting “duty—

“(i) as a member of the uniformed services,

“(ii) as a member of the Foreign Service of the United States, or

“(iii) as an employee of the intelligence community.”.

(b) Employee of Intelligence Community Defined.—Subparagraph (C) of section 121(d)(9) is amended by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:
“(iv) Employee of Intelligence Community.—The term ‘employee of the intelligence community’ means an employee (as defined by section 2105 of title 5, United States Code) of—

“(I) the Office of the Director of National Intelligence,

“(II) the Central Intelligence Agency,

“(III) the National Security Agency,

“(IV) the Defense Intelligence Agency,

“(V) the National Geospatial-Intelligence Agency,

“(VI) the National Reconnaissance Office,

“(VII) any other office within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs,

“(VIII) any of the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the De-
93

part of Treasury, the Department of Energy, and the Coast Guard,

“(IX) the Bureau of Intelligence and Research of the Department of State, or

“(X) any of the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information.”.

(c) SPECIAL RULE.—Subparagraph (C) of section 121(d)(9), as amended by subsection (b), is amended by adding at the end the following new clause:

“(vi) SPECIAL RULE RELATING TO INTELLIGENCE COMMUNITY.—An employee of the intelligence community shall not be treated as serving on qualified extended duty unless such duty is at a duty station located outside the United States.”.

(d) CONFORMING AMENDMENT.—The heading for section 121(d)(9) is amended to read as follows: “UNIFORMED SERVICES, FOREIGN SERVICE, AND INTELLIGENCE COMMUNITY”.
(c) **Effective Date.**—The amendments made by this section shall apply to sales or exchanges after the date of the enactment of this Act and before January 1, 2011.

**Sec. 418. Sale of Property by Judicial Officers.**

(a) **In General.**—Section 1043(b) (relating to the sale of property to comply with conflict-of-interest requirements) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting “, or a judicial officer,” after “an officer or employee of the executive branch”; and

(B) in subparagraph (B), by inserting “judicial canon,” after “any statute, regulation, rule,”;

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting “judicial canon,” after “any Federal conflict of interest statute, regulation, rule,”; and

(B) in subparagraph (B), by inserting after “the Director of the Office of Government Ethics,” the following: “in the case of executive branch officers or employees, or by the Judicial Conference of the United States (or its designee), in the case of judicial officers,”; and
(3) in paragraph (5)(B), by inserting “judicial canon,” after “any statute, regulation, rule,”.

(b) JUDICIAL OFFICER DEFINED.—Section 1043(b) is amended by adding at the end the following new paragraph:

“(6) JUDICIAL OFFICER.—The term ‘judicial officer’ means the Chief Justice of the United States, the Associate Justices of the Supreme Court, and the judges of the United States courts of appeals, United States district courts, including the district courts in Guam, the Northern Mariana Islands, and the Virgin Islands, Court of Appeals for the Federal Circuit, Court of International Trade, Tax Court, Court of Federal Claims, Court of Appeals for Veterans Claims, United States Court of Appeals for the Armed Forces, and any court created by Act of Congress, the judges of which are entitled to hold office during good behavior.”.

c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after the date of enactment of this Act.

SEC. 419. PREMIUMS FOR MORTGAGE INSURANCE.

(a) IN GENERAL.—Section 163(h)(3) (relating to qualified residence interest) is amended by adding at the end the following new subparagraph:
“(E) MORTGAGE INSURANCE PREMIUMS TREATED AS INTEREST.—

“(i) IN GENERAL.—Premiums paid or accrued for qualified mortgage insurance by a taxpayer during the taxable year in connection with acquisition indebtedness with respect to a qualified residence of the taxpayer shall be treated for purposes of this section as interest which is qualified residence interest.

“(ii) PHASEOUT.—The amount otherwise treated as interest under clause (i) shall be reduced (but not below zero) by 10 percent of such amount for each $1,000 ($500 in the case of a married individual filing a separate return) (or fraction thereof) that the taxpayer’s adjusted gross income for the taxable year exceeds $100,000 ($50,000 in the case of a married individual filing a separate return).

“(iii) LIMITATION.—Clause (i) shall not apply with respect to any mortgage insurance contracts issued before January 1, 2007.
“(iv) TERMINATION.—Clause (i) shall not apply to amounts—

“(I) paid or accrued after December 31, 2007, or

“(II) properly allocable to any period after such date.”.

(b) DEFINITION AND SPECIAL RULES.—Section 163(h)(4) (relating to other definitions and special rules) is amended by adding at the end the following new sub-

paragraphs:

“(E) QUALIFIED MORTGAGE INSURANCE.—The term ‘qualified mortgage insurance’ means—

“(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and

“(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subparagraph).

“(F) SPECIAL RULES FOR PREPAID QUALIFIED MORTGAGE INSURANCE.—Any amount paid by the taxpayer for qualified mortgage in-
insurance that is properly allocable to any mortgage the payment of which extends to periods that are after the close of the taxable year in which such amount is paid shall be chargeable to capital account and shall be treated as paid in such periods to which so allocated. No deduction shall be allowed for the unamortized balance of such account if such mortgage is satisfied before the end of its term. The preceding sentences shall not apply to amounts paid for qualified mortgage insurance provided by the Veterans Administration or the Rural Housing Administration.”.

(e) INFORMATION RETURNS RELATING TO MORTGAGE INSURANCE.—Section 6050H (relating to returns relating to mortgage interest received in trade or business from individuals) is amended by adding at the end the following new subsection:

“(h) RETURNS RELATING TO MORTGAGE INSURANCE PREMIUMS.—

“(1) IN GENERAL.—The Secretary may prescribe, by regulations, that any person who, in the course of a trade or business, receives from any individual premiums for mortgage insurance aggregating $600 or more for any calendar year, shall make a
return with respect to each such individual. Such return shall be in such form, shall be made at such time, and shall contain such information as the Secretary may prescribe.

“(2) STATEMENT TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under paragraph (1) shall furnish to each individual with respect to whom a return is made a written statement showing such information as the Secretary may prescribe. Such written statement shall be furnished on or before January 31 of the year following the calendar year for which the return under paragraph (1) was required to be made.

“(3) SPECIAL RULES.—For purposes of this subsection—

“(A) rules similar to the rules of subsection (c) shall apply, and

“(B) the term ‘mortgage insurance’ means—

“(i) mortgage insurance provided by the Veterans Administration, the Federal Housing Administration, or the Rural Housing Administration, and
“(ii) private mortgage insurance (as defined by section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901), as in effect on the date of the enactment of this subsection).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts paid or accrued after December 31, 2006.

SEC. 420. MODIFICATION OF REFUNDS FOR KEROSENE USED IN AVIATION.

(a) IN GENERAL.—Paragraph (4) of section 6427(l) (relating to nontaxable uses of diesel fuel and kerosene) is amended to read as follows:

“(4) REFUNDS FOR KEROSENE USED IN AVIATION.—

“(A) KEROSENE USED IN COMMERCIAL AVIATION.—In the case of kerosene used in commercial aviation (as defined in section 4083(b)) (other than supplies for vessels or aircraft within the meaning of section 4221(d)(3)), paragraph (1) shall not apply to so much of the tax imposed by section 4041 or 4081, as the case may be, as is attributable to—
“(i) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

“(ii) so much of the rate of tax specified in section 4041(c) or 4081(a)(2)(A)(iii), as the case may be, as does not exceed 4.3 cents per gallon.

“(B) KEROSENE USED IN NONCOMMERCIAL AVIATION.—In the case of kerosene used in aviation that is not commercial aviation (as so defined) (other than any use which is exempt from the tax imposed by section 4041(c) other than by reason of a prior imposition of tax), paragraph (1) shall not apply to—

“(i) any tax imposed by subsection (c) or (d)(2) of section 4041, and

“(ii) so much of the tax imposed by section 4081 as is attributable to—

“(I) the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section, and

“(II) so much of the rate of tax specified in section 4081(a)(2)(A)(iii) as does not exceed the rate specified in section 4081(a)(2)(C)(ii).
“(C) Payments to Ultimate, Registered Vendor.—

“(i) In General.—With respect to any kerosene used in aviation (other than kerosene described in clause (ii) or kerosene to which paragraph (5) applies), if the ultimate purchaser of such kerosene waives (at such time and in such form and manner as the Secretary shall prescribe) the right to payment under paragraph (1) and assigns such right to the ultimate vendor, then the Secretary shall pay the amount which would be paid under paragraph (1) to such ultimate vendor, but only if such ultimate vendor—

“(I) is registered under section 4101, and

“(II) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).

“(ii) Payments for Kerosene Used in Noncommercial Aviation.—The amount which would be paid under paragraph (1) with respect to any kerosene to which subparagraph (B) applies shall be
paid only to the ultimate vendor of such kerosene. A payment shall be made to such vendor—

“(I) is registered under section 4101, and

“(II) meets the requirements of subparagraph (A), (B), or (D) of section 6416(a)(1).”.

(b) CONFORMING AMENDMENTS.—

(1) Section 6427(l) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(2) Section 4082(d)(2)(B) is amended by striking “section 6427(l)(6)(B)” and inserting “section 6427(l)(5)(B)”.

(3) Section 6427(i)(4)(A) is amended—

(A) by striking “paragraph (4)(B), (5), or (6)” each place it appears and inserting “paragraph (4)(C) or (5)”, and

(B) by striking “(l)(5), and (l)(6)” and inserting “(l)(4)(C)(ii), and (l)(5)”.

(4) Section 6427(l)(1) is amended by striking “paragraph (4)(B)” and inserting “paragraph (4)(C)(i)”.

(5) Section 9502(d) is amended—
(A) in paragraph (2), by striking “and (l)(5)”, and

(B) in paragraph (3), by striking “or (5)”.

(6) Section 9503(c)(7) is amended—

(A) by amending subparagraphs (A) and (B) to read as follows:

“(A) 4.3 cents per gallon of kerosene subject to section 6427(l)(4)(A) with respect to which a payment has been made by the Secretary under section 6427(l), and

“(B) 21.8 cents per gallon of kerosene subject to section 6427(l)(4)(B) with respect to which a payment has been made by the Secretary under section 6427(l).”, and

(B) in the matter following subparagraph (B), by striking “or (5)”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to kerosene sold after September 30, 2005.

(2) SPECIAL RULE FOR PENDING CLAIMS.—In the case of kerosene sold for use in aviation (other than kerosene to which section 6427(l)(4)(C)(ii) of the Internal Revenue Code of 1986 (as added by subsection (a)) applies or kerosene to which section
627(l)(5) of such Code (as redesignated by sub-
section (b)) applies) after September 30, 2005, and
before the date of the enactment of this Act, the ul-
timate purchaser shall be treated as having waived
the right to payment under section 627(l)(1) of
such Code and as having assigned such right to the
ultimate vendor if such ultimate vendor has met the
requirements of subparagraph (A), (B), or (D) of
section 6416(a)(1) of such Code.

(d) Special Rule for Kerosene Used in Avia-
tion on a Farm for Farming Purposes.—

(1) Refunds for purchases after Decem-
ber 31, 2004, and before October 1, 2005.—
The Secretary of the Treasury shall pay to the ulti-
mate purchaser of any kerosene which is used in
aviation on a farm for farming purposes and which
was purchased after December 31, 2004, and before
October 1, 2005, an amount equal to the aggregate
amount of tax imposed on such fuel under section
4041 or 4081 of the Internal Revenue Code of 1986,
as the case may be, reduced by any payment to the
ultimate vendor under section 627(l)(5)(C) of such
Code (as in effect on the day before the date of the
enactment of the Safe, Accountable, Flexible, Effi-
cient Transportation Equity Act: a Legacy for Users).

(2) Use on a Farm for Farming Purposes.—For purposes of paragraph (1), kerosene shall be treated as used on a farm for farming purposes if such kerosene is used for farming purposes (within the meaning of section 6420(c)(3) of the Internal Revenue Code of 1986) in carrying on a trade or business on a farm situated in the United States. For purposes of the preceding sentence, rules similar to the rules of section 6420(c)(4) of such Code shall apply.

(3) Time for Filing Claims.—No claim shall be allowed under paragraph (1) unless the ultimate purchaser files such claim before the date that is 3 months after the date of the enactment of this Act.

(4) No Double Benefit.—No amount shall be paid under paragraph (1) or section 6427(l) of the Internal Revenue Code of 1986 with respect to any kerosene described in paragraph (1) to the extent that such amount is in excess of the tax imposed on such kerosene under section 4041 or 4081 of such Code, as the case may be.

(5) Applicable Laws.—For purposes of this subsection, rules similar to the rules of section
6427(j) of the Internal Revenue Code of 1986 shall apply.

SEC. 421. REGIONAL INCOME TAX AGENCIES TREATED AS STATES FOR PURPOSES OF CONFIDENTIALITY AND DISCLOSURE REQUIREMENTS.

(a) In General.—Paragraph (5) of section 6103(b) is amended to read as follows:

“(5) State.—

“(A) In General.—The term ‘State’ means—

“(i) any of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Canal Zone, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands,

“(ii) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p), any municipality—

“(I) with a population in excess of 250,000 (as determined under the most recent decennial United States census data available),

“(II) which imposes a tax on income or wages, and
“(III) with which the Secretary (in his sole discretion) has entered into an agreement regarding disclosure, and

“(iii) for purposes of subsections (a)(2), (b)(4), (d)(1), (h)(4), and (p), any governmental entity—

“(I) which is formed and operated by a qualified group of municipalities, and

“(II) with which the Secretary (in his sole discretion) has entered into an agreement regarding disclosure.

“(B) REGIONAL INCOME TAX AGENCIES.—

For purposes of subparagraph (A)(iii)—

“(i) QUALIFIED GROUP OF MUNICIPALITIES.—The term ‘qualified group of municipalities’ means, with respect to any governmental entity, 2 or more municipalities—

“(I) each of which imposes a tax on income or wages,

“(II) each of which, under the authority of a State statute, admin-
isters the laws relating to the imposition of such taxes through such entity, and

“(III) which collectively have a population in excess of 250,000 (as determined under the most recent decennial United States census data available).

“(ii) REFERENCES TO STATE LAW, ETC.—For purposes of applying subparagraph (A)(iii) to the subsections referred to in such subparagraph, any reference in such subsections to State law, proceedings, or tax returns shall be treated as references to the law, proceedings, or tax returns, as the case may be, of the municipalities which form and operate the governmental entity referred to in such subparagraph.

“(iii) DISCLOSURE TO CONTRACTORS AND OTHER AGENTS.—Notwithstanding any other provision of this section, no return or return information shall be disclosed to any contractor or other agent of a governmental entity referred to in sub-
paragraph (A)(iii) unless such entity, to
the satisfaction of the Secretary—

“(I) has requirements in effect
which require each such contractor or
other agent which would have access
to returns or return information to
provide safeguards (within the mean-
ing of subsection (p)(4)) to protect
the confidentiality of such returns or
return information,

“(II) agrees to conduct an on-site
review every 3 years (or a mid-point
review in the case of contracts or
agreements of less than 3 years in du-
ration) of each contractor or other
agent to determine compliance with
such requirements,

“(III) submits the findings of the
most recent review conducted under
subclause (II) to the Secretary as part
of the report required by subsection
(p)(4)(E), and

“(IV) certifies to the Secretary
for the most recent annual period that
such contractor or other agent is in
compliance with all such requirements.

The certification required by subclause (IV) shall include the name and address of each contractor and other agent, a description of the contract or agreement with such contractor or other agent, and the duration of such contract or agreement. The requirements of this clause shall not apply to disclosures pursuant to subsection (n) for purposes of Federal tax administration and a rule similar to the rule of subsection (p)(8)(B) shall apply for purposes of this clause.”.

(b) Special Rules for Disclosure.—Subsection (d) of section 6103 is amended by adding at the end the following new paragraph:

“(6) Limitation on disclosure regarding regional income tax agencies treated as states.—For purposes of paragraph (1), inspection by or disclosure to an entity described in subsection (b)(5)(A)(iii) shall be for the purpose of, and only to the extent necessary in, the administration of the laws of the member municipalities in such entity relating to the imposition of a tax on income or wages.
Such entity may not redisclose any return or return information received pursuant to paragraph (1) to any such member municipality.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures made after December 31, 2006.

SEC. 422. DESIGNATION OF WINES BY SEMI-GENERIC NAMES.

(a) IN GENERAL.—Subsection (c) of section 5388 (relating to use of semi-generic designations) is amended by adding at the end the following new paragraph:

“(3) SPECIAL RULE FOR USE OF CERTAIN SEMI-GENERIC DESIGNATIONS.—

“(A) IN GENERAL.—In the case of any wine to which this paragraph applies—

“(i) paragraph (1) shall not apply,

“(ii) in the case of wine of the European Community, designations referred to in subparagraph (C)(i) may be used for such wine only if the requirement of subparagraph (B)(ii) is met, and

“(iii) in the case any other wine bearing a brand name, or brand name and fanciful name, semi-generic designations may be used for such wine only if the require-
ments of clauses (i), (ii), and (iii) of sub-
paragraph (B) are met.

“(B) REQUIREMENTS.—

“(i) The requirement of this clause is
met if there appears in direct conjunction
with the semi-generic designation an ap-
propriate appellation of origin disclosing
the origin of the wine.

“(ii) The requirement of this clause is
met if the wine conforms to the standard
of identity, if any, for such wine contained
in the regulations under this section or, if
there is no such standard, to the trade un-
derstanding of such class or type.

“(iii) The requirement of this clause
is met if the person, or its successor in in-
terest, using the semi-generic designation
held a Certificate of Label Approval or
Certificate of Exemption from Label Ap-
proval issued by the Secretary for a wine
label bearing such brand name, or brand
name and fanciful name, before March 10,
2006, on which such semi-generic designa-
tion appeared.
“(C) Wines to which paragraph applies.—

“(i) In general.—Except as provided in clause (ii), this paragraph shall apply to any grape wine which is designated as Burgundy, Claret, Chablis, Champagne, Chianti, Malaga, Marsala, Madeira, Moselle, Port, Retsina, Rhine Wine or Hock, Sauterne, Haut Sauterne, Sherry, or Tokay.

“(ii) Exception.—This paragraph shall not apply to wine which—

“(I) contains less than 7 percent or more than 24 percent alcohol by volume,

“(II) is intended for sale outside the United States, or

“(III) does not bear a brand name.”.

(b) Effective Date.—The amendments made by this section shall apply to wine imported or bottled in the United States on or after the date of enactment of this Act.
SEC. 423. MODIFICATION OF RAILROAD TRACK MAINTENANCE CREDIT.

(a) IN GENERAL.—Section 45G(d) (defining qualified railroad track maintenance expenditures) is amended—

(1) by inserting “gross” after “means”, and

(2) by inserting “(determined without regard to any consideration for such expenditures given by the Class II or Class III railroad which made the assignment of such track)” after “Class II or Class III railroad”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendment made by section 245(a) of the American Jobs Creation Act of 2004.

SEC. 424. MODIFICATION OF EXCISE TAX ON UNRELATED BUSINESS TAXABLE INCOME OF CHARITABLE REMAINDER TRUSTS.

(a) IN GENERAL.—Subsection (c) of section 664 (relating to exemption from income taxes) is amended to read as follows:

“(e) Taxation of Trusts.—

“(1) Income Tax.—A charitable remainder annuity trust and a charitable remainder unitrust shall, for any taxable year, not be subject to any tax imposed by this subtitle.

“(2) Excise Tax.—
“(A) IN GENERAL.—In the case of a charitable remainder annuity trust or a charitable remainder unitrust which has unrelated business taxable income (within the meaning of section 512, determined as if part III of subchapter F applied to such trust) for a taxable year, there is hereby imposed on such trust or unitrust an excise tax equal to the amount of such unrelated business taxable income.

“(B) CERTAIN RULES TO APPLY.—The tax imposed by subparagraph (A) shall be treated as imposed by chapter 42 for purposes of this title other than subchapter E of chapter 42.

“(C) TAX COURT PROCEEDINGS.—For purposes of this paragraph, the references in section 6212(c)(1) to section 4940 shall be deemed to include references to this paragraph.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 425. LOANS TO QUALIFIED CONTINUING CARE FACILITIES MADE PERMANENT.

(a) IN GENERAL.—Subsection (h) of section 7872 (relating to exception for loans to qualified continuing care facilities) is amended by striking paragraph (4).
(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 209 of the Tax Increase Prevention and Reconciliation Act of 2005.

SEC. 426. TECHNICAL CORRECTIONS.

(a) TECHNICAL CORRECTION RELATING TO LOOK-THROUGH TREATMENT OF PAYMENTS BETWEEN RELATED CONTROLLED FOREIGN CORPORATIONS UNDER THE FOREIGN PERSONAL HOLDING COMPANY RULES.—

(1) IN GENERAL.—

(A) The first sentence of section 954(c)(6)(A) is amended by striking “which is not subpart F income” and inserting “which is neither subpart F income nor income treated as effectively connected with the conduct of a trade or business in the United States”.

(B) Section 954(c)(6)(A) is amended by striking the last sentence and inserting the following: “The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this paragraph, including such regulations as may be necessary or appropriate to prevent the abuse of the purposes of this paragraph.”
(2) **Effective date.**—The amendments made by this subsection shall take effect as if included in section 103(b) of the Tax Increase Prevention and Reconciliation Act of 2005.

(b) **Technical correction regarding authority to exercise reasonable cause and good faith exception.**—

(1) **In general.**—Section 903(d)(2)(B)(iii) of the American Jobs Creation Act of 2004, as amended by section 303(a) of the Gulf Opportunity Zone Act of 2005, is amended by inserting “or the Secretary’s delegate” after “the Secretary of the Treasury”.

(2) **Effective date.**—The amendment made by this subsection shall take effect as if included in the provisions of the American Jobs Creation Act of 2004 to which it relates.

**DIVISION B—MEDICARE AND OTHER HEALTH PROVISIONS**

**SEC. 1. SHORT TITLE OF DIVISION.**

This division may be cited as the “Medicare Improvements and Extension Act of 2006”.
TITLE I—MEDICARE IMPROVED QUALITY AND PROVIDER PAYMENTS

SEC. 101. PHYSICIAN PAYMENT AND QUALITY IMPROVEMENT.

(a) ONE-YEAR INCREASE IN MEDICARE PHYSICIAN FEE SCHEDULE CONVERSION FACTOR.—Section 1848(d) of the Social Security Act (42 U.S.C. 1395w-4(d)) is amended by adding at the end the following new paragraph:

“(7) CONVERSION FACTOR FOR 2007.—

“(A) IN GENERAL.—The conversion factor that would otherwise be applicable under this subsection for 2007 shall be the amount of such conversion factor divided by the product of—

“(i) 1 plus the Secretary’s estimate of the percentage increase in the MEI (as defined in section 1842(i)(3)) for 2007 (divided by 100); and

“(ii) 1 plus the Secretary’s estimate of the update adjustment factor under paragraph (4)(B) for 2007.

“(B) NO EFFECT ON COMPUTATION OF CONVERSION FACTOR FOR 2008.—The conversion factor under this subsection shall be com-
puted under paragraph (1)(A) for 2008 as if subparagraph (A) had never applied.”.

(b) QUALITY REPORTING SYSTEM.—Section 1848 of the Social Security Act (42 U.S.C. 1395w-4) is amended by adding at the end the following new subsection:

“(k) QUALITY REPORTING SYSTEM.—

“(1) IN GENERAL.—The Secretary shall imple-

ment a system for the reporting by eligible profes-

sionals of data on quality measures specified under paragraph (2). Such data shall be submitted in a form and manner specified by the Secretary (by pro-

gram instruction or otherwise), which may include submission of such data on claims under this part.

“(2) USE OF CONSENSUS-BASED QUALITY MEASURES.—

“(A) FOR 2007.—

“(i) IN GENERAL.—For purposes of applying this subsection for the reporting of data on quality measures for covered professional services furnished during the period beginning July 1, 2007, and ending December 31, 2007, the quality measures specified under this paragraph are the measures identified as 2007 physician quality measures under the Physician Vol-
untary Reporting Program as published on
the public website of the Centers for Medi-
care & Medicaid Services as of the date of
the enactment of this subsection, except as
may be changed by the Secretary based on
the results of a consensus-based process in
January of 2007, if such change is pub-
ished on such website by not later than
April 1, 2007.

“(ii) SUBSEQUENT REFINEMENTS IN
APPLICATION PERMITTED.—The Secretary
may, from time to time (but not later than
July 1, 2007), publish on such website
(without notice or opportunity for public
comment) modifications or refinements
(such as code additions, corrections, or re-
visions) for the application of quality meas-
ures previously published under clause (i),
but may not, under this clause, change the
quality measures under the reporting sys-
tem.

“(iii) IMPLEMENTATION.—Notwith-
standing any other provision of law, the
Secretary may implement by program in-
struction or otherwise this subsection for 2007.

“(B) For 2008.—

“(i) In general.—For purposes of reporting data on quality measures for covered professional services furnished during 2008, the quality measures specified under this paragraph for covered professional services shall be measures that have been adopted or endorsed by a consensus organization (such as the National Quality Forum or AQA), that include measures that have been submitted by a physician specialty, and that the Secretary identifies as having used a consensus-based process for developing such measures. Such measures shall include structural measures, such as the use of electronic health records and electronic prescribing technology.

“(ii) Proposed set of measures.—

Not later than August 15, 2007, the Secretary shall publish in the Federal Register a proposed set of quality measures that the Secretary determines are described in clause (i) and would be appropriate for eli-
gible professionals to use to submit data to
the Secretary in 2008. The Secretary shall
provide for a period of public comment on
such set of measures.

“(iii) Final set of measures.—Not later than November 15, 2007, the Sec-
retary shall publish in the Federal Register a final set of quality measures that the
Secretary determines are described in clause (i) and would be appropriate for eli-
gible professionals to use to submit data to the Secretary in 2008.

“(3) Covered professional services and eligible professionals defined.—For purposes
of this subsection:

“(A) Covered professional services.—The term ‘covered professional services’
means services for which payment is made under, or is based on, the fee schedule estab-
lished under this section and which are fur-
nished by an eligible professional.

“(B) Eligible professional.—The term ‘eligible professional’ means any of the fol-
lowing:

“(i) A physician.
“(ii) A practitioner described in section 1842(b)(18)(C).

“(iii) A physical or occupational therapist or a qualified speech-language pathologist.

“(4) Use of Registry-Based Reporting.—
As part of the publication of proposed and final quality measures for 2008 under clauses (ii) and (iii) of paragraph (2)(B), the Secretary shall address a mechanism whereby an eligible professional may provide data on quality measures through an appropriate medical registry (such as the Society of Thoracic Surgeons National Database), as identified by the Secretary.

“(5) Identification Units.—For purposes of applying this subsection, the Secretary may identify eligible professionals through billing units, which may include the use of the Provider Identification Number, the unique physician identification number (described in section 1833(q)(1)), the taxpayer identification number, or the National Provider Identifier. For purposes of applying this subsection for 2007, the Secretary shall use the taxpayer identification number as the billing unit.
“(6) EDUCATION AND OUTREACH.—The Secretary shall provide for education and outreach to eligible professionals on the operation of this subsection.

“(7) LIMITATIONS ON REVIEW.—There shall be no administrative or judicial review under section 1869, section 1878, or otherwise, of the development and implementation of the reporting system under paragraph (1), including identification of quality measures under paragraph (2) and the application of paragraphs (4) and (5).

“(8) IMPLEMENTATION.—The Secretary shall carry out this subsection acting through the Administrator of the Centers for Medicare & Medicaid Services.”.

(e) TRANSITIONAL BONUS INCENTIVE PAYMENTS FOR QUALITY REPORTING IN 2007.—

(1) IN GENERAL.—With respect to covered professional services furnished during a reporting period (as defined in paragraph (6)(C)) by an eligible professional, if—

(A) there are any quality measures that have been established under the physician reporting system that are applicable to any such
services furnished by such professional for such period, and

(B) the eligible professional satisfactorily submits (as determined under paragraph (2)) to the Secretary data on such quality measures in accordance with such reporting system for such reporting period,

in addition to the amount otherwise paid under part B of title XVIII of the Social Security Act, subject to paragraph (3), there also shall be paid to the eligible professional (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6) of the Social Security Act (42 U.S.C. 1395u(b)(6))) from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t) an amount equal to 1.5 percent of the Secretary’s estimate (based on claims submitted not later than two months after the end of the reporting period) of the allowed charges under such part for all such covered professional services furnished during the reporting period.

(2) Satisfactory reporting described.—For purposes of paragraph (1), an eligible professional shall be treated as satisfactorily submitting
data on quality measures for covered professional
services for a reporting period if quality measures
have been reported as follows:

(A) Three or fewer quality measures
applicable.—If there are no more than 3
quality measures that are provided under the
physician reporting system and that are appli-
cable to such services of such professional fur-
nished during the period, each such quality
measure has been reported under such system
in at least 80 percent of the cases in which
such measure is reportable under the system.

(B) Four or more quality measures
applicable.—If there are 4 or more quality
measures that are provided under the physician
reporting system and that are applicable to
such services of such professional furnished
during the period, at least 3 such quality meas-
ures have been reported under such system in
at least 80 percent of the cases in which the re-
spective measure is reportable under the sys-

(3) Payment limitation.—

(A) In general.—In no case shall the
total payment made under this subsection to an
eligible professional (or to an employer or facility in the cases described in clause (A) of section 1842(b)(6) of the Social Security Act) exceed the product of—

(i) the total number of quality measures for which data are submitted under the physician reporting system for covered professional services of such professional that are furnished during the reporting period; and

(ii) 300 percent of the average per measure payment amount specified in subparagraph (B).

(B) AVERAGE PER MEASURE PAYMENT AMOUNT SPECIFIED.—The average per measure payment amount specified in this subparagraph is an amount, estimated by the Secretary (based on claims submitted not later than two months after the end of the reporting period), equal to—

(i) the total of the amount of allowed charges under part B of title XVIII of the Social Security Act for all covered professional services furnished during the reporting period on claims for which quality
measures are reported under the physician reporting system; divided by

(ii) the total number of quality measures for which data are reported under such system for covered professional services furnished during the reporting period.

(4) FORM OF PAYMENT.—The payment under this subsection shall be in the form of a single consolidated payment.

(5) APPLICATION.—

(A) PHYSICIAN REPORTING SYSTEM RULES.—Paragraphs (5), (6), and (8) of section 1848(k) of the Social Security Act, as added by subsection (b), shall apply for purposes of this subsection in the same manner as they apply for purposes of such section.

(B) COORDINATION WITH OTHER BONUS PAYMENTS.—The provisions of this subsection shall not be taken into account in applying subsections (m) and (u) of section 1833 of the Social Security Act (42 U.S.C. 1395l) and any payment under such subsections shall not be taken into account in computing allowable charges under this subsection.
(C) IMPLEMENTATION.—Notwithstanding any other provision of law, the Secretary may implement by program instruction or otherwise this subsection.

(D) VALIDATION.—

(i) IN GENERAL.—Subject to the succeeding provisions of this subparagraph, for purposes of determining whether a measure is applicable to the covered professional services of an eligible professional under paragraph (2), the Secretary shall presume that if an eligible professional submits data for a measure, such measure is applicable to such professional.

(ii) METHOD.—The Secretary shall validate (by sampling or other means as the Secretary determines to be appropriate) whether measures applicable to covered professional services of an eligible professional have been reported.

(iii) DENIAL OF PAYMENT AUTHORITY.—If the Secretary determines that an eligible professional has not reported measures applicable to covered professional
services of such professional, the Secretary shall not pay the bonus incentive payment.

(E) LIMITATIONS ON REVIEW.—

(i) IN GENERAL.—There shall be no administrative or judicial review under section 1869 or 1878 of the Social Security Act or otherwise of—

(I) the determination of measures applicable to services furnished by eligible professionals under this subsection;

(II) the determination of satisfactory reporting under paragraph (2);

(III) the determination of the payment limitation under paragraph (3); and

(IV) the determination of the bonus incentive payment under this subsection.

(ii) TREATMENT OF DETERMINATIONS.—A determination under this subsection shall not be treated as a determination for purposes of section 1869 of the Social Security Act.
(6) Definitions.—For purposes of this subsection:

(A) Eligible professional; covered professional services.—The terms “eligible professional” and “covered professional services” have the meanings given such terms in section 1848(k)(3) of the Social Security Act, as added by subsection (b).

(B) Physician reporting system.—The term “physician reporting system” means the system established under section 1848(k) of the Social Security Act, as added by subsection (b).

(C) Reporting period.—The term “reporting period” means the period beginning on July 1, 2007, and ending on December 31, 2007.

(D) Secretary.—The term “Secretary” means the Secretary of Health and Human Services.

(d) Physician assistance and quality initiative fund.—Section 1848 of the Social Security Act, as amended by subsection (b), is further amended by adding at the end the following new subsection:

“(l) Physician assistance and quality initiative fund.—
“(1) Establishment.—The Secretary shall establish under this subsection a Physician Assistance and Quality Initiative Fund (in this subsection referred to as the ‘Fund’) which shall be available to the Secretary for physician payment and quality improvement initiatives, which may include application of an adjustment to the update of the conversion factor under subsection (d).

“(2) Funding.—

“(A) Amount available.—There shall be available to the Fund for expenditures an amount equal to $1,350,000,000.

“(B) Timely obligation of all available funds for services furnished during 2008.—The Secretary shall provide for expenditures from the Fund in a manner designed to provide (to the maximum extent feasible) for the obligation of the entire amount specified in subparagraph (A) for payment with respect to physicians’ services furnished during 2008.

“(C) Payment from trust fund.—The amount specified in subparagraph (A) shall be available to the Fund, as expenditures are made from the Fund, from the Federal Supple-
mentary Medical Insurance Trust Fund under section 1841.

“(D) FUNDING LIMITATION.—Amounts in the Fund shall be available in advance of appropriations in accordance with subparagraph (B) but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under subparagraph (A). The Secretary may obligate funds from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.

“(E) CONSTRUCTION.—In the case that expenditures from the Fund are applied to, or otherwise affect, a conversion factor under subsection (d) for a year, the conversion factor under such subsection shall be computed for a subsequent year as if such application or effect had never occurred.”.

(e) IMPLEMENTATION.—For purposes of implementing the provisions of, and amendments made by, this section, the Secretary of Health and Human Services shall
provide for the transfer, from the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of the Social Security Act (42 U.S.C. 1395t), of $60,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for the period of fiscal years 2007, 2008, and 2009.

SEC. 102. EXTENSION OF FLOOR ON MEDICARE WORK GEOGRAPHIC ADJUSTMENT.


SEC. 103. UPDATE TO THE COMPOSITE RATE COMPONENT OF THE BASIC CASE-MIX ADJUSTED PROSPECTIVE PAYMENT SYSTEM FOR DIALYSIS SERVICES.

(a) In General.—Section 1881(b)(12)(G) of the Social Security Act (42 U.S.C. 1395rr(b)(12)(G)) is amended to read as follows:

“(G) The Secretary shall increase the amount of the composite rate component of the basic case-mix adjusted system under subparagraph (B) for dialysis services—

“(i) furnished on or after January 1, 2006, and before April 1, 2007, by 1.6 percent above the
amount of such composite rate component for such
services furnished on December 31, 2005; and

“(ii) furnished on or after April 1, 2007, by 1.6
percent above the amount of such composite rate
component for such services furnished on March 31,
2007.”.

(b) GAO Report on Home Dialysis Payment.—
Not later than January 1, 2009, the Comptroller General
of the United States shall submit to Congress a report
on the costs for home hemodialysis treatment and patient
training for both home hemodialysis and peritoneal dialy-
sis. Such report shall also include recommendations for
a payment methodology for payment under section 1881
of the Social Security Act (42 U.S.C. 1395rr) that meas-
ures, and is based on, the costs of providing such services
and takes into account the case mix of patients.

SEC. 104. EXTENSION OF TREATMENT OF CERTAIN PHYSI-
CIAN PATHOLOGY SERVICES UNDER MEDICARE.

Section 542(c) of the Medicare, Medicaid, and
SCHIP Benefits Improvement and Protection Act of 2000
(as enacted into law by section 1(a)(6) of Public Law 106–
554), as amended by section 732 of the Medicare Prescrip-
tion Drug, Improvement, and Modernization Act of 2003
(Public Law 108–173), is amended by striking “and 2006” and inserting “, 2006, and 2007”.

SEC. 105. EXTENSION OF MEDICARE REASONABLE COSTS PAYMENTS FOR CERTAIN CLINICAL DIAGNOSTIC LABORATORY TESTS FURNISHED TO HOSPITAL PATIENTS IN CERTAIN RURAL AREAS.

Effective as if included in the enactment of section 416 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 1395l–4), subsection (b) of such section is amended by striking “2-year period” and inserting “3-year period”.

SEC. 106. HOSPITAL MEDICARE REPORTS AND CLARIFICATIONS.

(a) CORRECTION OF MID-YEAR RECLASSIFICATION EXPIRATION.—Notwithstanding any other provision of law, in the case of a subsection (d) hospital (as defined for purposes of section 1886 of the Social Security Act (42 U.S.C. 1395ww)) with respect to which a reclassification of its wage index for purposes of such section would (but for this subsection) expire on March 31, 2007, such reclassification of such hospital shall be extended through September 30, 2007. The previous sentence shall not be effected in a budget-neutral manner.
(b) Revision of the Medicare Wage Index Classification System.—

(1) MedPAC report.—

(A) In general.—The Medicare Payment Advisory Commission shall submit to Congress, by not later than June 30, 2007, a report on its study of the wage index classification system applied under Medicare prospective payment systems, including under section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)). Such report shall include any alternatives the Commission recommends to the method to compute the wage index under such section.

(B) Funding.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Medicare Payment Advisory Commission, $2,000,000 for fiscal year 2007 to carry out this paragraph.

(2) Proposal to revise the hospital wage index classification system.—The Secretary of Health and Human Services, taking into account the recommendations described in the report under paragraph (1), shall include in the proposed rule published under section 1886(e)(5)(A) of the Social
Security Act (42 U.S.C. 1395ww(e)(5)(A)) for fiscal year 2009 one or more proposals to revise the wage index adjustment applied under section 1886(d)(3)(E) of such Act (42 U.S.C. 1395ww(d)(3)(E)) for purposes of the Medicare prospective payment system for inpatient hospital services. Such proposal (or proposals) shall consider each of the following:

(A) Problems associated with the definition of labor markets for purposes of such wage index adjustment.

(B) The modification or elimination of geographic reclassifications and other adjustments.

(C) The use of Bureau of Labor Statistics data, or other data or methodologies, to calculate relative wages for each geographic area involved.

(D) Minimizing variations in wage index adjustments between and within Metropolitan Statistical Areas and Statewide rural areas.

(E) The feasibility of applying all components of the proposal to other settings, including home health agencies and skilled nursing facilities.
(F) Methods to minimize the volatility of wage index adjustments, while maintaining the principle of budget neutrality in applying such adjustments.

(G) The effect that the implementation of the proposal would have on health care providers and on each region of the country.

(H) Methods for implementing the proposal, including methods to phase-in such implementation.

(I) Issues relating to occupational mix, such as staffing practices and any evidence on the effect on quality of care and patient safety and any recommendations for alternative calculations.

(e) Elimination of Unnecessary Report.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended—

(1) in subsection (d)(4)(C), by striking clause (iv); and

(2) in subsection (e), by striking paragraph (3).

SEC. 107. PAYMENT FOR BRACHYTHERAPY.

(a) Extension of Payment Rule.—Section 1833(t)(16)(C) of the Social Security Act (42 U.S.C.
1395l(t)(16)(C)) is amended by striking “January 1, 2007” and inserting “January 1, 2008”.

(b) Establishment of Separate Payment Groups.—

(1) In general.—Section 1833(t)(2)(H) of such Act (42 U.S.C. 1395l(t)(2)(H)) is amended by inserting “and for stranded and non-stranded devices furnished on or after July 1, 2007” before the period at the end.

(2) Implementation.—The Secretary of Health and Human Services may implement the amendment made by paragraph (1) by program instruction or otherwise.

SEC. 108. PAYMENT PROCESS UNDER THE COMPETITIVE ACQUISITION PROGRAM (CAP).

(a) In general.—Section 1847B(a)(3) of the Social Security Act (42 U.S.C. 1395w-3b(a)(3)) is amended—

(1) in subparagraph (A)(iii), by striking “and biologicals” and all that follows and inserting “and biologicals shall be made only to such contractor upon receipt of a claim for a drug or biological supplied by the contractor for administration to a beneficiary.”; and

(2) by adding at the end the following new sub-

paragraph:
“(D) POST-PAYMENT REVIEW PROCESS.—

The Secretary shall establish (by program instruction or otherwise) a post-payment review process (which may include the use of statistical sampling) to assure that payment is made for a drug or biological under this section only if the drug or biological has been administered to a beneficiary. The Secretary shall recoup, offset, or collect any overpayments determined by the Secretary under such process.”.

(b) CONSTRUCTION.—Nothing in this section shall be construed as—

(1) requiring the conduct of any additional competition under subsection (b)(1) of section 1847B of the Social Security Act (42 U.S.C. 1395w-3b); or

(2) requiring any additional process for elections by physicians under subsection (a)(1)(A)(ii) of such section or additional selection by a selecting physician of a contractor under subsection (a)(5) of such section.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payment for drugs and biologicals supplied under section 1847B of the Social Security Act (42 U.S.C. 1395w-3b)—
(1) on or after April 1, 2007; and

(2) on or after July 1, 2006, and before April 1, 2007, for claims that are unpaid as of April 1, 2007.

SEC. 109. QUALITY REPORTING FOR HOSPITAL OUT-PATIENT SERVICES AND AMBULATORY SUR-GICAL CENTER SERVICES.

(a) Outpatient Hospital Services.—

(1) In general.—Section 1833(t) of the Social Security Act (42 U.S.C. 1395l(t)) is amended—

(A) in paragraph (3)(C)(iv), by inserting “subject to paragraph (17),” after “For purposes of this subparagraph,”; and

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

“(17) QUALITY REPORTING.—

“(A) Reduction in update for failure to report.—

“(i) In general.—For purposes of paragraph (3)(C)(iv) for 2009 and each subsequent year, in the case of a subsection (d) hospital (as defined in section 1886(d)(1)(B)) that does not submit, to the Secretary in accordance with this paragraph, data required to be submitted on
measures selected under this paragraph
with respect to such a year, the OPD fee
schedule increase factor under paragraph
(3)(C)(iv) for such year shall be reduced
by 2.0 percentage points.

“(ii) Non-cumulative application.—A reduction under this subpara-
graph shall apply only with respect to the
year involved and the Secretary shall not
take into account such reduction in com-
puting the OPD fee schedule increase fac-
tor for a subsequent year.

“(B) Form and manner of submission.—Each subsection (d) hospital shall sub-
mit data on measures selected under this para-
graph to the Secretary in a form and manner,
and at a time, specified by the Secretary for
purposes of this paragraph.

“(C) Development of outpatient
measures.—

“(i) In general.—The Secretary
shall develop measures that the Secretary
determines to be appropriate for the meas-
urement of the quality of care (including
medication errors) furnished by hospitals
in outpatient settings and that reflect consensus among affected parties and, to the extent feasible and practicable, shall include measures set forth by one or more national consensus building entities.

“(ii) Construction.—Nothing in this paragraph shall be construed as preventing the Secretary from selecting measures that are the same as (or a subset of) the measures for which data are required to be submitted under section 1886(b)(3)(B)(viii).

“(D) Replacement of Measures.—For purposes of this paragraph, the Secretary may replace any measures or indicators in appropriate cases, such as where all hospitals are effectively in compliance or the measures or indicators have been subsequently shown not to represent the best clinical practice.

“(E) Availability of Data.—The Secretary shall establish procedures for making data submitted under this paragraph available to the public. Such procedures shall ensure that a hospital has the opportunity to review the data that are to be made public with respect to
the hospital prior to such data being made public. The Secretary shall report quality measures of process, structure, outcome, patients’ perspectives on care, efficiency, and costs of care that relate to services furnished in outpatient settings in hospitals on the Internet website of the Centers for Medicare & Medicaid Services.”.

(2) CONFORMING AMENDMENT.—Section 1886(b)(3)(B)(viii)(III) of such Act (42 U.S.C. 1395ww(b)(3)(B)(viii)(III)) is amended by inserting “(including medication errors)” after “quality of care”.

(b) APPLICATION TO AMBULATORY SURGICAL CENTERS.—Section 1833(i) of such Act (42 U.S.C. 1935l(i)) is amended—

(1) in paragraph (2)(D), by redesignating clause (iv) as clause (v) and by inserting after clause (iii) the following new clause:

“(iv) The Secretary may implement such system in a manner so as to provide for a reduction in any annual update for failure to report on quality measures in accordance with paragraph (7).”; and

(2) by adding at the end the following new paragraph:
“(7)(A) For purposes of paragraph (2)(D)(iv), the Secretary may provide, in the case of an ambulatory surgical center that does not submit, to the Secretary in accordace with this paragraph, data required to be submitted on measures selected under this paragraph with respect to a year, any annual increase provided under the system established under paragraph (2)(D) for such year shall be reduced by 2.0 percentage points. A reduction under this subparagraph shall apply only with respect to the year involved and the Secretary shall not take into account such reduction in computing any annual increase factor for a subsequent year.

“(B) Except as the Secretary may otherwise provide, the provisions of subparagraphs (B), (C), (D), and (E) of paragraph (17) of section 1833(t) shall apply with respect to services of ambulatory surgical centers under this paragraph in a similar manner to the manner in which they apply under such paragraph and, for purposes of this subparagraph, any reference to a hospital, outpatient setting, or outpatient hospital services is deemed a reference to an ambulatory surgical center, the setting of such a center, or services of such a center, respectively.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payment for services furnished on or after January 1, 2009.
SEC. 110. REPORTING OF ANEMIA QUALITY INDICATORS FOR MEDICARE PART B CANCER ANTI-ANE-MIA DRUGS.

(a) In General.—Section 1842 of the Social Security Act (42 U.S.C. 1395u) is amended by adding at the end the following new subsection:

“(u) Each request for payment, or bill submitted, for a drug furnished to an individual for the treatment of anemia in connection with the treatment of cancer shall include (in a form and manner specified by the Secretary) information on the hemoglobin or hematocrit levels for the individual.”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to drugs furnished on or after January 1, 2008. The Secretary of Health and Human Services shall address the implementation of such amendment in the rulemaking process under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) for payment for physicians’ services for 2008, consistent with the previous sentence.

SEC. 111. CLARIFICATION OF HOSPICE SATELLITE DESIGNATION.

Notwithstanding any other provision of law, for purposes of calculating the hospice aggregate payment cap for 2004, 2005, and 2006 for a hospice program under section 1814(i)(2)(A) of the Social Security Act (42 U.S.C.
1 1395f(i)(2)(A)) for hospice care provided on or after No-
2 vember 1, 2003, and before December 27, 2005, Medicare
3 provider number 29-1511 is deemed to be a multiple loca-
4 tion of Medicare provider number 29-1500.

TITLE II—MEDICARE

BENEFICIARY PROTECTIONS

SEC. 201. EXTENSION OF EXCEPTIONS PROCESS FOR MEDI-
CARE THERAPY CAPS.

Section 1833(g)(5) of the Social Security Act (42
U.S.C. 1395l(g)(5)) is amended by striking “2006” and
inserting “the period beginning on January 1, 2006, and
ending on December 31, 2007,”.

SEC. 202. PAYMENT FOR ADMINISTRATION OF PART D VAC-
CINES.

(a) TRANSITION FOR 2007.—Notwithstanding any
other provision of law, in the case of a vaccine that is a
covered part D drug under section 1860D-2(e) of the So-
cial Security Act (42 U.S.C. 1395w-102(e)) and that is
administered during 2007, the administration of such vac-
cine shall be paid under part B of title XVIII of such Act
as if it were the administration of a vaccine described in
section 1861(s)(10)(B) of such Act (42 U.S.C.
1395w(s)(10)(B)).

(b) ADMINISTRATION INCLUDED IN COVERAGE OF
COVERED PART D DRUGS BEGINNING IN 2008.—Section
H.L.C.

SEC. 203. OIG STUDY OF NEVER EVENTS.

(a) Study.—

(1) In General.—The Inspector General in the Department of Health and Human Services shall conduct a study on—

(A) incidences of never events for Medicare beneficiaries, including types of such events and payments by any party for such events;

(B) the extent to which the Medicare program paid, denied payment, or recouped payment for services furnished in connection with such events and the extent to which beneficiaries paid for such services; and

(C) the administrative processes of the Centers for Medicare & Medicaid Services to detect such events and to deny or recoup payments for services furnished in connection with such an event.

(2) Conduct of Study.—In conducting the study under paragraph (1), the Inspector General—
(A) shall audit a representative sample of claims and medical records of Medicare beneficiaries to identify never events and any payment (or recoupment) for services furnished in connection with such events;

(B) may request access to such claims and records from any Medicare contractor; and

(C) shall not release individually identifiable information or facility-specific information.

(b) Report.—Not later than 2 years after the date of the enactment of this Act, the Inspector General shall submit a report to Congress on the study conducted under this section. Such report shall include recommendations for such legislation and administrative action, such as a noncoverage policy or denial of payments, as the Inspector General determines appropriate, including—

(1) recommendations on processes to identify never events and to deny or recoup payments for services furnished in connection with such events;

and

(2) a recommendation on a potential process (or processes) for public disclosure of never events which—

(A) will ensure protection of patient privacy; and
(B) will permit the use of the disclosed information for a root cause analysis to inform the public and the medical community about safety issues involved.

(c) FUNDING.— Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Inspector General of the Department of Health and Human Services $3,000,000 to carry out this section, to be available until January 1, 2010.

(d) NEVER EVENTS DEFINED.—For purposes of this section, the term “never event” means an event that is listed and endorsed as a serious reportable event by the National Quality Forum as of November 16, 2006.

SEC. 204. MEDICARE MEDICAL HOME DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall establish under title XVIII of the Social Security Act a medical home demonstration project (in this section referred to as the “project”) to redesign the health care delivery system to provide targeted, accessible, continuous and coordinated, family-centered care to high-need populations and under which—

(1) care management fees are paid to persons performing services as personal physicians; and
(2) incentive payments are paid to physicians participating in practices that provide services as a medical home under subsection (d).

For purposes of this subsection, the term “high-need population” means individuals with multiple chronic illnesses that require regular medical monitoring, advising, or treatment.

(b) Details.—

(1) Duration; scope.—The project shall operate during a period of three years and shall include urban, rural, and underserved areas in a total of no more than 8 States.

(2) Encouraging participation of small physician practices.—The project shall be designed to include the participation of physicians in practices with fewer than three full-time equivalent physicians, as well as physicians in larger practices particularly in rural and underserved areas.

(c) Personal physician defined.—

(1) In general.—For purposes of this section, the term “personal physician” means a physician (as defined in section 1861(r)(1) of the Social Security Act (42 U.S.C. 1395x(r)(1)) who—

(A) meets the requirements described in paragraph (2); and
(B) performs the services described in paragraph (3).

Nothing in this paragraph shall be construed as pre-
venting such a physician from being a specialist or 
subspecialist for an individual requiring ongoing care 
for a specific chronic condition or multiple chronic 
conditions (such as severe asthma, complex diabetes, 
cardiovascular disease, rheumatologic disorder) or 
for an individual with a prolonged illness.

(2) REQUIREMENTS.—The requirements de-
scribed in this paragraph for a personal physician 
are as follows:

(A) The physician is a board certified phy-
sician who provides first contact and continuous 
care for individuals under the physician's care.

(B) The physician has the staff and re-
sources to manage the comprehensive and co-
ordinated health care of each such individual.

(3) SERVICES PERFORMED.—A personal physi-
cian shall perform or provide for the performance of 
at least the following services:

(A) Advocates for and provides ongoing 
support, oversight, and guidance to implement 
a plan of care that provides an integrated, co-
herent, cross-discipline plan for ongoing medical
care developed in partnership with patients and including all other physicians furnishing care to the patient involved and other appropriate medical personnel or agencies (such as home health agencies).

(B) Uses evidence-based medicine and clinical decision support tools to guide decision-making at the point-of-care based on patient-specific factors.

(C) Uses health information technology, that may include remote monitoring and patient registries, to monitor and track the health status of patients and to provide patients with enhanced and convenient access to health care services.

(D) Encourages patients to engage in the management of their own health through education and support systems.

(d) MEDICAL HOME DEFINED.—For purposes of this section, the term “medical home” means a physician practice that—

(1) is in charge of targeting beneficiaries for participation in the project; and

(2) is responsible for—
(A) providing safe and secure technology to promote patient access to personal health information;

(B) developing a health assessment tool for the individuals targeted; and

(C) providing training programs for personnel involved in the coordination of care.

(e) PAYMENT MECHANISMS.—

(1) PERSONAL PHYSICIAN CARE MANAGEMENT FEE.—Under the project, the Secretary shall provide for payment under section 1848 of the Social Security Act (42 U.S.C. 1395w-4) of a care management fee to personal physicians providing care management under the project. Under such section and using the relative value scale update committee (RUC) process under such section, the Secretary shall develop a care management fee code for such payments and a value for such code.

(2) MEDICAL HOME SHARING IN SAVINGS.—The Secretary shall provide for payment under the project of a medical home based on the payment methodology applied to physician group practices under section 1866A of the Social Security Act (42 U.S.C. 1395cc-1). Under such methodology, 80 percent of the reductions in expenditures under title
XVIII of the Social Security Act resulting from participation of individuals that are attributable to the medical home (as reduced by the total care management fees paid to the medical home under the project) shall be paid to the medical home. The amount of such reductions in expenditures shall be determined by using assumptions with respect to reductions in the occurrence of health complications, hospitalization rates, medical errors, and adverse drug reactions.

(3) SOURCE.—Payments paid under the project shall be made from the Federal Supplementary Medical Insurance Trust Fund under section 1841 of the Social Security Act (42 U.S.C. 1395t).

(f) EVALUATIONS AND REPORTS.—

(1) ANNUAL INTERIM EVALUATIONS AND REPORTS.—For each year of the project, the Secretary shall provide for an evaluation of the project and shall submit to Congress, by a date specified by the Secretary, a report on the project and on the evaluation of the project for each such year.

(2) FINAL EVALUATION AND REPORT.—The Secretary shall provide for an evaluation of the project and shall submit to Congress, not later than
one year after completion of the project, a report on the project and on the evaluation of the project.

SEC. 205. MEDICARE DRA TECHNICAL CORRECTIONS.

(a) PACE Clarification.—Paragraph (7) of section 5302(c) of the Deficit Reduction Act of 2005 (42 U.S.C. 1395eee note) is amended to read as follows:

“(7) Appropriation.—

“(A) In general.—Out of funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary $10,000,000 to carry out this subsection for the period of fiscal years 2006 through 2010.

“(B) Availability.—Funds appropriated under subparagraph (A) shall remain available for obligation through fiscal year 2010.”.

(b) Miscellaneous Technical Corrections.—

(1) Correction of Margin (Section 5001).—

Section 1886(b)(3)(B) of the Social Security Act (42 U.S.C. 1395ww(b)(3)(B)), as amended by section 5001(a) of the Deficit Reduction Act of 2005 (Public Law 109–171), is amended by moving clause (viii) (including subclauses (I) through (VII) of such clause) 6 ems to the left.

(2) Reference Correction (Section 5114).—

Section 5114(a)(2) of the Deficit Reduction Act of
2005 (Public Law 109–171), in the matter preceding subparagraph (A), is amended by striking “1842(b)(6)(F) of such Act (42 U.S.C. 1395u(b)(6)(F))” and inserting “1842(b)(6) of such Act (42 U.S.C. 1395u(b)(6))”.

c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the enactment of the Deficit Reduction Act of 2005 (Public Law 109–171).

TITLE III—MEDICARE PROGRAM INTEGRITY EFFORTS

SEC. 301. OFFSETTING ADJUSTMENT IN MEDICARE ADVANTAGE STABILIZATION FUND.

Section 1858(e)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395w-27a(e)(2)(A)(i)) is amended by striking “2007,” and “$10,000,000,000” and inserting “2012,” and “$3,500,000,000”, respectively.

SEC. 302. EXTENSION AND EXPANSION OF RECOVERY AUDIT CONTRACTOR PROGRAM UNDER THE MEDICARE INTEGRITY PROGRAM.

(a) IN GENERAL.—Section 1893 of the Social Security Act (42 U.S.C. 1395ddd) is amended by adding at the end the following new subsection:

“(h) USE OF RECOVERY AUDIT CONTRACTORS.—
“(1) IN GENERAL.—Under the Program, the Secretary shall enter into contracts with recovery audit contractors in accordance with this subsection for the purpose of identifying underpayments and overpayments and recouping overpayments under this title with respect to all services for which payment is made under part A or B. Under the contracts—

“(A) payment shall be made to such a contractor only from amounts recovered;

“(B) from such amounts recovered, payment—

“(i) shall be made on a contingent basis for collecting overpayments; and

“(ii) may be made in such amounts as the Secretary may specify for identifying underpayments; and

“(C) the Secretary shall retain a portion of the amounts recovered which shall be available to the program management account of the Centers for Medicare & Medicaid Services for purposes of activities conducted under the recovery audit program under this subsection.

“(2) DISPOSITION OF REMAINING RECOVERIES.—The amounts recovered under such con-
tracts that are not paid to the contractor under paragraph (1) or retained by the Secretary under paragraph (1)(C) shall be applied to reduce expenditures under parts A and B.

“(3) NATIONWIDE COVERAGE.—The Secretary shall enter into contracts under paragraph (1) in a manner so as to provide for activities in all States under such a contract by not later than January 1, 2010.

“(4) AUDIT AND RECOVERY PERIODS.—Each such contract shall provide that audit and recovery activities may be conducted during a fiscal year with respect to payments made under part A or B—

“(A) during such fiscal year; and

“(B) retrospectively (for a period of not more than 4 fiscal years prior to such fiscal year).

“(5) WAIVER.—The Secretary shall waive such provisions of this title as may be necessary to provide for payment of recovery audit contractors under this subsection in accordance with paragraph (1).

“(6) QUALIFICATIONS OF CONTRACTORS.—

“(A) IN GENERAL.—The Secretary may not enter into a contract under paragraph (1) with a recovery audit contractor unless the con-
tractor has staff that has the appropriate clinical knowledge of, and experience with, the payment rules and regulations under this title or the contractor has, or will contract with, another entity that has such knowledgeable and experienced staff.

“(B) Ineligibility of Certain Contractors.—The Secretary may not enter into a contract under paragraph (1) with a recovery audit contractor to the extent the contractor is a fiscal intermediary under section 1816, a carrier under section 1842, or a medicare administrative contractor under section 1874A.

“(C) Preference for Entities with Demonstrated Proficiency.—In awarding contracts to recovery audit contractors under paragraph (1), the Secretary shall give preference to those risk entities that the Secretary determines have demonstrated more than 3 years direct management experience and a proficiency for cost control or recovery audits with private insurers, health care providers, health plans, under the Medicaid program under title XIX, or under this title.
“(7) CONSTRUCTION RELATING TO CONDUCT OF INVESTIGATION OF FRAUD.—A recovery of an overpayment to an individual or entity by a recovery audit contractor under this subsection shall not be construed to prohibit the Secretary or the Attorney General from investigating and prosecuting, if appropriate, allegations of fraud or abuse arising from such overpayment.

“(8) ANNUAL REPORT.—The Secretary shall annually submit to Congress a report on the use of recovery audit contractors under this subsection. Each such report shall include information on the performance of such contractors in identifying underpayments and overpayments and recouping overpayments, including an evaluation of the comparative performance of such contractors and savings to the program under this title.”.

(b) ACCESS TO COORDINATION OF BENEFITS CONTRACTOR DATABASE.—The Secretary of Health and Human Services shall provide for access by recovery audit contractors conducting audit and recovery activities under section 1893(h) of the Social Security Act, as added by subsection (a), to the database of the Coordination of Benefits Contractor of the Centers for Medicare & Medicaid
Services with respect to the audit and recovery periods described in paragraph (4) of such section 1893(h).

(c) Conforming Amendments to Current Demonstration Project.—Section 306 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173; 117 Stat. 2256) is amended—

(1) in subsection (b)(2), by striking “last for not longer than 3 years” and inserting “continue until contracts are entered into under section 1893(h) of the Social Security Act”; and

(2) by striking subsection (f).

SEC. 303. FUNDING FOR THE HEALTH CARE FRAUD AND ABUSE CONTROL ACCOUNT.

(a) DEPARTMENTS OF HEALTH AND HUMAN SERVICES AND JUSTICE.—

(1) IN GENERAL.—Section 1817(k)(3)(A)(i) of the Social Security Act (42 U.S.C. 1395i(k)(3)(A)(i)) is amended—

(A) in the matter preceding subclause (I), by inserting “until expended” after “without further appropriation”; 

(B) in subclause (II), by striking “and” at the end; 

(C) in subclause (III)—
(i) by striking “for each fiscal year after fiscal year 2003” and inserting “for each of fiscal years 2004, 2005, and 2006”; and

(ii) by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following new subclauses:

“(IV) for each of fiscal years 2007, 2008, 2009, and 2010, the limit under this clause for the preceding fiscal year, increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) over the previous year; and

“(V) for each fiscal year after fiscal year 2010, the limit under this clause for fiscal year 2010.”.


(A) in subclause (VI), by striking “and” at the end;
(B) in subclause (VII)—

(i) by striking “for each fiscal year after fiscal year 2002” and inserting “for each of fiscal years 2003, 2004, 2005, and 2006”; and

(ii) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subclauses:

“(VIII) for fiscal year 2007, not less than $160,000,000, increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) over the previous year;

“(IX) for each of fiscal years 2008, 2009, and 2010, not less than the amount required under this clause for the preceding fiscal year, increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) over the previous year; and

“(X) for each fiscal year after fiscal year 2010, not less than the
amount required under this clause for fiscal year 2010.”.

(b) Federal Bureau of Investigation.—Section 1817(k)(3)(B) of the Social Security Act (42 U.S.C. 1395i(k)(3)(B)) is amended—

(1) in the matter preceding clause (i), by inserting “until expended” after “without further appropriation”; 

(2) in clause (vi), by striking “and” at the end; 

(3) in clause (vii)—

(A) by striking “for each fiscal year after fiscal year 2002” and inserting “for each of fiscal years 2003, 2004, 2005, and 2006”; and 

(B) by striking the period at the end and inserting a semicolon; and 

(4) by adding at the end the following new clauses: 

“(viii) for each of fiscal years 2007, 2008, 2009, and 2010, the amount to be appropriated under this subparagraph for the preceding fiscal year, increased by the percentage increase in the consumer price index for all urban consumers (all items; United States city average) over the previous year; and
“(ix) for each fiscal year after fiscal year 2010, the amount to be appropriated under this subparagraph for fiscal year 2010.”.

SEC. 304. IMPLEMENTATION FUNDING.

For purposes of implementing the provisions of, and amendments made by, this title and titles I and II of this division, other than section 203, the Secretary of Health and Human Services shall provide for the transfer, in appropriate part from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t), of $45,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for the period of fiscal years 2007 and 2008.

TITLE IV—MEDICAID AND OTHER HEALTH PROVISIONS

SEC. 401. EXTENSION OF TRANSITIONAL MEDICAL ASSISTANCE (TMA) AND ABSTINENCE EDUCATION PROGRAM.

Activities authorized by sections 510 and 1925 of the Social Security Act shall continue through June 30, 2007, in the manner authorized for fiscal year 2006, notwith-
standing section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the third quarter of fiscal year 2007 at the level provided for such activities through the third quarter of fiscal year 2006.

SEC. 402. GRANTS FOR RESEARCH ON VACCINE AGAINST VALLEY FEVER.

(a) In General.—In supporting research on the development of vaccines against human diseases, the Secretary of Health and Human Services shall make grants for the purpose of conducting research toward the development of a vaccine against coccidioidomycosis (commonly known as Valley Fever).

(b) Sunset.—No grant may be made under subsection (a) on or after October 1, 2012. The preceding sentence does not have any legal effect on payments under grants for which amounts appropriated under subsection (c) were obligated prior to such date.

(c) Authorization of Appropriations.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $40,000,000 for the period of fiscal years 2007 through 2012.
SEC. 403. CHANGE IN THRESHOLD FOR MEDICAID DIRECT HOLD HARMLESS PROVISION OF BROAD-BASED HEALTH CARE TAXES.

Section 1903(w)(4)(C) of the Social Security Act (42 U.S.C. 1396b(w)(4)(C)) is amended—

(1) by inserting “(i)” after “(C)”; and

(2) by adding at the end the following:

“(ii) For purposes of clause (i), a determination of the existence of an indirect guarantee shall be made under paragraph (3)(i) of section 433.68(f) of title 42, Code of Federal Regulations, as in effect on November 1, 2006, except that for portions of fiscal years beginning on or after January 1, 2008, and before October 1, 2011, ‘5.5 percent’ shall be substituted for ‘6 percent’ each place it appears.”.

SEC. 404. DSH ALLOTMENTS FOR FISCAL YEAR 2007 FOR TENNESSEE AND HAWAII.

Section 1923(f)(6) of the Social Security Act (42 U.S.C. 1396r–4(f)(6)) is amended to read as follows:

“(6) ALLOTMENT ADJUSTMENTS FOR FISCAL YEAR 2007.—

“(A) TENNESSEE.—

“(i) IN GENERAL.—Only with respect to fiscal year 2007, the DSH allotment for Tennessee for such fiscal year, notwithstanding the table set forth in paragraph
(2) or the terms of the TennCare Demonstration Project in effect for the State, shall be the greater of—

“(I) the amount that the Secretary determines is equal to the Federal medical assistance percentage component attributable to disproportionate share hospital payment adjustments for the demonstration year ending in 2006 that is reflected in the budget neutrality provision of the TennCare Demonstration Project; and

“(II) $280,000,000.

“(ii) LIMITATION ON AMOUNT OF PAYMENT ADJUSTMENTS ELIGIBLE FOR FEDERAL FINANCIAL PARTICIPATION.—Payment under section 1903(a) shall not be made to Tennessee with respect to the aggregate amount of any payment adjustments made under this section for hospitals in the State for fiscal year 2007 that is in excess of 30 percent of the DSH allotment for the State for such fiscal year determined pursuant to clause (i).
“(iii) STATE PLAN AMENDMENT.—

The Secretary shall permit Tennessee to submit an amendment to its State plan under this title that describes the methodology to be used by the State to identify and make payments to disproportionate share hospitals, including children’s hospitals and institutions for mental diseases or other mental health facilities. The Secretary may not approve such plan amendment unless the methodology described in the amendment is consistent with the requirements under this section for making payment adjustments to disproportionate share hospitals. For purposes of demonstrating budget neutrality under the TennCare Demonstration Project, payment adjustments made pursuant to a State plan amendment approved in accordance with this subparagraph shall be considered expenditures under such project.

“(iv) OFFSET OF FEDERAL SHARE OF PAYMENT ADJUSTMENTS FOR FISCAL YEAR 2007 AGAINST ESSENTIAL ACCESS HOSPITAL SUPPLEMENTAL POOL PAYMENTS
UNDER THE TENNCARE DEMONSTRATION PROJECT.—

“(I) The total amount of Essential Access Hospital supplemental pool payments that may be made under the TennCare Demonstration Project for fiscal year 2007 shall be reduced on a dollar for dollar basis by the amount of any payments made under section 1903(a) to Tennessee with respect to payment adjustments made under this section for hospitals in the State for such fiscal year.

“(II) The sum of the total amount of payments made under section 1903(a) to Tennessee with respect to payment adjustments made under this section for hospitals in the State for fiscal year 2007 and the total amount of Essential Access Hospital supplemental pool payments made under the TennCare Demonstration Project for such fiscal year shall not exceed the State’s DSH al-
lotment for such fiscal year established under clause (i).

“(B) HAWAII.—

“(i) IN GENERAL.—Only with respect to fiscal year 2007, the DSH allotment for Hawaii for such fiscal year, notwithstanding the table set forth in paragraph (2), shall be $10,000,000.

“(ii) STATE PLAN AMENDMENT.—The Secretary shall permit Hawaii to submit an amendment to its State plan under this title that describes the methodology to be used by the State to identify and make payments to disproportionate share hospitals, including children’s hospitals and institutions for mental diseases or other mental health facilities. The Secretary may not approve such plan amendment unless the methodology described in the amendment is consistent with the requirements under this section for making payment adjustments to disproportionate share hospitals.”.
SEC. 405. CERTAIN MEDICAID DRA TECHNICAL CORRECTIONS.

(a) Technical Corrections Relating to State Option for Alternative Premiums and Cost Sharing (Sections 6041 Through 6043).—

(1) Clarification of continued application of regular cost sharing rules for individuals with family income not exceeding 100 percent of the poverty line.—Section 1916A of the Social Security Act, as inserted by section 6041(a) of the Deficit Reduction Act of 2005 and amended by sections 6042 and 6043 of such Act, is amended—

(A) in subsection (a)(1)—

(i) by inserting “but subject to paragraph (2),” after “1902(a)(10)(B),”; and

(ii) by inserting “and non-emergency services furnished in a hospital emergency department for which cost sharing may be imposed under subsection (e)” after “(e)”;

(B) by redesignating paragraph (2) of subsection (a) as paragraph (3);

(C) in subsection (a), by inserting after paragraph (1) the following:
“(2) Exemption for individuals with family income not exceeding 100 percent of the poverty line.—

“(A) In general.—Paragraph (1) and subsection (d) shall not apply, and sections 1916 and 1902(a)(10)(B) shall continue to apply, in the case of an individual whose family income does not exceed 100 percent of the poverty line applicable to a family of the size involved.

“(B) Limit on aggregate cost sharing.—To the extent cost sharing under subsection (e) or under section 1916 is imposed against individuals described in subparagraph (A), the limitation under subsection (b)(1)(B)(ii) on the total aggregate amount of cost sharing shall apply to such cost sharing for all individuals in a family described in subparagraph (A) in the same manner as such limitations apply to cost sharing and families described in subsection (b)(1)(B)(ii).”;

(D) in subsections (c)(2)(C) and (e)(2)(C), by inserting “under subsection (a)(2)(B) or” after “cap on cost sharing applied”; and
177

(E) in subsection (e)(2)(A), by inserting

“who is not described in subparagraph (B)”

after “subsection (b)(1)”.

(2) Clarification of treatment of non-preferred drug and non-emergency cost-sharing.—Such section is further amended—

(A) in subsections (b)(1) and (b)(2), by

striking “, subject to subsections (c)(2) and

(e)(2)(A)”;

(B) in subsection (c)(1), in the matter pre-

ceding subparagraph (A), by striking “least (or

less) costly effective” and inserting “most (or

more) cost effective”; 

(C) in subsection (c)(1)(B), by striking

“otherwise be imposed under” and inserting

“be imposed under subsection (a) due to the

application of”; 

(D) in subsection (c)(2)(B), by striking

“otherwise not subject to cost sharing due to

the application of subsection (b)(3)(B)” and in-

serting “not subject to cost sharing under sub-

section (a) due to the application of paragraph

(1)(B)”;

(E) in subsection (e)(2)(A)—
(i) by amending the heading to read as follows: “INDIVIDUALS WITH FAMILY INCOME BETWEEN 100 AND 150 PERCENT OF THE POVERTY LINE.”; and

(ii) by striking “under subsection (b)(1)” and inserting “under subsection (b)(1)(B)(ii)”;

(F) in subsection (c)(2)(B), by striking “who is otherwise not subject to cost sharing under subsection (b)(3)” and inserting “described in subsection (a)(2)(A) or who is not subject to cost sharing under subsection (b)(3)(B) with respect to non-emergency services described in paragraph (1)” and

(G) in subsection (e)(2)(C), by inserting “or section 1916” after “subsection (a)”.

(3) CLARIFICATION OF COST SHARING RULES APPLICABLE TO DISABLED CHILDREN PROVIDED MEDICAL ASSISTANCE UNDER THE ELIGIBILITY CATEGORY ADDED BY THE FAMILY OPPORTUNITY ACT.—Such section is further amended—

(A) in subsection (a)(1), in the second sentence, by striking “section 1916(g)” and inserting “subsection (g) or (i) of section 1916”; and

(B) in subsection (b)(3)—
(i) in subparagraph (A), by adding at the end the following:

“(vi) Disabled children who are receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XIX) and 1902(cc).”;

and

(ii) in subparagraph (B), by adding at the end the following:

“(ix) Services furnished to disabled children who are receiving medical assistance by virtue of the application of sections 1902(a)(10)(A)(ii)(XIX) and 1902(cc).”.

(4) Correction of IV–B references.—Such section is further amended in subsection (b)(3)—

(A) in subparagraph (A)(i), by striking “aid or assistance is made available under part B of title IV to children in foster care” and inserting “child welfare services are made available under part B of title IV on the basis of being a child in foster care”; and

(B) in subparagraph (B)(i), by striking “aid or assistance is made available under part B of title IV to children in foster care” and in-
serting “child welfare services are made available under part B of title IV on the basis of being a child in foster care or”.

(5) NON-EMERGENCY SERVICES.—Section 1916A(e)(4)(A) of the Social Security Act, as added by section 6043(a) of the Deficit Reduction Act of 2005, is amended by striking “the physician determines”.

(6) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the amendments made by sections 6041(a) of the Deficit Reduction Act of 2005, except that insofar as such amendments are to, or relate to, subsection (e) or (e) of section 1916A of the Social Security Act, such amendments shall take effect as if included in the amendments made by section 6042 or 6043, respectively, of the Deficit Reduction Act of 2005.

(b) CLARIFYING TREATMENT OF CERTAIN ANNUITIES (SECTION 6012).—

(1) IN GENERAL.—Section 1917(c)(1)(F)(i) of the Social Security Act (42 U.S.C. 1396p(c)(1)(F)(i)), as added by section 6012(b) of the Deficit Reduction Act of 2005, is amended by
striking “annuitant” and inserting “institutionalized individual”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall be effective as if included in the enactment of section 6012 of the Deficit Reduction Act of 2005.

(c) ADDITIONAL MISCELLANEOUS TECHNICAL CORRECTIONS.—

(1) DOCUMENTATION (SECTION 6036).—

(A) IN GENERAL.—Effective as if included in the amendment made by section 6036(a)(2) of the Deficit Reduction Act of 2005, section 1903(x) of the Social Security Act (42 U.S.C. 1396b(x)), as inserted by such section 6036(a)(2), is amended—

(i) in paragraph (1), by striking “(i)(23)” and inserting “(i)(22)”;

(ii) in paragraph (2)—

(I) in the matter preceding subparagraph (A), by striking “alien” and inserting “individual declaring to be a citizen or national of the United States”;

(II) by striking subparagraph (B) and inserting the following:
“(B) and is receiving—

“(i) disability insurance benefits under section 223 or monthly insurance benefits under section 202 based on such individual’s disability (as defined in section 223(d)); or

“(ii) supplemental security income benefits under title XVI;”;

(III) in subparagraph (C)—

(aa) by striking “other”;

and

(bb) by striking “had” and inserting “has”;

(IV) by redesignating subparagraph (C) as subparagraph (D); and

(V) by inserting after subparagraph (B) the following new subparagraph:

“(C) and with respect to whom—

“(i) child welfare services are made available under part B of title IV on the basis of being a child in foster care; or

“(ii) adoption or foster care assistance is made available under part E of title IV;

or”; and
(iii) in paragraph (3)(C)(iii), by striking “I–97” and inserting “I–197”.

(B) ASSURANCE OF STATE FOSTER CARE AGENCY VERIFICATION OF CITIZENSHIP OR LEGAL STATUS.—

(i) STATE PLAN AMENDMENT.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(I) in paragraph (25), by striking “and” at the end;

(II) in paragraph (26)(C), by striking the period at the end and inserting “; and”; and

(III) by adding at the end the following:

“(27) provides that, with respect to any child in foster care under the responsibility of the State under this part or part B and without regard to whether foster care maintenance payments are made under section 472 on behalf of the child, the State has in effect procedures for verifying the citizenship or immigration status of the child.”.

(ii) INCLUSION IN REVIEWS OF CHILD AND FAMILY SERVICES PROGRAMS.—Section 1123A(b)(2) of the Social Security Act
Act (42 U.S.C. 1320a-2a(b)(2)) is amended by inserting "(which shall include determining whether the State program is in conformity with the requirement of section 471(a)(27))" after "review".

(iii) Effective date.—The amendments made by this subparagraph shall take effect on the date that is 6 months after the date of the enactment of this Act.

(2) Miscellaneous technical corrections.—

(A) Effective as if included in the enactment of the Deficit Reduction Act of 2005 (Public Law 109–171), the following sections of such Act are amended as follows:

(i) Section 5114(a)(2) is amended by striking "section 1842(b)(6)(F) of such Act (42 U.S.C. 1395u(b)(6)(F))" and inserting "section 1842(b)(6) of such Act (42 U.S.C. 1395u(b)(6))".

(ii) Section 6003(b)(2) is amended, by striking "subsection (k)" and inserting "subsection (k)(1)".

(iii) Sections 6031(b), 6032(b), and 6035(c) are each amended by striking
“section 6035(e)” and inserting “section 6034(e)”.

(iv) Section 6034(b) is amended by striking “section 6033(a)” and inserting “section 6032(a)”.

(v) Section 6036 is amended—

(I) in subsection (b), by striking “section 1903(z)” and inserting “section 1903(x)”; and

(II) in subsection (c), by striking “(i)(23)” and inserting “(i)(22)”.

(B) Effective as if included in the amendment made by section 6015(a)(1) of the Deficit Reduction Act of 2005, section 1919(c)(5)(A)(ii) of the Social Security Act (42 U.S.C. 1396r(e)(5)(A)(ii)) is amended by striking “clause (v)” and inserting “subparagraph (B)(v)”.

DIVISION C—OTHER PROVISIONS

TITLE I—GULF OF MEXICO ENERGY SECURITY

SEC. 101. SHORT TITLE.

This title may be cited as the “Gulf of Mexico Energy Security Act of 2006”.

“section 6035(e)” and inserting “section 6034(e)”.

(iv) Section 6034(b) is amended by striking “section 6033(a)” and inserting “section 6032(a)”.

(v) Section 6036 is amended—

(I) in subsection (b), by striking “section 1903(z)” and inserting “section 1903(x)”; and

(II) in subsection (c), by striking “(i)(23)” and inserting “(i)(22)”.

(B) Effective as if included in the amendment made by section 6015(a)(1) of the Deficit Reduction Act of 2005, section 1919(c)(5)(A)(ii) of the Social Security Act (42 U.S.C. 1396r(e)(5)(A)(ii)) is amended by striking “clause (v)” and inserting “subparagraph (B)(v)”.

DIVISION C—OTHER PROVISIONS

TITLE I—GULF OF MEXICO ENERGY SECURITY

SEC. 101. SHORT TITLE.

This title may be cited as the “Gulf of Mexico Energy Security Act of 2006”.

“section 6035(e)” and inserting “section 6034(e)”.

(iv) Section 6034(b) is amended by striking “section 6033(a)” and inserting “section 6032(a)”.

(v) Section 6036 is amended—

(I) in subsection (b), by striking “section 1903(z)” and inserting “section 1903(x)”; and

(II) in subsection (c), by striking “(i)(23)” and inserting “(i)(22)”.

(B) Effective as if included in the amendment made by section 6015(a)(1) of the Deficit Reduction Act of 2005, section 1919(c)(5)(A)(ii) of the Social Security Act (42 U.S.C. 1396r(e)(5)(A)(ii)) is amended by striking “clause (v)” and inserting “subparagraph (B)(v)”.

DIVISION C—OTHER PROVISIONS

TITLE I—GULF OF MEXICO ENERGY SECURITY

SEC. 101. SHORT TITLE.

This title may be cited as the “Gulf of Mexico Energy Security Act of 2006”.

“section 6035(e)” and inserting “section 6034(e)”.

(iv) Section 6034(b) is amended by striking “section 6033(a)” and inserting “section 6032(a)”.

(v) Section 6036 is amended—

(I) in subsection (b), by striking “section 1903(z)” and inserting “section 1903(x)”; and

(II) in subsection (c), by striking “(i)(23)” and inserting “(i)(22)”.

(B) Effective as if included in the amendment made by section 6015(a)(1) of the Deficit Reduction Act of 2005, section 1919(c)(5)(A)(ii) of the Social Security Act (42 U.S.C. 1396r(e)(5)(A)(ii)) is amended by striking “clause (v)” and inserting “subparagraph (B)(v)”.

DIVISION C—OTHER PROVISIONS

TITLE I—GULF OF MEXICO ENERGY SECURITY

SEC. 101. SHORT TITLE.

This title may be cited as the “Gulf of Mexico Energy Security Act of 2006”.
SEC. 102. DEFINITIONS.

In this title:


(2) 181 SOUTH AREA.—The term “181 South Area” means any area—

(A) located—

(i) south of the 181 Area;

(ii) west of the Military Mission Line;

and

(iii) in the Central Planning Area;

(B) excluded from the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002, dated August 1996, of the Minerals Management Service; and

(C) included in the areas considered for oil and gas leasing, as identified in map 8, page 37 of the document entitled “Draft Proposed Program Outer Continental Shelf Oil and Gas

(3) **Bonus or royalty credit.**—The term “bonus or royalty credit” means a legal instrument or other written documentation, or an entry in an account managed by the Secretary, that may be used in lieu of any other monetary payment for—

(A) a bonus bid for a lease on the outer Continental Shelf; or

(B) a royalty due on oil or gas production from any lease located on the outer Continental Shelf.

(4) **Central planning area.**—The term “Central Planning Area” means the Central Gulf of Mexico Planning Area of the outer Continental Shelf, as designated in the document entitled “Draft Proposed Program Outer Continental Shelf Oil and Gas Leasing Program 2007–2012”, dated February 2006.

(5) **Eastern planning area.**—The term “Eastern Planning Area” means the Eastern Gulf of Mexico Planning Area of the outer Continental Shelf, as designated in the document entitled “Draft Proposed Program Outer Continental Shelf Oil and


(A) located in—

(i) the Eastern Planning Area, as designated in the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program 2002–2007, dated April 2002, of the Minerals Management Service;

(ii) the Central Planning Area, as designated in the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program 2002–2007, dated April 2002, of the Minerals Management Service; or

(iii) the Western Planning Area, as designated in the Proposed Final Outer Continental Shelf Oil and Gas Leasing Program 2002–2007, dated April 2002, of the Minerals Management Service; and

(B) not located in—

(i) an area in which no funds may be expended to conduct offshore preleasing, leasing, and related activities under sections 104 through 106 of the Department
of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54; 119 Stat. 521) (as in effect on August 2, 2005);

(ii) an area withdrawn from leasing under the “Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition”, from 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998; or

(iii) the 181 Area or 181 South Area.

(7) GULF PRODUCING STATE.—The term “Gulf producing State” means each of the States of Alabama, Louisiana, Mississippi, and Texas.

(8) MILITARY MISSION LINE.—The term “Military Mission Line” means the north-south line at 86°41′ W. longitude.

(9) QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

(A) IN GENERAL.—The term “qualified outer Continental Shelf revenues” means—

(i) in the case of each of fiscal years 2007 through 2016, all rentals, royalties, bonus bids, and other sums due and payable to the United States from leases en-
entered into on or after the date of enactment of this Act for—

(I) areas in the 181 Area located in the Eastern Planning Area; and

(II) the 181 South Area; and

(ii) in the case of fiscal year 2017 and each fiscal year thereafter, all rentals, royalties, bonus bids, and other sums due and payable to the United States received on or after October 1, 2016, from leases entered into on or after the date of enactment of this Act for—

(I) the 181 Area;

(II) the 181 South Area; and

(III) the 2002–2007 planning area.

(B) EXCLUSIONS.—The term “qualified outer Continental Shelf revenues” does not include—

(i) revenues from the forfeiture of a bond or other surety securing obligations other than royalties, civil penalties, or royalties taken by the Secretary in-kind and not sold; or
(ii) revenues generated from leases subject to section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)).

(10) COASTAL POLITICAL SUBDIVISION.—The term “coastal political subdivision” means a political subdivision of a Gulf producing State any part of which political subdivision is—

(A) within the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the Gulf producing State as of the date of enactment of this Act; and

(B) not more than 200 nautical miles from the geographic center of any leased tract.

(11) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 103. OFFSHORE OIL AND GAS LEASING IN 181 AREA AND 181 SOUTH AREA OF GULF OF MEXICO.

(a) 181 AREA LEASE SALE.—Except as provided in section 104, the Secretary shall offer the 181 Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) as soon as practicable, but not later than 1 year, after the date of enactment of this Act.
(b) 181 South Area Lease Sale.—The Secretary shall offer the 181 South Area for oil and gas leasing pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) as soon as practicable after the date of enactment of this Act.

c) Leasing Program.—The 181 Area and 181 South Area shall be offered for lease under this section notwithstanding the omission of the 181 Area or the 181 South Area from any outer Continental Shelf leasing program under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344).

d) Conforming Amendment.—Section 105 of the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2006 (Public Law 109–54; 119 Stat. 522) is amended by inserting “(other than the 181 South Area (as defined in section 102 of the Gulf of Mexico Energy Security Act of 2006))” after “lands located outside Sale 181”.

SEC. 104. Moratorium on Oil and Gas Leasing in Certain Areas of Gulf of Mexico.

(a) In General.—Effective during the period beginning on the date of enactment of this Act and ending on June 30, 2022, the Secretary shall not offer for leasing, preleasing, or any related activity—
(1) any area east of the Military Mission Line in the Gulf of Mexico;
(2) any area in the Eastern Planning Area that is within 125 miles of the coastline of the State of Florida; or
(3) any area in the Central Planning Area that is—
   (A) within—
      (i) the 181 Area; and
      (ii) 100 miles of the coastline of the State of Florida; or
   (B)(i) outside the 181 Area;
      (ii) east of the western edge of the Pensacola Official Protrac tion Diagram (UTM X co-
coordinate 1,393,920 (NAD 27 feet)); and
      (iii) within 100 miles of the coastline of the State of Florida.
(b) MILITARY MISSION LINE.—Notwithstanding sub-
section (a), the United States reserves the right to des-
ignate by and through the Secretary of Defense, with the approval of the President, national defense areas on the outer Continental Shelf pursuant to section 12(d) of the Outer Continental Shelf Lands Act (43 U.S.C. 1341(d)).
(c) EXCHANGE OF CERTAIN LEASES.—
(1) In general.—The Secretary shall permit any person that, as of the date of enactment of this Act, has entered into an oil or gas lease with the Secretary in any area described in paragraph (2) or (3) of subsection (a) to exchange the lease for a bonus or royalty credit that may only be used in the Gulf of Mexico.

(2) Valuation of existing lease.—The amount of the bonus or royalty credit for a lease to be exchanged shall be equal to—

(A) the amount of the bonus bid; and

(B) any rental paid for the lease as of the date the lessee notifies the Secretary of the decision to exchange the lease.

(3) Revenue distribution.—No bonus or royalty credit may be used under this subsection in lieu of any payment due under, or to acquire any interest in, a lease subject to the revenue distribution provisions of section 8(g) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(g)).

(4) Regulations.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that shall provide a process for—
(A) notification to the Secretary of a decision to exchange an eligible lease;

(B) issuance of bonus or royalty credits in exchange for relinquishment of the existing lease;

(C) transfer of the bonus or royalty credit to any other person; and

(D) determining the proper allocation of bonus or royalty credits to each lease interest owner.

SEC. 105. DISPOSITION OF QUALIFIED OUTER CONTINENTAL SHELF REVENUES FROM 181 AREA, 181 SOUTH AREA, AND 2002-2007 PLANNING AREAS OF GULF OF MEXICO.

(a) IN GENERAL.—Notwithstanding section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) and subject to the other provisions of this section, for each applicable fiscal year, the Secretary of the Treasury shall deposit—

(1) 50 percent of qualified outer Continental Shelf revenues in the general fund of the Treasury; and

(2) 50 percent of qualified outer Continental Shelf revenues in a special account in the Treasury from which the Secretary shall disburse—
196

(A) 75 percent to Gulf producing States in accordance with subsection (b); and

(B) 25 percent to provide financial assistance to States in accordance with section 6 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8), which shall be considered income to the Land and Water Conservation Fund for purposes of section 2 of that Act (16 U.S.C. 460l–5).

(b) Allocation Among Gulf Producing States and Coastal Political Subdivisions.—

(1) Allocation Among Gulf Producing States for Fiscal Years 2007 Through 2016.—

(A) In General.—Subject to subparagraph (B), effective for each of fiscal years 2007 through 2016, the amount made available under subsection (a)(2)(A) shall be allocated to each Gulf producing State in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract.
(B) Minimum Allocation.—The amount allocated to a Gulf producing State each fiscal year under subparagraph (A) shall be at least 10 percent of the amounts available under subsection (a)(2)(A).

(2) Allocation Among Gulf Producing States for Fiscal Year 2017 and Thereafter.—

(A) In General.—Subject to subparagraphs (B) and (C), effective for fiscal year 2017 and each fiscal year thereafter—

(i) the amount made available under subsection (a)(2)(A) from any lease entered into within the 181 Area or the 181 South Area shall be allocated to each Gulf producing State in amounts (based on a formula established by the Secretary by regulation) that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of the applicable leased tract and the geographic center of the leased tract; and

(ii) the amount made available under subsection (a)(2)(A) from any lease en-
entered into within the 2002–2007 planning area shall be allocated to each Gulf producing State in amounts that are inversely proportional to the respective distances between the point on the coastline of each Gulf producing State that is closest to the geographic center of each historical lease site and the geographic center of the historical lease site, as determined by the Secretary.

(B) MINIMUM ALLOCATION.—The amount allocated to a Gulf producing State each fiscal year under subparagraph (A) shall be at least 10 percent of the amounts available under subsection (a)(2)(A).

(C) HISTORICAL LEASE SITES.—

(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (A)(ii), the historical lease sites in the 2002–2007 planning area shall include all leases entered into by the Secretary for an area in the Gulf of Mexico during the period beginning on October 1, 1982 (or an earlier date if practicable, as determined by the
Secretary), and ending on December 31, 2015.

(ii) **Adjustment.**—Effective January 1, 2022, and every 5 years thereafter, the ending date described in clause (i) shall be extended for an additional 5 calendar years.

(3) **Payments to Coastal Political Subdivisions.**—

(A) **In General.**—The Secretary shall pay 20 percent of the allocable share of each Gulf producing State, as determined under paragraphs (1) and (2), to the coastal political subdivisions of the Gulf producing State.

(B) **Allocation.**—The amount paid by the Secretary to coastal political subdivisions shall be allocated to each coastal political subdivision in accordance with subparagraphs (B), (C), and (E) of section 31(b)(4) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356a(b)(4)).

(c) **Timing.**—The amounts required to be deposited under paragraph (2) of subsection (a) for the applicable fiscal year shall be made available in accordance with that
paragraph during the fiscal year immediately following the applicable fiscal year.

(d) AUTHORIZED USES.—

(1) IN GENERAL.—Subject to paragraph (2), each Gulf producing State and coastal political subdivision shall use all amounts received under subsection (b) in accordance with all applicable Federal and State laws, only for 1 or more of the following purposes:

(A) Projects and activities for the purposes of coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses.

(B) Mitigation of damage to fish, wildlife, or natural resources.

(C) Implementation of a federally-approved marine, coastal, or comprehensive conservation management plan.

(D) Mitigation of the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects.

(E) Planning assistance and the administrative costs of complying with this section.
(2) LIMITATION.—Not more than 3 percent of amounts received by a Gulf producing State or coastal political subdivision under subsection (b) may be used for the purposes described in paragraph (1)(E).

(e) ADMINISTRATION.—Amounts made available under subsection (a)(2) shall—

(1) be made available, without further appropriation, in accordance with this section;

(2) remain available until expended; and

(3) be in addition to any amounts appropriated under—

(A) the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

(B) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–4 et seq.);

or

(C) any other provision of law.

(f) LIMITATIONS ON AMOUNT OF DISTRIBUTED QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

(1) IN GENERAL.—Subject to paragraph (2), the total amount of qualified outer Continental Shelf revenues made available under subsection (a)(2) shall not exceed $500,000,000 for each of fiscal years 2016 through 2055.
(2) EXPENDITURES.—For the purpose of paragraph (1), for each of fiscal years 2016 through 2055, expenditures under subsection (a)(2) shall be net of receipts from that fiscal year from any area in the 181 Area in the Eastern Planning Area and the 181 South Area.

(3) PRO RATA REDUCTIONS.—If paragraph (1) limits the amount of qualified outer Continental Shelf revenue that would be paid under subparagraphs (A) and (B) of subsection (a)(2)—

(A) the Secretary shall reduce the amount of qualified outer Continental Shelf revenue provided to each recipient on a pro rata basis; and

(B) any remainder of the qualified outer Continental Shelf revenues shall revert to the general fund of the Treasury.

TITLE II—SURFACE MINING CONTROL AND RECLAMATION ACT AMENDMENTS OF 2006

SEC. 200. SHORT TITLE.

This title may be cited as the “Surface Mining Control and Reclamation Act Amendments of 2006”.
Subtitle A—Mining Control and Reclamation

SEC. 201. ABANDONED MINE RECLAMATION FUND AND PURPOSES.

(a) In General.—Section 401 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended—

(1) in subsection (c)—

(A) by striking paragraphs (2) and (6); and

(B) by redesignating paragraphs (3), (4), and (5) and paragraphs (7) through (13) as paragraphs (2) through (11), respectively;

(2) by striking subsection (d) and inserting the following:

“(d) Availability of Moneys; No Fiscal Year Limitation.—

“(1) In General.—Moneys from the fund for expenditures under subparagraphs (A) through (D) of section 402(g)(3) shall be available only when appropriated for those subparagraphs.

“(2) No Fiscal Year Limitation.—Appropriations described in paragraph (1) shall be made without fiscal year limitation.
“(3) OTHER PURPOSES.—Moneys from the fund shall be available for all other purposes of this title without prior appropriation as provided in subsection (f).”;

(3) in subsection (e)—

(A) in the second sentence, by striking “the needs of such fund” and inserting “achieving the purposes of the transfers under section 402(h)”; and

(B) in the third sentence, by inserting before the period the following: “for the purpose of the transfers under section 402(h)”;

(4) by adding at the end the following:

“(f) GENERAL LIMITATION ON OBLIGATION AUTHORITY.—

“(1) IN GENERAL.—From amounts deposited into the fund under subsection (b), the Secretary shall distribute during each fiscal year beginning after September 30, 2007, an amount determined under paragraph (2).

“(2) AMOUNTS.—

“(A) FOR FISCAL YEARS 2008 THROUGH 2022.—For each of fiscal years 2008 through 2022, the amount distributed by the Secretary under this subsection shall be equal to—
“(i) the amounts deposited into the fund under paragraphs (1), (2), and (4) of subsection (b) for the preceding fiscal year that were allocated under paragraphs (1) and (5) of section 402(g); plus

“(ii) the amount needed for the adjustment under section 402(g)(8) for the current fiscal year.

“(B) Fiscal years 2023 and thereafter.—For fiscal year 2023 and each fiscal year thereafter, to the extent that funds are available, the Secretary shall distribute an amount equal to the amount distributed under subparagraph (A) during fiscal year 2022.

“(3) Distribution.—

“(A) In general.—Except as provided in subparagraph (B), for each fiscal year, of the amount to be distributed to States and Indian tribes pursuant to paragraph (2), the Secretary shall distribute—

“(i) the amounts allocated under paragraph (1) of section 402(g), the amounts allocated under paragraph (5) of section 402(g), and any amount reallocated under section 411(h)(3) in accordance with
section 411(h)(2), for grants to States and Indian tribes under section 402(g)(5); and

“(ii) the amounts allocated under section 402(g)(8).

“(B) EXCLUSION.—Beginning on October 1, 2007, certified States shall be ineligible to receive amounts under section 402(g)(1).

“(4) AVAILABILITY.—Amounts in the fund available to the Secretary for obligation under this subsection shall be available until expended.

“(5) ADDITION.—

“(A) IN GENERAL.—Subject to subparagraph (B), the amount distributed under this subsection for each fiscal year shall be in addition to the amount appropriated from the fund during the fiscal year.

“(B) EXCEPTIONS.—Notwithstanding paragraph (3), the amount distributed under this subsection for the first 4 fiscal years beginning on and after October 1, 2007, shall be equal to the following percentage of the amount otherwise required to be distributed:

“(i) 50 percent in fiscal year 2008.
“(ii) 50 percent in fiscal year 2009.
“(iii) 75 percent in fiscal year 2010.
“(iv) 75 percent in fiscal year 2011.”.

(b) CONFORMING AMENDMENT.—Section 712(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1302(b)) is amended by striking “section 401(c)(11)” and inserting “section 401(c)(9)”.

SEC. 202. RECLAMATION FEE.

(a) AMOUNTS.—

(1) FISCAL YEARS 2008–2012.—Effective October 1, 2007, section 402(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(a)) is amended—

(A) by striking “35” and inserting “31.5”;

(B) by striking “15” and inserting “13.5”;

and

(C) by striking “10 cents” and inserting “9 cents”.

(2) FISCAL YEARS 2013–2021.—Effective October 1, 2012, section 402(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(a)) (as amended by paragraph (1)) is amended—

(A) by striking “31.5” and inserting “28”;

(B) by striking “13.5” and inserting “12”;
(C) by striking “9 cents” and inserting “8 cents”.

(b) DURATION.—Effective September 30, 2007, section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) (as amended by section 7007 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006 (Public Law 109–234; 120 Stat. 484)) is amended by striking “September 30, 2007” and all that follows through the end of the sentence and inserting “September 30, 2021.”.

(c) ALLOCATION OF FUNDS.—Section 402(g) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)) is amended—

(1) in paragraph (1)(D)—

(A) by inserting “(except for grants awarded during fiscal years 2008, 2009, and 2010 to the extent not expended within 5 years)” after “this paragraph”; and

(B) by striking “in any area under paragraph (2), (3), (4), or (5)” and inserting “under paragraph (5)”;

(2) by striking paragraph (2) and inserting:

“(2) In making the grants referred to in paragraph (1)(C) and the grants referred to in paragraph (5), the
Secretary shall ensure strict compliance by the States and Indian tribes with the priorities described in section 403(a) until a certification is made under section 411(a)."

(3) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by striking "paragraphs (2) and" and inserting "paragraph";

(B) in subparagraph (A), by striking "401(c)(11)" and inserting "401(c)(9)"; and

(C) by adding at the end the following:

"(E) For the purpose of paragraph (8).";

(4) in paragraph (5)—

(A) by inserting "(A)" after "(5)";

(B) in the first sentence, by striking "40" and inserting "60";

(C) in the last sentence, by striking "Funds allocated or expended by the Secretary under paragraphs (2), (3), or (4)" and inserting "Funds made available under paragraph (3) or (4)"; and

(D) by adding at the end the following:

"(B) Any amount that is reallocated and available under section 411(h)(3) shall be in addition to amounts that are allocated under subparagraph (A)."; and
(5) by striking paragraphs (6) through (8) and inserting the following:

“(6)(A) Any State with an approved abandoned mine reclamation program pursuant to section 405 may receive and retain, without regard to the 3-year limitation referred to in paragraph (1)(D), up to 30 percent of the total of the grants made annually to the State under paragraphs (1) and (5) if those amounts are deposited into an acid mine drainage abatement and treatment fund established under State law, from which amounts (together with all interest earned on the amounts) are expended by the State for the abatement of the causes and the treatment of the effects of acid mine drainage in a comprehensive manner within qualified hydrologic units affected by coal mining practices.

“(B) In this paragraph, the term ‘qualified hydrologic unit’ means a hydrologic unit—

“(i) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner that adversely impacts biological resources; and

“(ii) that contains land and water that are—

“(I) eligible pursuant to section 404 and include any of the priorities described in section 403(a); and
“(II) the subject of expenditures by the
State from the forfeiture of bonds required
under section 509 or from other States sources
to abate and treat acid mine drainage.

“(7) In complying with the priorities described in sec-
tion 403(a), any State or Indian tribe may use amounts
available in grants made annually to the State or tribe
under paragraphs (1) and (5) for the reclamation of eligi-
ble land and water described in section 403(a)(3) before
the completion of reclamation projects under paragraphs
(1) and (2) of section 403(a) only if the expenditure of
funds for the reclamation is done in conjunction with the
expenditure before, on, or after the date of enactment of
the Surface Mining Control and Reclamation Act Amend-
ments of 2006 of funds for reclamation projects under
paragraphs (1) and (2) of section 403(a).

“(8)(A) In making funds available under this title,
the Secretary shall ensure that the grant awards total not
less than $3,000,000 annually to each State and each In-
dian tribe having an approved abandoned mine reclama-
tion program pursuant to section 405 and eligible land
and water pursuant to section 404, so long as an alloca-
tion of funds to the State or tribe is necessary to achieve
the priorities stated in paragraphs (1) and (2) of section
403(a).
“(B) Notwithstanding any other provision of law, this paragraph applies to the States of Tennessee and Missouri.”.

(d) Transfers of Interest Earned by Abandoned Mine Reclamation Fund.—Section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232) is amended by striking subsection (h) and inserting the following:

“(h) Transfers of Interest Earned by Fund.—

“(1) In general.—

“(A) Transfers to Combined Benefit Fund.—As soon as practicable after the beginning of fiscal year 2007 and each fiscal year thereafter, and before making any allocation with respect to the fiscal year under subsection (g), the Secretary shall use an amount not to exceed the amount of interest that the Secretary estimates will be earned and paid to the fund during the fiscal year to transfer to the Combined Benefit Fund such amounts as are estimated by the trustees of such fund to offset the amount of any deficit in net assets in the Combined Benefit Fund as of October 1, 2006, and to make the transfer described in paragraph (2)(A).
“(B) Transfers to 1992 and 1993 plans.—As soon as practicable after the beginning of fiscal year 2008 and each fiscal year thereafter, and before making any allocation with respect to the fiscal year under subsection (g), the Secretary shall use an amount not to exceed the amount of interest that the Secretary estimates will be earned and paid to the fund during the fiscal year (reduced by the amount used under subparagraph (A)) to make the transfers described in paragraphs (2)(B) and (2)(C).

“(2) Transfers described.—The transfers referred to in paragraph (1) are the following:

“(A) United Mine Workers of America Combined Benefit Fund.—A transfer to the United Mine Workers of America Combined Benefit Fund equal to the amount that the trustees of the Combined Benefit Fund estimate will be expended from the fund for the fiscal year in which the transfer is made, reduced by—

“(i) the amount the trustees of the Combined Benefit Fund estimate the Com-
214

bined Benefit Fund will receive during the
fiscal year in—

“(I) required premiums; and

“(II) payments paid by Federal
agencies in connection with benefits
provided by the Combined Benefit
Fund; and

“(ii) the amount the trustees of the
Combined Benefit Fund estimate will be
expended during the fiscal year to provide
health benefits to beneficiaries who are un-
assigned beneficiaries solely as a result of
the application of section 9706(h)(1) of the
Internal Revenue Code of 1986, but only
to the extent that such amount does not
exceed the amounts described in subsection
(i)(1)(A) that the Secretary estimates will
be available to pay such estimated expendi-
tures.

“(B) UNITED MINE WORKERS OF AMERICA
1992 BENEFIT PLAN.—A transfer to the United
Mine Workers of America 1992 Benefit Plan, in
an amount equal to the difference between—

“(i) the amount that the trustees of
the 1992 UMWA Benefit Plan estimate
will be expended from the 1992 UMWA Benefit Plan during the next calendar year to provide the benefits required by the 1992 UMWA Benefit Plan on the date of enactment of this subparagraph; minus

“(ii) the amount that the trustees of the 1992 UMWA Benefit Plan estimate the 1992 UMWA Benefit Plan will receive during the next calendar year in—

“(I) required monthly per beneficiary premiums, including the amount of any security provided to the 1992 UMWA Benefit Plan that is available for use in the provision of benefits; and

“(II) payments paid by Federal agencies in connection with benefits provided by the 1992 UMWA benefit plan.

“(C) Multiemployer Health Benefit Plan.—A transfer to the Multiemployer Health Benefit Plan established after July 20, 1992, by the parties that are the settlors of the 1992 UMWA Benefit Plan referred to in subparagraph (B) (referred to in this subparagraph and
subparagraph (D) as ‘the Plan’), in an amount
equal to the excess (if any) of—

“(i) the amount that the trustees of
the Plan estimate will be expended from
the Plan during the next calendar year, to
provide benefits no greater than those pro-
vided by the Plan as of December 31,
2006; over

“(ii) the amount that the trustees es-
timated the Plan will receive during the
next calendar year in payments paid by
Federal agencies in connection with bene-
fits provided by the Plan.

Such excess shall be calculated by taking into
account only those beneficiaries actually en-
rolled in the Plan as of December 31, 2006,
who are eligible to receive benefits under the
Plan on the first day of the calendar year for
which the transfer is made.

“(D) INDIVIDUALS CONSIDERED EN-
ROLLED.—For purposes of subparagraph (C),
y any individual who was eligible to receive bene-
fits from the Plan as of the date of enactment
of this subsection, even though benefits were
being provided to the individual pursuant to a
settlement agreement approved by order of a bankruptcy court entered on or before September 30, 2004, will be considered to be actually enrolled in the Plan and shall receive benefits from the Plan beginning on December 31, 2006.

“(3) ADJUSTMENT.—If, for any fiscal year, the amount of a transfer under subparagraph (A), (B), or (C) of paragraph (2) is more or less than the amount required to be transferred under that subparagraph, the Secretary shall appropriately adjust the amount transferred under that subparagraph for the next fiscal year.

“(4) ADDITIONAL AMOUNTS.—

“(A) PREVIOUSLY CREDITED INTEREST.—

Notwithstanding any other provision of law, any interest credited to the fund that has not previously been transferred to the Combined Benefit Fund referred to in paragraph (2)(A) under this section—

“(i) shall be held in reserve by the Secretary until such time as necessary to make the payments under subparagraphs (A) and (B) of subsection (i)(1), as described in clause (ii); and
“(ii) in the event that the amounts described in subsection (i)(1) are insufficient to make the maximum payments described in subparagraphs (A) and (B) of subsection (i)(1), shall be used by the Secretary to supplement the payments so that the maximum amount permitted under those paragraphs is paid.

“(B) Previously Allocated Amounts.—All amounts allocated under subsection (g)(2) before the date of enactment of this subparagraph for the program described in section 406, but not appropriated before that date, shall be available to the Secretary to make the transfers described in paragraph (2).

“(C) Adequacy of Previously Credited Interest.—The Secretary shall—

“(i) consult with the trustees of the plans described in paragraph (2) at reasonable intervals; and

“(ii) notify Congress if a determination is made that the amounts held in reserve under subparagraph (A) are insufficient to meet future requirements under subparagraph (A)(ii).
“(D) ADDITIONAL RESERVE AMOUNTS.—

In addition to amounts held in reserve under subparagraph (A), there is authorized to be appropriated such sums as may be necessary for transfer to the fund to carry out the purposes of subparagraph (A)(ii).

“(E) INAPPLICABILITY OF CAP.—The limitation described in subsection (i)(3)(A) shall not apply to payments made from the reserve fund under this paragraph.

“(5) LIMITATIONS.—

“(A) AVAILABILITY OF FUNDS FOR NEXT FISCAL YEAR.—The Secretary may make transfers under subparagraphs (B) and (C) of paragraph (2) for a calendar year only if the Secretary determines, using actuarial projections provided by the trustees of the Combined Benefit Fund referred to in paragraph (2)(A), that amounts will be available under paragraph (1), after the transfer, for the next fiscal year for making the transfer under paragraph (2)(A).

“(B) RATE OF CONTRIBUTIONS OF OBLIGORS.—

“(i) IN GENERAL.—
“(I) RATE.—A transfer under paragraph (2)(C) shall not be made for a calendar year unless the persons that are obligated to contribute to the plan referred to in paragraph (2)(C) on the date of the transfer are obligated to make the contributions at rates that are no less than those in effect on the date which is 30 days before the date of enactment of this subsection.

“(II) APPLICATION.—The contributions described in subclause (I) shall be applied first to the provision of benefits to those plan beneficiaries who are not described in paragraph (2)(C)(ii).

“(ii) INITIAL CONTRIBUTIONS.—

“(I) IN GENERAL.—From the date of enactment of the Surface Mining Control and Reclamation Act Amendments of 2006 through December 31, 2010, the persons that, on the date of enactment of that Act, are obligated to contribute to the plan re-
ferred to in paragraph (2)(C) shall be obligated, collectively, to make contributions equal to the amount described in paragraph (2)(C), less the amount actually transferred due to the operation of subparagraph (C).

“(II) FIRST CALENDAR YEAR.—Calendar year 2006 is the first calendar year for which contributions are required under this clause.

“(III) AMOUNT OF CONTRIBUTION FOR 2006.—Except as provided in subclause (IV), the amount described in paragraph (2)(C) for calendar year 2006 shall be calculated as if paragraph (2)(C) had been in effect during 2005.

“(IV) LIMITATION.—The contributions required under this clause for calendar year 2006 shall not exceed the amount necessary for solvency of the plan described in paragraph (2)(C), measured as of December 31, 2006 and taking into account
all assets held by the plan as of that date.

“(iii) DIVISION.—The collective annual contribution obligation required under clause (ii) shall be divided among the persons subject to the obligation, and applied uniformly, based on the hours worked for which contributions referred to in clause (i) would be owed.

“(C) PHASE-IN OF TRANSFERS.—For each of calendar years 2008 through 2010, the transfers required under subparagraphs (B) and (C) of paragraph (2) shall equal the following amounts:

“(i) For calendar year 2008, the Secretary shall make transfers equal to 25 percent of the amounts that would otherwise be required under subparagraphs (B) and (C) of paragraph (2).

“(ii) For calendar year 2009, the Secretary shall make transfers equal to 50 percent of the amounts that would otherwise be required under subparagraphs (B) and (C) of paragraph (2).
“(iii) For calendar year 2010, the Secretary shall make transfers equal to 75 percent of the amounts that would otherwise be required under subparagraphs (B) and (C) of paragraph (2).

“(i) FUNDING.—

“(1) IN GENERAL.—Subject to paragraph (3), out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the plans described in subsection (h)(2) such sums as are necessary to pay the following amounts:

“(A) To the Combined Fund (as defined in section 9701(a)(5) of the Internal Revenue Code of 1986 and referred to in this paragraph as the ‘Combined Fund’), the amount that the trustees of the Combined Fund estimate will be expended from premium accounts maintained by the Combined Fund for the fiscal year to provide benefits for beneficiaries who are unassigned beneficiaries solely as a result of the application of section 9706(h)(1) of the Internal Revenue Code of 1986, subject to the following limitations:
“(i) For fiscal year 2008, the amount paid under this subparagraph shall equal—

“(I) the amount described in subparagraph (A); minus

“(II) the amounts required under section 9706(h)(3)(A) of the Internal Revenue Code of 1986.

“(ii) For fiscal year 2009, the amount paid under this subparagraph shall equal—

“(I) the amount described in subparagraph (A); minus

“(II) the amounts required under section 9706(h)(3)(B) of the Internal Revenue Code of 1986.

“(iii) For fiscal year 2010, the amount paid under this subparagraph shall equal—

“(I) the amount described in subparagraph (A); minus

“(II) the amounts required under section 9706(h)(3)(C) of the Internal Revenue Code of 1986.

“(B) On certification by the trustees of any plan described in subsection (h)(2) that the amount available for transfer by the Secretary
pursuant to this section (determined after application of any limitation under subsection (h)(5)) is less than the amount required to be transferred, to the plan the amount necessary to meet the requirement of subsection (h)(2).

“(C) To the Combined Fund, $9,000,000 on October 1, 2007, $9,000,000 on October 1, 2008, and $9,000,000 on October 1, 2009 (which amounts shall not be exceeded) to provide a refund of any premium (as described in section 9704(a) of the Internal Revenue Code of 1986) paid on or before September 7, 2000, to the Combined Fund, plus interest on the premium calculated at the rate of 7.5 percent per year, on a proportional basis and to be paid not later than 60 days after the date on which each payment is received by the Combined Fund, to those signatory operators (to the extent that the Combined Fund has not previously returned the premium amounts to the operators), or any related persons to the operators (as defined in section 9701(c) of the Internal Revenue Code of 1986), or their heirs, successors, or assigns who have been denied the refunds as the result of final judgments or settlements if—
“(i) prior to the date of enactment of this paragraph, the signatory operator (or any related person to the operator)—

“(I) had all of its beneficiary assignments made under section 9706 of the Internal Revenue Code of 1986 voided by the Commissioner of the Social Security Administration; and

“(II) was subject to a final judgment or final settlement of litigation adverse to a claim by the operator that the assignment of beneficiaries under section 9706 of the Internal Revenue Code of 1986 was unconstitutional as applied to the operator; and

“(ii) on or before September 7, 2000, the signatory operator (or any related person to the operator) had paid to the Combined Fund any premium amount that had not been refunded.

“(2) Payments to States and Indian Tribes.—Subject to paragraph (3), out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Sec-
retary of the Interior for distribution to States and Indian tribes such sums as are necessary to pay amounts described in paragraphs (1)(A) and (2)(A) of section 411(h).

“(3) LIMITATIONS.—

“(A) CAP.—The total amount transferred under this subsection for any fiscal year shall not exceed $490,000,000.

“(B) INSUFFICIENT AMOUNTS.—In a case in which the amount required to be transferred without regard to this paragraph exceeds the maximum annual limitation in subparagraph (A), the Secretary shall adjust the transfers of funds so that—

“(i) each transfer for the fiscal year is a percentage of the amount described;

“(ii) the amount is determined without regard to subsection (h)(5)(A); and

“(iii) the percentage transferred is the same for all transfers made under this subsection for the fiscal year.

“(4) AVAILABILITY OF FUNDS.—Funds shall be transferred under paragraph (1) and (2) beginning in fiscal year 2008 and each fiscal year thereafter, and shall remain available until expended.”.
SEC. 203. OBJECTIVES OF FUND.

Section 403 of the Surface Mining Control and Reclamations Act of 1977 (30 U.S.C. 1233) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking “(1) the protection” and inserting the following:

“(1)(A) the protection;”;

(ii) in subparagraph (A) (as designated by clause (i)), by striking “general welfare,”; and

(iii) by adding at the end the following:

“(B) the restoration of land and water resources and the environment that—

“(i) have been degraded by the adverse effects of coal mining practices; and

“(ii) are adjacent to a site that has been or will be remediated under subparagraph (A);”;

(B) in paragraph (2)—

(i) by striking “(2) the protection” and inserting the following:

“(2)(A) the protection”;

(ii) in subparagraph (A) (as designated by clause (i), by striking “health,
safety, and general welfare” and inserting
“health and safety”; and
(iii) by adding at the end the fol-
lowing:
“(B) the restoration of land and water re-
sources and the environment that—
“(i) have been degraded by the adverse ef-
fects of coal mining practices; and
“(ii) are adjacent to a site that has been
or will be remediated under subparagraph (A);
and”;
(C) in paragraph (3), by striking the semi-
colon at the end and inserting a period; and
(D) by striking paragraphs (4) and (5);
(2) in subsection (b)—
(A) by striking the subsection heading and
inserting “W ATER SUPPLY RESTORATION.—”;
and
(B) in paragraph (1), by striking “up to
30 percent of the”; and
(3) in the second sentence of subsection (c), by
inserting “, subject to the approval of the Sec-
retary,” after “amendments”.

SEC. 204. RECLAMATION OF RURAL LAND.

(a) ADMINISTRATION.—Section 406(h) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236(h)) is amended by striking “Soil Conservation Service” and inserting “Natural Resources Conservation Service”.

(b) AUTHORIZATION OF APPROPRIATIONS FOR CARRYING OUT RURAL LAND RECLAMATION.—Section 406 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1236) is amended by adding at the end the following:

“(i) There are authorized to be appropriated to the Secretary of Agriculture, from amounts in the Treasury other than amounts in the fund, such sums as may be necessary to carry out this section.”.

SEC. 205. LIENS.

Section 408(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1238) is amended in the last sentence by striking “who owned the surface prior to May 2, 1977, and”.

SEC. 206. CERTIFICATION.

Section 411 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1240a) is amended—

(1) in subsection (a)—

(A) by inserting “(1)” before the first sentence; and
(B) by adding at the end the following:

“(2)(A) The Secretary may, on the initiative of the Secretary, make the certification referred to in paragraph (1) on behalf of any State or Indian tribe referred to in paragraph (1) if on the basis of the inventory referred to in section 403(c) all reclamation projects relating to the priorities described in section 403(a) for eligible land and water pursuant to section 404 in the State or tribe have been completed.

“(B) The Secretary shall only make the certification after notice in the Federal Register and opportunity for public comment.”; and

(2) by adding at the end the following:

“(h) Payments to States and Indian Tribes.—

“(1) In general.—

“(A) Payments.—

“(i) In general.—Notwithstanding section 401(f)(3)(B), from funds referred to in section 402(i)(2), the Secretary shall make payments to States or Indian tribes for the amount due for the aggregate un-appropriated amount allocated to the State or Indian tribe under subparagraph (A) or (B) of section 402(g)(1).
“(ii) Conversion as Equivalent Payments.—Amounts allocated under subparagraphs (A) or (B) of section 402(g)(1) shall be reallocated to the allocation established in section 402(g)(5) in amounts equivalent to payments made to States or Indian tribes under this paragraph.

“(B) Amount Due.—In this paragraph, the term ‘amount due’ means the unappropriated amount allocated to a State or Indian tribe before October 1, 2007, under subparagraph (A) or (B) of section 402(g)(1).

“(C) Schedule.—Payments under subparagraph (A) shall be made in 7 equal annual installments, beginning with fiscal year 2008.

“(D) Use of Funds.—

“(i) Certified States and Indian Tribes.—A State or Indian tribe that makes a certification under subsection (a) in which the Secretary concurs shall use any amounts provided under this paragraph for the purposes established by the State legislature or tribal council of the Indian tribe, with priority given for addressing the impacts of mineral development.
“(ii) UNCERTIFIED STATES AND INDIAN TRIBES.—A State or Indian tribe that has not made a certification under subsection (a) in which the Secretary has concurred shall use any amounts provided under this paragraph for the purposes described in section 403.

“(2) SUBSEQUENT STATE AND INDIAN TRIBE SHARE FOR CERTIFIED STATES AND INDIAN TRIBES.—

“(A) IN GENERAL.—Notwithstanding section 401(f)(3)(B), from funds referred to in section 402(i)(2), the Secretary shall pay to each certified State or Indian tribe an amount equal to the sum of the aggregate unappropriated amount allocated on or after October 1, 2007, to the certified State or Indian tribe under subparagraph (A) or (B) of section 402(g)(1).

“(B) CERTIFIED STATE OR INDIAN TRIBE DEFINED.—In this paragraph the term ‘certified State or Indian tribe’ means a State or Indian tribe for which a certification is made under subsection (a) in which the Secretary concurs.
“(3) MANNER OF PAYMENT.—

“(A) IN GENERAL.—Subject to subparagraph (B), payments to States or Indian tribes under this subsection shall be made without regard to any limitation in section 401(d) and concurrently with payments to States under that section.

“(B) INITIAL PAYMENTS.—The first 3 payments made to any State or Indian tribe shall be reduced to 25 percent, 50 percent, and 75 percent, respectively, of the amounts otherwise required under paragraph (2)(A).

“(C) INSTALLMENTS.—Amounts withheld from the first 3 annual installments as provided under subparagraph (B) shall be paid in 2 equal annual installments beginning with fiscal year 2018.

“(4) REALLOCATION.—

“(A) IN GENERAL.—The amount allocated to any State or Indian tribe under subparagraph (A) or (B) of section 402(g)(1) that is paid to the State or Indian tribe as a result of a payment under paragraph (1) or (2) shall be reallocated and available for grants under section 402(g)(5).
“(B) ALLOCATION.—The grants shall be allocated based on the amount of coal historically produced before August 3, 1977, in the same manner as under section 402(g)(5).”.

SEC. 207. REMINING INCENTIVES.

Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.) is amended by adding at the following:

“SEC. 415. REMINING INCENTIVES.

“(a) IN GENERAL.—Notwithstanding any other provision of this Act, the Secretary may, after opportunity for public comment, promulgate regulations that describe conditions under which amounts in the fund may be used to provide incentives to promote remining of eligible land under section 404 in a manner that leverages the use of amounts from the fund to achieve more reclamation with respect to the eligible land than would be achieved without the incentives.

“(b) REQUIREMENTS.—Any regulations promulgated under subsection (a) shall specify that the incentives shall apply only if the Secretary determines, with the concurrence of the State regulatory authority referred to in title V, that, without the incentives, the eligible land would not be likely to be remined and reclaimed.

“(c) INCENTIVES.—
“(1) IN GENERAL.—Incentives that may be considered for inclusion in the regulations promulgated under subsection (a) include, but are not limited to—

“(A) a rebate or waiver of the reclamation fees required under section 402(a); and

“(B) the use of amounts in the fund to provide financial assurance for remining operations in lieu of all or a portion of the performance bonds required under section 509.

“(2) LIMITATIONS.—

“(A) USE.—A rebate or waiver under paragraph (1)(A) shall be used only for operations that—

“(i) remove or reprocess abandoned coal mine waste; or

“(ii) conduct remining activities that meet the priorities specified in paragraph (1) or (2) of section 403(a).

“(B) AMOUNT.—The amount of a rebate or waiver provided as an incentive under paragraph (1)(A) to remine or reclaim eligible land shall not exceed the estimated cost of reclaiming the eligible land under this section.”.
SEC. 208. EXTENSION OF LIMITATION ON APPLICATION OF

PROHIBITION ON ISSUANCE OF PERMIT.

Section 510(e) of the Surface Mining Control and
Reclamation Act of 1977 (30 U.S.C. 1260(e)) is amended
by striking the last sentence.

SEC. 209. TRIBAL REGULATION OF SURFACE COAL MINING

AND RECLAMATION OPERATIONS.

(a) In General.—Section 710 of the Surface Min-
ing Control and Reclamation Act of 1977 (30 U.S.C.
1300) is amended by adding at the end the following:

“(j) Tribal Regulatory Authority.—

“(1) Tribal regulatory programs.—

“(A) In General.—Notwithstanding any

other provision of law, an Indian tribe may

apply for, and obtain the approval of, a tribal

program under section 503 regulating in whole

or in part surface coal mining and reclamation

operations on reservation land under the juris-
diction of the Indian tribe using the procedures

of section 504(e).

“(B) References to State.—For pur-

poses of this subsection and the implementation

and administration of a tribal program under
title V, any reference to a ‘State’ in this Act

shall be considered to be a reference to a ‘tribe’.

“(2) Conflicts of interest.—
“(A) IN GENERAL.—The fact that an individual is a member of an Indian tribe does not in itself constitute a violation of section 201(f).

“(B) EMPLOYEES OF TRIBAL REGULATORY AUTHORITY.—Any employee of a tribal regulatory authority shall not be eligible for a per capita distribution of any proceeds from coal mining operations conducted on Indian reservation lands under this Act.

“(3) SOVEREIGN IMMUNITY.—To receive primary regulatory authority under section 504(e), an Indian tribe shall waive sovereign immunity for purposes of section 520 and paragraph (4).

“(4) JUDICIAL REVIEW.—

“(A) CIVIL ACTIONS.—

“(i) IN GENERAL.—After exhausting all tribal remedies with respect to a civil action arising under a tribal program approved under section 504(e), an interested party may file a petition for judicial review of the civil action in the United States circuit court for the circuit in which the surface coal mining operation named in the petition is located.

“(ii) SCOPE OF REVIEW.—
“(I) QUESTIONS OF LAW.—The United States circuit court shall review de novo any questions of law under clause (i).

“(II) FINDINGS OF FACT.—The United States circuit court shall review findings of fact under clause (i) using a clearly erroneous standard.

“(B) CRIMINAL ACTIONS.—Any criminal action brought under section 518 with respect to surface coal mining or reclamation operations on Indian reservation lands shall be brought in—

“(i) the United States District Court for the District of Columbia; or

“(ii) the United States district court in which the criminal activity is alleged to have occurred.

“(5) GRANTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), grants for developing, administering, and enforcing tribal programs approved in accordance with section 504(e) shall be provided to an Indian tribe in accordance with section 705.
“(B) EXCEPTION.—Notwithstanding subparagraph (A), the Federal share of the costs of developing, administering, and enforcing an approved tribal program shall be 100 percent.

“(6) REPORT.—Not later than 18 months after the date on which a tribal program is approved under subsection (e) of section 504, the Secretary shall submit to the appropriate committees of Congress a report, developed in cooperation with the applicable Indian tribe, on the tribal program that includes a recommendation of the Secretary on whether primary regulatory authority under that subsection should be expanded to include additional Indian lands.”.

(b) CONFORMING AMENDMENT.—Section 710(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300(i)) is amended in the first sentence by striking “, except” and all that follows through “section 503”.
Subtitle B—Coal Industry Retiree Health Benefit Act

SEC. 211. CERTAIN RELATED PERSONS AND SUCCESSORS IN INTEREST RELIEVED OF LIABILITY IF PREMIUMS PREPAID.

(a) COMBINED BENEFIT FUND.—Section 9704 of the Internal Revenue Code of 1986 (relating to liability of assigned operators) is amended by adding at the end the following new subsection:

“(j) PREPAYMENT OF PREMIUM LIABILITY.—

“(1) IN GENERAL.—If—

“(A) a payment meeting the requirements of paragraph (3) is made to the Combined Fund by or on behalf of—

“(i) any assigned operator to which this subsection applies, or

“(ii) any related person to any assigned operator described in clause (i), and

“(B) the common parent of the controlled group of corporations described in paragraph (2)(B) is jointly and severally liable for any premium under this section which (but for this subsection) would be required to be paid by the assigned operator or related person,
then such common parent (and no other person) shall be liable for such premium.

“(2) ASSIGNED OPERATORS TO WHICH SUB-SECTION APPLIES.—

“(A) IN GENERAL.—This subsection shall apply to any assigned operator if—

“(i) the assigned operator (or a related person to the assigned operator)—

“(I) made contributions to the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for employment during the period covered by the 1988 agreement; and

“(II) is not a 1988 agreement operator,

“(ii) the assigned operator (and all related persons to the assigned operator) are not actively engaged in the production of coal as of July 1, 2005, and

“(iii) the assigned operator was, as of July 20, 1992, a member of a controlled group of corporations described in subparagraph (B).

“(B) CONTROLLED GROUP OF CORPORATIONS.—A controlled group of corporations is
described in this subparagraph if the common
parent of such group is a corporation the shares
of which are publicly traded on a United States
exchange.

“(C) COORDINATION WITH REPEAL OF AS-
sIGNMENTS.—A person shall not fail to be
treated as an assigned operator to which this
subsection applies solely because the person
ceases to be an assigned operator by reason of
section 9706(h)(1) if the person otherwise
meets the requirements of this subsection and
is liable for the payment of premiums under
section 9706(h)(3).

“(D) CONTROLLED GROUP.—For purposes
of this subsection, the term ‘controlled group of
corporations’ has the meaning given such term
by section 52(a).

“(3) REQUIREMENTS.—A payment meets the
requirements of this paragraph if—

“(A) the amount of the payment is not less
than the present value of the total premium li-
ability under this chapter with respect to the
Combined Fund of the assigned operators or re-
lated persons described in paragraph (1) or
their assignees, as determined by the operator’s
or related person’s enrolled actuary (as defined in section 7701(a)(35)) using actuarial methods and assumptions each of which is reasonable and which are reasonable in the aggregate, as determined by such enrolled actuary;

“(B) such enrolled actuary files with the Secretary of Labor a signed actuarial report containing—

“(i) the date of the actuarial valuation applicable to the report; and

“(ii) a statement by the enrolled actuary signing the report that, to the best of the actuary’s knowledge, the report is complete and accurate and that in the actuary’s opinion the actuarial assumptions used are in the aggregate reasonably related to the experience of the operator and to reasonable expectations; and

“(C) 90 calendar days have elapsed after the report required by subparagraph (B) is filed with the Secretary of Labor, and the Secretary of Labor has not notified the assigned operator in writing that the requirements of this paragraph have not been satisfied.
“(4) USE OF PREPAYMENT.—The Combined Fund shall—

“(A) establish and maintain an account for each assigned operator or related person by, or on whose behalf, a payment described in paragraph (3) was made,

“(B) credit such account with such payment (and any earnings thereon), and

“(C) use all amounts in such account exclusively to pay premiums that would (but for this subsection) be required to be paid by the assigned operator.

Upon termination of the obligations for the premium liability of any assigned operator or related person for which such account is maintained, all funds remaining in such account (and earnings thereon) shall be refunded to such person as may be designated by the common parent described in paragraph (1)(B).”.

(b) INDIVIDUAL EMPLOYER PLANS.—Section 9711(c) of the Internal Revenue Code of 1986 (relating to joint and several liability) is amended to read as follows:

“(c) JOINT AND SEVERAL LIABILITY OF RELATED PERSONS.—
"(1) IN GENERAL.—Except as provided in paragraph (2), each related person of a last signatory operator to which subsection (a) or (b) applies shall be jointly and severally liable with the last signatory operator for the provision of health care coverage described in subsection (a) or (b).

"(2) LIABILITY LIMITED IF SECURITY PROVIDED.—If—

“(A) security meeting the requirements of paragraph (3) is provided by or on behalf of—

“(i) any last signatory operator which is an assigned operator described in section 9704(j)(2), or

“(ii) any related person to any last signatory operator described in clause (i), and

“(B) the common parent of the controlled group of corporations described in section 9704(j)(2)(B) is jointly and severally liable for the provision of health care under this section which, but for this paragraph, would be required to be provided by the last signatory operator or related person,

then, as of the date the security is provided, such common parent (and no other person) shall be liable
for the provision of health care under this section
which the last signatory operator or related person
would otherwise be required to provide. Security may
be provided under this paragraph without regard to
whether a payment was made under section 9704(j).

“(3) SECURITY.—Security meets the require-
ments of this paragraph if—

“(A) the security—

“(i) is in the form of a bond, letter of
credit, or cash escrow,

“(ii) is provided to the trustees of the
1992 UMWA Benefit Plan solely for the
purpose of paying premiums for bene-
ficiaries who would be described in section
9712(b)(2)(B) if the requirements of this
section were not met by the last signatory
operator, and

“(iii) is in an amount equal to 1 year
of liability of the last signatory operator
under this section, determined by using the
average cost of such operator’s liability
during the prior 3 calendar years;

“(B) the security is in addition to any
other security required under any other provi-
sion of this title; and
“(C) the security remains in place for 5 years.

“(4) REFUNDS OF SECURITY.—The remaining amount of any security provided under this subsection (and earnings thereon) shall be refunded to the last signatory operator as of the earlier of—

“(A) the termination of the obligations of the last signatory operator under this section, or

“(B) the end of the 5-year period described in paragraph (4)(C).”.

(c) 1992 UMWA BENEFIT PLAN.—Section 9712(d)(4) of the Internal Revenue Code of 1986 (relating to joint and several liability) is amended by adding at the end the following new sentence: “The provisions of section 9711(c)(2) shall apply to any last signatory operator described in such section (without regard to whether security is provided under such section, a payment is made under section 9704(j), or both) and if security meeting the requirements of section 9711(c)(3) is provided, the common parent described in section 9711(c)(2)(B) shall be exclusively responsible for any liability for premiums under this section which, but for this sentence, would be required to be paid by the last signatory operator or any related person.”.
(d) SUCCESSOR IN INTEREST.—Section 9701(c) of the Internal Revenue Code of 1986 (relating to terms relating to operators) is amended by adding at the end the following new paragraph:

“(8) SUCCESSOR IN INTEREST.—

“(A) SAFE HARBOR.—The term ‘successor in interest’ shall not include any person who—

“(i) is an unrelated person to an eligible seller described in subparagraph (C); and

“(ii) purchases for fair market value assets, or all of the stock, of a related person to such seller, in a bona fide, arm’s-length sale.

“(B) UNRELATED PERSON.—The term ‘unrelated person’ means a purchaser who does not bear a relationship to the eligible seller described in section 267(b).

“(C) ELIGIBLE SELLER.—For purposes of this paragraph, the term ‘eligible seller’ means an assigned operator described in section 9704(j)(2) or a related person to such assigned operator.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment
of this Act, except that the amendment made by sub-
section (d) shall apply to transactions after the date of
the enactment of this Act.

SEC. 212. TRANSFERS TO FUNDS; PREMIUM RELIEF.

(a) Combined Fund.—

(1) Federal transfers.—Section 9705(b) of
the Internal Revenue Code of 1986 (relating to
transfers from Abandoned Mine Reclamation Fund)
is amended—

(A) in paragraph (1), by striking “section
402(h)” and inserting “subsections (h) and (i)
of section 402”;

(B) by striking paragraph (2) and insert-
ing the following new paragraph:

“(2) Use of funds.—Any amount transferred
under paragraph (1) for any fiscal year shall be used
to pay benefits and administrative costs of bene-
ficiaries of the Combined Fund or for such other
purposes as are specifically provided in the Acts de-
scribed in paragraph (1).”; and

(C) by striking “From Abandoned Mine
Reclamation Fund” in the heading thereof.

(2) Modifications of premiums to reflect
Federal transfers.—
(A) Elimination of Unassigned Beneficiaries Premium.—Section 9704(d) of such Code (establishing unassigned beneficiaries premium) is amended to read as follows:

“(d) Unassigned Beneficiaries Premium.—

“(1) Plan years ending on or before September 30, 2006.—For plan years ending on or before September 30, 2006, the unassigned beneficiaries premium for any assigned operator shall be equal to the applicable percentage of the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries who are not assigned under section 9706 to any person for such plan year.

“(2) Plan years beginning on or after October 1, 2006.—

“(A) In general.—For plan years beginning on or after October 1, 2006, subject to subparagraph (B), there shall be no unassigned beneficiaries premium, and benefit costs with respect to eligible beneficiaries who are not assigned under section 9706 to any person for any such plan year shall be paid from amounts transferred under section 9705(b).
“(B) INADEQUATE TRANSFERS.—If, for any plan year beginning on or after October 1, 2006, the amounts transferred under section 9705(b) are less than the amounts required to be transferred to the Combined Fund under subsection (h)(2)(A) or (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232)), then the unassigned beneficiaries premium for any assigned operator shall be equal to the operator’s applicable percentage of the amount required to be so transferred which was not so transferred.”.

(B) PREMIUM ACCOUNTS.—

(i) CREDITING OF ACCOUNTS.—Section 9704(e)(1) of such Code (relating to premium accounts; adjustments) is amended by inserting “and amounts transferred under section 9705(b)” after “premiums received”.

(ii) SURPLUSES ATTRIBUTABLE TO PUBLIC FUNDING.—Section 9704(e)(3)(A) of such Code is amended by adding at the end the following new sentence: “Amounts credited to an account from amounts transferred under section 9705(b) shall not
be taken into account in determining whether there is a surplus in the account for purposes of this paragraph.”

(C) APPLICABLE PERCENTAGE.—Section 9704(f)(2) of such Code (relating to annual adjustments) is amended by adding at the end the following new subparagraph:

“(C) In the case of plan years beginning on or after October 1, 2007, the total number of assigned eligible beneficiaries shall be reduced by the eligible beneficiaries whose assignments have been revoked under section 9706(h).”.

(3) ASSIGNMENTS AND REASSIGNMENT.—Section 9706 of the Internal Revenue Code of 1986 (relating to assignment of eligible beneficiaries) is amended by adding at the end the following:

“(h) ASSIGNMENTS AS OF OCTOBER 1, 2007.—

“(1) IN GENERAL.—Subject to the premium obligation set forth in paragraph (3), the Commissioner of Social Security shall—

“(A) revoke all assignments to persons other than 1988 agreement operators for purposes of assessing premiums for plan years beginning on and after October 1, 2007; and
“(B) make no further assignments to persons other than 1988 agreement operators, except that no individual who becomes an unassigned beneficiary by reason of subparagraph (A) may be assigned to a 1988 agreement operator.

“(2) REASSIGNMENT UPON PURCHASE.—This subsection shall not be construed to prohibit the reassignment under subsection (b)(2) of an eligible beneficiary.

“(3) LIABILITY OF PERSONS DURING THREE FISCAL YEARS BEGINNING ON AND AFTER OCTOBER 1, 2007.—In the case of each of the fiscal years beginning on October 1, 2007, 2008, and 2009, each person other than a 1988 agreement operator shall pay to the Combined Fund the following percentage of the amount of annual premiums that such person would otherwise be required to pay under section 9704(a), determined on the basis of assignments in effect without regard to the revocation of assignments under paragraph (1)(A):

“(A) For the fiscal year beginning on October 1, 2007, 55 percent.

“(B) For the fiscal year beginning on October 1, 2008, 40 percent.
“(C) For the fiscal year beginning on October 1, 2009, 15 percent.”.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years of the Combined Fund beginning after September 30, 2006.

(b) 1992 UMWA BENEFIT AND OTHER PLANS.—

(1) TRANSFERS TO PLANS.—Section 9712(a) of the Internal Revenue Code of 1986 (relating to the establishment and coverage of the 1992 UMWA Benefit Plan) is amended by adding at the end the following:

“(3) TRANSFERS UNDER OTHER FEDERAL STATUTES.—

“(A) IN GENERAL.—The 1992 UMWA Benefit Plan shall include any amount transferred to the plan under subsections (h) and (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232).

“(B) USE OF FUNDS.—Any amount transferred under subparagraph (A) for any fiscal year shall be used to provide the health benefits described in subsection (c) with respect to any beneficiary for whom no monthly per bene-
ficiary premium is paid pursuant to paragraph (1)(A) or (3) of subsection (d).

“(4) SPECIAL RULE FOR 1993 PLAN.—

“(A) IN GENERAL.—The plan described in section 402(h)(2)(C) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C)) shall include any amount transferred to the plan under subsections (h) and (i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232).

“(B) USE OF FUNDS.—Any amount transferred under subparagraph (A) for any fiscal year shall be used to provide the health benefits described in section 402(h)(2)(C)(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C)(i)) to individuals described in section 402(h)(2)(C) of such Act (30 U.S.C. 1232(h)(2)(C)).”.

(2) PREMIUM ADJUSTMENTS.—

(A) IN GENERAL.—Section 9712(d)(1) of such Code (relating to guarantee of benefits) is amended to read as follows:

“(1) IN GENERAL.—All 1988 last signatory operators shall be responsible for financing the benefits
described in subsection (c) by meeting the following requirements in accordance with the contribution requirements established in the 1992 UMWA Benefit Plan:

“(A) The payment of a monthly per beneficiary premium by each 1988 last signatory operator for each eligible beneficiary of such operator who is described in subsection (b)(2) and who is receiving benefits under the 1992 UMWA benefit plan.

“(B) The provision of a security (in the form of a bond, letter of credit, or cash escrow) in an amount equal to a portion of the projected future cost to the 1992 UMWA Benefit Plan of providing health benefits for eligible and potentially eligible beneficiaries attributable to the 1988 last signatory operator.

“(C) If the amounts transferred under subsection (a)(3) are less than the amounts required to be transferred to the 1992 UMWA Benefit Plan under subsections (h) and (i) of section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232), the payment of an additional backstop premium by each 1988 last signatory operator which is
equal to such operator’s share of the amounts required to be so transferred but which were not so transferred, determined on the basis of the number of eligible and potentially eligible beneficiaries attributable to the operator.”.

(B) CONFORMING AMENDMENTS.—Section 9712(d) of such Code is amended—

(i) in paragraph (2)(B), by striking “prefunding” and inserting “backstop”, and

(ii) in paragraph (3), by striking “paragraph (1)(B)” and inserting “paragraph (1) (A)”.

(C) EFFECTIVE DATE.—The amendments made by this paragraph shall apply to fiscal years beginning on or after October 1, 2010.

SEC. 213. OTHER PROVISIONS.

(a) BOARD OF TRUSTEES.—Section 9702(b) of the Internal Revenue Code of 1986 (relating to board of trustees of the Combined Fund) is amended to read as follows:

“(b) BOARD OF TRUSTEES.—

“(1) IN GENERAL.—For purposes of subsection (a), the board of trustees for the Combined Fund shall be appointed as follows:
“(A) 2 individuals who represent employers in the coal mining industry shall be designated by the BCOA; “(B) 2 individuals designated by the United Mine Workers of America; and “(C) 3 individuals selected by the individuals appointed under subparagraphs (A) and (B). “(2) SUCCESSOR TRUSTEES.—Any successor trustee shall be appointed in the same manner as the trustee being succeeded. The plan establishing the Combined Fund shall provide for the removal of trustees. “(3) SPECIAL RULE.—If the BCOA ceases to exist, any trustee or successor under paragraph (1)(A) shall be designated by the 3 employers who were members of the BCOA on the enactment date and who have been assigned the greatest number of eligible beneficiaries under section 9706.”.

(b) ENFORCEMENT OF OBLIGATIONS.—

(1) FAILURE TO PAY PREMIUMS.—Section 9707(a) of the Internal Revenue Code of 1986 is amended to read as follows:

“(a) FAILURES TO PAY.—
“(1) PREMIUMS FOR ELIGIBLE BENEFICIARIES.—There is hereby imposed a penalty on the failure of any assigned operator to pay any premium required to be paid under section 9704 with respect to any eligible beneficiary.

“(2) CONTRIBUTIONS REQUIRED UNDER THE MINING LAWS.—There is hereby imposed a penalty on the failure of any person to make a contribution required under section 402(h)(5)(B)(ii) of the Surface Mining Control and Reclamation Act of 1977 to a plan referred to in section 402(h)(2)(C) of such Act. For purposes of applying this section, each such required monthly contribution for the hours worked of any individual shall be treated as if it were a premium required to be paid under section 9704 with respect to an eligible beneficiary.”.

(2) CIVIL ENFORCEMENT.—Section 9721 of such Code is amended to read as follows:

“SEC. 9721. CIVIL ENFORCEMENT.

“The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply, in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act, to any claim—
“(1) arising out of an obligation to pay any amount required to be paid by this chapter; or

TITLE III—OTHER PROVISIONS

SEC. 301. TOBACCO PERSONAL USE QUANTITY EXCEPTION TO NOT APPLY TO DELIVERY SALES.

(a) Definitions.—Section 801 of the Tariff Act of 1930 (19 U.S.C. 1681) is amended by adding at the end the following:

“(3) Delivery sale.—The term ‘delivery sale’ means any sale of cigarettes or a smokeless tobacco product to a consumer if—

“(A) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mail, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made; or

“(B) the cigarettes or smokeless tobacco product is delivered by use of a common carrier, private delivery service, or the mail, or the sell-
er is not in the physical presence of the buyer
when the buyer obtains personal possession of
the delivered cigarettes or smokeless tobacco
product.”.

(b) Inapplicability of Exemptions from Re-
quirements for Entry of Certain Cigarettes and
Smokeless Tobacco Products.—Section 802(b)(1) of
the Tariff Act of 1930 (19 U.S.C. 1681a(b)(1)) is amend-
ed by adding at the end the following new sentence: “The
preceeding sentence shall not apply to any cigarettes or
smokeless tobacco products sold in connection with a deliv-
ery sale.”.

(c) State Access to Customs Certifications.—
Section 802 of the Tariff Act of 1930 (19 U.S.C. 1681a)
is amended by adding at the end the following new sub-
section:

“(d) State Access to Customs Certifi-
cations.—A State, through its Attorney General, shall be
entitled to obtain copies of any certification required under
subsection (e) directly—

“(1) upon request to the agency of the United
States responsible for collecting such certification; or
“(2) upon request to the importer, manufac-
turer, or authorized official of such importer or
manufacturer.”.
(d) ENFORCEMENT PROVISIONS.—Section 803(b) of the Tariff Act of 1930 (19 U.S.C. 1681b(b)) is amend-
ed—

(1) in the first sentence, by inserting before the period at the end the following: “, or to any State
in which such tobacco product, cigarette papers, or
tube is found”; and

(2) in the second sentence, by inserting “, or to
any State,” after “the United States”.

(e) INCLUSION OF SMOKELESS TOBACCO.—

(1) Sections 802 and 803(a) of the Tariff Act
of 1930 (19 U.S.C. 1681a and 1681b(a)) (other
than the last sentence of section 802(b)(1), as added
by subsection (b) of this section) are further amend-
ed by inserting “or smokeless tobacco products”
after “cigarettes” each place it appears.

(2) Section 802 of such Act is further amend-
ed—

(A) in subsection (a)—

(i) in paragraph (1), by inserting “or
section 4 of the Comprehensive Smokeless
Tobacco Health Education Act of 1986
(15 U.S.C. 4403), as the case may be”
after “section 7 of the Federal Cigarette
Labeling and Advertising Act (15 U.S.C.
1335a)”;

(ii) in paragraph (2), by inserting “or
section 3 of the Comprehensive Smokeless
Tobacco Health Education Act of 1986
(15 U.S.C. 4402), as the case may be,”
after “section 4 of the Federal Cigarette
Labeling and Advertising Act (15 U.S.C.
1333)”; and

(iii) in paragraph (3), by inserting “or
section 3(d) of the Comprehensive Smokeless
Tobacco Health Education Act of
1986 (15 U.S.C. 4402(d)), as the case
may be” after “section 4(c) of the Federal
Cigarette Labeling and Advertising Act
(15 U.S.C. 1333(e))”;

(B) in subsection (b)—

(i) in the heading of paragraph (1),
by inserting “OR SMOKELESS TOBACCO
PRODUCTS” after “CIGARETTES”; and

(ii) in the heading of paragraphs (2)
and (3), by inserting “OR SMOKELESS TOBACCO PRODUCTS” after “CIGARETTES”; and

(C) in subsection (c)—
(i) in the heading, by inserting “OR SMOKELESS TOBACCO PRODUCT” after “CIGARETTE”;

(ii) in paragraph (1), by inserting “or section 4 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4403), as the case may be” after “section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a)”;


and

(iv) in paragraph (2)(B), by inserting “or section 3(d) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402(d)), as the case may be” after “section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333(c))”.

(3) Section 803(b) of such Act, as amended by subsection (d)(1) of this section, is further amended by inserting “, or any smokeless tobacco product,” after “or tube” the first place it appears.

(4)(A) The heading of title VIII of such Act is amended by inserting “AND SMOKELESS TOBACCO PRODUCTS” after “CIGARETTES”.

(B) The heading of section 802 of such Act is amended by inserting “AND SMOKELESS TOBACCO PRODUCTS” after “CIGARETTES”.

(f) Application of Civil Penalties to Relandings of Tobacco Products Sold in a Delivery Sale.—

(1) In General.—Section 5761 of the Internal Revenue Code of 1986 (relating to civil penalties) is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and inserting after subsection (c) the following new subsection:

“(d) PERSONAL USE QUANTITIES.—

“(1) In General.—No quantity of tobacco products other than the quantity referred to in paragraph (2) may be relanded or received as a personal use quantity.
(2) Exception for personal use quantity.—Subsection (c) and section 5754 shall not apply to any person who relands or receives tobacco products in the quantity allowed entry free of tax and duty under chapter 98 of the Harmonized Tariff Schedule of the United States, and such person may voluntarily relinquish to the Secretary at the time of entry any excess of such quantity without incurring the penalty under subsection (c).

(3) Special rule for delivery sales.—

(A) In general.—Paragraph (2) shall not apply to any tobacco product sold in connection with a delivery sale.

(B) Delivery sale.—For purposes of subparagraph (A), the term ‘delivery sale’ means any sale of a tobacco product to a consumer if—

(i) the consumer submits the order for such sale by means of a telephone or other method of voice transmission, the mail, or the Internet or other online service, or the seller is otherwise not in the physical presence of the buyer when the request for purchase or order is made, or
“(ii) the tobacco product is delivered by use of a common carrier, private delivery service, or the mail, or the seller is not in the physical presence of the buyer when the buyer obtains personal possession of the tobacco product.”.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 5761 of such Code is amended by striking the last two sentences.

(B) Paragraph (1) of section 5754(c) of such Code is amended by striking “section 5761(c)” and inserting “section 5761(d)”.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 302. ETHANOL TARIFF SCHEDULE.

Headings 9901.00.50 and 9901.00.52 of the Harmonized Tariff Schedule of the United States are each amended in the effective period column by striking “10/1/2007” each place it appears and inserting “1/1/2009”.

268
SEC. 303. WITHDRAWAL OF CERTAIN FEDERAL LAND AND INTERESTS IN CERTAIN FEDERAL LAND FROM LOCATION, ENTRY, AND PATENT UNDER THE MINING LAWS AND DISPOSITION UNDER THE MINERAL AND GEOTHERMAL LEASING LAWS.

(a) DEFINITIONS.—In this section:

(1) BUREAU OF LAND MANAGEMENT LAND.—The term “Bureau of Land Management land” means the Bureau of Land Management land and any federally-owned minerals located south of the Blackfeet Indian Reservation and east of the Lewis and Clark National Forest to the eastern edge of R. 8 W., beginning in T. 29 N. down to and including T. 19 N. and all of T. 18 N., R. 7 W.

(2) ELIGIBLE FEDERAL LAND.—The term “eligible Federal land” means the Bureau of Land Management land and the Forest Service land, as generally depicted on the map.

(3) FOREST SERVICE LAND.—The term “Forest Service land” means—

(A) the Forest Service land and any federally-owned minerals located in the Rocky Mountain Division of the Lewis and Clark National Forest, including the approximately 356,111 acres of land made unavailable for leasing by
the August 28, 1997, Record of Decision for
the Lewis and Clark National Forest Oil and
Gas Leasing Environmental Impact Statement
and that is located from T. 31 N. to T. 16 N.
and R. 13 W. to R. 7 W.; and

(B) the Forest Service land and any feder-
ally-owned minerals located within the Badger
Two Medicine area of the Flathead National
Forest, including—

(i) the land located in T. 29 N. from
the western edge of R. 16 W. to the eastern
edge of R. 13 W.; and

(ii) the land located in T. 28 N., Rs.
13 and 14 W.

(4) MAP.—The term “map” means the map en-
titled “Rocky Mountain Front Mineral Withdrawal
Area” and dated December 31, 2006.

(b) WITHDRAWAL.—

(1) IN GENERAL.—Subject to valid existing
rights, the eligible Federal land (including any inter-
est in the eligible Federal land) is withdrawn from—

(A) all forms of location, entry, and patent
under the mining laws; and

(B) disposition under all laws relating to
mineral and geothermal leasing.
(2) **Availability of Map.**—The map shall be on file and available for inspection in the Office of the Chief of the Forest Service.

(e) **Tax Incentive for Sale of Existing Mineral and Geothermal Rights to Tax-Exempt Entities.**—

(1) **Exclusion.**—For purposes of the Internal Revenue Code of 1986, gross income shall not include 25 percent of the qualifying gain from a conservation sale of a qualifying mineral or geothermal interest.

(2) **Qualifying Gain.**—For purposes of this subsection, the term “qualifying gain” means any gain which would be recognized as long-term capital gain under such Code.

(3) **Conservation Sale.**—For purposes of this subsection, the term “conservation sale” means a sale which meets the following requirements:

(A) **Transferee is an Eligible Entity.**—The transferee of the qualifying mineral or geothermal interest is an eligible entity.

(B) **Qualifying Letter of Intent Required.**—At the time of the sale, such transferee provides the taxpayer with a qualifying letter of intent.
(C) Nonapplication to Certain Sales.—The sale is not made pursuant to an order of condemnation or eminent domain.

(4) Qualifying Mineral or Geothermal Interest.—For purposes of this subsection—

(A) in General.—The term “qualifying mineral or geothermal interest” means an interest in any mineral or geothermal deposit located on eligible Federal land which constitutes a taxpayer’s entire interest in such deposit.

(B) Entire Interest.—For purposes of subparagraph (A)—

(i) an interest in any mineral or geothermal deposit is not a taxpayer’s entire interest if such interest in such mineral or geothermal deposit was divided in order to avoid the requirements of such subparagraph or section 170(f)(3)(A) of such Code, and

(ii) a taxpayer’s entire interest in such deposit does not fail to satisfy such subparagraph solely because the taxpayer has retained an interest in other deposits, even if the other deposits are contiguous with such certain deposit and were acquired by
the taxpayer along with such certain de-
posit in a single conveyance.

(5) OTHER DEFINITIONS.—For purposes of this
subsection—

(A) ELIGIBLE ENTITY.—The term “eligible
entity” means—

(i) a governmental unit referred to in
section 170(c)(1) of such Code, or an
agency or department thereof operated pri-
marily for 1 or more of the conservation
purposes specified in clause (i), (ii), or (iii)
of section 170(h)(4)(A) of such Code, or

(ii) an entity which is—

(I) described in section

170(b)(1)(A)(vi) or section

170(h)(3)(B) of such Code, and

(II) organized and at all times
operated primarily for 1 or more of
the conservation purposes specified in
clause (i), (ii), or (iii) of section

170(h)(4)(A) of such Code.

(B) QUALIFYING LETTER OF INTENT.—
The term “qualifying letter of intent” means a
written letter of intent which includes the fol-
lowing statement: “The transferee’s intent is
that this acquisition will serve 1 or more of the
conservation purposes specified in clause (i),
(ii), or (iii) of section 170(h)(4)(A) of the Inter-
nal Revenue Code of 1986, that the transforee's
use of the deposits so acquired will be con-
sistent with section 170(h)(5) of such Code,
and that the use of the deposits will continue to
be consistent with such section, even if owner-
ship or possession of such deposits is subse-
quently transferred to another person.”.

(6) TAX ON SUBSEQUENT TRANSFERS.—

(A) IN GENERAL.—A tax is hereby im-
posed on any subsequent transfer by an eligible
entity of ownership or possession, whether by
sale, exchange, or lease, of an interest acquired
directly or indirectly in—

(i) a conservation sale described in

paragraph (1), or

(ii) a transfer described in clause (i),

(ii), or (iii) of subparagraph (D).

(B) AMOUNT OF TAX.—The amount of tax
imposed by subparagraph (A) on any transfer
shall be equal to the sum of—

(i) 20 percent of the fair market value
(determined at the time of the transfer) of
the interest the ownership or possession of
which is transferred, plus

(ii) the product of—

(I) the highest rate of tax specified in section 11 of such Code, times

(II) any gain or income realized
by the transferor as a result of the
transfer.

(C) LIABILITY.—The tax imposed by sub-
paragraph (A) shall be paid by the transferor.

(D) RELIEF FROM LIABILITY.—The person
(otherwise liable for any tax imposed by sub-
paragraph (A)) shall be relieved of liability for
the tax imposed by subparagraph (A) with re-
spect to any transfer if—

(i) the transferee is an eligible entity
which provides such person, at the time of
transfer, a qualifying letter of intent,

(ii) in any case where the transferee is
not an eligible entity, it is established to
the satisfaction of the Secretary of the
Treasury, that the transfer of ownership or
possession, as the case may be, will be con-
sistent with section 170(h)(5) of such
Code, and the transferee provides such
person, at the time of transfer, a qualifying letter of intent, or

(iii) tax has previously been paid under this paragraph as a result of a prior transfer of ownership or possession of the same interest.

(E) ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F of such Code, the taxes imposed by this paragraph shall be treated as excise taxes with respect to which the deficiency procedures of such subtitle apply.

(7) REPORTING.—The Secretary of the Treasury may require such reporting as may be necessary or appropriate to further the purpose under this subsection that any conservation use be in perpetuity.

(d) EFFECTIVE DATES.—

(1) MORATORIUM.—Subsection (b) shall take effect on the date of the enactment of this Act.

(2) TAX INCENTIVE.—Subsection (c) shall apply to sales occurring on or after the date of the enactment of this Act.
277

SEC. 304. CONTINUING ELIGIBILITY FOR CERTAIN STUDENTS UNDER DISTRICT OF COLUMBIA SCHOOL CHOICE PROGRAM.

(a) In General.—Section 307(a)(4) of the DC School Choice Incentive Act of 2003 (sec. 38—1851.06(a)(4), D.C. Official Code) is amended by striking “200 percent” and inserting the following: “200 percent (or, in the case of an eligible student whose first year of participation in the program is an academic year ending in June 2005 or June 2006 and whose second or succeeding year is an academic year ending on or before June 2009, 300 percent)”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect as if included in the enactment of the DC School Choice Incentive Act of 2003.

SEC. 305. STUDY ON ESTABLISHING UNIFORM NATIONAL DATABASE ON ELDER ABUSE.

(a) Study.—

(1) In General.—The Secretary of Health and Human Services, in consultation with the Attorney General, shall conduct a study on establishing a uniform national database on elder abuse.

(2) Issues Studied.—The study conducted under paragraph (1) may consider the following:

(A) Current methodologies used for collecting data on elder abuse, including a deter-
mination of the shortcomings, strengths, and
commonalities of existing data collection efforts
and reporting forms, and how a uniform na-
tional database would capitalize on such efforts.

(B) The process by which uniform national
standards for reporting on elder abuse could be
implemented, including the identification and
involvement of necessary stakeholders, financial
resources needed, timelines, and the treatment
of existing standards with respect to elder
abuse.

(C) Potential conflicts in Federal, State,
and local laws, and enforcement and jurisdic-
tional issues that could occur as a result of the
creation of a uniform national database on elder
abuse.

(D) The scope, purpose, and variability of
existing definitions used by Federal, State, and
local agencies with respect to elder abuse.

(3) DURATION.—The study conducted under
paragraph (1) shall be conducted for a period not to
exceed 2 years.

(b) REPORT.—Not later than 180 days after the com-
pletion of the study conducted under subsection (a)(1), the
Secretary of Health and Human Services shall submit a
report to the Committee on Finance of the Senate and
the Committee on Ways and Means of the House of Rep-
resentatives containing the findings of the study, together
with recommendations on how to implement a uniform na-
tional database on elder abuse.

(c) AUTHORIZATION.—There are authorized to be ap-
propriated to carry out this section, $500,000 for each of
fiscal years 2007 and 2008.