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(Original Signature of Member)

109TH CONGRESS
2D SESSION

H. R.

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.

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

3 **SECTION 1. SHORT TITLE, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Tax Relief and Health Care Act of 2006”.

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

Sec. 1. Short title, etc.

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

Sec. 100. Reference.

TITLE I—EXTENSION AND MODIFICATION OF CERTAIN PROVISIONS

- 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. 210. Expenditures permitted from the Leaking Underground Storage Tank Trust Fund.
- 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 period 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 permanent.
- 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 employees 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 confidentiality 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.

1 **DIVISION A—EXTENSION AND**
2 **EXPANSION OF CERTAIN TAX**
3 **RELIEF PROVISIONS, AND**
4 **OTHER TAX PROVISIONS**

5 **SEC. 100. REFERENCE.**

6 Except as otherwise expressly provided, whenever in
7 this division an amendment or repeal is expressed in terms
8 of an amendment to, or repeal of, a section or other provi-
9 sion, the reference shall be considered to be made to a

1 section or other provision of the Internal Revenue Code
2 of 1986.

3 **TITLE I—EXTENSION AND MODI-**
4 **FICATION OF CERTAIN PRO-**
5 **VISIONS**

6 **SEC. 101. DEDUCTION FOR QUALIFIED TUITION AND RE-**
7 **LATED EXPENSES.**

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

10 (b) CONFORMING AMENDMENTS.—Section
11 222(b)(2)(B) is amended—

12 (1) by striking “a taxable year beginning in
13 2004 or 2005” and inserting “any taxable year be-
14 ginning after 2003”, and

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

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

20 **SEC. 102. EXTENSION AND MODIFICATION OF NEW MAR-**
21 **KETS TAX CREDIT.**

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

24 (b) REGULATIONS REGARDING NON-METROPOLITAN
25 COUNTIES.—Section 45D(i) is amended by striking “and”

1 at the end of paragraph (4), by striking the period at the
2 end of paragraph (5) and inserting “, and”, and by adding
3 at the end the following new paragraph:

4 “(6) which ensure that non-metropolitan coun-
5 ties receive a proportional allocation of qualified eq-
6 uity investments.”.

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

10 **SEC. 103. ELECTION TO DEDUCT STATE AND LOCAL GEN-**
11 **ERAL SALES TAXES.**

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

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

17 **SEC. 104. EXTENSION AND MODIFICATION OF RESEARCH**
18 **CREDIT.**

19 (a) EXTENSION.—

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

22 (2) CONFORMING AMENDMENT.—Section
23 45C(b)(1)(D) is amended by striking “2005” and
24 inserting “2007”.

1 (3) EFFECTIVE DATE.—The amendments made
2 by this subsection shall apply to amounts paid or in-
3 curred after December 31, 2005.

4 (b) INCREASE IN RATES OF ALTERNATIVE INCRE-
5 MENTAL CREDIT.—

6 (1) IN GENERAL.—Subparagraph (A) of section
7 41(c)(4) (relating to election of alternative incre-
8 mental credit) is amended—

9 (A) by striking “2.65 percent” and insert-
10 ing “3 percent”,

11 (B) by striking “3.2 percent” and inserting
12 “4 percent”, and

13 (C) by striking “3.75 percent” and insert-
14 ing “5 percent”.

15 (2) EFFECTIVE DATE.—Except as provided in
16 paragraph (3), the amendments made by this sub-
17 section shall apply to taxable years ending after De-
18 cember 31, 2006.

19 (3) TRANSITION RULE.—

20 (A) IN GENERAL.—In the case of a speci-
21 fied transitional taxable year for which an elec-
22 tion under section 41(c)(4) of the Internal Rev-
23 enue Code of 1986 applies, the credit deter-
24 mined under section 41(a)(1) of such Code shall
25 be equal to the sum of—

1 (i) the applicable 2006 percentage
2 multiplied by the amount determined
3 under section 41(c)(4)(A) of such Code (as
4 in effect for taxable years ending on De-
5 cember 31, 2006), plus

6 (ii) the applicable 2007 percentage
7 multiplied by the amount determined
8 under section 41(c)(4)(A) of such Code (as
9 in effect for taxable years ending on Janu-
10 ary 1, 2007).

11 (B) DEFINITIONS.—For purposes of sub-
12 paragraph (A)—

13 (i) SPECIFIED TRANSITIONAL TAX-
14 ABLE YEAR.—The term “specified transi-
15 tional taxable year” means any taxable
16 year which ends after December 31, 2006,
17 and which includes such date.

18 (ii) APPLICABLE 2006 PERCENTAGE.—
19 The term “applicable 2006 percentage”
20 means the number of days in the specified
21 transitional taxable year before January 1,
22 2007, divided by the number of days in
23 such taxable year.

24 (iii) APPLICABLE 2007 PERCENT-
25 AGE.—The term “applicable 2007 percent-

1 age” means the number of days in the
2 specified transitional taxable year after De-
3 cember 31, 2006, divided by the number of
4 days in such taxable year.

5 (c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALI-
6 FIED RESEARCH EXPENSES.—

7 (1) IN GENERAL.—Subsection (c) of section 41
8 (relating to base amount) is amended by redesignig-
9 nating paragraphs (5) and (6) as paragraphs (6)
10 and (7), respectively, and by inserting after para-
11 graph (4) the following new paragraph:

12 “(5) ELECTION OF ALTERNATIVE SIMPLIFIED
13 CREDIT.—

14 “(A) IN GENERAL.—At the election of the
15 taxpayer, the credit determined under sub-
16 section (a)(1) shall be equal to 12 percent of so
17 much of the qualified research expenses for the
18 taxable year as exceeds 50 percent of the aver-
19 age qualified research expenses for the 3 tax-
20 able years preceding the taxable year for which
21 the credit is being determined.

22 “(B) SPECIAL RULE IN CASE OF NO
23 QUALIFIED RESEARCH EXPENSES IN ANY OF 3
24 PRECEDING TAXABLE YEARS.—

1 “(i) TAXPAYERS TO WHICH SUBPARA-
2 GRAPH APPLIES.—The credit under this
3 paragraph shall be determined under this
4 subparagraph if the taxpayer has no quali-
5 fied research expenses in any one of the 3
6 taxable years preceding the taxable year
7 for which the credit is being determined.

8 “(ii) CREDIT RATE.—The credit de-
9 termined under this subparagraph shall be
10 equal to 6 percent of the qualified research
11 expenses for the taxable year.

12 “(C) ELECTION.—An election under this
13 paragraph shall apply to the taxable year for
14 which made and all succeeding taxable years
15 unless revoked with the consent of the Sec-
16 retary. An election under this paragraph may
17 not be made for any taxable year to which an
18 election under paragraph (4) applies.”.

19 (2) TRANSITION RULE FOR DEEMED REVOCA-
20 TION OF ELECTION OF ALTERNATIVE INCREMENTAL
21 CREDIT.—In the case of an election under section
22 41(c)(4) of the Internal Revenue Code of 1986
23 which applies to the taxable year which includes
24 January 1, 2007, such election shall be treated as
25 revoked with the consent of the Secretary of the

1 Treasury if the taxpayer makes an election under
2 section 41(c)(5) of such Code (as added by this sub-
3 section) for such year.

4 (3) EFFECTIVE DATE.—Except as provided in
5 paragraph (4), the amendments made by this sub-
6 section shall apply to taxable years ending after De-
7 cember 31, 2006.

8 (4) TRANSITION RULE FOR NONCALENDAR TAX-
9 ABLE YEARS.—

10 (A) IN GENERAL.—In the case of a speci-
11 fied transitional taxable year for which an elec-
12 tion under section 41(c)(5) of the Internal Rev-
13 enue Code of 1986 (as added by this sub-
14 section) applies, the credit determined under
15 section 41(a)(1) of such Code shall be equal to
16 the sum of—

17 (i) the applicable 2006 percentage
18 multiplied by the amount determined
19 under section 41(a)(1) of such Code (as in
20 effect for taxable years ending on Decem-
21 ber 31, 2006), plus

22 (ii) the applicable 2007 percentage
23 multiplied by the amount determined
24 under section 41(c)(5) of such Code (as in

1 effect for taxable years ending on January
2 1, 2007).

3 (B) DEFINITIONS AND SPECIAL RULES.—

4 For purposes of subparagraph (A)—

5 (i) DEFINITIONS.—Terms used in this
6 paragraph which are also used in sub-
7 section (b)(3) shall have the respective
8 meanings given such terms in such sub-
9 section.

10 (ii) DUAL ELECTIONS PERMITTED.—
11 Elections under paragraphs (4) and (5) of
12 section 41(c) of such Code may both apply
13 for the specified transitional taxable year.

14 (iii) DEFERRAL OF DEEMED ELEC-
15 TION REVOCATION.—Any election under
16 section 41(c)(4) of the Internal Revenue
17 Code of 1986 treated as revoked under
18 paragraph (2) shall be treated as revoked
19 for the taxable year after the specified
20 transitional taxable year.

21 **SEC. 105. WORK OPPORTUNITY TAX CREDIT AND WELFARE-**
22 **TO-WORK CREDIT.**

23 (a) IN GENERAL.—Sections 51(c)(4)(B) and 51A(f)
24 are each amended by striking “2005” and inserting
25 “2007”.

1 (b) ELIGIBILITY OF EX-FELONS DETERMINED
2 WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4)
3 of section 51(d) is amended by adding “and” at the end
4 of subparagraph (A), by striking “, and” at the end of
5 subparagraph (B) and inserting a period, and by striking
6 all that follows subparagraph (B).

7 (c) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF
8 FOOD STAMP RECIPIENTS.—Clause (i) of section
9 51(d)(8)(A) is amended by striking “25” and inserting
10 “40”.

11 (d) EXTENSION OF PAPERWORK FILING DEAD-
12 LINE.—Section 51(d)(12)(A)(ii)(II) is amended by strik-
13 ing “21st day” and inserting “28th day”.

14 (e) CONSOLIDATION OF WORK OPPORTUNITY CRED-
15 IT WITH WELFARE-TO-WORK CREDIT.—

16 (1) IN GENERAL.—Paragraph (1) of section
17 51(d) is amended by striking “or” at the end of sub-
18 paragraph (G), by striking the period at the end of
19 subparagraph (H) and inserting “, or”, and by add-
20 ing at the end the following new subparagraph:

21 “(I) a long-term family assistance recipi-
22 ent.”.

23 (2) LONG-TERM FAMILY ASSISTANCE RECIPI-
24 ENT.—Subsection (d) of section 51 is amended by
25 redesignating paragraphs (10) through (12) as para-

1 graphs (11) through (13), respectively, and by in-
2 sserting after paragraph (9) the following new para-
3 graph:

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

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

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

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

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

23 “(ii) as having a hiring date which is not
24 more than 2 years after the date of such ces-
25 sation.”.

1 (3) INCREASED CREDIT FOR EMPLOYMENT OF
2 LONG-TERM FAMILY ASSISTANCE RECIPIENTS.—Sec-
3 tion 51 is amended by inserting after subsection (d)
4 the following new subsection:

5 “(e) CREDIT FOR SECOND-YEAR WAGES FOR EM-
6 PLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPI-
7 ENTS.—

8 “(1) IN GENERAL.—With respect to the em-
9 ployment of a long-term family assistance recipi-
10 ent—

11 “(A) the amount of the work opportunity
12 credit determined under this section for the tax-
13 able year shall include 50 percent of the quali-
14 fied second-year wages for such year, and

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

21 “(2) QUALIFIED SECOND-YEAR WAGES.—For
22 purposes of this subsection, the term ‘qualified sec-
23 ond-year wages’ means qualified wages—

24 “(A) which are paid to a long-term family
25 assistance recipient, and

1 “(B) which are attributable to service ren-
2 dered during the 1-year period beginning on the
3 day after the last day of the 1-year period with
4 respect to such recipient determined under sub-
5 section (b)(2).

6 “(3) SPECIAL RULES FOR AGRICULTURAL AND
7 RAILWAY LABOR.—If such recipient is an employee
8 to whom subparagraph (A) or (B) of subsection
9 (h)(1) applies, rules similar to the rules of such sub-
10 paragraphs shall apply except that—

11 “(A) such subparagraph (A) shall be ap-
12 plied by substituting ‘\$10,000’ for ‘\$6,000’, and

13 “(B) such subparagraph (B) shall be ap-
14 plied by substituting ‘\$833.33’ for ‘\$500’.”.

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

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

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

23 (f) EFFECTIVE DATES.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2), the amendments made by this section

1 shall apply to individuals who begin work for the
2 employer after December 31, 2005.

3 (2) CONSOLIDATION.—The amendments made
4 by subsections (b), (c), (d), and (e) shall apply to in-
5 dividuals who begin work for the employer after De-
6 cember 31, 2006.

7 **SEC. 106. ELECTION TO INCLUDE COMBAT PAY AS EARNED**
8 **INCOME FOR PURPOSES OF EARNED INCOME**
9 **CREDIT.**

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

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

15 **SEC. 107. EXTENSION AND MODIFICATION OF QUALIFIED**
16 **ZONE ACADEMY BONDS.**

17 (a) IN GENERAL.—Paragraph (1) of section
18 1397E(e) is amended by striking “and 2005” and insert-
19 ing “2005, 2006, and 2007”.

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

22 (1) IN GENERAL.—Section 1397E is amend-
23 ed—

24 (A) in subsection (d)(1), by striking “and”
25 at the end of subparagraph (C)(iii), by striking

1 the period at the end of subparagraph (D) and
2 inserting “, and”, and by adding at the end the
3 following new subparagraph:

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

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

10 “(f) SPECIAL RULES RELATING TO EXPENDI-
11 TURES.—

12 “(1) IN GENERAL.—An issue shall be treated as
13 meeting the requirements of this subsection if, as of
14 the date of issuance, the issuer reasonably expects—

15 “(A) at least 95 percent of the proceeds
16 from the sale of the issue are to be spent for
17 1 or more qualified purposes with respect to
18 qualified zone academies within the 5-year pe-
19 riod beginning on the date of issuance of the
20 qualified zone academy bond,

21 “(B) a binding commitment with a third
22 party to spend at least 10 percent of the pro-
23 ceeds from the sale of the issue will be incurred
24 within the 6-month period beginning on the

1 date of issuance of the qualified zone academy
2 bond, and

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

6 “(2) EXTENSION OF PERIOD.—Upon submis-
7 sion of a request prior to the expiration of the period
8 described in paragraph (1)(A), the Secretary may
9 extend such period if the issuer establishes that the
10 failure to satisfy the 5-year requirement is due to
11 reasonable cause and the related purposes will con-
12 tinue to proceed with due diligence.

13 “(3) FAILURE TO SPEND REQUIRED AMOUNT
14 OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-
15 tent that less than 95 percent of the proceeds of
16 such issue are expended by the close of the 5-year
17 period beginning on the date of issuance (or if an
18 extension has been obtained under paragraph (2), by
19 the close of the extended period), the issuer shall re-
20 deem all of the nonqualified bonds within 90 days
21 after the end of such period. For purposes of this
22 paragraph, the amount of the nonqualified bonds re-
23 quired to be redeemed shall be determined in the
24 same manner as under section 142.

1 “(g) SPECIAL RULES RELATING TO ARBITRAGE.—
2 An issue shall be treated as meeting the requirements of
3 this subsection if the issuer satisfies the arbitration require-
4 ments of section 148 with respect to proceeds of the issue.

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

8 (2) CONFORMING AMENDMENTS.—Sections
9 54(l)(3)(B) and 1400N(l)(7)(B)(ii) are each amend-
10 ed by striking “section 1397E(i)” and inserting
11 “section 1397E(l)”.

12 (c) EFFECTIVE DATES.—

13 (1) EXTENSION.—The amendment made by
14 subsection (a) shall apply to obligations issued after
15 December 31, 2005.

16 (2) SPECIAL RULES.—The amendments made
17 by subsection (b) shall apply to obligations issued
18 after the date of the enactment of this Act pursuant
19 to allocations of the national zone academy bond
20 limitation for calendar years after 2005.

1 **SEC. 108. ABOVE-THE-LINE DEDUCTION FOR CERTAIN EX-**
2 **PENSES OF ELEMENTARY AND SECONDARY**
3 **SCHOOL TEACHERS.**

4 (a) IN GENERAL.—Subparagraph (D) of section
5 62(a)(2) is amended by striking “or 2005” and inserting
6 “2005, 2006, or 2007”.

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

10 **SEC. 109. EXTENSION AND EXPANSION OF EXPENSING OF**
11 **BROWNFIELDS REMEDIATION COSTS.**

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

14 (b) EXPANSION.—Section 198(d)(1) (defining haz-
15 ardous substance) is amended by striking “and” at the
16 end of subparagraph (A), by striking the period at the
17 end of subparagraph (B) and inserting “, and”, and by
18 adding at the end the following new subparagraph:

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

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to expenditures paid or incurred
23 after December 31, 2005.

24 **SEC. 110. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**
25 **TRICT OF COLUMBIA.**

26 (a) DESIGNATION OF ZONE.—

1 (1) IN GENERAL.—Subsection (f) of section
2 1400 is amended by striking “2005” both places it
3 appears and inserting “2007”.

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

7 (b) TAX-EXEMPT ECONOMIC DEVELOPMENT
8 BONDS.—

9 (1) IN GENERAL.—Subsection (b) of section
10 1400A is amended by striking “2005” and inserting
11 “2007”.

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

15 (c) ZERO PERCENT CAPITAL GAINS RATE.—

16 (1) IN GENERAL.—Subsection (b) of section
17 1400B is amended by striking “2006” each place it
18 appears and inserting “2008”.

19 (2) CONFORMING AMENDMENTS.—

20 (A) Section 1400B(e)(2) is amended—

21 (i) by striking “2010” and inserting
22 “2012”, and

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

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

3 (C) Section 1400F(d) is amended by strik-
4 ing “2010” and inserting “2012”.

5 (3) EFFECTIVE DATES.—

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

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

12 (d) FIRST-TIME HOMEBUYER CREDIT.—

13 (1) IN GENERAL.—Subsection (i) of section
14 1400C is amended by striking “2006” and inserting
15 “2008”.

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

19 **SEC. 111. INDIAN EMPLOYMENT TAX CREDIT.**

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

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

1 **SEC. 112. ACCELERATED DEPRECIATION FOR BUSINESS**
2 **PROPERTY ON INDIAN RESERVATIONS.**

3 (a) IN GENERAL.—Section 168(j)(8) is amended by
4 striking “2005” and inserting “2007”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to property placed in service after
7 December 31, 2005.

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

11 (a) IN GENERAL.—Clauses (iv) and (v) of section
12 168(e)(3)(E) are each amended by striking “2006” and
13 inserting “2008”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 subsection (a) shall apply to property placed in service
16 after December 31, 2005.

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

18 (a) IN GENERAL.—Section 7652(f)(1) is amended by
19 striking “2006” and inserting “2008”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall apply to articles brought into the
22 United States after December 31, 2005.

1 **SEC. 115. PARITY IN APPLICATION OF CERTAIN LIMITS TO**
2 **MENTAL HEALTH BENEFITS.**

3 (a) AMENDMENT TO THE INTERNAL REVENUE CODE
4 OF 1986.—Section 9812(f)(3) is amended by striking
5 “2006” and inserting “2007”.

6 (b) AMENDMENT TO THE EMPLOYEE RETIREMENT
7 INCOME SECURITY ACT OF 1974.—Section 712(f) of the
8 Employee Retirement Income Security Act of 1974 (29
9 U.S.C. 1185a(f)) is amended by striking “2006” and in-
10 serting “2007”.

11 (c) AMENDMENT TO THE PUBLIC HEALTH SERVICE
12 ACT.—Section 2705(f) of the Public Health Service Act
13 (42 U.S.C. 300gg-5(f)) is amended by striking
14 “2006” and inserting “2007”.

15 **SEC. 116. CORPORATE DONATIONS OF SCIENTIFIC PROP-**
16 **ERTY USED FOR RESEARCH AND OF COM-**
17 **PUTER TECHNOLOGY AND EQUIPMENT.**

18 (a) EXTENSION OF COMPUTER TECHNOLOGY AND
19 EQUIPMENT DONATION.—

20 (1) IN GENERAL.—Section 170(e)(6)(G) is
21 amended by striking “2005” and inserting “2007”.

22 (2) EFFECTIVE DATE.—The amendment made
23 by paragraph (1) shall apply to contributions made
24 in taxable years beginning after December 31, 2005.

25 (b) EXPANSION OF CHARITABLE CONTRIBUTION AL-
26 LOWED FOR SCIENTIFIC PROPERTY USED FOR RESEARCH

1 AND FOR COMPUTER TECHNOLOGY AND EQUIPMENT
2 USED FOR EDUCATIONAL PURPOSES.—

3 (1) SCIENTIFIC PROPERTY USED FOR RE-
4 SEARCH.—

5 (A) IN GENERAL.—Clause (ii) of section
6 170(e)(4)(B) (defining qualified research con-
7 tributions) is amended by inserting “or assem-
8 bled” after “constructed”.

9 (B) CONFORMING AMENDMENT.—Clause
10 (iii) of section 170(e)(4)(B) is amended by in-
11 serting “or assembly” after “construction”.

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

14 (A) IN GENERAL.—Clause (ii) of section
15 170(e)(6)(B) is amended by inserting “or as-
16 sembled” after “constructed” and “or assem-
17 bling” after “construction”.

18 (B) CONFORMING AMENDMENT.—Subpara-
19 graph (D) of section 170(e)(6) is amended by
20 inserting “or assembled” after “constructed”
21 and “or assembly” after “construction”.

22 (3) EFFECTIVE DATE.—The amendments made
23 by this subsection shall apply to taxable years begin-
24 ning after December 31, 2005.

1 **SEC. 117. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.**

2 (a) IN GENERAL.—Paragraphs (2) and (3)(B) of sec-
3 tion 220(i) are each amended by striking “2005” each
4 place it appears in the text and headings and inserting
5 “2007”.

6 (b) CONFORMING AMENDMENTS.—

7 (1) Paragraph (2) of section 220(j) is amend-
8 ed—

9 (A) in the text by striking “or 2004” each
10 place it appears and inserting “2004, 2005, or
11 2006”, and

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

14 (2) Subparagraph (A) of section 220(j)(4) is
15 amended by striking “and 2004” and inserting
16 “2004, 2005, and 2006”.

17 (c) TIME FOR FILING REPORTS, ETC.—

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

24 (2) The determination and publication required
25 by section 220(j)(5) of such Code with respect to
26 calendar year 2005 or calendar year 2006, as the

1 case may be, shall be treated as timely if made be-
2 fore the close of the 120-day period beginning on the
3 date of the enactment of this Act. If the determina-
4 tion under the preceding sentence is that 2005 or
5 2006 is a cut-off year under section 220(i) of such
6 Code, the cut-off date under such section 220(i)
7 shall be the last day of such 120-day period.

8 **SEC. 118. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLE-**
9 **TION FOR OIL AND NATURAL GAS PRODUCED**
10 **FROM MARGINAL PROPERTIES.**

11 (a) **IN GENERAL.**—Section 613A(c)(6)(H) is amend-
12 ed by striking “2006” and inserting “2008”.

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

16 **SEC. 119. AMERICAN SAMOA ECONOMIC DEVELOPMENT**
17 **CREDIT.**

18 (a) **IN GENERAL.**—For purposes of section 30A of
19 the Internal Revenue Code of 1986, a domestic corpora-
20 tion shall be treated as a qualified domestic corporation
21 to which such section applies if such corporation—

22 (1) is an existing credit claimant with respect
23 to American Samoa, and

1 (2) elected the application of section 936 of the
2 Internal Revenue Code of 1986 for its last taxable
3 year beginning before January 1, 2006.

4 (b) SPECIAL RULES FOR APPLICATION OF SEC-
5 TION.—The following rules shall apply in applying section
6 30A of the Internal Revenue Code of 1986 for purposes
7 of this section:

8 (1) AMOUNT OF CREDIT.—Notwithstanding sec-
9 tion 30A(a)(1) of such Code, the amount of the
10 credit determined under section 30A(a)(1) of such
11 Code for any taxable year shall be the amount deter-
12 mined under section 30A(d) of such Code, except
13 that section 30A(d) shall be applied without regard
14 to paragraph (3) thereof.

15 (2) SEPARATE APPLICATION.—In applying sec-
16 tion 30A(a)(3) of such Code in the case of a cor-
17 poration treated as a qualified domestic corporation
18 by reason of this section, section 30A of such Code
19 (and so much of section 936 of such Code as relates
20 to such section 30A) shall be applied separately with
21 respect to American Samoa.

22 (3) FOREIGN TAX CREDIT ALLOWED.—Notwith-
23 standing section 30A(e) of such Code, the provisions
24 of section 936(c) of such Code shall not apply with

1 respect to the credit allowed by reason of this sec-
2 tion.

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

7 (d) APPLICATION OF SECTION.—Notwithstanding
8 section 30A(h) or section 936(j) of such Code, this section
9 (and so much of section 30A and section 936 of such Code
10 as relates to this section) shall apply to the first two tax-
11 able years of a corporation to which subsection (a) applies
12 which begin after December 31, 2005, and before January
13 1, 2008.

14 **SEC. 120. EXTENSION OF BONUS DEPRECIATION FOR CER-**
15 **TAIN QUALIFIED GULF OPPORTUNITY ZONE**
16 **PROPERTY.**

17 (a) IN GENERAL.—Subsection (d) of section 1400N
18 is amended by adding at the end the following new para-
19 graph:

20 “(6) EXTENSION FOR CERTAIN PROPERTY.—

21 “(A) IN GENERAL.—In the case of any
22 specified Gulf Opportunity Zone extension prop-
23 erty, paragraph (2)(A) shall be applied without
24 regard to clause (v) thereof.

1 “(B) SPECIFIED GULF OPPORTUNITY ZONE
2 EXTENSION PROPERTY.—For purposes of this
3 paragraph, the term ‘specified Gulf Opportunity
4 Zone extension property’ means property—

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

8 “(ii) which is—

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

13 “(II) in the case of a taxpayer
14 who places a building described in
15 subclause (I) in service on or before
16 December 31, 2010, property de-
17 scribed in section 168(k)(2)(A)(i) if
18 substantially all of the use of such
19 property is in such building and such
20 property is placed in service by the
21 taxpayer not later than 90 days after
22 such building is placed in service.

23 “(C) SPECIFIED PORTIONS OF THE GO
24 ZONE.—For purposes of this paragraph, the
25 term ‘specified portions of the GO Zone’ means

1 those portions of the GO Zone which are in any
2 county or parish which is identified by the Sec-
3 retary as being a county or parish in which hur-
4 ricanes occurring during 2005 damaged (in the
5 aggregate) more than 60 percent of the housing
6 units in such county or parish which were occu-
7 pied (determined according to the 2000 Cen-
8 sus).

9 “(D) ONLY PRE-JANUARY 1, 2010, BASIS
10 OF REAL PROPERTY ELIGIBLE FOR ADDITIONAL
11 ALLOWANCE.—In the case of property which is
12 qualified Gulf Opportunity Zone property solely
13 by reason of subparagraph (B)(ii)(I), paragraph
14 (1) shall apply only to the extent of the ad-
15 justed basis thereof attributable to manufac-
16 ture, construction, or production before Janu-
17 ary 1, 2010.”.

18 (b) EXTENSION NOT APPLICABLE TO INCREASED
19 SECTION 179 EXPENSING.—Paragraph (2) of section
20 1400N(e) is amended by inserting “without regard to sub-
21 section (d)(6)” after “subsection (d)(2)”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall take effect as if included in section 101
24 of the Gulf Opportunity Zone Act of 2005.

1 **SEC. 121. AUTHORITY FOR UNDERCOVER OPERATIONS.**

2 Paragraph (6) of section 7608(c) (relating to applica-
3 tion of section) is amended by striking “2007” both places
4 it appears and inserting “2008”.

5 **SEC. 122. DISCLOSURES OF CERTAIN TAX RETURN INFOR-**
6 **MATION.**

7 (a) DISCLOSURES TO FACILITATE COMBINED EM-
8 PLOYMENT TAX REPORTING.—

9 (1) IN GENERAL.—Subparagraph (B) of section
10 6103(d)(5) (relating to termination) is amended by
11 striking “2006” and inserting “2007”.

12 (2) EFFECTIVE DATE.—The amendment made
13 by paragraph (1) shall apply to disclosures after De-
14 cember 31, 2006.

15 (b) DISCLOSURES RELATING TO TERRORIST ACTIVI-
16 TIES.—

17 (1) IN GENERAL.—Clause (iv) of section
18 6103(i)(3)(C) and subparagraph (E) of section
19 6103(i)(7) are each amended by striking “2006”
20 and inserting “2007”.

21 (2) EFFECTIVE DATE.—The amendments made
22 by paragraph (1) shall apply to disclosures after De-
23 cember 31, 2006.

24 (c) DISCLOSURES RELATING TO STUDENT LOANS.—

1 (1) IN GENERAL.—Subparagraph (D) of section
2 6103(l)(13) (relating to termination) is amended by
3 striking “2006” and inserting “2007”.

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

7 **SEC. 123. SPECIAL RULE FOR ELECTIONS UNDER EXPIRED**
8 **PROVISIONS.**

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

19 (b) OTHER ELECTIONS.—Except as otherwise pro-
20 vided by such Secretary or designee, a rule similar to the
21 rule of subsection (a) shall apply with respect to elections
22 under any other expired provision of the Internal Revenue
23 Code of 1986 the applicability of which is extended by rea-
24 son of the amendments made by this title.

1 **TITLE II—ENERGY TAX**
2 **PROVISIONS**

3 **SEC. 201. CREDIT FOR ELECTRICITY PRODUCED FROM**
4 **CERTAIN RENEWABLE RESOURCES.**

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

8 **SEC. 202. CREDIT TO HOLDERS OF CLEAN RENEWABLE EN-**
9 **ERGY BONDS.**

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

11 (1) by striking “\$800,000,000” in subsection
12 (f)(1) and inserting “\$1,200,000,000”,

13 (2) by striking “\$500,000,000” in subsection
14 (f)(2) and inserting “\$750,000,000”, and

15 (3) by striking “December 31, 2007” in sub-
16 section (m) and inserting “December 31, 2008”.

17 (b) EFFECTIVE DATES.—

18 (1) IN GENERAL.—The amendments made by
19 paragraphs (1) and (3) of subsection (a) shall apply
20 to bonds issued after December 31, 2006.

21 (2) ALLOCATIONS.—The amendment made by
22 subsection (a)(2) shall apply to allocations or re-
23 allocations after December 31, 2006.

1 **SEC. 203. PERFORMANCE STANDARDS FOR SULFUR DIOX-**
2 **IDE REMOVAL IN ADVANCED COAL-BASED**
3 **GENERATION TECHNOLOGY UNITS DESIGNED**
4 **TO USE SUBBITUMINOUS COAL.**

5 (a) IN GENERAL.—Paragraph (1) of section 48A(f)
6 (relating to advanced coal-based generation technology) is
7 amended by adding at the end the following new flush sen-
8 tence:

9 “For purposes of the performance requirement spec-
10 ified for the removal of SO₂ in the table contained
11 in subparagraph (B), the SO₂ removal design level
12 in the case of a unit designed for the use of feed-
13 stock substantially all of which is subbituminous coal
14 shall be 99 percent SO₂ removal or the achievement
15 of an emission level of 0.04 pounds or less of SO₂
16 per million Btu, determined on a 30-day average.”.

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

21 **SEC. 204. DEDUCTION FOR ENERGY EFFICIENT COMMERCIAL BUILDINGS.**
22

23 Subsection (h) of section 179D is amended by strik-
24 ing “December 31, 2007” and inserting “December 31,
25 2008”.

1 **SEC. 205. CREDIT FOR NEW ENERGY EFFICIENT HOMES.**

2 Subsection (g) of section 45L is amended by striking
3 “December 31, 2007” and inserting “December 31,
4 2008”.

5 **SEC. 206. CREDIT FOR RESIDENTIAL ENERGY EFFICIENT**
6 **PROPERTY.**

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

10 (b) **CLARIFICATION OF TERM.**—

11 (1) Subsections (a)(1), (b)(1)(A), and
12 (e)(4)(A)(i) of section 25D are each amended by
13 striking “qualified photovoltaic property expendi-
14 tures” and inserting “qualified solar electric prop-
15 erty expenditures”.

16 (2) Section 25D(d)(2) is amended—

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

20 (B) in the heading by striking “QUALIFIED
21 PHOTOVOLTAIC PROPERTY EXPENDITURE” and
22 inserting “QUALIFIED SOLAR ELECTRIC PROP-
23 erty expenditure”.

24 **SEC. 207. ENERGY CREDIT.**

25 Section 48 is amended—

1 (1) by striking “January 1, 2008” both places
2 it appears and inserting “January 1, 2009”, and

3 (2) by striking “December 31, 2007” both
4 places it appears and inserting “December 31,
5 2008”.

6 **SEC. 208. SPECIAL RULE FOR QUALIFIED METHANOL OR**
7 **ETHANOL FUEL.**

8 (a) **EXTENSION.**—Subparagraph (D) of section
9 4041(b)(2) is amended by striking “October 1, 2007” and
10 inserting “January 1, 2009”.

11 (b) **APPLICABLE BLENDER RATE.**—Section
12 4041(b)(2)(C)(ii) is amended by striking “2007” and in-
13 serting “2008”.

14 (c) **CLERICAL AMENDMENT.**—The heading for sec-
15 tion 4041(b)(2)(B) is amended to read as follows: “QUALI-
16 FIED METHANOL AND ETHANOL FUEL PRODUCED FROM
17 COAL”.

18 **SEC. 209. SPECIAL DEPRECIATION ALLOWANCE FOR CEL-**
19 **LULOSIC BIOMASS ETHANOL PLANT PROP-**
20 **ERTY.**

21 (a) **IN GENERAL.**—Section 168 (relating to acceler-
22 ated cost recovery system) is amended by adding at the
23 end the following:

24 “(l) **SPECIAL ALLOWANCE FOR CELLULOSIC BIO-**
25 **MASS ETHANOL PLANT PROPERTY.**—

1 “(1) ADDITIONAL ALLOWANCE.—In the case of
2 any qualified cellulosic biomass ethanol plant prop-
3 erty—

4 “(A) the depreciation deduction provided
5 by section 167(a) for the taxable year in which
6 such property is placed in service shall include
7 an allowance equal to 50 percent of the ad-
8 justed basis of such property, and

9 “(B) the adjusted basis of such property
10 shall be reduced by the amount of such deduc-
11 tion before computing the amount otherwise al-
12 lowable as a depreciation deduction under this
13 chapter for such taxable year and any subse-
14 quent taxable year.

15 “(2) QUALIFIED CELLULOSIC BIOMASS ETH-
16 ANOL PLANT PROPERTY.—The term ‘qualified cel-
17 lulosic biomass ethanol plant property’ means prop-
18 erty of a character subject to the allowance for de-
19 preciation—

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

22 “(B) the original use of which commences
23 with the taxpayer after the date of the enact-
24 ment of this subsection,

1 “(C) which is acquired by the taxpayer by
2 purchase (as defined in section 179(d)) after
3 the date of the enactment of this subsection,
4 but only if no written binding contract for the
5 acquisition was in effect on or before the date
6 of the enactment of this subsection, and

7 “(D) which is placed in service by the tax-
8 payer before January 1, 2013.

9 “(3) CELLULOSIC BIOMASS ETHANOL.—For
10 purposes of this subsection, the term ‘cellulosic bio-
11 mass ethanol’ means ethanol produced by enzymatic
12 hydrolysis of any lignocellulosic or hemicellulosic
13 matter that is available on a renewable or recurring
14 basis.

15 “(4) EXCEPTIONS.—

16 “(A) ALTERNATIVE DEPRECIATION PROP-
17 PERTY.—Such term shall not include any prop-
18 erty described in section 168(k)(2)(D)(i).

19 “(B) TAX-EXEMPT BOND-FINANCED PROP-
20 PERTY.—Such term shall not include any prop-
21 erty any portion of which is financed with the
22 proceeds of any obligation the interest on which
23 is exempt from tax under section 103.

24 “(C) ELECTION OUT.—If a taxpayer
25 makes an election under this subparagraph with

1 respect to any class of property for any taxable
2 year, this subsection shall not apply to all prop-
3 erty in such class placed in service during such
4 taxable year.

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

9 “(A) by substituting ‘the date of the enact-
10 ment of subsection (l)’ for ‘September 10,
11 2001’ each place it appears therein,

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

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

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

21 “(7) RECAPTURE.—For purposes of this sub-
22 section, rules similar to the rules under section
23 179(d)(10) shall apply with respect to any qualified
24 cellulosic biomass ethanol plant property which

1 ceases to be qualified cellulosic biomass ethanol
2 plant property.

3 “(8) DENIAL OF DOUBLE BENEFIT.—Para-
4 graph (1) shall not apply to any qualified cellulosic
5 biomass ethanol plant property with respect to which
6 an election has been made under section 179C (re-
7 lating to election to expense certain refineries).”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 this section shall apply to property placed in service after
10 the date of the enactment of this Act in taxable years end-
11 ing after such date.

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

15 (a) IN GENERAL.—Subsection (c) of section 9508 is
16 amended—

17 (1) by striking “section 9003(h)” and inserting
18 “sections 9003(h), 9003(i), 9003(j), 9004(f),
19 9005(e), 9010, 9011, 9012, and 9013”, and

20 (2) by striking “Superfund Amendments and
21 Reauthorization Act of 1986” and inserting “Public
22 Law 109–168”.

23 (b) CONFORMING AMENDMENTS.—Section 9014(2)
24 of the Solid Waste Disposal Act is amended by striking

1 “Fund, notwithstanding section 9508(c)(1) of the Internal
2 Revenue Code of 1986” and inserting “Fund”.

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

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

7 (a) NONAPPLICATION OF PHASEOUT.—Section
8 45K(g)(2) is amended by adding at the end the following
9 new subparagraph:

10 “(D) NONAPPLICATION OF PHASEOUT.—
11 Subsection (b)(1) shall not apply.”.

12 (b) CLARIFICATION OF QUALIFYING FACILITY.—Sec-
13 tion 45K(g)(1) is amended by inserting “(other than from
14 petroleum based products)” after “coke or coke gas”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect as if included in section 1321
17 of the Energy Policy Act of 2005.

18 **TITLE III—HEALTH SAVINGS**
19 **ACCOUNTS**

20 **SEC. 301. SHORT TITLE.**

21 This title may be cited as the “Health Opportunity
22 Patient Empowerment Act of 2006”.

1 **SEC. 302. FSA AND HRA TERMINATIONS TO FUND HSAS.**

2 (a) IN GENERAL.—Section 106 (relating to contribu-
3 tions by employer to accident and health plans) is amend-
4 ed by adding at the end the following new subsection:

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

7 “(1) IN GENERAL.—A plan shall not fail to be
8 treated as a health flexible spending arrangement or
9 health reimbursement arrangement under this sec-
10 tion or section 105 merely because such plan pro-
11 vides for a qualified HSA distribution.

12 “(2) QUALIFIED HSA DISTRIBUTION.—The
13 term ‘qualified HSA distribution’ means a distribu-
14 tion from a health flexible spending arrangement or
15 health reimbursement arrangement to the extent
16 that such distribution—

17 “(A) does not exceed the lesser of the bal-
18 ance in such arrangement on September 21,
19 2006, or as of the date of such distribution,
20 and

21 “(B) is contributed by the employer di-
22 rectly to the health savings account of the em-
23 ployee before January 1, 2012.

24 Such term shall not include more than 1 distribution
25 with respect to any arrangement.

1 “(3) ADDITIONAL TAX FOR FAILURE TO MAIN-
2 TAIN HIGH DEDUCTIBLE HEALTH PLAN COV-
3 ERAGE.—

4 “(A) IN GENERAL.—If, at any time during
5 the testing period, the employee is not an eligi-
6 ble individual, then the amount of the qualified
7 HSA distribution—

8 “(i) shall be includible in the gross in-
9 come of the employee for the taxable year
10 in which occurs the first month in the test-
11 ing period for which such employee is not
12 an eligible individual, and

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

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

23 “(4) DEFINITIONS AND SPECIAL RULES.—For
24 purposes of this subsection—

1 “(A) TESTING PERIOD.—The term ‘testing
2 period’ means the period beginning with the
3 month in which the qualified HSA distribution
4 is contributed to the health savings account and
5 ending on the last day of the 12th month fol-
6 lowing such month.

7 “(B) ELIGIBLE INDIVIDUAL.—The term
8 ‘eligible individual’ has the meaning given such
9 term by section 223(c)(1).

10 “(C) TREATMENT AS ROLLOVER CON-
11 TRIBUTION.—A qualified HSA distribution shall
12 be treated as a rollover contribution described
13 in section 223(f)(5).

14 “(5) TAX TREATMENT RELATING TO DISTRIBU-
15 TIONS.—For purposes of this title—

16 “(A) IN GENERAL.—A qualified HSA dis-
17 tribution shall be treated as a payment de-
18 scribed in subsection (d).

19 “(B) COMPARABILITY EXCISE TAX.—

20 “(i) IN GENERAL.—Except as pro-
21 vided in clause (ii), section 4980G shall
22 not apply to qualified HSA distributions.

23 “(ii) FAILURE TO OFFER TO ALL EM-
24 PLOYEES.—In the case of a qualified HSA
25 distribution to any employee, the failure to

1 offer such distribution to any eligible indi-
2 vidual covered under a high deductible
3 health plan of the employer shall (notwith-
4 standing section 4980G(d)) be treated for
5 purposes of section 4980G as a failure to
6 meet the requirements of section
7 4980G(b).”.

8 (b) CERTAIN FSA COVERAGE DISREGARDED COV-
9 ERAGE.—Subparagraph (B) of section 223(c)(1) (relating
10 to certain coverage disregarded) is amended by striking
11 “and” at the end of clause (i), by striking the period at
12 the end of clause (ii) and inserting “, and”, and by insert-
13 ing after clause (ii) the following new clause:

14 “(iii) for taxable years beginning after
15 December 31, 2006, coverage under a
16 health flexible spending arrangement dur-
17 ing any period immediately following the
18 end of a plan year of such arrangement
19 during which unused benefits or contribu-
20 tions remaining at the end of such plan
21 year may be paid or reimbursed to plan
22 participants for qualified benefit expenses
23 incurred during such period if—

1 “(I) the balance in such arrange-
2 ment at the end of such plan year is
3 zero, or

4 “(II) the individual is making a
5 qualified HSA distribution (as defined
6 in section 106(e)) in an amount equal
7 to the remaining balance in such ar-
8 rangement as of the end of such plan
9 year, in accordance with rules pre-
10 scribed by the Secretary.”.

11 (c) APPLICATION OF SECTION.—

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

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

18 **SEC. 303. REPEAL OF ANNUAL DEDUCTIBLE LIMITATION**
19 **ON HSA CONTRIBUTIONS.**

20 (a) IN GENERAL.—Paragraph (2) of section 223(b)
21 (relating to monthly limitation) is amended—

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

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

3 (b) CONFORMING AMENDMENT.—Section
4 223(d)(1)(A)(ii)(I) is amended by striking “subsection
5 (b)(2)(B)(ii)” and inserting “subsection (b)(2)(B)”.

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

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

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

13 “In the case of adjustments made for any taxable
14 year beginning after 2007, section 1(f)(4) shall be
15 applied for purposes of this paragraph by sub-
16 stituting ‘March 31’ for ‘August 31’, and the Sec-
17 retary shall publish the adjusted amounts under sub-
18 sections (b)(2) and (c)(2)(A) for taxable years begin-
19 ning in any calendar year no later than June 1 of
20 the preceding calendar year.”.

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

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

1 tions) is amended by adding at the end the following new
2 paragraph:

3 “(8) INCREASE IN LIMIT FOR INDIVIDUALS BE-
4 COMING ELIGIBLE INDIVIDUALS AFTER THE BEGIN-
5 NING OF THE YEAR.—

6 “(A) IN GENERAL.—For purposes of com-
7 puting the limitation under paragraph (1) for
8 any taxable year, an individual who is an eligi-
9 ble individual during the last month of such
10 taxable year shall be treated—

11 “(i) as having been an eligible indi-
12 vidual during each of the months in such
13 taxable year, and

14 “(ii) as having been enrolled, during
15 each of the months such individual is
16 treated as an eligible individual solely by
17 reason of clause (i), in the same high de-
18 ductible health plan in which the individual
19 was enrolled for the last month of such
20 taxable year.

21 “(B) FAILURE TO MAINTAIN HIGH DE-
22 DUCTIBLE HEALTH PLAN COVERAGE.—

23 “(i) IN GENERAL.—If, at any time
24 during the testing period, the individual is
25 not an eligible individual, then—

1 “(I) gross income of the indi-
2 vidual for the taxable year in which
3 occurs the first month in the testing
4 period for which such individual is not
5 an eligible individual is increased by
6 the aggregate amount of all contribu-
7 tions to the health savings account of
8 the individual which could not have
9 been made but for subparagraph (A),
10 and

11 “(II) the tax imposed by this
12 chapter for any taxable year on the
13 individual shall be increased by 10
14 percent of the amount of such in-
15 crease.

16 “(ii) EXCEPTION FOR DISABILITY OR
17 DEATH.—Subclauses (I) and (II) of clause
18 (i) shall not apply if the individual ceased
19 to be an eligible individual by reason of the
20 death of the individual or the individual
21 becoming disabled (within the meaning of
22 section 72(m)(7)).

23 “(iii) TESTING PERIOD.—The term
24 ‘testing period’ means the period beginning
25 with the last month of the taxable year re-

1 ferred to in subparagraph (A) and ending
2 on the last day of the 12th month fol-
3 lowing such month.”.

4 (b) **EFFECTIVE DATE.**—The amendments made by
5 this section shall apply to taxable years beginning after
6 December 31, 2006.

7 **SEC. 306. EXCEPTION TO REQUIREMENT FOR EMPLOYERS**
8 **TO MAKE COMPARABLE HEALTH SAVINGS AC-**
9 **COUNT CONTRIBUTIONS.**

10 (a) **IN GENERAL.**—Section 4980G (relating to failure
11 of employer to make comparable health savings account
12 contributions) is amended by adding at the end the fol-
13 lowing new subsection:

14 “(d) **EXCEPTION.**—For purposes of applying section
15 4980E to a contribution to a health savings account of
16 an employee who is not a highly compensated employee
17 (as defined in section 414(q)), highly compensated em-
18 ployees shall not be treated as comparable participating
19 employees.”.

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

1 **SEC. 307. ONE-TIME DISTRIBUTION FROM INDIVIDUAL RE-**
2 **TIREMENT PLANS TO FUND HSAS.**

3 (a) IN GENERAL.—Subsection (d) of section 408 (re-
4 lating to taxability of beneficiary of employees' trust) is
5 amended by adding at the end the following new para-
6 graph:

7 “(9) DISTRIBUTION FOR HEALTH SAVINGS AC-
8 COUNT FUNDING.—

9 “(A) IN GENERAL.—In the case of an indi-
10 vidual who is an eligible individual (as defined
11 in section 223(c)) and who elects the applica-
12 tion of this paragraph for a taxable year, gross
13 income of the individual for the taxable year
14 does not include a qualified HSA funding dis-
15 tribution to the extent such distribution is oth-
16 erwise includible in gross income.

17 “(B) QUALIFIED HSA FUNDING DISTRIBUTION.—For purposes of this paragraph, the
18 term ‘qualified HSA funding distribution’
19 means a distribution from an individual retire-
20 ment plan (other than a plan described in sub-
21 section (k) or (p)) of the employee to the extent
22 that such distribution is contributed to the
23 health savings account of the individual in a di-
24 rect trustee-to-trustee transfer.

25 “(C) LIMITATIONS.—
26

1 “(i) MAXIMUM DOLLAR LIMITA-
2 TION.—The amount excluded from gross
3 income by subparagraph (A) shall not ex-
4 ceed the excess of—

5 “(I) the annual limitation under
6 section 223(b) computed on the basis
7 of the type of coverage under the high
8 deductible health plan covering the in-
9 dividual at the time of the qualified
10 HSA funding distribution, over

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

15 “(ii) ONE-TIME TRANSFER.—

16 “(I) IN GENERAL.—Except as
17 provided in subclause (II), an indi-
18 vidual may make an election under
19 subparagraph (A) only for one quali-
20 fied HSA funding distribution during
21 the lifetime of the individual. Such an
22 election, once made, shall be irrev-
23 ocable.

24 “(II) CONVERSION FROM SELF-
25 ONLY TO FAMILY COVERAGE.—If a

1 qualified HSA funding distribution is
2 made during a month in a taxable
3 year during which an individual has
4 self-only coverage under a high de-
5 ductible health plan as of the first day
6 of the month, the individual may elect
7 to make an additional qualified HSA
8 funding distribution during a subse-
9 quent month in such taxable year dur-
10 ing which the individual has family
11 coverage under a high deductible
12 health plan as of the first day of the
13 subsequent month.

14 “(D) FAILURE TO MAINTAIN HIGH DE-
15 DUCTIBLE HEALTH PLAN COVERAGE.—

16 “(i) IN GENERAL.—If, at any time
17 during the testing period, the individual is
18 not an eligible individual, then the aggre-
19 gate amount of all contributions to the
20 health savings account of the individual
21 made under subparagraph (A)—

22 “(I) shall be includible in the
23 gross income of the individual for the
24 taxable year in which occurs the first
25 month in the testing period for which

1 such individual is not an eligible indi-
2 vidual, and

3 “(II) the tax imposed by this
4 chapter for any taxable year on the
5 individual shall be increased by 10
6 percent of the amount which is so in-
7 cludible.

8 “(ii) EXCEPTION FOR DISABILITY OR
9 DEATH.—Subclauses (I) and (II) of clause
10 (i) shall not apply if the individual ceased
11 to be an eligible individual by reason of the
12 death of the individual or the individual
13 becoming disabled (within the meaning of
14 section 72(m)(7)).

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

22 “(E) APPLICATION OF SECTION 72.—Not-
23 withstanding section 72, in determining the ex-
24 tent to which an amount is treated as otherwise
25 includible in gross income for purposes of sub-

1 paragraph (A), the aggregate amount distrib-
2 uted from an individual retirement plan shall be
3 treated as includible in gross income to the ex-
4 tent that such amount does not exceed the ag-
5 gregate amount which would have been so in-
6 cludible if all amounts from all individual retire-
7 ment plans were distributed. Proper adjust-
8 ments shall be made in applying section 72 to
9 other distributions in such taxable year and
10 subsequent taxable years.”.

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

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

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

1 **TITLE IV—OTHER PROVISIONS**

2 **SEC. 401. DEDUCTION ALLOWABLE WITH RESPECT TO IN-**
3 **COME ATTRIBUTABLE TO DOMESTIC PRO-**
4 **DUCTION ACTIVITIES IN PUERTO RICO.**

5 (a) IN GENERAL.—Subsection (d) of section 199 (re-
6 relating to definitions and special rules) is amended by re-
7 designating paragraph (8) as paragraph (9) and by insert-
8 ing after paragraph (7) the following new paragraph:

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

11 “(A) IN GENERAL.—In the case of any
12 taxpayer with gross receipts for any taxable
13 year from sources within the Commonwealth of
14 Puerto Rico, if all of such receipts are taxable
15 under section 1 or 11 for such taxable year,
16 then for purposes of determining the domestic
17 production gross receipts of such taxpayer for
18 such taxable year under subsection (c)(4), the
19 term ‘United States’ shall include the Common-
20 wealth of Puerto Rico.

21 “(B) SPECIAL RULE FOR APPLYING WAGE
22 LIMITATION.—In the case of any taxpayer de-
23 scribed in subparagraph (A), for purposes of
24 applying the limitation under subsection (b) for
25 any taxable year, the determination of W-2

1 wages of such taxpayer shall be made without
2 regard to any exclusion under section
3 3401(a)(8) for remuneration paid for services
4 performed in Puerto Rico.

5 “(C) TERMINATION.—This paragraph shall
6 apply only with respect to the first 2 taxable
7 years of the taxpayer beginning after December
8 31, 2005, and before January 1, 2008.”.

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

12 **SEC. 402. CREDIT FOR PRIOR YEAR MINIMUM TAX LIABIL-**
13 **ITY MADE REFUNDABLE AFTER PERIOD OF**
14 **YEARS.**

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

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

20 “(1) IN GENERAL.—If an individual has a long-
21 term unused minimum tax credit for any taxable
22 year beginning before January 1, 2013, the amount
23 determined under subsection (c) for such taxable
24 year shall not be less than the AMT refundable cred-
25 it amount for such taxable year.

1 “(2) AMT REFUNDABLE CREDIT AMOUNT.—For
2 purposes of paragraph (1)—

3 “(A) IN GENERAL.—The term ‘AMT re-
4 fundable credit amount’ means, with respect to
5 any taxable year, the amount equal to the
6 greater of—

7 “(i) the lesser of—

8 “(I) \$5,000, or

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

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

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

16 “(i) IN GENERAL.—In the case of an
17 individual whose adjusted gross income for
18 any taxable year exceeds the threshold
19 amount (within the meaning of section
20 151(d)(3)(C)), the AMT refundable credit
21 amount determined under subparagraph
22 (A) for such taxable year shall be reduced
23 by the applicable percentage (within the
24 meaning of section 151(d)(3)(B)).

1 “(ii) ADJUSTED GROSS INCOME.—For
2 purposes of clause (i), adjusted gross in-
3 come shall be determined without regard to
4 sections 911, 931, and 933.

5 “(3) LONG-TERM UNUSED MINIMUM TAX CRED-
6 IT.—

7 “(A) IN GENERAL.—For purposes of this
8 subsection, the term ‘long-term unused min-
9 imum tax credit’ means, with respect to any
10 taxable year, the portion of the minimum tax
11 credit determined under subsection (b) attrib-
12 utable to the adjusted net minimum tax for tax-
13 able years before the 3rd taxable year imme-
14 diately preceding such taxable year.

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

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

23 (b) CONFORMING AMENDMENTS.—

24 (1) Section 6211(b)(4)(A) is amended by strik-
25 ing “and 34” and inserting “34, and 53(e)”.

1 (2) Paragraph (2) of section 1324(b) of title
2 31, United States Code, is amended by inserting “or
3 53(e)” after “section 35”.

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

7 **SEC. 403. RETURNS REQUIRED IN CONNECTION WITH CER-**
8 **TAIN OPTIONS.**

9 (a) IN GENERAL.—So much of section 6039(a) as fol-
10 lows paragraph (2) is amended to read as follows:

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

14 (b) STATEMENTS TO PERSONS WITH RESPECT TO
15 WHOM INFORMATION IS FURNISHED.—Section 6039 is
16 amended by redesignating subsections (b) and (c) as sub-
17 section (c) and (d), respectively, and by inserting after
18 subsection (a) the following new subsection:

19 “(b) STATEMENTS TO BE FURNISHED TO PERSONS
20 WITH RESPECT TO WHOM INFORMATION IS RE-
21 PORTED.—Every corporation making a return under sub-
22 section (a) shall furnish to each person whose name is set
23 forth in such return a written statement setting forth such
24 information as the Secretary may by regulations prescribe.
25 The written statement required under the preceding sen-

1 tence shall be furnished to such person on or before Janu-
2 ary 31 of the year following the calendar year for which
3 the return under subsection (a) was made.”.

4 (c) CONFORMING AMENDMENTS.—

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

9 “(xix) section 6039(a) (relating to re-
10 turns required with respect to certain op-
11 tions), and”.

12 (2) Section 6724(d)(2)(B) is amended by strik-
13 ing “section 6039(a)” and inserting “section
14 6039(b)”.

15 (3) The heading of section 6039 and the item
16 relating to such section in the table of sections of
17 subpart A of part III of subchapter A of chapter 61
18 of such Code are each amended by striking “Infor-
19 mation” and inserting “Returns”.

20 (4) The heading of subsection (a) of section
21 6039 is amended by striking “FURNISHING OF IN-
22 FORMATION” and inserting “REQUIREMENT OF RE-
23 PORTING”.

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

4 **SEC. 404. PARTIAL EXPENSING FOR ADVANCED MINE SAFE-**
5 **TY EQUIPMENT.**

6 (a) IN GENERAL.—Part VI of subchapter B of chap-
7 ter 1 is amended by inserting after section 179D the fol-
8 lowing new section:

9 **“SEC. 179E. ELECTION TO EXPENSE ADVANCED MINE SAFE-**
10 **TY EQUIPMENT.**

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

18 “(b) ELECTION.—

19 “(1) IN GENERAL.—An election under this sec-
20 tion for any taxable year shall be made on the tax-
21 payer’s return of the tax imposed by this chapter for
22 the taxable year. Such election shall specify the ad-
23 vanced mine safety equipment property to which the
24 election applies and shall be made in such manner
25 as the Secretary may by regulations prescribe.

1 “(2) ELECTION IRREVOCABLE.—Any election
2 made under this section may not be revoked except
3 with the consent of the Secretary.

4 “(c) QUALIFIED ADVANCED MINE SAFETY EQUIP-
5 MENT PROPERTY.—For purposes of this section, the term
6 ‘qualified advanced mine safety equipment property’
7 means any advanced mine safety equipment property for
8 use in any underground mine located in the United
9 States—

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

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

14 “(d) ADVANCED MINE SAFETY EQUIPMENT PROP-
15 ERTY.—For purposes of this section, the term ‘advanced
16 mine safety equipment property’ means any of the fol-
17 lowing:

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

22 “(2) Electronic identification and location de-
23 vice which allows an individual who is not in the
24 mine to track at all times the movements and loca-
25 tion of miners working in or at the mine.

1 “(3) Emergency oxygen-generating, self-rescue
2 device which provides oxygen for at least 90 min-
3 utes.

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

11 “(5) Comprehensive atmospheric monitoring
12 system which monitors the levels of carbon mon-
13 oxide, methane, and oxygen that are present in all
14 areas of the mine and which can detect smoke in the
15 case of a fire in a mine.

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

20 “(f) REPORTING.—No deduction shall be allowed
21 under subsection (a) to any taxpayer for any taxable year
22 unless such taxpayer files with the Secretary a report con-
23 taining such information with respect to the operation of
24 the mines of the taxpayer as the Secretary shall require.

1 “(g) TERMINATION.—This section shall not apply to
2 property placed in service after December 31, 2008.”.

3 (b) CONFORMING AMENDMENTS.—

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

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

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

14 (3) Paragraphs (2)(C) and (3)(C) of section
15 1245(a) are each amended by inserting “179E,”
16 after “179D,”.

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

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

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to costs paid or incurred after the
23 date of the enactment of this Act.

1 **SEC. 405. MINE RESCUE TEAM TRAINING TAX CREDIT.**

2 (a) IN GENERAL.—Subpart D of part IV of sub-
3 chapter A of chapter 1 (relating to business related cred-
4 its) is amended by adding at the end the following new
5 section:

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

7 “(a) AMOUNT OF CREDIT.—For purposes of section
8 38, the mine rescue team training credit determined under
9 this section with respect to each qualified mine rescue
10 team employee of an eligible employer for any taxable year
11 is an amount equal to the lesser of—

12 “(1) 20 percent of the amount paid or incurred
13 by the taxpayer during the taxable year with respect
14 to the training program costs of such qualified mine
15 rescue team employee (including wages of such em-
16 ployee while attending such program), or

17 “(2) \$10,000.

18 “(b) QUALIFIED MINE RESCUE TEAM EMPLOYEE.—
19 For purposes of this section, the term ‘qualified mine res-
20 cue team employee’ means with respect to any taxable year
21 any full-time employee of the taxpayer who is—

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

1 the Mine Safety and Health Administration's Office
2 of Educational Policy and Development, or

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

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

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

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

17 (b) CREDIT MADE PART OF GENERAL BUSINESS
18 CREDIT.—Section 38(b) is amended by striking “and” at
19 the end of paragraph (29), by striking the period at the
20 end of paragraph (30) and inserting “, plus”, and by add-
21 ing at the end the following new paragraph:

22 “(31) the mine rescue team training credit de-
23 termined under section 45N(a).”.

24 (c) NO DOUBLE BENEFIT.—Section 280C is amend-
25 ed by adding at the end the following new subsection:

1 “(e) MINE RESCUE TEAM TRAINING CREDIT.—No
2 deduction shall be allowed for that portion of the expenses
3 otherwise allowable as a deduction for the taxable year
4 which is equal to the amount of the credit determined for
5 the taxable year under section 45N(a).”.

6 (d) CLERICAL AMENDMENT.—The table of sections
7 for subpart D of part IV of subchapter A of chapter 1
8 is amended by adding at the end the following new item:
“Sec. 45N. Mine rescue team training credit.”.

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

12 **SEC. 406. WHISTLEBLOWER REFORMS.**

13 (a) AWARDS TO WHISTLEBLOWERS.—

14 (1) IN GENERAL.—Section 7623 (relating to ex-
15 penses of detection of underpayments and fraud,
16 etc.) is amended—

17 (A) by striking “The Secretary” and in-
18 serting “(a) IN GENERAL.—The Secretary”,

19 (B) by striking “and” at the end of para-
20 graph (1) and inserting “or”,

21 (C) by striking “(other than interest)”,
22 and

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

25 “(b) AWARDS TO WHISTLEBLOWERS.—

1 “(1) IN GENERAL.—If the Secretary proceeds
2 with any administrative or judicial action described
3 in subsection (a) based on information brought to
4 the Secretary’s attention by an individual, such indi-
5 vidual shall, subject to paragraph (2), receive as an
6 award at least 15 percent but not more than 30 per-
7 cent of the collected proceeds (including penalties,
8 interest, additions to tax, and additional amounts)
9 resulting from the action (including any related ac-
10 tions) or from any settlement in response to such ac-
11 tion. The determination of the amount of such
12 award by the Whistleblower Office shall depend upon
13 the extent to which the individual substantially con-
14 tributed to such action.

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

17 “(A) IN GENERAL.—In the event the ac-
18 tion described in paragraph (1) is one which the
19 Whistleblower Office determines to be based
20 principally on disclosures of specific allegations
21 (other than information provided by the indi-
22 vidual described in paragraph (1)) resulting
23 from a judicial or administrative hearing, from
24 a governmental report, hearing, audit, or inves-
25 tigation, or from the news media, the Whistle-

1 blower Office may award such sums as it con-
2 siders appropriate, but in no case more than 10
3 percent of the collected proceeds (including pen-
4 alties, interest, additions to tax, and additional
5 amounts) resulting from the action (including
6 any related actions) or from any settlement in
7 response to such action, taking into account the
8 significance of the individual's information and
9 the role of such individual and any legal rep-
10 resentative of such individual in contributing to
11 such action.

12 “(B) NONAPPLICATION OF PARAGRAPH
13 WHERE INDIVIDUAL IS ORIGINAL SOURCE OF
14 INFORMATION.—Subparagraph (A) shall not
15 apply if the information resulting in the initi-
16 ation of the action described in paragraph (1)
17 was originally provided by the individual de-
18 scribed in paragraph (1).

19 “(3) REDUCTION IN OR DENIAL OF AWARD.—
20 If the Whistleblower Office determines that the
21 claim for an award under paragraph (1) or (2) is
22 brought by an individual who planned and initiated
23 the actions that led to the underpayment of tax or
24 actions described in subsection (a)(2), then the
25 Whistleblower Office may appropriately reduce such

1 award. If such individual is convicted of criminal
2 conduct arising from the role described in the pre-
3 ceding sentence, the Whistleblower Office shall deny
4 any award.

5 “(4) APPEAL OF AWARD DETERMINATION.—
6 Any determination regarding an award under para-
7 graph (1), (2), or (3) may, within 30 days of such
8 determination, be appealed to the Tax Court (and
9 the Tax Court shall have jurisdiction with respect to
10 such matter).

11 “(5) APPLICATION OF THIS SUBSECTION.—This
12 subsection shall apply with respect to any action—

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

17 “(B) if the tax, penalties, interest, addi-
18 tions to tax, and additional amounts in dispute
19 exceed \$2,000,000.

20 “(6) ADDITIONAL RULES.—

21 “(A) NO CONTRACT NECESSARY.—No con-
22 tract with the Internal Revenue Service is nec-
23 essary for any individual to receive an award
24 under this subsection.

1 “(B) REPRESENTATION.—Any individual
2 described in paragraph (1) or (2) may be rep-
3 resented by counsel.

4 “(C) SUBMISSION OF INFORMATION.—No
5 award may be made under this subsection
6 based on information submitted to the Sec-
7 retary unless such information is submitted
8 under penalty of perjury.”.

9 (2) ASSIGNMENT TO SPECIAL TRIAL JUDGES.—

10 (A) IN GENERAL.—Section 7443A(b) (re-
11 lating to proceedings which may be assigned to
12 special trial judges) is amended by striking
13 “and” at the end of paragraph (5), by redesign-
14 ating paragraph (6) as paragraph (7), and by
15 inserting after paragraph (5) the following new
16 paragraph:

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

19 (B) CONFORMING AMENDMENT.—Section
20 7443A(c) is amended by striking “or (5)” and
21 inserting “(5), or (6)”.

22 (3) DEDUCTION ALLOWED WHETHER OR NOT
23 TAXPAYER ITEMIZES.—Subsection (a) of section 62
24 (relating to general rule defining adjusted gross in-

1 come) is amended by inserting after paragraph (20)
2 the following new paragraph:

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

12 (b) WHISTLEBLOWER OFFICE.—

13 (1) IN GENERAL.—Not later than the date
14 which is 12 months after the date of the enactment
15 of this Act, the Secretary of the Treasury shall issue
16 guidance for the operation of a whistleblower pro-
17 gram to be administered in the Internal Revenue
18 Service by an office to be known as the “Whistle-
19 blower Office” which—

20 (A) shall at all times operate at the direc-
21 tion of the Commissioner of Internal Revenue
22 and coordinate and consult with other divisions
23 in the Internal Revenue Service as directed by
24 the Commissioner of Internal Revenue,

1 (B) shall analyze information received from
2 any individual described in section 7623(b) of
3 the Internal Revenue Code of 1986 and either
4 investigate the matter itself or assign it to the
5 appropriate Internal Revenue Service office,
6 and

7 (C) in its sole discretion, may ask for addi-
8 tional assistance from such individual or any
9 legal representative of such individual.

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

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

23 (1) an analysis of the use of such section dur-
24 ing the preceding year and the results of such use,
25 and

1 (2) any legislative or administrative rec-
2 ommendations regarding the provisions of such sec-
3 tion and its application.

4 (d) EFFECTIVE DATE.—The amendments made by
5 subsection (a) shall apply to information provided on or
6 after the date of the enactment of this Act.

7 **SEC. 407. FRIVOLOUS TAX SUBMISSIONS.**

8 (a) CIVIL PENALTIES.—Section 6702 is amended to
9 read as follows:

10 **“SEC. 6702. FRIVOLOUS TAX SUBMISSIONS.**

11 “(a) CIVIL PENALTY FOR FRIVOLOUS TAX RE-
12 TURNS.—A person shall pay a penalty of \$5,000 if—

13 “(1) such person files what purports to be a re-
14 turn of a tax imposed by this title but which—

15 “(A) does not contain information on
16 which the substantial correctness of the self-as-
17 sessment may be judged, or

18 “(B) contains information that on its face
19 indicates that the self-assessment is substan-
20 tially incorrect, and

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

22 “(A) is based on a position which the Sec-
23 retary has identified as frivolous under sub-
24 section (c), or

1 “(B) reflects a desire to delay or impede
2 the administration of Federal tax laws.

3 “(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS
4 SUBMISSIONS.—

5 “(1) IMPOSITION OF PENALTY.—Except as pro-
6 vided in paragraph (3), any person who submits a
7 specified frivolous submission shall pay a penalty of
8 \$5,000.

9 “(2) SPECIFIED FRIVOLOUS SUBMISSION.—For
10 purposes of this section—

11 “(A) SPECIFIED FRIVOLOUS SUBMIS-
12 SION.—The term ‘specified frivolous submis-
13 sion’ means a specified submission if any por-
14 tion of such submission—

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

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

21 “(B) SPECIFIED SUBMISSION.—The term
22 ‘specified submission’ means—

23 “(i) a request for a hearing under—

1 “(I) section 6320 (relating to no-
2 tice and opportunity for hearing upon
3 filing of notice of lien), or

4 “(II) section 6330 (relating to
5 notice and opportunity for hearing be-
6 fore levy), and

7 “(ii) an application under—

8 “(I) section 6159 (relating to
9 agreements for payment of tax liabil-
10 ity in installments),

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

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

15 “(3) OPPORTUNITY TO WITHDRAW SUBMIS-
16 SION.—If the Secretary provides a person with no-
17 tice that a submission is a specified frivolous sub-
18 mission and such person withdraws such submission
19 within 30 days after such notice, the penalty im-
20 posed under paragraph (1) shall not apply with re-
21 spect to such submission.

22 “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-
23 retary shall prescribe (and periodically revise) a list of po-
24 sitions which the Secretary has identified as being frivo-
25 lous for purposes of this subsection. The Secretary shall

1 not include in such list any position that the Secretary
2 determines meets the requirement of section
3 6662(d)(2)(B)(ii)(II).

4 “(d) REDUCTION OF PENALTY.—The Secretary may
5 reduce the amount of any penalty imposed under this sec-
6 tion if the Secretary determines that such reduction would
7 promote compliance with and administration of the Fed-
8 eral tax laws.

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

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

14 (1) FRIVOLOUS REQUESTS DISREGARDED.—
15 Section 6330 (relating to notice and opportunity for
16 hearing before levy) is amended by adding at the
17 end the following new subsection:

18 “(g) FRIVOLOUS REQUESTS FOR HEARING, ETC.—
19 Notwithstanding any other provision of this section, if the
20 Secretary determines that any portion of a request for a
21 hearing under this section or section 6320 meets the re-
22 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
23 then the Secretary may treat such portion as if it were
24 never submitted and such portion shall not be subject to
25 any further administrative or judicial review.”.

1 (2) PRECLUSION FROM RAISING FRIVOLOUS
2 ISSUES AT HEARING.—Section 6330(c)(4) is amend-
3 ed—

4 (A) by striking “(A)” and inserting
5 “(A)(i)”;

6 (B) by striking “(B)” and inserting “(ii)”;

7 (C) by striking the period at the end of the
8 first sentence and inserting “; or”; and

9 (D) by inserting after subparagraph (A)(ii)
10 (as so redesignated) the following:

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

13 (3) STATEMENT OF GROUNDS.—Section
14 6330(b)(1) is amended by striking “under sub-
15 section (a)(3)(B)” and inserting “in writing under
16 subsection (a)(3)(B) and states the grounds for the
17 requested hearing”.

18 (c) TREATMENT OF FRIVOLOUS REQUESTS FOR
19 HEARINGS UPON FILING OF NOTICE OF LIEN.—Section
20 6320 is amended—

21 (1) in subsection (b)(1), by striking “under sub-
22 section (a)(3)(B)” and inserting “in writing under
23 subsection (a)(3)(B) and states the grounds for the
24 requested hearing”, and

1 (2) in subsection (c), by striking “and (e)” and
2 inserting “(e), and (g)”.

3 (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR
4 OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-
5 MENTS.—Section 7122 is amended by adding at the end
6 the following new subsection:

7 “(f) FRIVOLOUS SUBMISSIONS, ETC.—Notwith-
8 standing any other provision of this section, if the Sec-
9 retary determines that any portion of an application for
10 an offer-in-compromise or installment agreement sub-
11 mitted under this section or section 6159 meets the re-
12 quirement of clause (i) or (ii) of section 6702(b)(2)(A),
13 then the Secretary may treat such portion as if it were
14 never submitted and such portion shall not be subject to
15 any further administrative or judicial review.”.

16 (e) CLERICAL AMENDMENT.—The table of sections
17 for part I of subchapter B of chapter 68 is amended by
18 striking the item relating to section 6702 and inserting
19 the following new item:

“Sec. 6702. Frivolous tax submissions.”.

20 (f) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to submissions made and issues
22 raised after the date on which the Secretary first pre-
23 scribes a list under section 6702(e) of the Internal Rev-
24 enue Code of 1986, as amended by subsection (a).

1 **SEC. 408. ADDITION OF MENINGOCOCCAL AND HUMAN**
2 **PAPILLOMAVIRUS VACCINES TO LIST OF TAX-**
3 **ABLE VACCINES.**

4 (a) **MENINGOCOCCAL VACCINE.**—Section 4132(a)(1)
5 (defining taxable vaccine) is amended by adding at the end
6 the following new subparagraph:

7 “(O) Any meningococcal vaccine.”.

8 (b) **HUMAN PAPILLOMAVIRUS VACCINE.**—Section
9 4132(a)(1), as amended by subsection (a), is amended by
10 adding at the end the following new subparagraph:

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

13 (c) **EFFECTIVE DATE.**—

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

19 (2) **DELIVERIES.**—For purposes of paragraph
20 (1) and section 4131 of the Internal Revenue Code
21 of 1986, in the case of sales on or before the effec-
22 tive date described in such paragraph for which de-
23 livery is made after such date, the delivery date shall
24 be considered the sale date.

1 **SEC. 409. CLARIFICATION OF TAXATION OF CERTAIN SET-**
2 **TLEMENT FUNDS MADE PERMANENT.**

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

5 (b) **EFFECTIVE DATE.**—The amendment made by
6 this section shall take effect as if included in section 201
7 of the Tax Increase Prevention and Reconciliation Act of
8 2005.

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

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

14 (b) **EFFECTIVE DATE.**—The amendments made by
15 this section shall take effect as if included in section 202
16 of the Tax Increase Prevention and Reconciliation Act of
17 2005.

18 **SEC. 411. REVISION OF STATE VETERANS LIMIT MADE PER-**
19 **MANENT.**

20 (a) **IN GENERAL.**—Subparagraph (B) of section
21 143(l)(3) is amended by striking clause (iv).

22 (b) **EFFECTIVE DATE.**—The amendment made by
23 this section shall take effect as if included in section 203
24 of the Tax Increase Prevention and Reconciliation Act of
25 2005.

1 **SEC. 412. CAPITAL GAINS TREATMENT FOR CERTAIN SELF-**
2 **CREATED MUSICAL WORKS MADE PERMA-**
3 **NENT.**

4 (a) IN GENERAL.—Paragraph (3) of section 1221(b)
5 is amended by striking “before January 1, 2011,”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 this section shall take effect as if included in section 204
8 of the Tax Increase Prevention and Reconciliation Act of
9 2005.

10 **SEC. 413. REDUCTION IN MINIMUM VESSEL TONNAGE**
11 **WHICH QUALIFIES FOR TONNAGE TAX MADE**
12 **PERMANENT.**

13 (a) IN GENERAL.—Paragraph (4) of section 1355(a)
14 is amended by striking “10,000 (6,000, in the case of tax-
15 able years beginning after December 31, 2005, and ending
16 before January 1, 2011)” and inserting “6,000”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 this section shall take effect as if included in section 205
19 of the Tax Increase Prevention and Reconciliation Act of
20 2005.

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

23 (a) IN GENERAL.—Section 206 of the Tax Increase
24 Prevention and Reconciliation Act of 2005 is amended by
25 striking “and before August 31, 2009”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall take effect as if included in section 206
3 of the Tax Increase Prevention and Reconciliation Act of
4 2005.

5 **SEC. 415. GREAT LAKES DOMESTIC SHIPPING TO NOT DIS-**
6 **QUALIFY VESSEL FROM TONNAGE TAX.**

7 (a) IN GENERAL.—Section 1355 (relating to defini-
8 tions and special rules) is amended by redesignating sub-
9 section (g) as subsection (h) and by inserting after sub-
10 section (f) the following new subsection:

11 “(g) GREAT LAKES DOMESTIC SHIPPING TO NOT
12 DISQUALIFY VESSEL.—

13 “(1) IN GENERAL.—If the electing corporation
14 elects (at such time and in such manner as the Sec-
15 retary may require) to apply this subsection for any
16 taxable year to any qualifying vessel which is used
17 in qualified zone domestic trade during the taxable
18 year—

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

23 “(B) subsection (f) shall not apply with re-
24 spect to such vessel for such taxable year.

1 “(2) EFFECT OF TEMPORARILY OPERATING
2 VESSEL IN UNITED STATES DOMESTIC TRADE.—In
3 the case of a qualifying vessel to which this sub-
4 section applies—

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

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

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

21 “(B) NOTICE.—Notice shall be deemed
22 timely if given not later than the due date (in-
23 cluding extensions) for the corporation’s tax re-
24 turn for the taxable year in which the tem-
25 porary cessation begins.

1 “(C) PERIOD DISREGARD IN EFFECT.—

2 The period of temporary use under subpara-
3 graph (A) continues until the earlier of the date
4 of which—

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

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

13 “(D) NO DISREGARD IF DOMESTIC TRADE
14 USE EXCEEDS 30 DAYS.—Subparagraph (A)
15 shall not apply to any qualifying vessel which is
16 operated in the United States domestic trade
17 (other than qualified zone domestic trade) for
18 more than 30 days during the taxable year.

19 “(3) ALLOCATION OF INCOME AND DEDUC-
20 TIONS TO QUALIFYING SHIPPING ACTIVITIES.—In
21 the case of a qualifying vessel to which this sub-
22 section applies, the Secretary shall prescribe rules
23 for the proper allocation of income, expenses, losses,
24 and deductions between the qualified shipping activi-
25 ties and the other activities of such vessel.

1 “(4) QUALIFIED ZONE DOMESTIC TRADE.—For
2 purposes of this subsection—

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

8 “(B) QUALIFIED ZONE.—The term ‘quali-
9 fied zone’ means the Great Lakes Waterway
10 and the St. Lawrence Seaway.”.

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

14 **SEC. 416. USE OF QUALIFIED MORTGAGE BONDS TO FI-**
15 **NANCE RESIDENCES FOR VETERANS WITH-**
16 **OUT REGARD TO FIRST-TIME HOMEBUYER**
17 **REQUIREMENT.**

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

23 “(D) in the case of bonds issued after the
24 date of the enactment of this subparagraph and
25 before January 1, 2008, financing of any resi-

1 “(iv) EMPLOYEE OF INTELLIGENCE
2 COMMUNITY.—The term ‘employee of the
3 intelligence community’ means an employee
4 (as defined by section 2105 of title 5,
5 United States Code) of—

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

8 “(II) the Central Intelligence
9 Agency,

10 “(III) the National Security
11 Agency,

12 “(IV) the Defense Intelligence
13 Agency,

14 “(V) the National Geospatial-In-
15 telligence Agency,

16 “(VI) the National Reconnaissance
17 Office,

18 “(VII) any other office within the
19 Department of Defense for the collec-
20 tion of specialized national intelligence
21 through reconnaissance programs,

22 “(VIII) any of the intelligence
23 elements of the Army, the Navy, the
24 Air Force, the Marine Corps, the Fed-
25 eral Bureau of Investigation, the De-

1 department of Treasury, the Depart-
2 ment of Energy, and the Coast
3 Guard,

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

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

11 (c) SPECIAL RULE.—Subparagraph (C) of section
12 121(d)(9), as amended by subsection (b), is amended by
13 adding at the end the following new clause:

14 “(vi) SPECIAL RULE RELATING TO IN-
15 TELLIGENCE COMMUNITY.—An employee
16 of the intelligence community shall not be
17 treated as serving on qualified extended
18 duty unless such duty is at a duty station
19 located outside the United States.”.

20 (d) CONFORMING AMENDMENT.—The heading for
21 section 121(d)(9) is amended to read as follows: “UNI-
22 FORMED SERVICES, FOREIGN SERVICE, AND INTEL-
23 LIGENCE COMMUNITY”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to sales or exchanges after the date
3 of the enactment of this Act and before January 1, 2011.

4 **SEC. 418. SALE OF PROPERTY BY JUDICIAL OFFICERS.**

5 (a) IN GENERAL.—Section 1043(b) (relating to the
6 sale of property to comply with conflict-of-interest require-
7 ments) is amended—

8 (1) in paragraph (1)—

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

12 (B) in subparagraph (B), by inserting “ju-
13 dicial canon,” after “any statute, regulation,
14 rule,”;

15 (2) in paragraph (2)—

16 (A) in subparagraph (A), by inserting “ju-
17 dicial canon,” after “any Federal conflict of in-
18 terest statute, regulation, rule,”; and

19 (B) in subparagraph (B), by inserting
20 after “the Director of the Office of Government
21 Ethics,” the following: “in the case of executive
22 branch officers or employees, or by the Judicial
23 Conference of the United States (or its des-
24 ignee), in the case of judicial officers,”; and

1 (3) in paragraph (5)(B), by inserting “judicial
2 canon,” after “any statute, regulation, rule,”.

3 (b) JUDICIAL OFFICER DEFINED.—Section 1043(b)
4 is amended by adding at the end the following new para-
5 graph:

6 “(6) JUDICIAL OFFICER.—The term ‘judicial
7 officer’ means the Chief Justice of the United
8 States, the Associate Justices of the Supreme Court,
9 and the judges of the United States courts of ap-
10 peals, United States district courts, including the
11 district courts in Guam, the Northern Mariana Is-
12 lands, and the Virgin Islands, Court of Appeals for
13 the Federal Circuit, Court of International Trade,
14 Tax Court, Court of Federal Claims, Court of Ap-
15 peals for Veterans Claims, United States Court of
16 Appeals for the Armed Forces, and any court cre-
17 ated by Act of Congress, the judges of which are en-
18 titled to hold office during good behavior.”.

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

22 **SEC. 419. PREMIUMS FOR MORTGAGE INSURANCE.**

23 (a) IN GENERAL.—Section 163(h)(3) (relating to
24 qualified residence interest) is amended by adding at the
25 end the following new subparagraph:

1 “(E) MORTGAGE INSURANCE PREMIUMS
2 TREATED AS INTEREST.—

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

11 “(ii) PHASEOUT.—The amount other-
12 wise treated as interest under clause (i)
13 shall be reduced (but not below zero) by 10
14 percent of such amount for each \$1,000
15 (\$500 in the case of a married individual
16 filing a separate return) (or fraction there-
17 of) that the taxpayer’s adjusted gross in-
18 come for the taxable year exceeds
19 \$100,000 (\$50,000 in the case of a mar-
20 ried individual filing a separate return).

21 “(iii) LIMITATION.—Clause (i) shall
22 not apply with respect to any mortgage in-
23 surance contracts issued before January 1,
24 2007.

1 “(iv) TERMINATION.—Clause (i) shall
2 not apply to amounts—

3 “(I) paid or accrued after De-
4 cember 31, 2007, or

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

7 (b) DEFINITION AND SPECIAL RULES.—Section
8 163(h)(4) (relating to other definitions and special rules)
9 is amended by adding at the end the following new sub-
10 paragraphs:

11 “(E) QUALIFIED MORTGAGE INSUR-
12 ANCE.—The term ‘qualified mortgage insur-
13 ance’ means—

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

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

23 “(F) SPECIAL RULES FOR PREPAID QUALI-
24 FIED MORTGAGE INSURANCE.—Any amount
25 paid by the taxpayer for qualified mortgage in-

1 surance that is properly allocable to any mort-
2 gage the payment of which extends to periods
3 that are after the close of the taxable year in
4 which such amount is paid shall be chargeable
5 to capital account and shall be treated as paid
6 in such periods to which so allocated. No deduc-
7 tion shall be allowed for the unamortized bal-
8 ance of such account if such mortgage is satis-
9 fied before the end of its term. The preceding
10 sentences shall not apply to amounts paid for
11 qualified mortgage insurance provided by the
12 Veterans Administration or the Rural Housing
13 Administration.”.

14 (c) INFORMATION RETURNS RELATING TO MORT-
15 GAGE INSURANCE.—Section 6050H (relating to returns
16 relating to mortgage interest received in trade or business
17 from individuals) is amended by adding at the end the fol-
18 lowing new subsection:

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

21 “(1) IN GENERAL.—The Secretary may pre-
22 scribe, by regulations, that any person who, in the
23 course of a trade or business, receives from any indi-
24 vidual premiums for mortgage insurance aggregating
25 \$600 or more for any calendar year, shall make a

1 return with respect to each such individual. Such re-
2 turn shall be in such form, shall be made at such
3 time, and shall contain such information as the Sec-
4 retary may prescribe.

5 “(2) STATEMENT TO BE FURNISHED TO INDI-
6 VIDUALS WITH RESPECT TO WHOM INFORMATION IS
7 REQUIRED.—Every person required to make a re-
8 turn under paragraph (1) shall furnish to each indi-
9 vidual with respect to whom a return is made a writ-
10 ten statement showing such information as the Sec-
11 retary may prescribe. Such written statement shall
12 be furnished on or before January 31 of the year
13 following the calendar year for which the return
14 under paragraph (1) was required to be made.

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

17 “(A) rules similar to the rules of sub-
18 section (c) shall apply, and

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

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

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

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

9 **SEC. 420. MODIFICATION OF REFUNDS FOR KEROSENE**
10 **USED IN AVIATION.**

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

14 “(4) **REFUNDS FOR KEROSENE USED IN AVIA-**
15 **TION.**—

16 “(A) **KEROSENE USED IN COMMERCIAL**
17 **AVIATION.**—In the case of kerosene used in
18 commercial aviation (as defined in section
19 4083(b)) (other than supplies for vessels or air-
20 craft within the meaning of section 4221(d)(3)),
21 paragraph (1) shall not apply to so much of the
22 tax imposed by section 4041 or 4081, as the
23 case may be, as is attributable to—

1 “(i) the Leaking Underground Stor-
2 age Tank Trust Fund financing rate im-
3 posed by such section, and

4 “(ii) so much of the rate of tax speci-
5 fied in section 4041(c) or
6 4081(a)(2)(A)(iii), as the case may be, as
7 does not exceed 4.3 cents per gallon.

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

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

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

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

22 “(II) so much of the rate of tax
23 specified in section 4081(a)(2)(A)(iii)
24 as does not exceed the rate specified
25 in section 4081(a)(2)(C)(ii).

1 “(C) PAYMENTS TO ULTIMATE, REG-
2 ISTERED VENDOR.—

3 “(i) IN GENERAL.—With respect to
4 any kerosene used in aviation (other than
5 kerosene described in clause (ii) or ker-
6 osene to which paragraph (5) applies), if
7 the ultimate purchaser of such kerosene
8 waives (at such time and in such form and
9 manner as the Secretary shall prescribe)
10 the right to payment under paragraph (1)
11 and assigns such right to the ultimate ven-
12 dor, then the Secretary shall pay the
13 amount which would be paid under para-
14 graph (1) to such ultimate vendor, but
15 only if such ultimate vendor—

16 “(I) is registered under section
17 4101, and

18 “(II) meets the requirements of
19 subparagraph (A), (B), or (D) of sec-
20 tion 6416(a)(1).

21 “(ii) PAYMENTS FOR KEROSENE USED
22 IN NONCOMMERCIAL AVIATION.—The
23 amount which would be paid under para-
24 graph (1) with respect to any kerosene to
25 which subparagraph (B) applies shall be

1 paid only to the ultimate vendor of such
2 kerosene. A payment shall be made to such
3 vendor if such vendor—

4 “(I) is registered under section
5 4101, and

6 “(II) meets the requirements of
7 subparagraph (A), (B), or (D) of sec-
8 tion 6416(a)(1).”.

9 (b) CONFORMING AMENDMENTS.—

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

13 (2) Section 4082(d)(2)(B) is amended by strik-
14 ing “section 6427(l)(6)(B)” and inserting “section
15 6427(l)(5)(B)”.

16 (3) Section 6427(i)(4)(A) is amended—

17 (A) by striking “paragraph (4)(B), (5), or
18 (6)” each place it appears and inserting “para-
19 graph (4)(C) or (5)”, and

20 (B) by striking “(l)(5), and (l)(6)” and in-
21 serting “(l)(4)(C)(ii), and (l)(5)”.

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

25 (5) Section 9502(d) is amended—

1 (A) in paragraph (2), by striking “and
2 (1)(5)”, and

3 (B) in paragraph (3), by striking “or (5)”.
4 (6) Section 9503(c)(7) is amended—

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

7 “(A) 4.3 cents per gallon of kerosene sub-
8 ject to section 6427(1)(4)(A) with respect to
9 which a payment has been made by the Sec-
10 retary under section 6427(1), and

11 “(B) 21.8 cents per gallon of kerosene sub-
12 ject to section 6427(1)(4)(B) with respect to
13 which a payment has been made by the Sec-
14 retary under section 6427(1).”, and

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

17 (c) EFFECTIVE DATE.—

18 (1) IN GENERAL.—The amendments made by
19 this section shall apply to kerosene sold after Sep-
20 tember 30, 2005.

21 (2) SPECIAL RULE FOR PENDING CLAIMS.—In
22 the case of kerosene sold for use in aviation (other
23 than kerosene to which section 6427(1)(4)(C)(ii) of
24 the Internal Revenue Code of 1986 (as added by
25 subsection (a)) applies or kerosene to which section

1 6427(l)(5) of such Code (as redesignated by sub-
2 section (b)) applies) after September 30, 2005, and
3 before the date of the enactment of this Act, the ul-
4 timate purchaser shall be treated as having waived
5 the right to payment under section 6427(l)(1) of
6 such Code and as having assigned such right to the
7 ultimate vendor if such ultimate vendor has met the
8 requirements of subparagraph (A), (B), or (D) of
9 section 6416(a)(1) of such Code.

10 (d) SPECIAL RULE FOR KEROSENE USED IN AVIA-
11 TION ON A FARM FOR FARMING PURPOSES.—

12 (1) REFUNDS FOR PURCHASES AFTER DECEM-
13 BER 31, 2004, AND BEFORE OCTOBER 1, 2005.—
14 The Secretary of the Treasury shall pay to the ul-
15 timate purchaser of any kerosene which is used in
16 aviation on a farm for farming purposes and which
17 was purchased after December 31, 2004, and before
18 October 1, 2005, an amount equal to the aggregate
19 amount of tax imposed on such fuel under section
20 4041 or 4081 of the Internal Revenue Code of 1986,
21 as the case may be, reduced by any payment to the
22 ultimate vendor under section 6427(l)(5)(C) of such
23 Code (as in effect on the day before the date of the
24 enactment of the Safe, Accountable, Flexible, Effi-

1 cient Transportation Equity Act: a Legacy for
2 Users).

3 (2) USE ON A FARM FOR FARMING PUR-
4 POSES.—For purposes of paragraph (1), kerosene
5 shall be treated as used on a farm for farming pur-
6 poses if such kerosene is used for farming purposes
7 (within the meaning of section 6420(c)(3) of the In-
8 ternal Revenue Code of 1986) in carrying on a trade
9 or business on a farm situated in the United States.
10 For purposes of the preceding sentence, rules similar
11 to the rules of section 6420(c)(4) of such Code shall
12 apply.

13 (3) TIME FOR FILING CLAIMS.—No claim shall
14 be allowed under paragraph (1) unless the ultimate
15 purchaser files such claim before the date that is 3
16 months after the date of the enactment of this Act.

17 (4) NO DOUBLE BENEFIT.—No amount shall be
18 paid under paragraph (1) or section 6427(l) of the
19 Internal Revenue Code of 1986 with respect to any
20 kerosene described in paragraph (1) to the extent
21 that such amount is in excess of the tax imposed on
22 such kerosene under section 4041 or 4081 of such
23 Code, as the case may be.

24 (5) APPLICABLE LAWS.—For purposes of this
25 subsection, rules similar to the rules of section

1 6427(j) of the Internal Revenue Code of 1986 shall
2 apply.

3 **SEC. 421. REGIONAL INCOME TAX AGENCIES TREATED AS**
4 **STATES FOR PURPOSES OF CONFIDEN-**
5 **TIALITY AND DISCLOSURE REQUIREMENTS.**

6 (a) IN GENERAL.—Paragraph (5) of section 6103(b)
7 is amended to read as follows:

8 “(5) STATE.—

9 “(A) IN GENERAL.—The term ‘State’
10 means—

11 “(i) any of the 50 States, the District
12 of Columbia, the Commonwealth of Puerto
13 Rico, the Virgin Islands, the Canal Zone,
14 Guam, American Samoa, and the Com-
15 monwealth of the Northern Mariana Is-
16 lands,

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

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

24 “(II) which imposes a tax on in-
25 come or wages, and

1 “(III) with which the Secretary
2 (in his sole discretion) has entered
3 into an agreement regarding disclo-
4 sure, and

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

8 “(I) which is formed and oper-
9 ated by a qualified group of munici-
10 palities, and

11 “(II) with which the Secretary
12 (in his sole discretion) has entered
13 into an agreement regarding disclo-
14 sure.

15 “(B) REGIONAL INCOME TAX AGENCIES.—

16 For purposes of subparagraph (A)(iii)—

17 “(i) QUALIFIED GROUP OF MUNICI-
18 PALITIES.—The term ‘qualified group of
19 municipalities’ means, with respect to any
20 governmental entity, 2 or more municipali-
21 ties—

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

24 “(II) each of which, under the
25 authority of a State statute, admin-

1 isters the laws relating to the imposi-
2 tion of such taxes through such entity,
3 and

4 “(III) which collectively have a
5 population in excess of 250,000 (as
6 determined under the most recent de-
7 cennial United States census data
8 available).

9 “(ii) REFERENCES TO STATE LAW,
10 ETC.—For purposes of applying subpara-
11 graph (A)(iii) to the subsections referred
12 to in such subparagraph, any reference in
13 such subsections to State law, proceedings,
14 or tax returns shall be treated as ref-
15 erences to the law, proceedings, or tax re-
16 turns, as the case may be, of the munici-
17 palities which form and operate the gov-
18 ernmental entity referred to in such sub-
19 paragraph.

20 “(iii) DISCLOSURE TO CONTRACTORS
21 AND OTHER AGENTS.—Notwithstanding
22 any other provision of this section, no re-
23 turn or return information shall be dis-
24 closed to any contractor or other agent of
25 a governmental entity referred to in sub-

1 paragraph (A)(iii) unless such entity, to
2 the satisfaction of the Secretary—

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

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

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

23 “(IV) certifies to the Secretary
24 for the most recent annual period that
25 such contractor or other agent is in

1 compliance with all such require-
2 ments.

3 The certification required by subclause
4 (IV) shall include the name and address of
5 each contractor and other agent, a descrip-
6 tion of the contract or agreement with
7 such contractor or other agent, and the du-
8 ration of such contract or agreement. The
9 requirements of this clause shall not apply
10 to disclosures pursuant to subsection (n)
11 for purposes of Federal tax administration
12 and a rule similar to the rule of subsection
13 (p)(8)(B) shall apply for purposes of this
14 clause.”.

15 (b) SPECIAL RULES FOR DISCLOSURE.—Subsection
16 (d) of section 6103 is amended by adding at the end the
17 following new paragraph:

18 “(6) LIMITATION ON DISCLOSURE REGARDING
19 REGIONAL INCOME TAX AGENCIES TREATED AS
20 STATES.—For purposes of paragraph (1), inspection
21 by or disclosure to an entity described in subsection
22 (b)(5)(A)(iii) shall be for the purpose of, and only to
23 the extent necessary in, the administration of the
24 laws of the member municipalities in such entity re-
25 lating to the imposition of a tax on income or wages.

1 ments of clauses (i), (ii), and (iii) of sub-
2 paragraph (B) are met.

3 “(B) REQUIREMENTS.—

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

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

15 “(iii) The requirement of this clause
16 is met if the person, or its successor in in-
17 terest, using the semi-generic designation
18 held a Certificate of Label Approval or
19 Certificate of Exemption from Label Ap-
20 proval issued by the Secretary for a wine
21 label bearing such brand name, or brand
22 name and fanciful name, before March 10,
23 2006, on which such semi-generic designa-
24 tion appeared.

1 “(C) WINES TO WHICH PARAGRAPH AP-
2 PLIES.—

3 “(i) IN GENERAL.—Except as pro-
4 vided in clause (ii), this paragraph shall
5 apply to any grape wine which is des-
6 ignated as Burgundy, Claret, Chablis,
7 Champagne, Chianti, Malaga, Marsala,
8 Madeira, Moselle, Port, Retsina, Rhine
9 Wine or Hock, Sauterne, Haut Sauterne,
10 Sherry, or Tokay.

11 “(ii) EXCEPTION.—This paragraph
12 shall not apply to wine which—

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

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

18 “(III) does not bear a brand
19 name.”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to wine imported or bottled in the
22 United States on or after the date of enactment of this
23 Act.

1 **SEC. 423. MODIFICATION OF RAILROAD TRACK MAINTENANCE CREDIT.**
2

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

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

6 (2) by inserting “(determined without regard to
7 any consideration for such expenditures given by the
8 Class II or Class III railroad which made the assign-
9 ment of such track)” after “Class II or Class III
10 railroad”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall take effect as if included in the amend-
13 ment made by section 245(a) of the American Jobs Cre-
14 ation Act of 2004.

15 **SEC. 424. MODIFICATION OF EXCISE TAX ON UNRELATED
16 BUSINESS TAXABLE INCOME OF CHARITABLE
17 REMAINDER TRUSTS.**

18 (a) IN GENERAL.—Subsection (c) of section 664 (re-
19 lating to exemption from income taxes) is amended to read
20 as follows:

21 “(c) TAXATION OF TRUSTS.—

22 “(1) INCOME TAX.—A charitable remainder an-
23 nuity trust and a charitable remainder unitrust
24 shall, for any taxable year, not be subject to any tax
25 imposed by this subtitle.

26 “(2) EXCISE TAX.—

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall take effect as if included in section 209
3 of the Tax Increase Prevention and Reconciliation Act of
4 2005.

5 **SEC. 426. TECHNICAL CORRECTIONS.**

6 (a) TECHNICAL CORRECTION RELATING TO LOOK-
7 THROUGH TREATMENT OF PAYMENTS BETWEEN RE-
8 LATED CONTROLLED FOREIGN CORPORATIONS UNDER
9 THE FOREIGN PERSONAL HOLDING COMPANY RULES.—

10 (1) IN GENERAL.—

11 (A) The first sentence of section
12 954(c)(6)(A) is amended by striking “which is
13 not subpart F income” and inserting “which is
14 neither subpart F income nor income treated as
15 effectively connected with the conduct of a
16 trade or business in the United States”.

17 (B) Section 954(c)(6)(A) is amended by
18 striking the last sentence and inserting the fol-
19 lowing: “The Secretary shall prescribe such reg-
20 ulations as may be necessary or appropriate to
21 carry out this paragraph, including such regula-
22 tions as may be necessary or appropriate to
23 prevent the abuse of the purposes of this para-
24 graph.”

1 (2) EFFECTIVE DATE.—The amendments made
2 by this subsection shall take effect as if included in
3 section 103(b) of the Tax Increase Prevention and
4 Reconciliation Act of 2005.

5 (b) TECHNICAL CORRECTION REGARDING AUTHOR-
6 ITY TO EXERCISE REASONABLE CAUSE AND GOOD FAITH
7 EXCEPTION.—

8 (1) IN GENERAL.—Section 903(d)(2)(B)(iii) of
9 the American Jobs Creation Act of 2004, as amend-
10 ed by section 303(a) of the Gulf Opportunity Zone
11 Act of 2005, is amended by inserting “or the Sec-
12 retary’s delegate” after “the Secretary of the Treas-
13 ury”.

14 (2) EFFECTIVE DATE.—The amendment made
15 by this subsection shall take effect as if included in
16 the provisions of the American Jobs Creation Act of
17 2004 to which it relates.

18 **DIVISION B—MEDICARE AND** 19 **OTHER HEALTH PROVISIONS**

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

21 This division may be cited as the “Medicare Improve-
22 ments and Extension Act of 2006”.

1 **TITLE I—MEDICARE IMPROVED**
2 **QUALITY AND PROVIDER PAY-**
3 **MENTS**

4 **SEC. 101. PHYSICIAN PAYMENT AND QUALITY IMPROVE-**
5 **MENT.**

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

11 “(7) CONVERSION FACTOR FOR 2007.—

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

16 “(i) 1 plus the Secretary’s estimate of
17 the percentage increase in the MEI (as de-
18 fined in section 1842(i)(3)) for 2007 (di-
19 vided by 100); and

20 “(ii) 1 plus the Secretary’s estimate of
21 the update adjustment factor under para-
22 graph (4)(B) for 2007.

23 “(B) NO EFFECT ON COMPUTATION OF
24 CONVERSION FACTOR FOR 2008.—The conver-
25 sion factor under this subsection shall be com-

1 puted under paragraph (1)(A) for 2008 as if
2 subparagraph (A) had never applied.”.

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

6 “(k) QUALITY REPORTING SYSTEM.—

7 “(1) IN GENERAL.—The Secretary shall imple-
8 ment a system for the reporting by eligible profes-
9 sionals of data on quality measures specified under
10 paragraph (2). Such data shall be submitted in a
11 form and manner specified by the Secretary (by pro-
12 gram instruction or otherwise), which may include
13 submission of such data on claims under this part.

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

16 “(A) FOR 2007.—

17 “(i) IN GENERAL.—For purposes of
18 applying this subsection for the reporting
19 of data on quality measures for covered
20 professional services furnished during the
21 period beginning July 1, 2007, and ending
22 December 31, 2007, the quality measures
23 specified under this paragraph are the
24 measures identified as 2007 physician
25 quality measures under the Physician Vol-

1 untary Reporting Program as published on
2 the public website of the Centers for Medi-
3 care & Medicaid Services as of the date of
4 the enactment of this subsection, except as
5 may be changed by the Secretary based on
6 the results of a consensus-based process in
7 January of 2007, if such change is pub-
8 lished on such website by not later than
9 April 1, 2007.

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

22 “(iii) IMPLEMENTATION.—Notwith-
23 standing any other provision of law, the
24 Secretary may implement by program in-

1 instruction or otherwise this subsection for
2 2007.

3 “(B) FOR 2008.—

4 “(i) IN GENERAL.—For purposes of
5 reporting data on quality measures for cov-
6 ered professional services furnished during
7 2008, the quality measures specified under
8 this paragraph for covered professional
9 services shall be measures that have been
10 adopted or endorsed by a consensus orga-
11 nization (such as the National Quality
12 Forum or AQA), that include measures
13 that have been submitted by a physician
14 specialty, and that the Secretary identifies
15 as having used a consensus-based process
16 for developing such measures. Such meas-
17 ures shall include structural measures,
18 such as the use of electronic health records
19 and electronic prescribing technology.

20 “(ii) PROPOSED SET OF MEASURES.—
21 Not later than August 15, 2007, the Sec-
22 retary shall publish in the Federal Register
23 a proposed set of quality measures that the
24 Secretary determines are described in
25 clause (i) and would be appropriate for eli-

1 gible professionals to use to submit data to
2 the Secretary in 2008. The Secretary shall
3 provide for a period of public comment on
4 such set of measures.

5 “(iii) FINAL SET OF MEASURES.—Not
6 later than November 15, 2007, the Sec-
7 retary shall publish in the Federal Register
8 a final set of quality measures that the
9 Secretary determines are described in
10 clause (i) and would be appropriate for eli-
11 gible professionals to use to submit data to
12 the Secretary in 2008.

13 “(3) COVERED PROFESSIONAL SERVICES AND
14 ELIGIBLE PROFESSIONALS DEFINED.—For purposes
15 of this subsection:

16 “(A) COVERED PROFESSIONAL SERV-
17 ICES.—The term ‘covered professional services’
18 means services for which payment is made
19 under, or is based on, the fee schedule estab-
20 lished under this section and which are fur-
21 nished by an eligible professional.

22 “(B) ELIGIBLE PROFESSIONAL.—The term
23 ‘eligible professional’ means any of the fol-
24 lowing:

25 “(i) A physician.

1 “(ii) A practitioner described in sec-
2 tion 1842(b)(18)(C).

3 “(iii) A physical or occupational ther-
4 apist or a qualified speech-language pathol-
5 ogist.

6 “(4) USE OF REGISTRY-BASED REPORTING.—
7 As part of the publication of proposed and final
8 quality measures for 2008 under clauses (ii) and
9 (iii) of paragraph (2)(B), the Secretary shall address
10 a mechanism whereby an eligible professional may
11 provide data on quality measures through an appro-
12 priate medical registry (such as the Society of Tho-
13 racic Surgeons National Database), as identified by
14 the Secretary.

15 “(5) IDENTIFICATION UNITS.—For purposes of
16 applying this subsection, the Secretary may identify
17 eligible professionals through billing units, which
18 may include the use of the Provider Identification
19 Number, the unique physician identification number
20 (described in section 1833(q)(1)), the taxpayer iden-
21 tification number, or the National Provider Identi-
22 fier. For purposes of applying this subsection for
23 2007, the Secretary shall use the taxpayer identifica-
24 tion number as the billing unit.

1 “(6) EDUCATION AND OUTREACH.—The Sec-
2 retary shall provide for education and outreach to el-
3 igible professionals on the operation of this sub-
4 section.

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

12 “(8) IMPLEMENTATION.—The Secretary shall
13 carry out this subsection acting through the Admin-
14 istrator of the Centers for Medicare & Medicaid
15 Services.”.

16 (c) TRANSITIONAL BONUS INCENTIVE PAYMENTS
17 FOR QUALITY REPORTING IN 2007.—

18 (1) IN GENERAL.—With respect to covered pro-
19 fessional services furnished during a reporting period
20 (as defined in paragraph (6)(C)) by an eligible pro-
21 fessional, if—

22 (A) there are any quality measures that
23 have been established under the physician re-
24 porting system that are applicable to any such

1 services furnished by such professional for such
2 period, and

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

8 in addition to the amount otherwise paid under part
9 B of title XVIII of the Social Security Act, subject
10 to paragraph (3), there also shall be paid to the eli-
11 gible professional (or to an employer or facility in
12 the cases described in clause (A) of section
13 1842(b)(6) of the Social Security Act (42 U.S.C.
14 1395u(b)(6))) from the Federal Supplementary
15 Medical Insurance Trust Fund established under
16 section 1841 of such Act (42 U.S.C. 1395t) an
17 amount equal to 1.5 percent of the Secretary's esti-
18 mate (based on claims submitted not later than two
19 months after the end of the reporting period) of the
20 allowed charges under such part for all such covered
21 professional services furnished during the reporting
22 period.

23 (2) SATISFACTORY REPORTING DESCRIBED.—
24 For purposes of paragraph (1), an eligible profes-
25 sional shall be treated as satisfactorily submitting

1 data on quality measures for covered professional
2 services for a reporting period if quality measures
3 have been reported as follows:

4 (A) THREE OR FEWER QUALITY MEASURES
5 APPLICABLE.—If there are no more than 3
6 quality measures that are provided under the
7 physician reporting system and that are appli-
8 cable to such services of such professional fur-
9 nished during the period, each such quality
10 measure has been reported under such system
11 in at least 80 percent of the cases in which
12 such measure is reportable under the system.

13 (B) FOUR OR MORE QUALITY MEASURES
14 APPLICABLE.—If there are 4 or more quality
15 measures that are provided under the physician
16 reporting system and that are applicable to
17 such services of such professional furnished
18 during the period, at least 3 such quality meas-
19 ures have been reported under such system in
20 at least 80 percent of the cases in which the re-
21 spective measure is reportable under the sys-
22 tem.

23 (3) PAYMENT LIMITATION.—

24 (A) IN GENERAL.—In no case shall the
25 total payment made under this subsection to an

1 eligible professional (or to an employer or facil-
2 ity in the cases described in clause (A) of sec-
3 tion 1842(b)(6) of the Social Security Act) ex-
4 ceed the product of—

5 (i) the total number of quality meas-
6 ures for which data are submitted under
7 the physician reporting system for covered
8 professional services of such professional
9 that are furnished during the reporting pe-
10 riod; and

11 (ii) 300 percent of the average per
12 measure payment amount specified in sub-
13 paragraph (B).

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

21 (i) the total of the amount of allowed
22 charges under part B of title XVIII of the
23 Social Security Act for all covered profes-
24 sional services furnished during the report-
25 ing period on claims for which quality

1 measures are reported under the physician
2 reporting system; divided by

3 (ii) the total number of quality meas-
4 ures for which data are reported under
5 such system for covered professional serv-
6 ices furnished during the reporting period.

7 (4) FORM OF PAYMENT.—The payment under
8 this subsection shall be in the form of a single con-
9 solidated payment.

10 (5) APPLICATION.—

11 (A) PHYSICIAN REPORTING SYSTEM
12 RULES.—Paragraphs (5), (6), and (8) of sec-
13 tion 1848(k) of the Social Security Act, as
14 added by subsection (b), shall apply for pur-
15 poses of this subsection in the same manner as
16 they apply for purposes of such section.

17 (B) COORDINATION WITH OTHER BONUS
18 PAYMENTS.—The provisions of this subsection
19 shall not be taken into account in applying sub-
20 sections (m) and (u) of section 1833 of the So-
21 cial Security Act (42 U.S.C. 1395l) and any
22 payment under such subsections shall not be
23 taken into account in computing allowable
24 charges under this subsection.

1 (C) IMPLEMENTATION.—Notwithstanding
2 any other provision of law, the Secretary may
3 implement by program instruction or otherwise
4 this subsection.

5 (D) VALIDATION.—

6 (i) IN GENERAL.—Subject to the suc-
7 ceeding provisions of this subparagraph,
8 for purposes of determining whether a
9 measure is applicable to the covered pro-
10 fessional services of an eligible professional
11 under paragraph (2), the Secretary shall
12 presume that if an eligible professional
13 submits data for a measure, such measure
14 is applicable to such professional.

15 (ii) METHOD.— The Secretary shall
16 validate (by sampling or other means as
17 the Secretary determines to be appro-
18 priate) whether measures applicable to cov-
19 ered professional services of an eligible
20 professional have been reported.

21 (iii) DENIAL OF PAYMENT AUTHOR-
22 ITY.—If the Secretary determines that an
23 eligible professional has not reported meas-
24 ures applicable to covered professional

1 services of such professional, the Secretary
2 shall not pay the bonus incentive payment.

3 (E) LIMITATIONS ON REVIEW.—

4 (i) IN GENERAL.—There shall be no
5 administrative or judicial review under sec-
6 tion 1869 or 1878 of the Social Security
7 Act or otherwise of—

8 (I) the determination of measures
9 applicable to services furnished by eli-
10 gible professionals under this sub-
11 section;

12 (II) the determination of satisfac-
13 tory reporting under paragraph (2);

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

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

20 (ii) TREATMENT OF DETERMINA-
21 TIONS.—A determination under this sub-
22 section shall not be treated as a determina-
23 tion for purposes of section 1869 of the
24 Social Security Act.

1 (6) DEFINITIONS.—For purposes of this sub-
2 section:

3 (A) ELIGIBLE PROFESSIONAL; COVERED
4 PROFESSIONAL SERVICES.—The terms “eligible
5 professional” and “covered professional serv-
6 ices” have the meanings given such terms in
7 section 1848(k)(3) of the Social Security Act,
8 as added by subsection (b).

9 (B) PHYSICIAN REPORTING SYSTEM.—The
10 term “physician reporting system” means the
11 system established under section 1848(k) of the
12 Social Security Act, as added by subsection (b).

13 (C) REPORTING PERIOD.—The term “re-
14 porting period” means the period beginning on
15 July 1, 2007, and ending on December 31,
16 2007.

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

20 (d) PHYSICIAN ASSISTANCE AND QUALITY INITIA-
21 TIVE FUND.—Section 1848 of the Social Security Act, as
22 amended by subsection (b), is further amended by adding
23 at the end the following new subsection:

24 “(1) PHYSICIAN ASSISTANCE AND QUALITY INITIA-
25 TIVE FUND.—

1 “(1) ESTABLISHMENT.—The Secretary shall es-
2 tablish under this subsection a Physician Assistance
3 and Quality Initiative Fund (in this subsection re-
4 ferred to as the ‘Fund’) which shall be available to
5 the Secretary for physician payment and quality im-
6 provement initiatives, which may include application
7 of an adjustment to the update of the conversion
8 factor under subsection (d).

9 “(2) FUNDING.—

10 “(A) AMOUNT AVAILABLE.—There shall be
11 available to the Fund for expenditures an
12 amount equal to \$1,350,000,000.

13 “(B) TIMELY OBLIGATION OF ALL AVAIL-
14 ABLE FUNDS FOR SERVICES FURNISHED DUR-
15 ING 2008.—The Secretary shall provide for ex-
16 penditures from the Fund in a manner designed
17 to provide (to the maximum extent feasible) for
18 the obligation of the entire amount specified in
19 subparagraph (A) for payment with respect to
20 physicians’ services furnished during 2008.

21 “(C) PAYMENT FROM TRUST FUND.—The
22 amount specified in subparagraph (A) shall be
23 available to the Fund, as expenditures are made
24 from the Fund, from the Federal Supple-

1 mentary Medical Insurance Trust Fund under
2 section 1841.

3 “(D) FUNDING LIMITATION.—Amounts in
4 the Fund shall be available in advance of appro-
5 priations in accordance with subparagraph (B)
6 but only if the total amount obligated from the
7 Fund does not exceed the amount available to
8 the Fund under subparagraph (A). The Sec-
9 retary may obligate funds from the Fund only
10 if the Secretary determines (and the Chief Ac-
11 tuary of the Centers for Medicare & Medicaid
12 Services and the appropriate budget officer cer-
13 tify) that there are available in the Fund suffi-
14 cient amounts to cover all such obligations in-
15 curred consistent with the previous sentence.

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

23 (e) IMPLEMENTATION.—For purposes of imple-
24 menting the provisions of, and amendments made by, this
25 section, the Secretary of Health and Human Services shall

1 provide for the transfer, from the Federal Supplementary
2 Medical Insurance Trust Fund established under section
3 1841 of the Social Security Act (42 U.S.C. 1395t), of
4 \$60,000,000 to the Centers for Medicare & Medicaid Serv-
5 ices Program Management Account for the period of fiscal
6 years 2007, 2008, and 2009.

7 **SEC. 102. EXTENSION OF FLOOR ON MEDICARE WORK GEO-**
8 **GRAPHIC ADJUSTMENT.**

9 Section 1848(e)(1)(E) of the Social Security Act (42
10 U.S.C. 1395w-4(e)(1)(E)) is amended by striking “before
11 January 1, 2007” and inserting “before January 1,
12 2008”.

13 **SEC. 103. UPDATE TO THE COMPOSITE RATE COMPONENT**
14 **OF THE BASIC CASE-MIX ADJUSTED PRO-**
15 **SPECTIVE PAYMENT SYSTEM FOR DIALYSIS**
16 **SERVICES.**

17 (a) IN GENERAL.—Section 1881(b)(12)(G) of the So-
18 cial Security Act (42 U.S.C. 1395rr(b)(12)(G)) is amend-
19 ed to read as follows:

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

23 “(i) furnished on or after January 1, 2006, and
24 before April 1, 2007, by 1.6 percent above the

1 amount of such composite rate component for such
2 services furnished on December 31, 2005; and

3 “(ii) furnished on or after April 1, 2007, by 1.6
4 percent above the amount of such composite rate
5 component for such services furnished on March 31,
6 2007.”.

7 (b) GAO REPORT ON HOME DIALYSIS PAYMENT.—
8 Not later than January 1, 2009, the Comptroller General
9 of the United States shall submit to Congress a report
10 on the costs for home hemodialysis treatment and patient
11 training for both home hemodialysis and peritoneal dialy-
12 sis. Such report shall also include recommendations for
13 a payment methodology for payment under section 1881
14 of the Social Security Act (42 U.S.C. 1395rr) that meas-
15 ures, and is based on, the costs of providing such services
16 and takes into account the case mix of patients.

17 **SEC. 104. EXTENSION OF TREATMENT OF CERTAIN PHYSI-**
18 **CIAN PATHOLOGY SERVICES UNDER MEDI-**
19 **CARE.**

20 Section 542(c) of the Medicare, Medicaid, and
21 SCHIP Benefits Improvement and Protection Act of 2000
22 (as enacted into law by section 1(a)(6) of Public Law 106–
23 554), as amended by section 732 of the Medicare Prescrip-
24 tion Drug, Improvement, and Modernization Act of 2003

1 (Public Law 108–173), is amended by striking “and
2 2006” and inserting “, 2006, and 2007”.

3 **SEC. 105. EXTENSION OF MEDICARE REASONABLE COSTS**
4 **PAYMENTS FOR CERTAIN CLINICAL DIAG-**
5 **NOSTIC LABORATORY TESTS FURNISHED TO**
6 **HOSPITAL PATIENTS IN CERTAIN RURAL**
7 **AREAS.**

8 Effective as if included in the enactment of section
9 416 of the Medicare Prescription Drug, Improvement, and
10 Modernization Act of 2003 (42 U.S.C. 1395l–4), sub-
11 section (b) of such section is amended by striking “2-year
12 period” and inserting “3-year period”.

13 **SEC. 106. HOSPITAL MEDICARE REPORTS AND CLARIFICA-**
14 **TIONS.**

15 (a) CORRECTION OF MID-YEAR RECLASSIFICATION
16 EXPIRATION.—Notwithstanding any other provision of
17 law, in the case of a subsection (d) hospital (as defined
18 for purposes of section 1886 of the Social Security Act
19 (42 U.S.C. 1395ww)) with respect to which a reclassifica-
20 tion of its wage index for purposes of such section would
21 (but for this subsection) expire on March 31, 2007, such
22 reclassification of such hospital shall be extended through
23 September 30, 2007. The previous sentence shall not be
24 effected in a budget-neutral manner.

1 (b) REVISION OF THE MEDICARE WAGE INDEX
2 CLASSIFICATION SYSTEM.—

3 (1) MEDPAC REPORT.—

4 (A) IN GENERAL.—The Medicare Payment
5 Advisory Commission shall submit to Congress,
6 by not later than June 30, 2007, a report on
7 its study of the wage index classification system
8 applied under Medicare prospective payment
9 systems, including under section 1886(d)(3)(E)
10 of the Social Security Act (42 U.S.C.
11 1395ww(d)(3)(E)). Such report shall include
12 any alternatives the Commission recommends to
13 the method to compute the wage index under
14 such section.

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

20 (2) PROPOSAL TO REVISE THE HOSPITAL WAGE
21 INDEX CLASSIFICATION SYSTEM.— The Secretary of
22 Health and Human Services, taking into account the
23 recommendations described in the report under
24 paragraph (1), shall include in the proposed rule
25 published under section 1886(e)(5)(A) of the Social

1 Security Act (42 U.S.C. 1395ww(e)(5)(A)) for fiscal
2 year 2009 one or more proposals to revise the wage
3 index adjustment applied under section
4 1886(d)(3)(E) of such Act (42 U.S.C.
5 1395ww(d)(3)(E)) for purposes of the Medicare pro-
6 spective payment system for inpatient hospital serv-
7 ices. Such proposal (or proposals) shall consider
8 each of the following:

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

12 (B) The modification or elimination of geo-
13 graphic reclassifications and other adjustments.

14 (C) The use of Bureau of Labor Statistics
15 data, or other data or methodologies, to cal-
16 culate relative wages for each geographic area
17 involved.

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

21 (E) The feasibility of applying all compo-
22 nents of the proposal to other settings, includ-
23 ing home health agencies and skilled nursing
24 facilities.

1 (F) Methods to minimize the volatility of
2 wage index adjustments, while maintaining the
3 principle of budget neutrality in applying such
4 adjustments.

5 (G) The effect that the implementation of
6 the proposal would have on health care pro-
7 viders and on each region of the country.

8 (H) Methods for implementing the pro-
9 posal, including methods to phase-in such im-
10 plementation.

11 (I) Issues relating to occupational mix,
12 such as staffing practices and any evidence on
13 the effect on quality of care and patient safety
14 and any recommendations for alternative cal-
15 culations.

16 (c) ELIMINATION OF UNNECESSARY REPORT.—Sec-
17 tion 1886 of the Social Security Act (42 U.S.C. 1395ww)
18 is amended—

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

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

22 **SEC. 107. PAYMENT FOR BRACHYTHERAPY.**

23 (a) EXTENSION OF PAYMENT RULE.—Section
24 1833(t)(16)(C) of the Social Security Act (42 U.S.C.

1 1395l(t)(16)(C)) is amended by striking “January 1,
2 2007” and inserting “January 1, 2008”.

3 (b) ESTABLISHMENT OF SEPARATE PAYMENT
4 GROUPS.—

5 (1) IN GENERAL.—Section 1833(t)(2)(H) of
6 such Act (42 U.S.C. 1395l(t)(2)(H)) is amended by
7 inserting “and for stranded and non-stranded de-
8 vices furnished on or after July 1, 2007” before the
9 period at the end.

10 (2) IMPLEMENTATION.—The Secretary of
11 Health and Human Services may implement the
12 amendment made by paragraph (1) by program in-
13 struction or otherwise.

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

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

18 (1) in subparagraph (A)(iii), by striking “and
19 biologicals” and all that follows and inserting “and
20 biologicals shall be made only to such contractor
21 upon receipt of a claim for a drug or biological sup-
22 plied by the contractor for administration to a bene-
23 ficiary.”; and

24 (2) by adding at the end the following new sub-
25 paragraph:

1 “(D) POST-PAYMENT REVIEW PROCESS.—
2 The Secretary shall establish (by program in-
3 struction or otherwise) a post-payment review
4 process (which may include the use of statistical
5 sampling) to assure that payment is made for
6 a drug or biological under this section only if
7 the drug or biological has been administered to
8 a beneficiary. The Secretary shall recoup, off-
9 set, or collect any overpayments determined by
10 the Secretary under such process.”.

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

13 (1) requiring the conduct of any additional
14 competition under subsection (b)(1) of section
15 1847B of the Social Security Act (42 U.S.C. 1395w-
16 3b); or

17 (2) requiring any additional process for elec-
18 tions by physicians under subsection (a)(1)(A)(ii) of
19 such section or additional selection by a selecting
20 physician of a contractor under subsection (a)(5) of
21 such section.

22 (c) EFFECTIVE DATE.—The amendments made by
23 subsection (a) shall apply to payment for drugs and
24 biologicals supplied under section 1847B of the Social Se-
25 curity Act (42 U.S.C. 1395w-3b)—

1 (1) on or after April 1, 2007; and

2 (2) on or after July 1, 2006, and before April
3 1, 2007, for claims that are unpaid as of April 1,
4 2007.

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

8 (a) **OUTPATIENT HOSPITAL SERVICES.—**

9 (1) **IN GENERAL.—**Section 1833(t) of the Social
10 Security Act (42 U.S.C. 1395l(t)) is amended—

11 (A) in paragraph (3)(C)(iv), by inserting
12 “subject to paragraph (17),” after “For pur-
13 poses of this subparagraph,”; and

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

16 “(17) **QUALITY REPORTING.—**

17 “(A) **REDUCTION IN UPDATE FOR FAILURE**
18 **TO REPORT.—**

19 “(i) **IN GENERAL.—**For purposes of
20 paragraph (3)(C)(iv) for 2009 and each
21 subsequent year, in the case of a sub-
22 section (d) hospital (as defined in section
23 1886(d)(1)(B)) that does not submit, to
24 the Secretary in accordance with this para-
25 graph, data required to be submitted on

1 measures selected under this paragraph
2 with respect to such a year, the OPD fee
3 schedule increase factor under paragraph
4 (3)(C)(iv) for such year shall be reduced
5 by 2.0 percentage points.

6 “(ii) NON-CUMULATIVE APPLICA-
7 TION.—A reduction under this subpara-
8 graph shall apply only with respect to the
9 year involved and the Secretary shall not
10 take into account such reduction in com-
11 puting the OPD fee schedule increase fac-
12 tor for a subsequent year.

13 “(B) FORM AND MANNER OF SUBMIS-
14 SION.—Each subsection (d) hospital shall sub-
15 mit data on measures selected under this para-
16 graph to the Secretary in a form and manner,
17 and at a time, specified by the Secretary for
18 purposes of this paragraph.

19 “(C) DEVELOPMENT OF OUTPATIENT
20 MEASURES.—

21 “(i) IN GENERAL.—The Secretary
22 shall develop measures that the Secretary
23 determines to be appropriate for the meas-
24 urement of the quality of care (including
25 medication errors) furnished by hospitals

1 in outpatient settings and that reflect con-
2 sensus among affected parties and, to the
3 extent feasible and practicable, shall in-
4 clude measures set forth by one or more
5 national consensus building entities.

6 “(ii) CONSTRUCTION.—Nothing in
7 this paragraph shall be construed as pre-
8 venting the Secretary from selecting meas-
9 ures that are the same as (or a subset of)
10 the measures for which data are required
11 to be submitted under section
12 1886(b)(3)(B)(viii).

13 “(D) REPLACEMENT OF MEASURES.—For
14 purposes of this paragraph, the Secretary may
15 replace any measures or indicators in appro-
16 priate cases, such as where all hospitals are ef-
17 fectively in compliance or the measures or indi-
18 cators have been subsequently shown not to
19 represent the best clinical practice.

20 “(E) AVAILABILITY OF DATA.—The Sec-
21 retary shall establish procedures for making
22 data submitted under this paragraph available
23 to the public. Such procedures shall ensure that
24 a hospital has the opportunity to review the
25 data that are to be made public with respect to

1 the hospital prior to such data being made pub-
2 lic. The Secretary shall report quality measures
3 of process, structure, outcome, patients' per-
4 spectives on care, efficiency, and costs of care
5 that relate to services furnished in outpatient
6 settings in hospitals on the Internet website of
7 the Centers for Medicare & Medicaid Services.”.

8 (2) CONFORMING AMENDMENT.—Section
9 1886(b)(3)(B)(viii)(III) of such Act (42 U.S.C.
10 1395ww(b)(3)(B)(viii)(III)) is amended by inserting
11 “(including medication errors)” after “quality of
12 care”.

13 (b) APPLICATION TO AMBULATORY SURGICAL CEN-
14 TERS.—Section 1833(i) of such Act (42 U.S.C. 1935l(i))
15 is amended—

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

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

23 (2) by adding at the end the following new
24 paragraph:

1 “(7)(A) For purposes of paragraph (2)(D)(iv), the
2 Secretary may provide, in the case of an ambulatory sur-
3 gical center that does not submit, to the Secretary in ac-
4 cordance with this paragraph, data required to be sub-
5 mitted on measures selected under this paragraph with re-
6 spect to a year, any annual increase provided under the
7 system established under paragraph (2)(D) for such year
8 shall be reduced by 2.0 percentage points. A reduction
9 under this subparagraph shall apply only with respect to
10 the year involved and the Secretary shall not take into
11 account such reduction in computing any annual increase
12 factor for a subsequent year.

13 “(B) Except as the Secretary may otherwise provide,
14 the provisions of subparagraphs (B), (C), (D), and (E)
15 of paragraph (17) of section 1833(t) shall apply with re-
16 spect to services of ambulatory surgical centers under this
17 paragraph in a similar manner to the manner in which
18 they apply under such paragraph and, for purposes of this
19 subparagraph, any reference to a hospital, outpatient set-
20 ting, or outpatient hospital services is deemed a reference
21 to an ambulatory surgical center, the setting of such a
22 center, or services of such a center, respectively.”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply to payment for services furnished
25 on or after January 1, 2009.

1 **SEC. 110. REPORTING OF ANEMIA QUALITY INDICATORS**
2 **FOR MEDICARE PART B CANCER ANTI-ANE-**
3 **MIA DRUGS.**

4 (a) IN GENERAL.—Section 1842 of the Social Secu-
5 rity Act (42 U.S.C. 1395u) is amended by adding at the
6 end the following new subsection:

7 “(u) Each request for payment, or bill submitted, for
8 a drug furnished to an individual for the treatment of ane-
9 mia in connection with the treatment of cancer shall in-
10 clude (in a form and manner specified by the Secretary)
11 information on the hemoglobin or hematocrit levels for the
12 individual.”.

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

21 **SEC. 111. CLARIFICATION OF HOSPICE SATELLITE DES-**
22 **IGNATION.**

23 Notwithstanding any other provision of law, for pur-
24 poses of calculating the hospice aggregate payment cap for
25 2004, 2005, and 2006 for a hospice program under sec-
26 tion 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.

5 **TITLE II—MEDICARE**
6 **BENEFICIARY PROTECTIONS**

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

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

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

15 (a) **TRANSITION FOR 2007.**—Notwithstanding any
16 other provision of law, in the case of a vaccine that is a
17 covered part D drug under section 1860D-2(e) of the So-
18 cial Security Act (42 U.S.C. 1395w-102(e)) and that is
19 administered during 2007, the administration of such vac-
20 cine shall be paid under part B of title XVIII of such Act
21 as if it were the administration of a vaccine described in
22 section 1861(s)(10)(B) of such Act (42 U.S.C.
23 1395w(s)(10)(B)).

24 (b) **ADMINISTRATION INCLUDED IN COVERAGE OF**
25 **COVERED PART D DRUGS BEGINNING IN 2008.**—Section

1 1860D-2(e)(1) of the Social Security Act (42 U.S.C.
2 1395w-102(e)(1)) is amended, in the matter following sub-
3 paragraph (B), by inserting “(and, for vaccines adminis-
4 tered on or after January 1, 2008, its administration)”
5 after “Public Health Service Act”.

6 **SEC. 203. OIG STUDY OF NEVER EVENTS.**

7 (a) STUDY.—

8 (1) IN GENERAL.—The Inspector General in
9 the Department of Health and Human Services shall
10 conduct a study on—

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

14 (B) the extent to which the Medicare pro-
15 gram paid, denied payment, or recouped pay-
16 ment for services furnished in connection with
17 such events and the extent to which bene-
18 ficiaries paid for such services; and

19 (C) the administrative processes of the
20 Centers for Medicare & Medicaid Services to de-
21 tect such events and to deny or recoup pay-
22 ments for services furnished in connection with
23 such an event.

24 (2) CONDUCT OF STUDY.—In conducting the
25 study under paragraph (1), the Inspector General—

1 (A) shall audit a representative sample of
2 claims and medical records of Medicare bene-
3 ficiaries to identify never events and any pay-
4 ment (or recoupment) for services furnished in
5 connection with such events;

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

8 (C) shall not release individually identifi-
9 able information or facility-specific information.

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

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

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

24 (A) will ensure protection of patient pri-
25 vacy; and

1 (B) will permit the use of the disclosed in-
2 formation for a root cause analysis to inform
3 the public and the medical community about
4 safety issues involved.

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

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

14 **SEC. 204. MEDICARE MEDICAL HOME DEMONSTRATION**
15 **PROJECT.**

16 (a) IN GENERAL.—The Secretary of Health and
17 Human Services (in this section referred to as the “Sec-
18 retary”) shall establish under title XVIII of the Social Se-
19 curity Act a medical home demonstration project (in this
20 section referred to as the “project”) to redesign the health
21 care delivery system to provide targeted, accessible, con-
22 tinuous and coordinated, family-centered care to high-need
23 populations and under which—

24 (1) care management fees are paid to persons
25 performing services as personal physicians; and

1 (2) incentive payments are paid to physicians
2 participating in practices that provide services as a
3 medical home under subsection (d).

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

8 (b) DETAILS.—

9 (1) DURATION; SCOPE.—The project shall oper-
10 ate during a period of three years and shall include
11 urban, rural, and underserved areas in a total of no
12 more than 8 States.

13 (2) ENCOURAGING PARTICIPATION OF SMALL
14 PHYSICIAN PRACTICES.—The project shall be de-
15 signed to include the participation of physicians in
16 practices with fewer than three full-time equivalent
17 physicians, as well as physicians in larger practices
18 particularly in rural and underserved areas.

19 (c) PERSONAL PHYSICIAN DEFINED.—

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

24 (A) meets the requirements described in
25 paragraph (2); and

1 (B) performs the services described in
2 paragraph (3).

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

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

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

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

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

22 (A) Advocates for and provides ongoing
23 support, oversight, and guidance to implement
24 a plan of care that provides an integrated, co-
25 herent, cross-discipline plan for ongoing medical

1 care developed in partnership with patients and
2 including all other physicians furnishing care to
3 the patient involved and other appropriate med-
4 ical personnel or agencies (such as home health
5 agencies).

6 (B) Uses evidence-based medicine and clin-
7 ical decision support tools to guide decision-
8 making at the point-of-care based on patient-
9 specific factors.

10 (C) Uses health information technology,
11 that may include remote monitoring and patient
12 registries, to monitor and track the health sta-
13 tus of patients and to provide patients with en-
14 hanced and convenient access to health care
15 services.

16 (D) Encourages patients to engage in the
17 management of their own health through edu-
18 cation and support systems.

19 (d) MEDICAL HOME DEFINED.—For purposes of this
20 section, the term “medical home” means a physician prac-
21 tice that—

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

24 (2) is responsible for—

1 (A) providing safe and secure technology
2 to promote patient access to personal health in-
3 formation;

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

6 (C) providing training programs for per-
7 sonnel involved in the coordination of care.

8 (e) PAYMENT MECHANISMS.—

9 (1) PERSONAL PHYSICIAN CARE MANAGEMENT
10 FEE.—Under the project, the Secretary shall provide
11 for payment under section 1848 of the Social Secu-
12 rity Act (42 U.S.C. 1395w-4) of a care management
13 fee to personal physicians providing care manage-
14 ment under the project. Under such section and
15 using the relative value scale update committee
16 (RUC) process under such section, the Secretary
17 shall develop a care management fee code for such
18 payments and a value for such code.

19 (2) MEDICAL HOME SHARING IN SAVINGS.—The
20 Secretary shall provide for payment under the
21 project of a medical home based on the payment
22 methodology applied to physician group practices
23 under section 1866A of the Social Security Act (42
24 U.S.C. 1395cc-1). Under such methodology, 80 per-
25 cent of the reductions in expenditures under title

1 XVIII of the Social Security Act resulting from par-
2 ticipation of individuals that are attributable to the
3 medical home (as reduced by the total care manage-
4 ments fees paid to the medical home under the
5 project) shall be paid to the medical home. The
6 amount of such reductions in expenditures shall be
7 determined by using assumptions with respect to re-
8 ductions in the occurrence of health complications,
9 hospitalization rates, medical errors, and adverse
10 drug reactions.

11 (3) SOURCE.—Payments paid under the project
12 shall be made from the Federal Supplementary Med-
13 ical Insurance Trust Fund under section 1841 of the
14 Social Security Act (42 U.S.C. 1395t).

15 (f) EVALUATIONS AND REPORTS.—

16 (1) ANNUAL INTERIM EVALUATIONS AND RE-
17 PORTS.—For each year of the project, the Secretary
18 shall provide for an evaluation of the project and
19 shall submit to Congress, by a date specified by the
20 Secretary, a report on the project and on the evalua-
21 tion of the project for each such year.

22 (2) FINAL EVALUATION AND REPORT.—The
23 Secretary shall provide for an evaluation of the
24 project and shall submit to Congress, not later than

1 one year after completion of the project, a report on
2 the project and on the evaluation of the project.

3 **SEC. 205. MEDICARE DRA TECHNICAL CORRECTIONS.**

4 (a) PACE CLARIFICATION.—Paragraph (7) of sec-
5 tion 5302(c) of the Deficit Reduction Act of 2005 (42
6 U.S.C. 1395eee note) is amended to read as follows:

7 “(7) APPROPRIATION.—

8 “(A) IN GENERAL.—Out of funds in the
9 Treasury not otherwise appropriated, there are
10 appropriated to the Secretary \$10,000,000 to
11 carry out this subsection for the period of fiscal
12 years 2006 through 2010.

13 “(B) AVAILABILITY.—Funds appropriated
14 under subparagraph (A) shall remain available
15 for obligation through fiscal year 2010.”.

16 (b) MISCELLANEOUS TECHNICAL CORRECTIONS.—

17 (1) CORRECTION OF MARGIN (SECTION 5001).—
18 Section 1886(b)(3)(B) of the Social Security Act (42
19 U.S.C. 1395ww(b)(3)(B)), as amended by section
20 5001(a) of the Deficit Reduction Act of 2005 (Pub-
21 lic Law 109–171), is amended by moving clause
22 (viii) (including subclauses (I) through (VII) of such
23 clause) 6 ems to the left.

24 (2) REFERENCE CORRECTION (SECTION 5114).—
25 Section 5114(a)(2) of the Deficit Reduction Act of

1 2005 (Public Law 109–171), in the matter pre-
2 ceding subparagraph (A), is amended by striking
3 “1842(b)(6)(F) of such Act (42 U.S.C.
4 1395u(b)(6)(F))” and inserting “1842(b)(6) of such
5 Act (42 U.S.C. 1395u(b)(6))”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 this section shall take effect as if included in the enact-
8 ment of the Deficit Reduction Act of 2005 (Public Law
9 109–171).

10 **TITLE III—MEDICARE PROGRAM**
11 **INTEGRITY EFFORTS**

12 **SEC. 301. OFFSETTING ADJUSTMENT IN MEDICARE ADVAN-**
13 **TAGE STABILIZATION FUND.**

14 Section 1858(e)(2)(A)(i) of the Social Security Act
15 (42 U.S.C. 1395w-27a(e)(2)(A)(i)) is amended by striking
16 “2007,” and “\$10,000,000,000” and inserting “2012,”
17 and “\$3,500,000,000”, respectively.

18 **SEC. 302. EXTENSION AND EXPANSION OF RECOVERY**
19 **AUDIT CONTRACTOR PROGRAM UNDER THE**
20 **MEDICARE INTEGRITY PROGRAM.**

21 (a) IN GENERAL.—Section 1893 of the Social Secu-
22 rity Act (42 U.S.C. 1395ddd) is amended by adding at
23 the end the following new subsection:

24 “(h) USE OF RECOVERY AUDIT CONTRACTORS.—

1 “(1) IN GENERAL.—Under the Program, the
2 Secretary shall enter into contracts with recovery
3 audit contractors in accordance with this subsection
4 for the purpose of identifying underpayments and
5 overpayments and recouping overpayments under
6 this title with respect to all services for which pay-
7 ment is made under part A or B. Under the con-
8 tracts—

9 “(A) payment shall be made to such a con-
10 tractor only from amounts recovered;

11 “(B) from such amounts recovered, pay-
12 ment—

13 “(i) shall be made on a contingent
14 basis for collecting overpayments; and

15 “(ii) may be made in such amounts as
16 the Secretary may specify for identifying
17 underpayments; and

18 “(C) the Secretary shall retain a portion of
19 the amounts recovered which shall be available
20 to the program management account of the
21 Centers for Medicare & Medicaid Services for
22 purposes of activities conducted under the re-
23 covery audit program under this subsection.

24 “(2) DISPOSITION OF REMAINING RECOV-
25 ERIES.—The amounts recovered under such con-

1 tracts that are not paid to the contractor under
2 paragraph (1) or retained by the Secretary under
3 paragraph (1)(C) shall be applied to reduce expendi-
4 tures under parts A and B.

5 “(3) NATIONWIDE COVERAGE.—The Secretary
6 shall enter into contracts under paragraph (1) in a
7 manner so as to provide for activities in all States
8 under such a contract by not later than January 1,
9 2010.

10 “(4) AUDIT AND RECOVERY PERIODS.—Each
11 such contract shall provide that audit and recovery
12 activities may be conducted during a fiscal year with
13 respect to payments made under part A or B—

14 “(A) during such fiscal year; and

15 “(B) retrospectively (for a period of not
16 more than 4 fiscal years prior to such fiscal
17 year).

18 “(5) WAIVER.—The Secretary shall waive such
19 provisions of this title as may be necessary to pro-
20 vide for payment of recovery audit contractors under
21 this subsection in accordance with paragraph (1).

22 “(6) QUALIFICATIONS OF CONTRACTORS.—

23 “(A) IN GENERAL.—The Secretary may
24 not enter into a contract under paragraph (1)
25 with a recovery audit contractor unless the con-

1 tractor has staff that has the appropriate clin-
2 ical knowledge of, and experience with, the pay-
3 ment rules and regulations under this title or
4 the contractor has, or will contract with, an-
5 other entity that has such knowledgeable and
6 experienced staff.

7 “(B) INELIGIBILITY OF CERTAIN CON-
8 TRACTORS.—The Secretary may not enter into
9 a contract under paragraph (1) with a recovery
10 audit contractor to the extent the contractor is
11 a fiscal intermediary under section 1816, a car-
12 rier under section 1842, or a medicare adminis-
13 trative contractor under section 1874A.

14 “(C) PREFERENCE FOR ENTITIES WITH
15 DEMONSTRATED PROFICIENCY.—In awarding
16 contracts to recovery audit contractors under
17 paragraph (1), the Secretary shall give pref-
18 erence to those risk entities that the Secretary
19 determines have demonstrated more than 3
20 years direct management experience and a pro-
21 ficiency for cost control or recovery audits with
22 private insurers, health care providers, health
23 plans, under the Medicaid program under title
24 XIX, or under this title.

1 “(7) CONSTRUCTION RELATING TO CONDUCT
2 OF INVESTIGATION OF FRAUD.—A recovery of an
3 overpayment to a individual or entity by a recovery
4 audit contractor under this subsection shall not be
5 construed to prohibit the Secretary or the Attorney
6 General from investigating and prosecuting, if ap-
7 propriate, allegations of fraud or abuse arising from
8 such overpayment.

9 “(8) ANNUAL REPORT.—The Secretary shall
10 annually submit to Congress a report on the use of
11 recovery audit contractors under this subsection.
12 Each such report shall include information on the
13 performance of such contractors in identifying un-
14 derpayments and overpayments and recouping over-
15 payments, including an evaluation of the compara-
16 tive performance of such contractors and savings to
17 the program under this title.”.

18 (b) ACCESS TO COORDINATION OF BENEFITS CON-
19 TRACTOR DATABASE.—The Secretary of Health and
20 Human Services shall provide for access by recovery audit
21 contractors conducting audit and recovery activities under
22 section 1893(h) of the Social Security Act, as added by
23 subsection (a), to the database of the Coordination of Ben-
24 efits Contractor of the Centers for Medicare & Medicaid

1 Services with respect to the audit and recovery periods de-
2 scribed in paragraph (4) of such section 1893(h).

3 (c) CONFORMING AMENDMENTS TO CURRENT DEM-
4 ONSTRATION PROJECT.—Section 306 of the Medicare
5 Prescription Drug, Improvement, and Modernization Act
6 of 2003 (Public Law 108–173; 117 Stat. 2256) is amend-
7 ed—

8 (1) in subsection (b)(2), by striking “last for
9 not longer than 3 years” and inserting “continue
10 until contracts are entered into under section
11 1893(h) of the Social Security Act”; and

12 (2) by striking subsection (f).

13 **SEC. 303. FUNDING FOR THE HEALTH CARE FRAUD AND**
14 **ABUSE CONTROL ACCOUNT.**

15 (a) DEPARTMENTS OF HEALTH AND HUMAN SERV-
16 ICES AND JUSTICE.—

17 (1) IN GENERAL.—Section 1817(k)(3)(A)(i) of
18 the Social Security Act (42 U.S.C.
19 1395i(k)(3)(A)(i)) is amended—

20 (A) in the matter preceding subclause (I),
21 by inserting “until expended” after “without
22 further appropriation”;

23 (B) in subclause (II), by striking “and” at
24 the end;

25 (C) in subclause (III)—

1 (i) by striking “for each fiscal year
2 after fiscal year 2003” and inserting “for
3 each of fiscal years 2004, 2005, and
4 2006”; and

5 (ii) by striking the period at the end
6 and inserting a semicolon; and

7 (D) by adding at the end the following new
8 subclauses:

9 “(IV) for each of fiscal years
10 2007, 2008, 2009, and 2010, the limit
11 under this clause for the preceding
12 fiscal year, increased by the percent-
13 age increase in the consumer price
14 index for all urban consumers (all
15 items; United States city average)
16 over the previous year; and

17 “(V) for each fiscal year after fis-
18 cal year 2010, the limit under this
19 clause for fiscal year 2010.”.

20 (2) OFFICE OF THE INSPECTOR GENERAL OF
21 THE DEPARTMENT OF HEALTH AND HUMAN SERV-
22 ICES.—Section 1817(k)(3)(A)(ii) of such Act (42
23 U.S.C. 1395i(k)(3)(A)(ii)) is amended—

24 (A) in subclause (VI), by striking “and” at
25 the end;

1 (B) in subclause (VII)—

2 (i) by striking “for each fiscal year
3 after fiscal year 2002” and inserting “for
4 each of fiscal years 2003, 2004, 2005, and
5 2006”; and

6 (ii) by striking the period at the end
7 and inserting a semicolon; and

8 (C) by adding at the end the following new
9 subclauses:

10 “(VIII) for fiscal year 2007, not
11 less than \$160,000,000, increased by
12 the percentage increase in the con-
13 sumer price index for all urban con-
14 sumers (all items; United States city
15 average) over the previous year;

16 “(IX) for each of fiscal years
17 2008, 2009, and 2010, not less than
18 the amount required under this clause
19 for the preceding fiscal year, increased
20 by the percentage increase in the con-
21 sumer price index for all urban con-
22 sumers (all items; United States city
23 average) over the previous year; and

24 “(X) for each fiscal year after
25 fiscal year 2010, not less than the

1 amount required under this clause for
2 fiscal year 2010.”.

3 (b) FEDERAL BUREAU OF INVESTIGATION.—Section
4 1817(k)(3)(B) of the Social Security Act (42 U.S.C.
5 1395i(k)(3)(B)) is amended—

6 (1) in the matter preceding clause (i), by insert-
7 ing “until expended” after “without further appro-
8 priation”;

9 (2) in clause (vi), by striking “and” at the end;

10 (3) in clause (vii)—

11 (A) by striking “for each fiscal year after
12 fiscal year 2002” and inserting “for each of fis-
13 cal years 2003, 2004, 2005, and 2006”; and

14 (B) by striking the period at the end and
15 inserting a semicolon; and

16 (4) by adding at the end the following new
17 clauses:

18 “(viii) for each of fiscal years 2007,
19 2008, 2009, and 2010, the amount to be
20 appropriated under this subparagraph for
21 the preceding fiscal year, increased by the
22 percentage increase in the consumer price
23 index for all urban consumers (all items;
24 United States city average) over the pre-
25 vious year; and

1 “(ix) for each fiscal year after fiscal
2 year 2010, the amount to be appropriated
3 under this subparagraph for fiscal year
4 2010.”.

5 **SEC. 304. IMPLEMENTATION FUNDING.**

6 For purposes of implementing the provisions of, and
7 amendments made by, this title and titles I and II of this
8 division, other than section 203, the Secretary of Health
9 and Human Services shall provide for the transfer, in ap-
10 propriate part from the Federal Hospital Insurance Trust
11 Fund established under section 1817 of the Social Secu-
12 rity Act (42 U.S.C. 1395i) and the Federal Supple-
13 mentary Medical Insurance Trust Fund established under
14 section 1841 of such Act (42 U.S.C. 1395t), of
15 \$45,000,000 to the Centers for Medicare & Medicaid Serv-
16 ices Program Management Account for the period of fiscal
17 years 2007 and 2008.

18 **TITLE IV—MEDICAID AND**
19 **OTHER HEALTH PROVISIONS**

20 **SEC. 401. EXTENSION OF TRANSITIONAL MEDICAL ASSIST-**
21 **ANCE (TMA) AND ABSTINENCE EDUCATION**
22 **PROGRAM.**

23 Activities authorized by sections 510 and 1925 of the
24 Social Security Act shall continue through June 30, 2007,
25 in the manner authorized for fiscal year 2006, notwith-

1 standing section 1902(e)(1)(A) of such Act, and out of
2 any money in the Treasury of the United States not other-
3 wise appropriated, there are hereby appropriated such
4 sums as may be necessary for such purpose. Grants and
5 payments may be made pursuant to this authority through
6 the third quarter of fiscal year 2007 at the level provided
7 for such activities through the third quarter of fiscal year
8 2006.

9 **SEC. 402. GRANTS FOR RESEARCH ON VACCINE AGAINST**
10 **VALLEY FEVER.**

11 (a) IN GENERAL.—In supporting research on the de-
12 velopment of vaccines against human diseases, the Sec-
13 retary of Health and Human Services shall make grants
14 for the purpose of conducting research toward the develop-
15 ment of a vaccine against coccidioidomycosis (commonly
16 known as Valley Fever).

17 (b) SUNSET.—No grant may be made under sub-
18 section (a) on or after October 1, 2012. The preceding
19 sentence does not have any legal effect on payments under
20 grants for which amounts appropriated under subsection
21 (c) were obligated prior to such date.

22 (c) AUTHORIZATION OF APPROPRIATIONS.—For the
23 purpose of making grants under subsection (a), there are
24 authorized to be appropriated \$40,000,000 for the period
25 of fiscal years 2007 through 2012.

1 **SEC. 403. CHANGE IN THRESHOLD FOR MEDICAID INDI-**
2 **RECT HOLD HARMLESS PROVISION OF**
3 **BROAD-BASED HEALTH CARE TAXES.**

4 Section 1903(w)(4)(C) of the Social Security Act (42
5 U.S.C. 1396b(w)(4)(C)) is amended—

6 (1) by inserting “(i)” after “(C)”; and

7 (2) by adding at the end the following:

8 “(ii) For purposes of clause (i), a determination
9 of the existence of an indirect guarantee shall be
10 made under paragraph (3)(i) of section 433.68(f) of
11 title 42, Code of Federal Regulations, as in effect on
12 November 1, 2006, except that for portions of fiscal
13 years beginning on or after January 1, 2008, and
14 before October 1, 2011, ‘5.5 percent’ shall be sub-
15 stituted for ‘6 percent’ each place it appears.”.

16 **SEC. 404. DSH ALLOTMENTS FOR FISCAL YEAR 2007 FOR**
17 **TENNESSEE AND HAWAII.**

18 Section 1923(f)(6) of the Social Security Act (42
19 U.S.C. 1396r-4(f)(6)) is amended to read as follows:

20 “(6) ALLOTMENT ADJUSTMENTS FOR FISCAL
21 YEAR 2007.—

22 “(A) TENNESSEE.—

23 “(i) IN GENERAL.—Only with respect
24 to fiscal year 2007, the DSH allotment for
25 Tennessee for such fiscal year, notwith-
26 standing the table set forth in paragraph

1 (2) or the terms of the TennCare Dem-
2 onstration Project in effect for the State,
3 shall be the greater of—

4 “(I) the amount that the Sec-
5 retary determines is equal to the Fed-
6 eral medical assistance percentage
7 component attributable to dispropor-
8 tionate share hospital payment adjust-
9 ments for the demonstration year end-
10 ing in 2006 that is reflected in the
11 budget neutrality provision of the
12 TennCare Demonstration Project; and

13 “(II) \$280,000,000.

14 “(ii) LIMITATION ON AMOUNT OF PAY-
15 MENT ADJUSTMENTS ELIGIBLE FOR FED-
16 ERAL FINANCIAL PARTICIPATION.—Pay-
17 ment under section 1903(a) shall not be
18 made to Tennessee with respect to the ag-
19 gregate amount of any payment adjust-
20 ments made under this section for hos-
21 pitals in the State for fiscal year 2007 that
22 is in excess of 30 percent of the DSH al-
23 lotment for the State for such fiscal year
24 determined pursuant to clause (i).

1 “(iii) STATE PLAN AMENDMENT.—
2 The Secretary shall permit Tennessee to
3 submit an amendment to its State plan
4 under this title that describes the method-
5 ology to be used by the State to identify
6 and make payments to disproportionate
7 share hospitals, including children’s hos-
8 pitals and institutions for mental diseases
9 or other mental health facilities. The Sec-
10 retary may not approve such plan amend-
11 ment unless the methodology described in
12 the amendment is consistent with the re-
13 quirements under this section for making
14 payment adjustments to disproportionate
15 share hospitals. For purposes of dem-
16 onstrating budget neutrality under the
17 TennCare Demonstration Project, payment
18 adjustments made pursuant to a State
19 plan amendment approved in accordance
20 with this subparagraph shall be considered
21 expenditures under such project.

22 “(iv) OFFSET OF FEDERAL SHARE OF
23 PAYMENT ADJUSTMENTS FOR FISCAL YEAR
24 2007 AGAINST ESSENTIAL ACCESS HOS-
25 PITAL SUPPLEMENTAL POOL PAYMENTS

1 UNDER THE TENNCARE DEMONSTRATION
2 PROJECT.—

3 “(I) The total amount of Essen-
4 tial Access Hospital supplemental pool
5 payments that may be made under
6 the TennCare Demonstration Project
7 for fiscal year 2007 shall be reduced
8 on a dollar for dollar basis by the
9 amount of any payments made under
10 section 1903(a) to Tennessee with re-
11 spect to payment adjustments made
12 under this section for hospitals in the
13 State for such fiscal year.

14 “(II) The sum of the total
15 amount of payments made under sec-
16 tion 1903(a) to Tennessee with re-
17 spect to payment adjustments made
18 under this section for hospitals in the
19 State for fiscal year 2007 and the
20 total amount of Essential Access Hos-
21 pital supplemental pool payments
22 made under the TennCare Dem-
23 onstration Project for such fiscal year
24 shall not exceed the State’s DSH al-

1 allotment for such fiscal year estab-
2 lished under clause (i).

3 “(B) HAWAII.—

4 “(i) IN GENERAL.—Only with respect
5 to fiscal year 2007, the DSH allotment for
6 Hawaii for such fiscal year, notwith-
7 standing the table set forth in paragraph
8 (2), shall be \$10,000,000.

9 “(ii) STATE PLAN AMENDMENT.—The
10 Secretary shall permit Hawaii to submit an
11 amendment to its State plan under this
12 title that describes the methodology to be
13 used by the State to identify and make
14 payments to disproportionate share hos-
15 pitals, including children’s hospitals and
16 institutions for mental diseases or other
17 mental health facilities. The Secretary may
18 not approve such plan amendment unless
19 the methodology described in the amend-
20 ment is consistent with the requirements
21 under this section for making payment ad-
22 justments to disproportionate share hos-
23 pitals.”.

1 **SEC. 405. CERTAIN MEDICAID DRA TECHNICAL CORREC-**
2 **TIONS.**

3 (a) TECHNICAL CORRECTIONS RELATING TO STATE
4 OPTION FOR ALTERNATIVE PREMIUMS AND COST SHAR-
5 ING (SECTIONS 6041 THROUGH 6043).—

6 (1) CLARIFICATION OF CONTINUED APPLICA-
7 TION OF REGULAR COST SHARING RULES FOR INDI-
8 VIDUALS WITH FAMILY INCOME NOT EXCEEDING 100
9 PERCENT OF THE POVERTY LINE.—Section 1916A
10 of the Social Security Act, as inserted by section
11 6041(a) of the Deficit Reduction Act of 2005 and
12 amended by sections 6042 and 6043 of such Act, is
13 amended—

14 (A) in subsection (a)(1)—

15 (i) by inserting “but subject to para-
16 graph (2),” after “1902(a)(10)(B),”; and

17 (ii) by inserting “and non-emergency
18 services furnished in a hospital emergency
19 department for which cost sharing may be
20 imposed under subsection (e)” after “(e)”;

21 (B) by redesignating paragraph (2) of sub-
22 section (a) as paragraph (3);

23 (C) in subsection (a), by inserting after
24 paragraph (1) the following:

1 “(2) EXEMPTION FOR INDIVIDUALS WITH FAM-
2 ILY INCOME NOT EXCEEDING 100 PERCENT OF THE
3 POVERTY LINE.—

4 “(A) IN GENERAL.—Paragraph (1) and
5 subsection (d) shall not apply, and sections
6 1916 and 1902(a)(10)(B) shall continue to
7 apply, in the case of an individual whose family
8 income does not exceed 100 percent of the pov-
9 erty line applicable to a family of the size in-
10 volved.

11 “(B) LIMIT ON AGGREGATE COST SHAR-
12 ING.—To the extent cost sharing under sub-
13 section (c) and (e) or under section 1916 is im-
14 posed against individuals described in subpara-
15 graph (A), the limitation under subsection
16 (b)(1)(B)(ii) on the total aggregate amount of
17 cost sharing shall apply to such cost sharing for
18 all individuals in a family described in subpara-
19 graph (A) in the same manner as such limita-
20 tions apply to cost sharing and families de-
21 scribed in subsection (b)(1)(B)(ii).”;

22 (D) in subsections (c)(2)(C) and (e)(2)(C),
23 by inserting “under subsection (a)(2)(B) or”
24 after “cap on cost sharing applied”; and

1 (E) in subsection (e)(2)(A), by inserting
2 “who is not described in subparagraph (B)”
3 after “subsection (b)(1)”.

4 (2) CLARIFICATION OF TREATMENT OF NON-
5 PREFERRED DRUG AND NON-EMERGENCY COST-
6 SHARING.—Such section is further amended—

7 (A) in subsections (b)(1) and (b)(2), by
8 striking “, subject to subsections (e)(2) and
9 (e)(2)(A)”;

10 (B) in subsection (e)(1), in the matter pre-
11 ceding subparagraph (A), by striking “least (or
12 less) costly effective” and inserting “most (or
13 more) cost effective”;

14 (C) in subsection (e)(1)(B), by striking
15 “otherwise be imposed under” and inserting
16 “be imposed under subsection (a) due to the
17 application of”;

18 (D) in subsection (e)(2)(B), by striking
19 “otherwise not subject to cost sharing due to
20 the application of subsection (b)(3)(B)” and in-
21 serting “not subject to cost sharing under sub-
22 section (a) due to the application of paragraph
23 (1)(B)”;

24 (E) in subsection (e)(2)(A)—

1 (i) by amending the heading to read
2 as follows: “INDIVIDUALS WITH FAMILY IN-
3 COME BETWEEN 100 AND 150 PERCENT OF
4 THE POVERTY LINE.—”; and

5 (ii) by striking “under subsection
6 (b)(1)” and inserting “under subsection
7 (b)(1)(B)(ii)”;

8 (F) in subsection (e)(2)(B), by striking
9 “who is otherwise not subject to cost sharing
10 under subsection (b)(3)” and inserting “de-
11 scribed in subsection (a)(2)(A) or who is not
12 subject to cost sharing under subsection
13 (b)(3)(B) with respect to non-emergency serv-
14 ices described in paragraph (1)” and

15 (G) in subsection (e)(2)(C), by inserting
16 “or section 1916” after “subsection (a)”.

17 (3) CLARIFICATION OF COST SHARING RULES
18 APPLICABLE TO DISABLED CHILDREN PROVIDED
19 MEDICAL ASSISTANCE UNDER THE ELIGIBILITY CAT-
20 EGORY ADDED BY THE FAMILY OPPORTUNITY
21 ACT.—Such section is further amended—

22 (A) in subsection (a)(1), in the second sen-
23 tence, by striking “section 1916(g)” and insert-
24 ing “subsection (g) or (i) of section 1916”; and

25 (B) in subsection (b)(3)—

1 (i) in subparagraph (A), by adding at
2 the end the following:

3 “(vi) Disabled children who are receiv-
4 ing medical assistance by virtue of the ap-
5 plication of sections
6 1902(a)(10)(A)(ii)(XIX) and 1902(cc).”;
7 and

8 (ii) in subparagraph (B), by adding at
9 the end the following:

10 “(ix) Services furnished to disabled
11 children who are receiving medical assist-
12 ance by virtue of the application of sec-
13 tions 1902(a)(10)(A)(ii)(XIX) and
14 1902(cc).”.

15 (4) CORRECTION OF IV–B REFERENCES.—Such
16 section is further amended in subsection (b)(3)—

17 (A) in subparagraph (A)(i), by striking
18 “aid or assistance is made available under part
19 B of title IV to children in foster care” and in-
20 sserting “child welfare services are made avail-
21 able under part B of title IV on the basis of
22 being a child in foster care”; and

23 (B) in subparagraph (B)(i), by striking
24 “aid or assistance is made available under part
25 B of title IV to children in foster care” and in-

1 serting “child welfare services are made avail-
2 able under part B of title IV on the basis of
3 being a child in foster care or”.

4 (5) NON-EMERGENCY SERVICES.—Section
5 1916A(e)(4)(A) of the Social Security Act, as added
6 by section 6043(a) of the Deficit Reduction Act of
7 2005, is amended by striking “the physician deter-
8 mines”.

9 (6) EFFECTIVE DATE.—The amendments made
10 by this subsection shall take effect as if included in
11 the amendments made by sections 6041(a) of the
12 Deficit Reduction Act of 2005, except that insofar
13 as such amendments are to, or relate to, subsection
14 (c) or (e) of section 1916A of the Social Security
15 Act, such amendments shall take effect as if in-
16 cluded in the amendments made by section 6042 or
17 6043, respectively, of the Deficit Reduction Act of
18 2005.

19 (b) CLARIFYING TREATMENT OF CERTAIN ANNU-
20 ITIES (SECTION 6012).—

21 (1) IN GENERAL.—Section 1917(c)(1)(F)(i) of
22 the Social Security Act (42 U.S.C.
23 1396p(c)(1)(F)(i)), as added by section 6012(b) of
24 the Deficit Reduction Act of 2005, is amended by

1 striking “annuitant” and inserting “institutionalized
2 individual”.

3 (2) EFFECTIVE DATE.—The amendment made
4 by paragraph (1) shall be effective as if included in
5 the enactment of section 6012 of the Deficit Reduc-
6 tion Act of 2005.

7 (c) ADDITIONAL MISCELLANEOUS TECHNICAL COR-
8 RECTIONS.—

9 (1) DOCUMENTATION (SECTION 6036).—

10 (A) IN GENERAL.—Effective as if included
11 in the amendment made by section 6036(a)(2)
12 of the Deficit Reduction Act of 2005, section
13 1903(x) of the Social Security Act (42 U.S.C.
14 1396b(x)), as inserted by such section
15 6036(a)(2), is amended—

16 (i) in paragraph (1), by striking
17 “(i)(23)” and inserting “(i)(22)”;

18 (ii) in paragraph (2)—

19 (I) in the matter preceding sub-
20 paragraph (A), by striking “alien”
21 and inserting “individual declaring to
22 be a citizen or national of the United
23 States”;

24 (II) by striking subparagraph (B)
25 and inserting the following:

1 “(B) and is receiving—

2 “(i) disability insurance benefits
3 under section 223 or monthly insurance
4 benefits under section 202 based on such
5 individual’s disability (as defined in section
6 223(d)); or

7 “(ii) supplemental security income
8 benefits under title XVI;”;

9 (III) in subparagraph (C)—

10 (aa) by striking “other”;

11 and

12 (bb) by striking “had” and
13 inserting “has”;

14 (IV) by redesignating subpara-
15 graph (C) as subparagraph (D); and

16 (V) by inserting after subpara-
17 graph (B) the following new subpara-
18 graph:

19 “(C) and with respect to whom—

20 “(i) child welfare services are made
21 available under part B of title IV on the
22 basis of being a child in foster care; or

23 “(ii) adoption or foster care assistance
24 is made available under part E of title IV;
25 or”; and

1 (iii) in paragraph (3)(C)(iii), by strik-
2 ing “I-97” and inserting “I-197”.

3 (B) ASSURANCE OF STATE FOSTER CARE
4 AGENCY VERIFICATION OF CITIZENSHIP OR
5 LEGAL STATUS.—

6 (i) STATE PLAN AMENDMENT.—Sec-
7 tion 471(a) of the Social Security Act (42
8 U.S.C. 671(a)) is amended—

9 (I) in paragraph (25), by striking
10 “and” at the end;

11 (II) in paragraph (26)(C), by
12 striking the period at the end and in-
13 sserting “; and”; and

14 (III) by adding at the end the
15 following:

16 “(27) provides that, with respect to any child in
17 foster care under the responsibility of the State
18 under this part or part B and without regard to
19 whether foster care maintenance payments are made
20 under section 472 on behalf of the child, the State
21 has in effect procedures for verifying the citizenship
22 or immigration status of the child.”.

23 (ii) INCLUSION IN REVIEWS OF CHILD
24 AND FAMILY SERVICES PROGRAMS.—Sec-
25 tion 1123A(b)(2) of the Social Security

1 Act (42 U.S.C. 1320a-2a(b)(2)) is amend-
2 ed by inserting “(which shall include deter-
3 mining whether the State program is in
4 conformity with the requirement of section
5 471(a)(27))” after “review”.

6 (iii) EFFECTIVE DATE.—The amend-
7 ments made by this subparagraph shall
8 take effect on the date that is 6 months
9 after the date of the enactment of this Act.

10 (2) MISCELLANEOUS TECHNICAL CORREC-
11 TIONS.—

12 (A) Effective as if included in the enact-
13 ment of the Deficit Reduction Act of 2005
14 (Public Law 109–171), the following sections of
15 such Act are amended as follows:

16 (i) Section 5114(a)(2) is amended by
17 striking “section 1842(b)(6)(F) of such
18 Act (42 U.S.C. 1395u(b)(6)(F))” and in-
19 serting “section 1842(b)(6) of such Act
20 (42 U.S.C. 1395u(b)(6))”.

21 (ii) Section 6003(b)(2) is amended, by
22 striking “subsection (k)” and inserting
23 “subsection (k)(1)”.

24 (iii) Sections 6031(b), 6032(b), and
25 6035(c) are each amended by striking

1 “section 6035(e)” and inserting “section
2 6034(e)”.

3 (iv) Section 6034(b) is amended by
4 striking “section 6033(a)” and inserting
5 “section 6032(a)”.

6 (v) Section 6036 is amended—

7 (I) in subsection (b), by striking
8 “section 1903(z)” and inserting “sec-
9 tion 1903(x)”; and

10 (II) in subsection (c), by striking
11 “(i)(23)” and inserting “(i)(22)”.

12 (B) Effective as if included in the amend-
13 ment made by section 6015(a)(1) of the Deficit
14 Reduction Act of 2005, section
15 1919(c)(5)(A)(i)(II) of the Social Security Act
16 (42 U.S.C. 1396r(c)(5)(A)(i)(II)) is amended
17 by striking “clause (v)” and inserting “subpara-
18 graph (B)(v)”.

19 **DIVISION C—OTHER**
20 **PROVISIONS**
21 **TITLE I—GULF OF MEXICO**
22 **ENERGY SECURITY**

23 **SEC. 101. SHORT TITLE.**

24 This title may be cited as the “Gulf of Mexico Energy
25 Security Act of 2006”.

1 **SEC. 102. DEFINITIONS.**

2 In this title:

3 (1) 181 AREA.—The term “181 Area” means
4 the area identified in map 15, page 58, of the Pro-
5 posed Final Outer Continental Shelf Oil and Gas
6 Leasing Program for 1997–2002, dated August
7 1996, of the Minerals Management Service, available
8 in the Office of the Director of the Minerals Man-
9 agement Service, excluding the area offered in OCS
10 Lease Sale 181, held on December 5, 2001.

11 (2) 181 SOUTH AREA.—The term “181 South
12 Area” means any area—

13 (A) located—

14 (i) south of the 181 Area;

15 (ii) west of the Military Mission Line;

16 and

17 (iii) in the Central Planning Area;

18 (B) excluded from the Proposed Final
19 Outer Continental Shelf Oil and Gas Leasing
20 Program for 1997–2002, dated August 1996, of
21 the Minerals Management Service; and

22 (C) included in the areas considered for oil
23 and gas leasing, as identified in map 8, page 37
24 of the document entitled “Draft Proposed Pro-
25 gram Outer Continental Shelf Oil and Gas

1 Leasing Program 2007–2012”, dated February
2 2006.

3 (3) BONUS OR ROYALTY CREDIT.—The term
4 “bonus or royalty credit” means a legal instrument
5 or other written documentation, or an entry in an
6 account managed by the Secretary, that may be used
7 in lieu of any other monetary payment for—

8 (A) a bonus bid for a lease on the outer
9 Continental Shelf; or

10 (B) a royalty due on oil or gas production
11 from any lease located on the outer Continental
12 Shelf.

13 (4) CENTRAL PLANNING AREA.—The term
14 “Central Planning Area” means the Central Gulf of
15 Mexico Planning Area of the outer Continental
16 Shelf, as designated in the document entitled “Draft
17 Proposed Program Outer Continental Shelf Oil and
18 Gas Leasing Program 2007–2012”, dated February
19 2006.

20 (5) EASTERN PLANNING AREA.—The term
21 “Eastern Planning Area” means the Eastern Gulf of
22 Mexico Planning Area of the outer Continental
23 Shelf, as designated in the document entitled “Draft
24 Proposed Program Outer Continental Shelf Oil and

1 Gas Leasing Program 2007–2012”, dated February
2 2006.

3 (6) 2002–2007 PLANNING AREA.—The term
4 “2002–2007 planning area” means any area—

5 (A) located in—

6 (i) the Eastern Planning Area, as des-
7 ignated in the Proposed Final Outer Conti-
8 nental Shelf Oil and Gas Leasing Program
9 2002–2007, dated April 2002, of the Min-
10 erals Management Service;

11 (ii) the Central Planning Area, as des-
12 ignated in the Proposed Final Outer Conti-
13 nental Shelf Oil and Gas Leasing Program
14 2002–2007, dated April 2002, of the Min-
15 erals Management Service; or

16 (iii) the Western Planning Area, as
17 designated in the Proposed Final Outer
18 Continental Shelf Oil and Gas Leasing
19 Program 2002–2007, dated April 2002, of
20 the Minerals Management Service; and

21 (B) not located in—

22 (i) an area in which no funds may be
23 expended to conduct offshore preleasing,
24 leasing, and related activities under sec-
25 tions 104 through 106 of the Department

1 of the Interior, Environment, and Related
2 Agencies Appropriations Act, 2006 (Public
3 Law 109–54; 119 Stat. 521) (as in effect
4 on August 2, 2005);

5 (ii) an area withdrawn from leasing
6 under the “Memorandum on Withdrawal
7 of Certain Areas of the United States
8 Outer Continental Shelf from Leasing Dis-
9 position”, from 34 Weekly Comp. Pres.
10 Doc. 1111, dated June 12, 1998; or

11 (iii) the 181 Area or 181 South Area.

12 (7) GULF PRODUCING STATE.—The term “Gulf
13 producing State” means each of the States of Ala-
14 bama, Louisiana, Mississippi, and Texas.

15 (8) MILITARY MISSION LINE.—The term “Mili-
16 tary Mission Line” means the north-south line at
17 86°41′ W. longitude.

18 (9) QUALIFIED OUTER CONTINENTAL SHELF
19 REVENUES.—

20 (A) IN GENERAL.—The term “qualified
21 outer Continental Shelf revenues” means—

22 (i) in the case of each of fiscal years
23 2007 through 2016, all rentals, royalties,
24 bonus bids, and other sums due and pay-
25 able to the United States from leases en-

1 tered into on or after the date of enact-
2 ment of this Act for—

3 (I) areas in the 181 Area located
4 in the Eastern Planning Area; and

5 (II) the 181 South Area; and

6 (ii) in the case of fiscal year 2017 and
7 each fiscal year thereafter, all rentals, roy-
8 alties, bonus bids, and other sums due and
9 payable to the United States received on or
10 after October 1, 2016, from leases entered
11 into on or after the date of enactment of
12 this Act for—

13 (I) the 181 Area;

14 (II) the 181 South Area; and

15 (III) the 2002–2007 planning
16 area.

17 (B) EXCLUSIONS.—The term “qualified
18 outer Continental Shelf revenues” does not in-
19 clude—

20 (i) revenues from the forfeiture of a
21 bond or other surety securing obligations
22 other than royalties, civil penalties, or roy-
23 alties taken by the Secretary in-kind and
24 not sold; or

1 (ii) revenues generated from leases
2 subject to section 8(g) of the Outer Conti-
3 nental Shelf Lands Act (43 U.S.C.
4 1337(g)).

5 (10) COASTAL POLITICAL SUBDIVISION.—The
6 term “coastal political subdivision” means a political
7 subdivision of a Gulf producing State any part of
8 which political subdivision is—

9 (A) within the coastal zone (as defined in
10 section 304 of the Coastal Zone Management
11 Act of 1972 (16 U.S.C. 1453)) of the Gulf pro-
12 ducing State as of the date of enactment of this
13 Act; and

14 (B) not more than 200 nautical miles from
15 the geographic center of any leased tract.

16 (11) SECRETARY.—The term “Secretary”
17 means the Secretary of the Interior.

18 **SEC. 103. OFFSHORE OIL AND GAS LEASING IN 181 AREA**

19 **AND 181 SOUTH AREA OF GULF OF MEXICO.**

20 (a) 181 AREA LEASE SALE.—Except as provided in
21 section 104, the Secretary shall offer the 181 Area for
22 oil and gas leasing pursuant to the Outer Continental
23 Shelf Lands Act (43 U.S.C. 1331 et seq.) as soon as prac-
24 ticable, but not later than 1 year, after the date of enact-
25 ment of this Act.

1 (b) 181 SOUTH AREA LEASE SALE.—The Secretary
2 shall offer the 181 South Area for oil and gas leasing pur-
3 suant to the Outer Continental Shelf Lands Act (43
4 U.S.C. 1331 et seq.) as soon as practicable after the date
5 of enactment of this Act.

6 (c) LEASING PROGRAM.—The 181 Area and 181
7 South Area shall be offered for lease under this section
8 notwithstanding the omission of the 181 Area or the 181
9 South Area from any outer Continental Shelf leasing pro-
10 gram under section 18 of the Outer Continental Shelf
11 Lands Act (43 U.S.C. 1344).

12 (d) CONFORMING AMENDMENT.—Section 105 of the
13 Department of the Interior, Environment, and Related
14 Agencies Appropriations Act, 2006 (Public Law 109–54;
15 119 Stat. 522) is amended by inserting “(other than the
16 181 South Area (as defined in section 102 of the Gulf
17 of Mexico Energy Security Act of 2006))” after “lands
18 located outside Sale 181”.

19 **SEC. 104. MORATORIUM ON OIL AND GAS LEASING IN CER-**
20 **TAIN AREAS OF GULF OF MEXICO.**

21 (a) IN GENERAL.—Effective during the period begin-
22 ning on the date of enactment of this Act and ending on
23 June 30, 2022, the Secretary shall not offer for leasing,
24 preleasing, or any related activity—

1 (1) any area east of the Military Mission Line
2 in the Gulf of Mexico;

3 (2) any area in the Eastern Planning Area that
4 is within 125 miles of the coastline of the State of
5 Florida; or

6 (3) any area in the Central Planning Area that
7 is—

8 (A) within—

9 (i) the 181 Area; and

10 (ii) 100 miles of the coastline of the
11 State of Florida; or

12 (B)(i) outside the 181 Area;

13 (ii) east of the western edge of the Pensa-
14 cola Official Protraction Diagram (UTM X co-
15 ordinate 1,393,920 (NAD 27 feet)); and

16 (iii) within 100 miles of the coastline of
17 the State of Florida.

18 (b) **MILITARY MISSION LINE.**—Notwithstanding sub-
19 section (a), the United States reserves the right to des-
20 ignate by and through the Secretary of Defense, with the
21 approval of the President, national defense areas on the
22 outer Continental Shelf pursuant to section 12(d) of the
23 Outer Continental Shelf Lands Act (43 U.S.C. 1341(d)).

24 (c) **EXCHANGE OF CERTAIN LEASES.**—

1 (1) IN GENERAL.—The Secretary shall permit
2 any person that, as of the date of enactment of this
3 Act, has entered into an oil or gas lease with the
4 Secretary in any area described in paragraph (2) or
5 (3) of subsection (a) to exchange the lease for a
6 bonus or royalty credit that may only be used in the
7 Gulf of Mexico.

8 (2) VALUATION OF EXISTING LEASE.—The
9 amount of the bonus or royalty credit for a lease to
10 be exchanged shall be equal to—

11 (A) the amount of the bonus bid; and

12 (B) any rental paid for the lease as of the
13 date the lessee notifies the Secretary of the de-
14 cision to exchange the lease.

15 (3) REVENUE DISTRIBUTION.—No bonus or
16 royalty credit may be used under this subsection in
17 lieu of any payment due under, or to acquire any in-
18 terest in, a lease subject to the revenue distribution
19 provisions of section 8(g) of the Outer Continental
20 Shelf Lands Act (43 U.S.C. 1337(g)).

21 (4) REGULATIONS.—Not later than 1 year after
22 the date of enactment of this Act, the Secretary
23 shall promulgate regulations that shall provide a
24 process for—

1 (A) notification to the Secretary of a deci-
2 sion to exchange an eligible lease;

3 (B) issuance of bonus or royalty credits in
4 exchange for relinquishment of the existing
5 lease;

6 (C) transfer of the bonus or royalty credit
7 to any other person; and

8 (D) determining the proper allocation of
9 bonus or royalty credits to each lease interest
10 owner.

11 **SEC. 105. DISPOSITION OF QUALIFIED OUTER CONTI-**
12 **NENTAL SHELF REVENUES FROM 181 AREA,**
13 **181 SOUTH AREA, AND 2002–2007 PLANNING**
14 **AREAS OF GULF OF MEXICO.**

15 (a) IN GENERAL.—Notwithstanding section 9 of the
16 Outer Continental Shelf Lands Act (43 U.S.C. 1338) and
17 subject to the other provisions of this section, for each ap-
18 plicable fiscal year, the Secretary of the Treasury shall
19 deposit—

20 (1) 50 percent of qualified outer Continental
21 Shelf revenues in the general fund of the Treasury;
22 and

23 (2) 50 percent of qualified outer Continental
24 Shelf revenues in a special account in the Treasury
25 from which the Secretary shall disburse—

1 (A) 75 percent to Gulf producing States in
2 accordance with subsection (b); and

3 (B) 25 percent to provide financial assist-
4 ance to States in accordance with section 6 of
5 the Land and Water Conservation Fund Act of
6 1965 (16 U.S.C. 4601–8), which shall be consid-
7 ered income to the Land and Water Conserva-
8 tion Fund for purposes of section 2 of that Act
9 (16 U.S.C. 4601–5).

10 (b) ALLOCATION AMONG GULF PRODUCING STATES
11 AND COASTAL POLITICAL SUBDIVISIONS.—

12 (1) ALLOCATION AMONG GULF PRODUCING
13 STATES FOR FISCAL YEARS 2007 THROUGH 2016.—

14 (A) IN GENERAL.—Subject to subpara-
15 graph (B), effective for each of fiscal years
16 2007 through 2016, the amount made available
17 under subsection (a)(2)(A) shall be allocated to
18 each Gulf producing State in amounts (based
19 on a formula established by the Secretary by
20 regulation) that are inversely proportional to
21 the respective distances between the point on
22 the coastline of each Gulf producing State that
23 is closest to the geographic center of the appli-
24 cable leased tract and the geographic center of
25 the leased tract.

1 (B) MINIMUM ALLOCATION.—The amount
2 allocated to a Gulf producing State each fiscal
3 year under subparagraph (A) shall be at least
4 10 percent of the amounts available under sub-
5 section (a)(2)(A).

6 (2) ALLOCATION AMONG GULF PRODUCING
7 STATES FOR FISCAL YEAR 2017 AND THEREAFTER.—

8 (A) IN GENERAL.—Subject to subpara-
9 graphs (B) and (C), effective for fiscal year
10 2017 and each fiscal year thereafter—

11 (i) the amount made available under
12 subsection (a)(2)(A) from any lease en-
13 tered into within the 181 Area or the 181
14 South Area shall be allocated to each Gulf
15 producing State in amounts (based on a
16 formula established by the Secretary by
17 regulation) that are inversely proportional
18 to the respective distances between the
19 point on the coastline of each Gulf pro-
20 ducing State that is closest to the geo-
21 graphic center of the applicable leased
22 tract and the geographic center of the
23 leased tract; and

24 (ii) the amount made available under
25 subsection (a)(2)(A) from any lease en-

1 tered into within the 2002–2007 planning
2 area shall be allocated to each Gulf pro-
3 ducing State in amounts that are inversely
4 proportional to the respective distances be-
5 tween the point on the coastline of each
6 Gulf producing State that is closest to the
7 geographic center of each historical lease
8 site and the geographic center of the his-
9 torical lease site, as determined by the Sec-
10 retary.

11 (B) MINIMUM ALLOCATION.—The amount
12 allocated to a Gulf producing State each fiscal
13 year under subparagraph (A) shall be at least
14 10 percent of the amounts available under sub-
15 section (a)(2)(A).

16 (C) HISTORICAL LEASE SITES.—

17 (i) IN GENERAL.—Subject to clause
18 (ii), for purposes of subparagraph (A)(ii),
19 the historical lease sites in the 2002–2007
20 planning area shall include all leases en-
21 tered into by the Secretary for an area in
22 the Gulf of Mexico during the period be-
23 ginning on October 1, 1982 (or an earlier
24 date if practicable, as determined by the

1 Secretary), and ending on December 31,
2 2015.

3 (ii) ADJUSTMENT.—Effective January
4 1, 2022, and every 5 years thereafter, the
5 ending date described in clause (i) shall be
6 extended for an additional 5 calendar
7 years.

8 (3) PAYMENTS TO COASTAL POLITICAL SUB-
9 DIVISIONS.—

10 (A) IN GENERAL.—The Secretary shall pay
11 20 percent of the allocable share of each Gulf
12 producing State, as determined under para-
13 graphs (1) and (2), to the coastal political sub-
14 divisions of the Gulf producing State.

15 (B) ALLOCATION.—The amount paid by
16 the Secretary to coastal political subdivisions
17 shall be allocated to each coastal political sub-
18 division in accordance with subparagraphs (B),
19 (C), and (E) of section 31(b)(4) of the Outer
20 Continental Shelf Lands Act (43 U.S.C.
21 1356a(b)(4)).

22 (c) TIMING.—The amounts required to be deposited
23 under paragraph (2) of subsection (a) for the applicable
24 fiscal year shall be made available in accordance with that

1 paragraph during the fiscal year immediately following the
2 applicable fiscal year.

3 (d) AUTHORIZED USES.—

4 (1) IN GENERAL.—Subject to paragraph (2),
5 each Gulf producing State and coastal political sub-
6 division shall use all amounts received under sub-
7 section (b) in accordance with all applicable Federal
8 and State laws, only for 1 or more of the following
9 purposes:

10 (A) Projects and activities for the purposes
11 of coastal protection, including conservation,
12 coastal restoration, hurricane protection, and
13 infrastructure directly affected by coastal wet-
14 land losses.

15 (B) Mitigation of damage to fish, wildlife,
16 or natural resources.

17 (C) Implementation of a federally-approved
18 marine, coastal, or comprehensive conservation
19 management plan.

20 (D) Mitigation of the impact of outer Con-
21 tinental Shelf activities through the funding of
22 onshore infrastructure projects.

23 (E) Planning assistance and the adminis-
24 trative costs of complying with this section.

1 (2) LIMITATION.—Not more than 3 percent of
2 amounts received by a Gulf producing State or
3 coastal political subdivision under subsection (b)
4 may be used for the purposes described in paragraph
5 (1)(E).

6 (e) ADMINISTRATION.—Amounts made available
7 under subsection (a)(2) shall—

8 (1) be made available, without further appro-
9 priation, in accordance with this section;

10 (2) remain available until expended; and

11 (3) be in addition to any amounts appropriated
12 under—

13 (A) the Outer Continental Shelf Lands Act
14 (43 U.S.C. 1331 et seq.);

15 (B) the Land and Water Conservation
16 Fund Act of 1965 (16 U.S.C. 460l–4 et seq.);
17 or

18 (C) any other provision of law.

19 (f) LIMITATIONS ON AMOUNT OF DISTRIBUTED
20 QUALIFIED OUTER CONTINENTAL SHELF REVENUES.—

21 (1) IN GENERAL.—Subject to paragraph (2),
22 the total amount of qualified outer Continental Shelf
23 revenues made available under subsection (a)(2)
24 shall not exceed \$500,000,000 for each of fiscal
25 years 2016 through 2055.

1 (2) EXPENDITURES.—For the purpose of para-
2 graph (1), for each of fiscal years 2016 through
3 2055, expenditures under subsection (a)(2) shall be
4 net of receipts from that fiscal year from any area
5 in the 181 Area in the Eastern Planning Area and
6 the 181 South Area.

7 (3) PRO RATA REDUCTIONS.—If paragraph (1)
8 limits the amount of qualified outer Continental
9 Shelf revenue that would be paid under subpara-
10 graphs (A) and (B) of subsection (a)(2)—

11 (A) the Secretary shall reduce the amount
12 of qualified outer Continental Shelf revenue
13 provided to each recipient on a pro rata basis;
14 and

15 (B) any remainder of the qualified outer
16 Continental Shelf revenues shall revert to the
17 general fund of the Treasury.

18 **TITLE II—SURFACE MINING**
19 **CONTROL AND RECLAMATION**
20 **ACT AMENDMENTS OF 2006**

21 **SEC. 200. SHORT TITLE.**

22 This title may be cited as the “Surface Mining Con-
23 trol and Reclamation Act Amendments of 2006”.

1 **Subtitle A—Mining Control and**
2 **Reclamation**

3 **SEC. 201. ABANDONED MINE RECLAMATION FUND AND**
4 **PURPOSES.**

5 (a) IN GENERAL.—Section 401 of the Surface Min-
6 ing Control and Reclamation Act of 1977 (30 U.S.C.
7 1231) is amended—

8 (1) in subsection (c)—

9 (A) by striking paragraphs (2) and (6);
10 and

11 (B) by redesignating paragraphs (3), (4),
12 and (5) and paragraphs (7) through (13) as
13 paragraphs (2) through (11), respectively;

14 (2) by striking subsection (d) and inserting the
15 following:

16 “(d) AVAILABILITY OF MONEYS; NO FISCAL YEAR
17 LIMITATION.—

18 “(1) IN GENERAL.—Moneys from the fund for
19 expenditures under subparagraphs (A) through (D)
20 of section 402(g)(3) shall be available only when ap-
21 propriated for those subparagraphs.

22 “(2) NO FISCAL YEAR LIMITATION.—Appropria-
23 tions described in paragraph (1) shall be made with-
24 out fiscal year limitation.

1 “(3) OTHER PURPOSES.—Moneys from the
2 fund shall be available for all other purposes of this
3 title without prior appropriation as provided in sub-
4 section (f).”;

5 (3) in subsection (e)—

6 (A) in the second sentence, by striking
7 “the needs of such fund” and inserting “achiev-
8 ing the purposes of the transfers under section
9 402(h)”; and

10 (B) in the third sentence, by inserting be-
11 fore the period the following: “for the purpose
12 of the transfers under section 402(h)”; and

13 (4) by adding at the end the following:

14 “(f) GENERAL LIMITATION ON OBLIGATION AU-
15 THORITY.—

16 “(1) IN GENERAL.—From amounts deposited
17 into the fund under subsection (b), the Secretary
18 shall distribute during each fiscal year beginning
19 after September 30, 2007, an amount determined
20 under paragraph (2).

21 “(2) AMOUNTS.—

22 “(A) FOR FISCAL YEARS 2008 THROUGH
23 2022.—For each of fiscal years 2008 through
24 2022, the amount distributed by the Secretary
25 under this subsection shall be equal to—

1 “(i) the amounts deposited into the
2 fund under paragraphs (1), (2), and (4) of
3 subsection (b) for the preceding fiscal year
4 that were allocated under paragraphs (1)
5 and (5) of section 402(g); plus

6 “(ii) the amount needed for the ad-
7 justment under section 402(g)(8) for the
8 current fiscal year.

9 “(B) FISCAL YEARS 2023 AND THERE-
10 AFTER.—For fiscal year 2023 and each fiscal
11 year thereafter, to the extent that funds are
12 available, the Secretary shall distribute an
13 amount equal to the amount distributed under
14 subparagraph (A) during fiscal year 2022.

15 “(3) DISTRIBUTION.—

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), for each fiscal year, of the
18 amount to be distributed to States and Indian
19 tribes pursuant to paragraph (2), the Secretary
20 shall distribute—

21 “(i) the amounts allocated under
22 paragraph (1) of section 402(g), the
23 amounts allocated under paragraph (5) of
24 section 402(g), and any amount reallocated
25 under section 411(h)(3) in accordance with

1 section 411(h)(2), for grants to States and
2 Indian tribes under section 402(g)(5); and

3 “(ii) the amounts allocated under sec-
4 tion 402(g)(8).

5 “(B) EXCLUSION.—Beginning on October
6 1, 2007, certified States shall be ineligible to
7 receive amounts under section 402(g)(1).

8 “(4) AVAILABILITY.—Amounts in the fund
9 available to the Secretary for obligation under this
10 subsection shall be available until expended.

11 “(5) ADDITION.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), the amount distributed under this
14 subsection for each fiscal year shall be in addi-
15 tion to the amount appropriated from the fund
16 during the fiscal year.

17 “(B) EXCEPTIONS.—Notwithstanding
18 paragraph (3), the amount distributed under
19 this subsection for the first 4 fiscal years begin-
20 ning on and after October 1, 2007, shall be
21 equal to the following percentage of the amount
22 otherwise required to be distributed:

23 “(i) 50 percent in fiscal year 2008.

24 “(ii) 50 percent in fiscal year 2009.

25 “(iii) 75 percent in fiscal year 2010.

1 “(iv) 75 percent in fiscal year 2011.”.

2 (b) CONFORMING AMENDMENT.—Section 712(b) of
3 the Surface Mining Control and Reclamation Act of 1977
4 (30 U.S.C. 1302(b)) is amended by striking “section
5 401(c)(11)” and inserting “section 401(c)(9)”.

6 **SEC. 202. RECLAMATION FEE.**

7 (a) AMOUNTS.—

8 (1) FISCAL YEARS 2008–2012.—Effective Octo-
9 ber 1, 2007, section 402(a) of the Surface Mining
10 Control and Reclamation Act of 1977 (30 U.S.C.
11 1232(a)) is amended—

12 (A) by striking “35” and inserting “31.5”;

13 (B) by striking “15” and inserting “13.5”;

14 and

15 (C) by striking “10 cents” and inserting
16 “9 cents”.

17 (2) FISCAL YEARS 2013–2021.—Effective Octo-
18 ber 1, 2012, section 402(a) of the Surface Mining
19 Control and Reclamation Act of 1977 (30 U.S.C.
20 1232(a)) (as amended by paragraph (1)) is amend-
21 ed—

22 (A) by striking “31.5” and inserting “28”;

23 (B) by striking “13.5” and inserting “12”;

24 and

1 (C) by striking “9 cents” and inserting “8
2 cents”.

3 (b) DURATION.—Effective September 30, 2007, sec-
4 tion 402(b) of the Surface Mining Control and Reclama-
5 tion Act of 1977 (30 U.S.C. 1232(b)) (as amended by sec-
6 tion 7007 of the Emergency Supplemental Appropriations
7 Act for Defense, the Global War on Terror, and Hurricane
8 Recovery, 2006 (Public Law 109–234; 120 Stat. 484)) is
9 amended by striking “September 30, 2007” and all that
10 follows through the end of the sentence and inserting
11 “September 30, 2021.”.

12 (c) ALLOCATION OF FUNDS.—Section 402(g) of the
13 Surface Mining Control and Reclamation Act of 1977 (30
14 U.S.C. 1232(g)) is amended—

15 (1) in paragraph (1)(D)—

16 (A) by inserting “(except for grants award-
17 ed during fiscal years 2008, 2009, and 2010 to
18 the extent not expended within 5 years)” after
19 “this paragraph”; and

20 (B) by striking “in any area under para-
21 graph (2), (3), (4), or (5)” and inserting
22 “under paragraph (5)”;

23 (2) by striking paragraph (2) and inserting:

24 “(2) In making the grants referred to in paragraph
25 (1)(C) and the grants referred to in paragraph (5), the

1 Secretary shall ensure strict compliance by the States and
2 Indian tribes with the priorities described in section
3 403(a) until a certification is made under section
4 411(a).”;

5 (3) in paragraph (3)—

6 (A) in the matter preceding subparagraph
7 (A), by striking “paragraphs (2) and” and in-
8 serting “paragraph”;

9 (B) in subparagraph (A), by striking
10 “401(c)(11)” and inserting “401(c)(9)”; and

11 (C) by adding at the end the following:

12 “(E) For the purpose of paragraph (8).”;

13 (4) in paragraph (5)—

14 (A) by inserting “(A)” after “(5)”;

15 (B) in the first sentence, by striking “40”
16 and inserting “60”;

17 (C) in the last sentence, by striking
18 “Funds allocated or expended by the Secretary
19 under paragraphs (2), (3), or (4)” and insert-
20 ing “Funds made available under paragraph (3)
21 or (4)”; and

22 (D) by adding at the end the following:

23 “(B) Any amount that is reallocated and available
24 under section 411(h)(3) shall be in addition to amounts
25 that are allocated under subparagraph (A).”; and

1 (5) by striking paragraphs (6) through (8) and
2 inserting the following:

3 “(6)(A) Any State with an approved abandoned mine
4 reclamation program pursuant to section 405 may receive
5 and retain, without regard to the 3-year limitation re-
6 ferred to in paragraph (1)(D), up to 30 percent of the
7 total of the grants made annually to the State under para-
8 graphs (1) and (5) if those amounts are deposited into
9 an acid mine drainage abatement and treatment fund es-
10 tablished under State law, from which amounts (together
11 with all interest earned on the amounts) are expended by
12 the State for the abatement of the causes and the treat-
13 ment of the effects of acid mine drainage in a comprehen-
14 sive manner within qualified hydrologic units affected by
15 coal mining practices.

16 “(B) In this paragraph, the term ‘qualified hydrologic
17 unit’ means a hydrologic unit—

18 “(i) in which the water quality has been signifi-
19 cantly affected by acid mine drainage from coal min-
20 ing practices in a manner that adversely impacts bi-
21 ological resources; and

22 “(ii) that contains land and water that are—

23 “(I) eligible pursuant to section 404 and
24 include any of the priorities described in section
25 403(a); and

1 “(II) the subject of expenditures by the
2 State from the forfeiture of bonds required
3 under section 509 or from other States sources
4 to abate and treat acid mine drainage.

5 “(7) In complying with the priorities described in sec-
6 tion 403(a), any State or Indian tribe may use amounts
7 available in grants made annually to the State or tribe
8 under paragraphs (1) and (5) for the reclamation of eligi-
9 ble land and water described in section 403(a)(3) before
10 the completion of reclamation projects under paragraphs
11 (1) and (2) of section 403(a) only if the expenditure of
12 funds for the reclamation is done in conjunction with the
13 expenditure before, on, or after the date of enactment of
14 the Surface Mining Control and Reclamation Act Amend-
15 ments of 2006 of funds for reclamation projects under
16 paragraphs (1) and (2) of section 403(a).

17 “(8)(A) In making funds available under this title,
18 the Secretary shall ensure that the grant awards total not
19 less than \$3,000,000 annually to each State and each In-
20 dian tribe having an approved abandoned mine reclama-
21 tion program pursuant to section 405 and eligible land
22 and water pursuant to section 404, so long as an alloca-
23 tion of funds to the State or tribe is necessary to achieve
24 the priorities stated in paragraphs (1) and (2) of section
25 403(a).

1 “(B) Notwithstanding any other provision of law, this
2 paragraph applies to the States of Tennessee and Mis-
3 souri.”.

4 (d) TRANSFERS OF INTEREST EARNED BY ABAN-
5 DONED MINE RECLAMATION FUND.—Section 402 of the
6 Surface Mining Control and Reclamation Act of 1977 (30
7 U.S.C. 1232) is amended by striking subsection (h) and
8 inserting the following:

9 “(h) TRANSFERS OF INTEREST EARNED BY FUND.—

10 “(1) IN GENERAL.—

11 “(A) TRANSFERS TO COMBINED BENEFIT
12 FUND.—As soon as practicable after the begin-
13 ning of fiscal year 2007 and each fiscal year
14 thereafter, and before making any allocation
15 with respect to the fiscal year under subsection
16 (g), the Secretary shall use an amount not to
17 exceed the amount of interest that the Sec-
18 retary estimates will be earned and paid to the
19 fund during the fiscal year to transfer to the
20 Combined Benefit Fund such amounts as are
21 estimated by the trustees of such fund to offset
22 the amount of any deficit in net assets in the
23 Combined Benefit Fund as of October 1, 2006,
24 and to make the transfer described in para-
25 graph (2)(A).

1 “(B) TRANSFERS TO 1992 AND 1993
2 PLANS.—As soon as practicable after the begin-
3 ning of fiscal year 2008 and each fiscal year
4 thereafter, and before making any allocation
5 with respect to the fiscal year under subsection
6 (g), the Secretary shall use an amount not to
7 exceed the amount of interest that the Sec-
8 retary estimates will be earned and paid to the
9 fund during the fiscal year (reduced by the
10 amount used under subparagraph (A)) to make
11 the transfers described in paragraphs (2)(B)
12 and (2)(C).

13 “(2) TRANSFERS DESCRIBED.—The transfers
14 referred to in paragraph (1) are the following:

15 “(A) UNITED MINE WORKERS OF AMERICA
16 COMBINED BENEFIT FUND.—A transfer to the
17 United Mine Workers of America Combined
18 Benefit Fund equal to the amount that the
19 trustees of the Combined Benefit Fund esti-
20 mate will be expended from the fund for the fis-
21 cal year in which the transfer is made, reduced
22 by—

23 “(i) the amount the trustees of the
24 Combined Benefit Fund estimate the Com-

1 bined Benefit Fund will receive during the
2 fiscal year in—

3 “(I) required premiums; and

4 “(II) payments paid by Federal
5 agencies in connection with benefits
6 provided by the Combined Benefit
7 Fund; and

8 “(ii) the amount the trustees of the
9 Combined Benefit Fund estimate will be
10 expended during the fiscal year to provide
11 health benefits to beneficiaries who are un-
12 assigned beneficiaries solely as a result of
13 the application of section 9706(h)(1) of the
14 Internal Revenue Code of 1986, but only
15 to the extent that such amount does not
16 exceed the amounts described in subsection
17 (i)(1)(A) that the Secretary estimates will
18 be available to pay such estimated expendi-
19 tures.

20 “(B) UNITED MINE WORKERS OF AMERICA
21 1992 BENEFIT PLAN.—A transfer to the United
22 Mine Workers of America 1992 Benefit Plan, in
23 an amount equal to the difference between—

24 “(i) the amount that the trustees of
25 the 1992 UMWA Benefit Plan estimate

1 will be expended from the 1992 UMWA
2 Benefit Plan during the next calendar year
3 to provide the benefits required by the
4 1992 UMWA Benefit Plan on the date of
5 enactment of this subparagraph; minus

6 “(ii) the amount that the trustees of
7 the 1992 UMWA Benefit Plan estimate
8 the 1992 UMWA Benefit Plan will receive
9 during the next calendar year in—

10 “(I) required monthly per bene-
11 ficiary premiums, including the
12 amount of any security provided to
13 the 1992 UMWA Benefit Plan that is
14 available for use in the provision of
15 benefits; and

16 “(II) payments paid by Federal
17 agencies in connection with benefits
18 provided by the 1992 UMWA benefit
19 plan.

20 “(C) MULTIEMPLOYER HEALTH BENEFIT
21 PLAN.—A transfer to the Multiemployer Health
22 Benefit Plan established after July 20, 1992,
23 by the parties that are the settlors of the 1992
24 UMWA Benefit Plan referred to in subpara-
25 graph (B) (referred to in this subparagraph and

1 subparagraph (D) as ‘the Plan’), in an amount
2 equal to the excess (if any) of—

3 “(i) the amount that the trustees of
4 the Plan estimate will be expended from
5 the Plan during the next calendar year, to
6 provide benefits no greater than those pro-
7 vided by the Plan as of December 31,
8 2006; over

9 “(ii) the amount that the trustees es-
10 timated the Plan will receive during the
11 next calendar year in payments paid by
12 Federal agencies in connection with bene-
13 fits provided by the Plan.

14 Such excess shall be calculated by taking into
15 account only those beneficiaries actually en-
16 rolled in the Plan as of December 31, 2006,
17 who are eligible to receive benefits under the
18 Plan on the first day of the calendar year for
19 which the transfer is made.

20 “(D) INDIVIDUALS CONSIDERED EN-
21 ROLLED.—For purposes of subparagraph (C),
22 any individual who was eligible to receive bene-
23 fits from the Plan as of the date of enactment
24 of this subsection, even though benefits were
25 being provided to the individual pursuant to a

1 settlement agreement approved by order of a
2 bankruptcy court entered on or before Sep-
3 tember 30, 2004, will be considered to be actu-
4 ally enrolled in the Plan and shall receive bene-
5 fits from the Plan beginning on December 31,
6 2006.

7 “(3) ADJUSTMENT.—If, for any fiscal year, the
8 amount of a transfer under subparagraph (A), (B),
9 or (C) of paragraph (2) is more or less than the
10 amount required to be transferred under that sub-
11 paragraph, the Secretary shall appropriately adjust
12 the amount transferred under that subparagraph for
13 the next fiscal year.

14 “(4) ADDITIONAL AMOUNTS.—

15 “(A) PREVIOUSLY CREDITED INTEREST.—
16 Notwithstanding any other provision of law, any
17 interest credited to the fund that has not pre-
18 viously been transferred to the Combined Ben-
19 efit Fund referred to in paragraph (2)(A) under
20 this section—

21 “(i) shall be held in reserve by the
22 Secretary until such time as necessary to
23 make the payments under subparagraphs
24 (A) and (B) of subsection (i)(1), as de-
25 scribed in clause (ii); and

1 “(ii) in the event that the amounts de-
2 scribed in subsection (i)(1) are insufficient
3 to make the maximum payments described
4 in subparagraphs (A) and (B) of sub-
5 section (i)(1), shall be used by the Sec-
6 retary to supplement the payments so that
7 the maximum amount permitted under
8 those paragraphs is paid.

9 “(B) PREVIOUSLY ALLOCATED
10 AMOUNTS.—All amounts allocated under sub-
11 section (g)(2) before the date of enactment of
12 this subparagraph for the program described in
13 section 406, but not appropriated before that
14 date, shall be available to the Secretary to make
15 the transfers described in paragraph (2).

16 “(C) ADEQUACY OF PREVIOUSLY CRED-
17 ITED INTEREST.—The Secretary shall—

18 “(i) consult with the trustees of the
19 plans described in paragraph (2) at rea-
20 sonable intervals; and

21 “(ii) notify Congress if a determina-
22 tion is made that the amounts held in re-
23 serve under subparagraph (A) are insuffi-
24 cient to meet future requirements under
25 subparagraph (A)(ii).

1 “(D) ADDITIONAL RESERVE AMOUNTS.—
2 In addition to amounts held in reserve under
3 subparagraph (A), there is authorized to be ap-
4 propriated such sums as may be necessary for
5 transfer to the fund to carry out the purposes
6 of subparagraph (A)(ii).

7 “(E) INAPPLICABILITY OF CAP.—The limi-
8 tation described in subsection (i)(3)(A) shall
9 not apply to payments made from the reserve
10 fund under this paragraph.

11 “(5) LIMITATIONS.—

12 “(A) AVAILABILITY OF FUNDS FOR NEXT
13 FISCAL YEAR.—The Secretary may make trans-
14 fers under subparagraphs (B) and (C) of para-
15 graph (2) for a calendar year only if the Sec-
16 retary determines, using actuarial projections
17 provided by the trustees of the Combined Ben-
18 efit Fund referred to in paragraph (2)(A), that
19 amounts will be available under paragraph (1),
20 after the transfer, for the next fiscal year for
21 making the transfer under paragraph (2)(A).

22 “(B) RATE OF CONTRIBUTIONS OF OBLI-
23 GORS.—

24 “(i) IN GENERAL.—

1 “(I) RATE.—A transfer under
2 paragraph (2)(C) shall not be made
3 for a calendar year unless the persons
4 that are obligated to contribute to the
5 plan referred to in paragraph (2)(C)
6 on the date of the transfer are obli-
7 gated to make the contributions at
8 rates that are no less than those in ef-
9 fect on the date which is 30 days be-
10 fore the date of enactment of this sub-
11 section.

12 “(II) APPLICATION.—The con-
13 tributions described in subclause (I)
14 shall be applied first to the provision
15 of benefits to those plan beneficiaries
16 who are not described in paragraph
17 (2)(C)(ii).

18 “(ii) INITIAL CONTRIBUTIONS.—

19 “(I) IN GENERAL.—From the
20 date of enactment of the Surface Min-
21 ing Control and Reclamation Act
22 Amendments of 2006 through Decem-
23 ber 31, 2010, the persons that, on the
24 date of enactment of that Act, are ob-
25 ligated to contribute to the plan re-

1 ferred to in paragraph (2)(C) shall be
2 obligated, collectively, to make con-
3 tributions equal to the amount de-
4 scribed in paragraph (2)(C), less the
5 amount actually transferred due to
6 the operation of subparagraph (C).

7 “(II) FIRST CALENDAR YEAR.—
8 Calendar year 2006 is the first cal-
9 endar year for which contributions are
10 required under this clause.

11 “(III) AMOUNT OF CONTRIBU-
12 TION FOR 2006.—Except as provided
13 in subclause (IV), the amount de-
14 scribed in paragraph (2)(C) for cal-
15 endar year 2006 shall be calculated as
16 if paragraph (2)(C) had been in effect
17 during 2005.

18 “(IV) LIMITATION.—The con-
19 tributions required under this clause
20 for calendar year 2006 shall not ex-
21 ceed the amount necessary for sol-
22 vency of the plan described in para-
23 graph (2)(C), measured as of Decem-
24 ber 31, 2006 and taking into account

1 all assets held by the plan as of that
2 date.

3 “(iii) DIVISION.—The collective an-
4 nual contribution obligation required under
5 clause (ii) shall be divided among the per-
6 sons subject to the obligation, and applied
7 uniformly, based on the hours worked for
8 which contributions referred to in clause
9 (i) would be owed.

10 “(C) PHASE-IN OF TRANSFERS.—For each
11 of calendar years 2008 through 2010, the
12 transfers required under subparagraphs (B)
13 and (C) of paragraph (2) shall equal the fol-
14 lowing amounts:

15 “(i) For calendar year 2008, the Sec-
16 retary shall make transfers equal to 25
17 percent of the amounts that would other-
18 wise be required under subparagraphs (B)
19 and (C) of paragraph (2).

20 “(ii) For calendar year 2009, the Sec-
21 retary shall make transfers equal to 50
22 percent of the amounts that would other-
23 wise be required under subparagraphs (B)
24 and (C) of paragraph (2).

1 “(iii) For calendar year 2010, the
2 Secretary shall make transfers equal to 75
3 percent of the amounts that would other-
4 wise be required under subparagraphs (B)
5 and (C) of paragraph (2).

6 “(i) FUNDING.—

7 “(1) IN GENERAL.—Subject to paragraph (3),
8 out of any funds in the Treasury not otherwise ap-
9 propriated, the Secretary of the Treasury shall
10 transfer to the plans described in subsection (h)(2)
11 such sums as are necessary to pay the following
12 amounts:

13 “(A) To the Combined Fund (as defined in
14 section 9701(a)(5) of the Internal Revenue
15 Code of 1986 and referred to in this paragraph
16 as the ‘Combined Fund’), the amount that the
17 trustees of the Combined Fund estimate will be
18 expended from premium accounts maintained
19 by the Combined Fund for the fiscal year to
20 provide benefits for beneficiaries who are unas-
21 signed beneficiaries solely as a result of the ap-
22 plication of section 9706(h)(1) of the Internal
23 Revenue Code of 1986, subject to the following
24 limitations:

1 “(i) For fiscal year 2008, the amount
2 paid under this subparagraph shall equal—

3 “(I) the amount described in sub-
4 paragraph (A); minus

5 “(II) the amounts required under
6 section 9706(h)(3)(A) of the Internal
7 Revenue Code of 1986.

8 “(ii) For fiscal year 2009, the amount
9 paid under this subparagraph shall equal—

10 “(I) the amount described in sub-
11 paragraph (A); minus

12 “(II) the amounts required under
13 section 9706(h)(3)(B) of the Internal
14 Revenue Code of 1986.

15 “(iii) For fiscal year 2010, the
16 amount paid under this subparagraph shall
17 equal—

18 “(I) the amount described in sub-
19 paragraph (A); minus

20 “(II) the amounts required under
21 section 9706(h)(3)(C) of the Internal
22 Revenue Code of 1986.

23 “(B) On certification by the trustees of
24 any plan described in subsection (h)(2) that the
25 amount available for transfer by the Secretary

1 pursuant to this section (determined after ap-
2 plication of any limitation under subsection
3 (h)(5)) is less than the amount required to be
4 transferred, to the plan the amount necessary
5 to meet the requirement of subsection (h)(2).

6 “(C) To the Combined Fund, \$9,000,000
7 on October 1, 2007, \$9,000,000 on October 1,
8 2008, and \$9,000,000 on October 1, 2009
9 (which amounts shall not be exceeded) to pro-
10 vide a refund of any premium (as described in
11 section 9704(a) of the Internal Revenue Code
12 of 1986) paid on or before September 7, 2000,
13 to the Combined Fund, plus interest on the pre-
14 mium calculated at the rate of 7.5 percent per
15 year, on a proportional basis and to be paid not
16 later than 60 days after the date on which each
17 payment is received by the Combined Fund, to
18 those signatory operators (to the extent that
19 the Combined Fund has not previously returned
20 the premium amounts to the operators), or any
21 related persons to the operators (as defined in
22 section 9701(e) of the Internal Revenue Code of
23 1986), or their heirs, successors, or assigns who
24 have been denied the refunds as the result of
25 final judgments or settlements if—

1 “(i) prior to the date of enactment of
2 this paragraph, the signatory operator (or
3 any related person to the operator)—

4 “(I) had all of its beneficiary as-
5 signments made under section 9706 of
6 the Internal Revenue Code of 1986
7 voided by the Commissioner of the So-
8 cial Security Administration; and

9 “(II) was subject to a final judg-
10 ment or final settlement of litigation
11 adverse to a claim by the operator
12 that the assignment of beneficiaries
13 under section 9706 of the Internal
14 Revenue Code of 1986 was unconsti-
15 tutional as applied to the operator;
16 and

17 “(ii) on or before September 7, 2000,
18 the signatory operator (or any related per-
19 son to the operator) had paid to the Com-
20 bined Fund any premium amount that had
21 not been refunded.

22 “(2) PAYMENTS TO STATES AND INDIAN
23 TRIBES.—Subject to paragraph (3), out of any funds
24 in the Treasury not otherwise appropriated, the Sec-
25 retary of the Treasury shall transfer to the Sec-

1 retary of the Interior for distribution to States and
2 Indian tribes such sums as are necessary to pay
3 amounts described in paragraphs (1)(A) and (2)(A)
4 of section 411(h).

5 “(3) LIMITATIONS.—

6 “(A) CAP.—The total amount transferred
7 under this subsection for any fiscal year shall
8 not exceed \$490,000,000.

9 “(B) INSUFFICIENT AMOUNTS.—In a case
10 in which the amount required to be transferred
11 without regard to this paragraph exceeds the
12 maximum annual limitation in subparagraph
13 (A), the Secretary shall adjust the transfers of
14 funds so that—

15 “(i) each transfer for the fiscal year is
16 a percentage of the amount described;

17 “(ii) the amount is determined with-
18 out regard to subsection (h)(5)(A); and

19 “(iii) the percentage transferred is the
20 same for all transfers made under this sub-
21 section for the fiscal year.

22 “(4) AVAILABILITY OF FUNDS.—Funds shall be
23 transferred under paragraph (1) and (2) beginning
24 in fiscal year 2008 and each fiscal year thereafter,
25 and shall remain available until expended.”.

1 **SEC. 203. OBJECTIVES OF FUND.**

2 Section 403 of the Surface Mining Control and Rec-
3 lamation Act of 1977 (30 U.S.C. 1233) is amended—

4 (1) in subsection (a)—

5 (A) in paragraph (1)—

6 (i) by striking “(1) the protection”
7 and inserting the following:

8 “(1)(A) the protection;”;

9 (ii) in subparagraph (A) (as des-
10 ignated by clause (i)), by striking “general
11 welfare,”; and

12 (iii) by adding at the end the fol-
13 lowing:

14 “(B) the restoration of land and water re-
15 sources and the environment that—

16 “(i) have been degraded by the adverse ef-
17 fects of coal mining practices; and

18 “(ii) are adjacent to a site that has been
19 or will be remediated under subparagraph
20 (A);”;

21 (B) in paragraph (2)—

22 (i) by striking “(2) the protection”
23 and inserting the following:

24 “(2)(A) the protection”;

25 (ii) in subparagraph (A) (as des-
26 ignated by clause (i), by striking “health,

1 safety, and general welfare” and inserting
2 “health and safety”; and

3 (iii) by adding at the end the fol-
4 lowing:

5 “(B) the restoration of land and water re-
6 sources and the environment that—

7 “(i) have been degraded by the adverse ef-
8 fects of coal mining practices; and

9 “(ii) are adjacent to a site that has been
10 or will be remediated under subparagraph (A);
11 and”;

12 (C) in paragraph (3), by striking the semi-
13 colon at the end and inserting a period; and

14 (D) by striking paragraphs (4) and (5);
15 (2) in subsection (b)—

16 (A) by striking the subsection heading and
17 inserting “WATER SUPPLY RESTORATION.—”;
18 and

19 (B) in paragraph (1), by striking “up to
20 30 percent of the”; and

21 (3) in the second sentence of subsection (c), by
22 inserting “, subject to the approval of the Sec-
23 retary,” after “amendments”.

1 **SEC. 204. RECLAMATION OF RURAL LAND.**

2 (a) ADMINISTRATION.—Section 406(h) of the Sur-
3 face Mining Control and Reclamation Act of 1977 (30
4 U.S.C. 1236(h)) is amended by striking “Soil Conserva-
5 tion Service” and inserting “Natural Resources Conserva-
6 tion Service”.

7 (b) AUTHORIZATION OF APPROPRIATIONS FOR CAR-
8 RYING OUT RURAL LAND RECLAMATION.—Section 406 of
9 the Surface Mining Control and Reclamation Act of 1977
10 (30 U.S.C. 1236) is amended by adding at the end the
11 following:

12 “(i) There are authorized to be appropriated to the
13 Secretary of Agriculture, from amounts in the Treasury
14 other than amounts in the fund, such sums as may be
15 necessary to carry out this section.”.

16 **SEC. 205. LIENS.**

17 Section 408(a) of the Surface Mining Control and
18 Reclamation Act of 1977 (30 U.S.C. 1238) is amended
19 in the last sentence by striking “who owned the surface
20 prior to May 2, 1977, and”.

21 **SEC. 206. CERTIFICATION.**

22 Section 411 of the Surface Mining Control and Rec-
23 lamation Act of 1977 (30 U.S.C. 1240a) is amended—

24 (1) in subsection (a)—

25 (A) by inserting “(1)” before the first sen-
26 tence; and

1 (B) by adding at the end the following:

2 “(2)(A) The Secretary may, on the initiative of the
3 Secretary, make the certification referred to in paragraph
4 (1) on behalf of any State or Indian tribe referred to in
5 paragraph (1) if on the basis of the inventory referred to
6 in section 403(c) all reclamation projects relating to the
7 priorities described in section 403(a) for eligible land and
8 water pursuant to section 404 in the State or tribe have
9 been completed.

10 “(B) The Secretary shall only make the certification
11 after notice in the Federal Register and opportunity for
12 public comment.”; and

13 (2) by adding at the end the following:

14 “(h) PAYMENTS TO STATES AND INDIAN TRIBES.—

15 “(1) IN GENERAL.—

16 “(A) PAYMENTS.—

17 “(i) IN GENERAL.—Notwithstanding
18 section 401(f)(3)(B), from funds referred
19 to in section 402(i)(2), the Secretary shall
20 make payments to States or Indian tribes
21 for the amount due for the aggregate un-
22 appropriated amount allocated to the State
23 or Indian tribe under subparagraph (A) or
24 (B) of section 402(g)(1).

1 “(ii) CONVERSION AS EQUIVALENT
2 PAYMENTS.—Amounts allocated under sub-
3 paragraphs (A) or (B) of section 402(g)(1)
4 shall be reallocated to the allocation estab-
5 lished in section 402(g)(5) in amounts
6 equivalent to payments made to States or
7 Indian tribes under this paragraph.

8 “(B) AMOUNT DUE.—In this paragraph,
9 the term ‘amount due’ means the unappropri-
10 ated amount allocated to a State or Indian tribe
11 before October 1, 2007, under subparagraph
12 (A) or (B) of section 402(g)(1).

13 “(C) SCHEDULE.—Payments under sub-
14 paragraph (A) shall be made in 7 equal annual
15 installments, beginning with fiscal year 2008.

16 “(D) USE OF FUNDS.—

17 “(i) CERTIFIED STATES AND INDIAN
18 TRIBES.—A State or Indian tribe that
19 makes a certification under subsection (a)
20 in which the Secretary concurs shall use
21 any amounts provided under this para-
22 graph for the purposes established by the
23 State legislature or tribal council of the In-
24 dian tribe, with priority given for address-
25 ing the impacts of mineral development.

1 “(ii) UNCERTIFIED STATES AND IN-
2 DIAN TRIBES.—A State or Indian tribe
3 that has not made a certification under
4 subsection (a) in which the Secretary has
5 concurred shall use any amounts provided
6 under this paragraph for the purposes de-
7 scribed in section 403.

8 “(2) SUBSEQUENT STATE AND INDIAN TRIBE
9 SHARE FOR CERTIFIED STATES AND INDIAN
10 TRIBES.—

11 “(A) IN GENERAL.—Notwithstanding sec-
12 tion 401(f)(3)(B), from funds referred to in
13 section 402(i)(2), the Secretary shall pay to
14 each certified State or Indian tribe an amount
15 equal to the sum of the aggregate unappropri-
16 ated amount allocated on or after October 1,
17 2007, to the certified State or Indian tribe
18 under subparagraph (A) or (B) of section
19 402(g)(1).

20 “(B) CERTIFIED STATE OR INDIAN TRIBE
21 DEFINED.—In this paragraph the term ‘cer-
22 tified State or Indian tribe’ means a State or
23 Indian tribe for which a certification is made
24 under subsection (a) in which the Secretary
25 concurs.

1 “(3) MANNER OF PAYMENT.—

2 “(A) IN GENERAL.—Subject to subpara-
3 graph (B), payments to States or Indian tribes
4 under this subsection shall be made without re-
5 gard to any limitation in section 401(d) and
6 concurrently with payments to States under
7 that section.

8 “(B) INITIAL PAYMENTS.—The first 3 pay-
9 ments made to any State or Indian tribe shall
10 be reduced to 25 percent, 50 percent, and 75
11 percent, respectively, of the amounts otherwise
12 required under paragraph (2)(A).

13 “(C) INSTALLMENTS.—Amounts withheld
14 from the first 3 annual installments as provided
15 under subparagraph (B) shall be paid in 2
16 equal annual installments beginning with fiscal
17 year 2018.

18 “(4) REALLOCATION.—

19 “(A) IN GENERAL.—The amount allocated
20 to any State or Indian tribe under subpara-
21 graph (A) or (B) of section 402(g)(1) that is
22 paid to the State or Indian tribe as a result of
23 a payment under paragraph (1) or (2) shall be
24 reallocated and available for grants under sec-
25 tion 402(g)(5).

1 “(B) ALLOCATION.—The grants shall be
2 allocated based on the amount of coal histori-
3 cally produced before August 3, 1977, in the
4 same manner as under section 402(g)(5).”.

5 **SEC. 207. REMINING INCENTIVES.**

6 Title IV of the Surface Mining Control and Reclama-
7 tion Act of 1977 (30 U.S.C. 1231 et seq.) is amended by
8 adding at the following:

9 **“SEC. 415. REMINING INCENTIVES.**

10 “(a) IN GENERAL.—Notwithstanding any other pro-
11 vision of this Act, the Secretary may, after opportunity
12 for public comment, promulgate regulations that describe
13 conditions under which amounts in the fund may be used
14 to provide incentives to promote remining of eligible land
15 under section 404 in a manner that leverages the use of
16 amounts from the fund to achieve more reclamation with
17 respect to the eligible land than would be achieved without
18 the incentives.

19 “(b) REQUIREMENTS.—Any regulations promulgated
20 under subsection (a) shall specify that the incentives shall
21 apply only if the Secretary determines, with the concur-
22 rence of the State regulatory authority referred to in title
23 V, that, without the incentives, the eligible land would not
24 be likely to be remined and reclaimed.

25 “(c) INCENTIVES.—

1 “(1) IN GENERAL.—Incentives that may be con-
2 sidered for inclusion in the regulations promulgated
3 under subsection (a) include, but are not limited
4 to—

5 “(A) a rebate or waiver of the reclamation
6 fees required under section 402(a); and

7 “(B) the use of amounts in the fund to
8 provide financial assurance for remining oper-
9 ations in lieu of all or a portion of the perform-
10 ance bonds required under section 509.

11 “(2) LIMITATIONS.—

12 “(A) USE.—A rebate or waiver under
13 paragraph (1)(A) shall be used only for oper-
14 ations that—

15 “(i) remove or reprocess abandoned
16 coal mine waste; or

17 “(ii) conduct remining activities that
18 meet the priorities specified in paragraph
19 (1) or (2) of section 403(a).

20 “(B) AMOUNT.—The amount of a rebate
21 or waiver provided as an incentive under para-
22 graph (1)(A) to remine or reclaim eligible land
23 shall not exceed the estimated cost of reclaim-
24 ing the eligible land under this section.”.

1 **SEC. 208. EXTENSION OF LIMITATION ON APPLICATION OF**
2 **PROHIBITION ON ISSUANCE OF PERMIT.**

3 Section 510(e) of the Surface Mining Control and
4 Reclamation Act of 1977 (30 U.S.C. 1260(e)) is amended
5 by striking the last sentence.

6 **SEC. 209. TRIBAL REGULATION OF SURFACE COAL MINING**
7 **AND RECLAMATION OPERATIONS.**

8 (a) IN GENERAL.—Section 710 of the Surface Min-
9 ing Control and Reclamation Act of 1977 (30 U.S.C.
10 1300) is amended by adding at the end the following:

11 “(j) TRIBAL REGULATORY AUTHORITY.—

12 “(1) TRIBAL REGULATORY PROGRAMS.—

13 “(A) IN GENERAL.—Notwithstanding any
14 other provision of law, an Indian tribe may
15 apply for, and obtain the approval of, a tribal
16 program under section 503 regulating in whole
17 or in part surface coal mining and reclamation
18 operations on reservation land under the juris-
19 diction of the Indian tribe using the procedures
20 of section 504(e).

21 “(B) REFERENCES TO STATE.—For pur-
22 poses of this subsection and the implementation
23 and administration of a tribal program under
24 title V, any reference to a ‘State’ in this Act
25 shall be considered to be a reference to a ‘tribe’.

26 “(2) CONFLICTS OF INTEREST.—

1 “(A) IN GENERAL.—The fact that an indi-
2 vidual is a member of an Indian tribe does not
3 in itself constitute a violation of section 201(f).

4 “(B) EMPLOYEES OF TRIBAL REGULATORY
5 AUTHORITY.—Any employee of a tribal regu-
6 latory authority shall not be eligible for a per
7 capita distribution of any proceeds from coal
8 mining operations conducted on Indian reserva-
9 tion lands under this Act.

10 “(3) SOVEREIGN IMMUNITY.—To receive pri-
11 mary regulatory authority under section 504(e), an
12 Indian tribe shall waive sovereign immunity for pur-
13 poses of section 520 and paragraph (4).

14 “(4) JUDICIAL REVIEW.—

15 “(A) CIVIL ACTIONS.—

16 “(i) IN GENERAL.—After exhausting
17 all tribal remedies with respect to a civil
18 action arising under a tribal program ap-
19 proved under section 504(e), an interested
20 party may file a petition for judicial review
21 of the civil action in the United States cir-
22 cuit court for the circuit in which the sur-
23 face coal mining operation named in the
24 petition is located.

25 “(ii) SCOPE OF REVIEW.—

1 “(I) QUESTIONS OF LAW.—The
2 United States circuit court shall re-
3 view de novo any questions of law
4 under clause (i).

5 “(II) FINDINGS OF FACT.—The
6 United States circuit court shall re-
7 view findings of fact under clause (i)
8 using a clearly erroneous standard.

9 “(B) CRIMINAL ACTIONS.—Any criminal
10 action brought under section 518 with respect
11 to surface coal mining or reclamation oper-
12 ations on Indian reservation lands shall be
13 brought in—

14 “(i) the United States District Court
15 for the District of Columbia; or

16 “(ii) the United States district court
17 in which the criminal activity is alleged to
18 have occurred.

19 “(5) GRANTS.—

20 “(A) IN GENERAL.—Except as provided in
21 subparagraph (B), grants for developing, ad-
22 ministering, and enforcing tribal programs ap-
23 proved in accordance with section 504(e) shall
24 be provided to an Indian tribe in accordance
25 with section 705.

1 “(B) EXCEPTION.—Notwithstanding sub-
2 paragraph (A), the Federal share of the costs
3 of developing, administering, and enforcing an
4 approved tribal program shall be 100 percent.

5 “(6) REPORT.—Not later than 18 months after
6 the date on which a tribal program is approved
7 under subsection (e) of section 504, the Secretary
8 shall submit to the appropriate committees of Con-
9 gress a report, developed in cooperation with the ap-
10 plicable Indian tribe, on the tribal program that in-
11 cludes a recommendation of the Secretary on wheth-
12 er primary regulatory authority under that sub-
13 section should be expanded to include additional In-
14 dian lands.”.

15 (b) CONFORMING AMENDMENT.—Section 710(i) of
16 the Surface Mining Control and Reclamation Act of 1977
17 (30 U.S.C. 1300(i)) is amended in the first sentence by
18 striking “, except” and all that follows through “section
19 503”.

1 **Subtitle B—Coal Industry Retiree**
2 **Health Benefit Act**

3 **SEC. 211. CERTAIN RELATED PERSONS AND SUCCESSORS**
4 **IN INTEREST RELIEVED OF LIABILITY IF PRE-**
5 **MIUMS PREPAID.**

6 (a) COMBINED BENEFIT FUND.—Section 9704 of the
7 Internal Revenue Code of 1986 (relating to liability of as-
8 signed operators) is amended by adding at the end the
9 following new subsection:

10 “(j) PREPAYMENT OF PREMIUM LIABILITY.—

11 “(1) IN GENERAL.—If—

12 “(A) a payment meeting the requirements
13 of paragraph (3) is made to the Combined
14 Fund by or on behalf of—

15 “(i) any assigned operator to which
16 this subsection applies, or

17 “(ii) any related person to any as-
18 signed operator described in clause (i), and

19 “(B) the common parent of the controlled
20 group of corporations described in paragraph
21 (2)(B) is jointly and severally liable for any pre-
22 mium under this section which (but for this
23 subsection) would be required to be paid by the
24 assigned operator or related person,

1 then such common parent (and no other person)
2 shall be liable for such premium.

3 “(2) ASSIGNED OPERATORS TO WHICH SUB-
4 SECTION APPLIES.—

5 “(A) IN GENERAL.—This subsection shall
6 apply to any assigned operator if—

7 “(i) the assigned operator (or a re-
8 lated person to the assigned operator)—

9 “(I) made contributions to the
10 1950 UMWA Benefit Plan and the
11 1974 UMWA Benefit Plan for em-
12 ployment during the period covered by
13 the 1988 agreement; and

14 “(II) is not a 1988 agreement
15 operator,

16 “(ii) the assigned operator (and all re-
17 lated persons to the assigned operator) are
18 not actively engaged in the production of
19 coal as of July 1, 2005, and

20 “(iii) the assigned operator was, as of
21 July 20, 1992, a member of a controlled
22 group of corporations described in sub-
23 paragraph (B).

24 “(B) CONTROLLED GROUP OF CORPORA-
25 TIONS.—A controlled group of corporations is

1 described in this subparagraph if the common
2 parent of such group is a corporation the shares
3 of which are publicly traded on a United States
4 exchange.

5 “(C) COORDINATION WITH REPEAL OF AS-
6 SIGNMENTS.—A person shall not fail to be
7 treated as an assigned operator to which this
8 subsection applies solely because the person
9 ceases to be an assigned operator by reason of
10 section 9706(h)(1) if the person otherwise
11 meets the requirements of this subsection and
12 is liable for the payment of premiums under
13 section 9706(h)(3).

14 “(D) CONTROLLED GROUP.—For purposes
15 of this subsection, the term ‘controlled group of
16 corporations’ has the meaning given such term
17 by section 52(a).

18 “(3) REQUIREMENTS.—A payment meets the
19 requirements of this paragraph if—

20 “(A) the amount of the payment is not less
21 than the present value of the total premium li-
22 ability under this chapter with respect to the
23 Combined Fund of the assigned operators or re-
24 lated persons described in paragraph (1) or
25 their assignees, as determined by the operator’s

1 or related person's enrolled actuary (as defined
2 in section 7701(a)(35)) using actuarial methods
3 and assumptions each of which is reasonable
4 and which are reasonable in the aggregate, as
5 determined by such enrolled actuary;

6 “(B) such enrolled actuary files with the
7 Secretary of Labor a signed actuarial report
8 containing—

9 “(i) the date of the actuarial valuation
10 applicable to the report; and

11 “(ii) a statement by the enrolled actu-
12 ary signing the report that, to the best of
13 the actuary's knowledge, the report is com-
14 plete and accurate and that in the actu-
15 ary's opinion the actuarial assumptions
16 used are in the aggregate reasonably re-
17 lated to the experience of the operator and
18 to reasonable expectations; and

19 “(C) 90 calendar days have elapsed after
20 the report required by subparagraph (B) is filed
21 with the Secretary of Labor, and the Secretary
22 of Labor has not notified the assigned operator
23 in writing that the requirements of this para-
24 graph have not been satisfied.

1 “(4) USE OF PREPAYMENT.—The Combined
2 Fund shall—

3 “(A) establish and maintain an account for
4 each assigned operator or related person by, or
5 on whose behalf, a payment described in para-
6 graph (3) was made,

7 “(B) credit such account with such pay-
8 ment (and any earnings thereon), and

9 “(C) use all amounts in such account ex-
10 clusively to pay premiums that would (but for
11 this subsection) be required to be paid by the
12 assigned operator.

13 Upon termination of the obligations for the premium
14 liability of any assigned operator or related person
15 for which such account is maintained, all funds re-
16 maining in such account (and earnings thereon)
17 shall be refunded to such person as may be des-
18 ignated by the common parent described in para-
19 graph (1)(B).”.

20 (b) INDIVIDUAL EMPLOYER PLANS.—Section
21 9711(c) of the Internal Revenue Code of 1986 (relating
22 to joint and several liability) is amended to read as follows:

23 “(c) JOINT AND SEVERAL LIABILITY OF RELATED
24 PERSONS.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), each related person of a last signatory op-
3 erator to which subsection (a) or (b) applies shall be
4 jointly and severally liable with the last signatory op-
5 erator for the provision of health care coverage de-
6 scribed in subsection (a) or (b).

7 “(2) LIABILITY LIMITED IF SECURITY PRO-
8 VIDED.—If—

9 “(A) security meeting the requirements of
10 paragraph (3) is provided by or on behalf of—

11 “(i) any last signatory operator which
12 is an assigned operator described in section
13 9704(j)(2), or

14 “(ii) any related person to any last
15 signatory operator described in clause (i),
16 and

17 “(B) the common parent of the controlled
18 group of corporations described in section
19 9704(j)(2)(B) is jointly and severally liable for
20 the provision of health care under this section
21 which, but for this paragraph, would be re-
22 quired to be provided by the last signatory op-
23 erator or related person,

24 then, as of the date the security is provided, such
25 common parent (and no other person) shall be liable

1 for the provision of health care under this section
2 which the last signatory operator or related person
3 would otherwise be required to provide. Security may
4 be provided under this paragraph without regard to
5 whether a payment was made under section 9704(j).

6 “(3) SECURITY.—Security meets the require-
7 ments of this paragraph if—

8 “(A) the security—

9 “(i) is in the form of a bond, letter of
10 credit, or cash escrow,

11 “(ii) is provided to the trustees of the
12 1992 UMWA Benefit Plan solely for the
13 purpose of paying premiums for bene-
14 ficiaries who would be described in section
15 9712(b)(2)(B) if the requirements of this
16 section were not met by the last signatory
17 operator, and

18 “(iii) is in an amount equal to 1 year
19 of liability of the last signatory operator
20 under this section, determined by using the
21 average cost of such operator’s liability
22 during the prior 3 calendar years;

23 “(B) the security is in addition to any
24 other security required under any other provi-
25 sion of this title; and

1 “(C) the security remains in place for 5
2 years.

3 “(4) REFUNDS OF SECURITY.—The remaining
4 amount of any security provided under this sub-
5 section (and earnings thereon) shall be refunded to
6 the last signatory operator as of the earlier of—

7 “(A) the termination of the obligations of
8 the last signatory operator under this section,
9 or

10 “(B) the end of the 5-year period described
11 in paragraph (4)(C).”.

12 (c) 1992 UMWA BENEFIT PLAN.—Section
13 9712(d)(4) of the Internal Revenue Code of 1986 (relating
14 to joint and several liability) is amended by adding at the
15 end the following new sentence: “The provisions of section
16 9711(c)(2) shall apply to any last signatory operator de-
17 scribed in such section (without regard to whether security
18 is provided under such section, a payment is made under
19 section 9704(j), or both) and if security meeting the re-
20 quirements of section 9711(c)(3) is provided, the common
21 parent described in section 9711(c)(2)(B) shall be exclu-
22 sively responsible for any liability for premiums under this
23 section which, but for this sentence, would be required to
24 be paid by the last signatory operator or any related per-
25 son.”.

1 (d) SUCCESSOR IN INTEREST.—Section 9701(c) of
2 the Internal Revenue Code of 1986 (relating to terms re-
3 lating to operators) is amended by adding at the end the
4 following new paragraph:

5 “(8) SUCCESSOR IN INTEREST.—

6 “(A) SAFE HARBOR.—The term ‘successor
7 in interest’ shall not include any person who—

8 “(i) is an unrelated person to an eligi-
9 ble seller described in subparagraph (C);

10 and

11 “(ii) purchases for fair market value
12 assets, or all of the stock, of a related per-
13 son to such seller, in a bona fide, arm’s-
14 length sale.

15 “(B) UNRELATED PERSON.—The term
16 ‘unrelated person’ means a purchaser who does
17 not bear a relationship to the eligible seller de-
18 scribed in section 267(b).

19 “(C) ELIGIBLE SELLER.—For purposes of
20 this paragraph, the term ‘eligible seller’ means
21 an assigned operator described in section
22 9704(j)(2) or a related person to such assigned
23 operator.”.

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

1 of this Act, except that the amendment made by sub-
2 section (d) shall apply to transactions after the date of
3 the enactment of this Act.

4 **SEC. 212. TRANSFERS TO FUNDS; PREMIUM RELIEF.**

5 (a) COMBINED FUND.—

6 (1) FEDERAL TRANSFERS.—Section 9705(b) of
7 the Internal Revenue Code of 1986 (relating to
8 transfers from Abandoned Mine Reclamation Fund)
9 is amended—

10 (A) in paragraph (1), by striking “section
11 402(h)” and inserting “subsections (h) and (i)
12 of section 402”;

13 (B) by striking paragraph (2) and insert-
14 ing the following new paragraph:

15 “(2) USE OF FUNDS.—Any amount transferred
16 under paragraph (1) for any fiscal year shall be used
17 to pay benefits and administrative costs of bene-
18 ficiaries of the Combined Fund or for such other
19 purposes as are specifically provided in the Acts de-
20 scribed in paragraph (1).”; and

21 (C) by striking “FROM ABANDONED MINE
22 RECLAMATION FUND” in the heading thereof.

23 (2) MODIFICATIONS OF PREMIUMS TO REFLECT
24 FEDERAL TRANSFERS.—

1 (A) ELIMINATION OF UNASSIGNED BENE-
2 FICIARIES PREMIUM.—Section 9704(d) of such
3 Code (establishing unassigned beneficiaries pre-
4 mium) is amended to read as follows:

5 “(d) UNASSIGNED BENEFICIARIES PREMIUM.—

6 “(1) PLAN YEARS ENDING ON OR BEFORE SEP-
7 TEMBER 30, 2006.—For plan years ending on or be-
8 fore September 30, 2006, the unassigned bene-
9 ficiaries premium for any assigned operator shall be
10 equal to the applicable percentage of the product of
11 the per beneficiary premium for the plan year multi-
12 plied by the number of eligible beneficiaries who are
13 not assigned under section 9706 to any person for
14 such plan year.

15 “(2) PLAN YEARS BEGINNING ON OR AFTER OC-
16 TOBER 1, 2006.—

17 “(A) IN GENERAL.—For plan years begin-
18 ning on or after October 1, 2006, subject to
19 subparagraph (B), there shall be no unassigned
20 beneficiaries premium, and benefit costs with
21 respect to eligible beneficiaries who are not as-
22 signed under section 9706 to any person for
23 any such plan year shall be paid from amounts
24 transferred under section 9705(b).

1 “(B) INADEQUATE TRANSFERS.—If, for
2 any plan year beginning on or after October 1,
3 2006, the amounts transferred under section
4 9705(b) are less than the amounts required to
5 be transferred to the Combined Fund under
6 subsection (h)(2)(A) or (i) of section 402 of the
7 Surface Mining Control and Reclamation Act of
8 1977 (30 U.S.C. 1232)), then the unassigned
9 beneficiaries premium for any assigned operator
10 shall be equal to the operator’s applicable per-
11 centage of the amount required to be so trans-
12 ferred which was not so transferred.”.

13 (B) PREMIUM ACCOUNTS.—

14 (i) CREDITING OF ACCOUNTS.—Sec-
15 tion 9704(e)(1) of such Code (relating to
16 premium accounts; adjustments) is amend-
17 ed by inserting “and amounts transferred
18 under section 9705(b)” after “premiums
19 received”.

20 (ii) SURPLUSES ATTRIBUTABLE TO
21 PUBLIC FUNDING.—Section 9704(e)(3)(A)
22 of such Code is amended by adding at the
23 end the following new sentence: “Amounts
24 credited to an account from amounts
25 transferred under section 9705(b) shall not

1 be taken into account in determining
2 whether there is a surplus in the account
3 for purposes of this paragraph.”

4 (C) APPLICABLE PERCENTAGE.—Section
5 9704(f)(2) of such Code (relating to annual ad-
6 justments) is amended by adding at the end the
7 following new subparagraph:

8 “(C) In the case of plan years beginning
9 on or after October 1, 2007, the total number
10 of assigned eligible beneficiaries shall be re-
11 duced by the eligible beneficiaries whose assign-
12 ments have been revoked under section
13 9706(h).”.

14 (3) ASSIGNMENTS AND REASSIGNMENT.—Sec-
15 tion 9706 of the Internal Revenue Code of 1986 (re-
16 lating to assignment of eligible beneficiaries) is
17 amended by adding at the end the following:

18 “(h) ASSIGNMENTS AS OF OCTOBER 1, 2007.—

19 “(1) IN GENERAL.—Subject to the premium ob-
20 ligation set forth in paragraph (3), the Commis-
21 sioner of Social Security shall—

22 “(A) revoke all assignments to persons
23 other than 1988 agreement operators for pur-
24 poses of assessing premiums for plan years be-
25 ginning on and after October 1, 2007; and

1 “(B) make no further assignments to per-
2 sons other than 1988 agreement operators, ex-
3 cept that no individual who becomes an unas-
4 signed beneficiary by reason of subparagraph
5 (A) may be assigned to a 1988 agreement oper-
6 ator.

7 “(2) REASSIGNMENT UPON PURCHASE.—This
8 subsection shall not be construed to prohibit the re-
9 assignment under subsection (b)(2) of an eligible
10 beneficiary.

11 “(3) LIABILITY OF PERSONS DURING THREE
12 FISCAL YEARS BEGINNING ON AND AFTER OCTOBER
13 1, 2007.—In the case of each of the fiscal years be-
14 ginning on October 1, 2007, 2008, and 2009, each
15 person other than a 1988 agreement operator shall
16 pay to the Combined Fund the following percentage
17 of the amount of annual premiums that such person
18 would otherwise be required to pay under section
19 9704(a), determined on the basis of assignments in
20 effect without regard to the revocation of assign-
21 ments under paragraph (1)(A):

22 “(A) For the fiscal year beginning on Oc-
23 tober 1, 2007, 55 percent.

24 “(B) For the fiscal year beginning on Oc-
25 tober 1, 2008, 40 percent.

1 “(C) For the fiscal year beginning on Oc-
2 tober 1, 2009, 15 percent.”.

3 (4) EFFECTIVE DATE.—The amendments made
4 by this subsection shall apply to plan years of the
5 Combined Fund beginning after September 30,
6 2006.

7 (b) 1992 UMWA BENEFIT AND OTHER PLANS.—

8 (1) TRANSFERS TO PLANS.—Section 9712(a) of
9 the Internal Revenue Code of 1986 (relating to the
10 establishment and coverage of the 1992 UMWA
11 Benefit Plan) is amended by adding at the end the
12 following:

13 “(3) TRANSFERS UNDER OTHER FEDERAL
14 STATUTES.—

15 “(A) IN GENERAL.—The 1992 UMWA
16 Benefit Plan shall include any amount trans-
17 ferred to the plan under subsections (h) and (i)
18 of section 402 of the Surface Mining Control
19 and Reclamation Act of 1977 (30 U.S.C. 1232).

20 “(B) USE OF FUNDS.—Any amount trans-
21 ferred under subparagraph (A) for any fiscal
22 year shall be used to provide the health benefits
23 described in subsection (c) with respect to any
24 beneficiary for whom no monthly per bene-

1 fiary premium is paid pursuant to paragraph
2 (1)(A) or (3) of subsection (d).

3 “(4) SPECIAL RULE FOR 1993 PLAN.—

4 “(A) IN GENERAL.—The plan described in
5 section 402(h)(2)(C) of the Surface Mining
6 Control and Reclamation Act of 1977 (30
7 U.S.C. 1232(h)(2)(C)) shall include any
8 amount transferred to the plan under sub-
9 sections (h) and (i) of the Surface Mining Con-
10 trol and Reclamation Act of 1977 (30 U.S.C.
11 1232).

12 “(B) USE OF FUNDS.—Any amount trans-
13 ferred under subparagraph (A) for any fiscal
14 year shall be used to provide the health benefits
15 described in section 402(h)(2)(C)(i) of the Sur-
16 face Mining Control and Reclamation Act of
17 1977 (30 U.S.C. 1232(h)(2)(C)(i)) to individ-
18 uals described in section 402(h)(2)(C) of such
19 Act (30 U.S.C. 1232(h)(2)(C)).”.

20 (2) PREMIUM ADJUSTMENTS.—

21 (A) IN GENERAL.—Section 9712(d)(1) of
22 such Code (relating to guarantee of benefits) is
23 amended to read as follows:

24 “(1) IN GENERAL.—All 1988 last signatory op-
25 erators shall be responsible for financing the benefits

1 described in subsection (c) by meeting the following
2 requirements in accordance with the contribution re-
3 quirements established in the 1992 UMWA Benefit
4 Plan:

5 “(A) The payment of a monthly per bene-
6 ficiary premium by each 1988 last signatory op-
7 erator for each eligible beneficiary of such oper-
8 ator who is described in subsection (b)(2) and
9 who is receiving benefits under the 1992
10 UMWA benefit plan.

11 “(B) The provision of a security (in the
12 form of a bond, letter of credit, or cash escrow)
13 in an amount equal to a portion of the pro-
14 jected future cost to the 1992 UMWA Benefit
15 Plan of providing health benefits for eligible
16 and potentially eligible beneficiaries attributable
17 to the 1988 last signatory operator.

18 “(C) If the amounts transferred under
19 subsection (a)(3) are less than the amounts re-
20 quired to be transferred to the 1992 UMWA
21 Benefit Plan under subsections (h) and (i) of
22 section 402 of the Surface Mining Control and
23 Reclamation Act of 1977 (30 U.S.C. 1232), the
24 payment of an additional backstop premium by
25 each 1988 last signatory operator which is

1 equal to such operator's share of the amounts
2 required to be so transferred but which were
3 not so transferred, determined on the basis of
4 the number of eligible and potentially eligible
5 beneficiaries attributable to the operator.”.

6 (B) CONFORMING AMENDMENTS.—Section
7 9712(d) of such Code is amended—

8 (i) in paragraph (2)(B), by striking
9 “prefunding” and inserting “backstop”,
10 and

11 (ii) in paragraph (3), by striking
12 “paragraph (1)(B)” and inserting “para-
13 graph (1) (A)”.

14 (C) EFFECTIVE DATE.—The amendments
15 made by this paragraph shall apply to fiscal
16 years beginning on or after October 1, 2010.

17 **SEC. 213. OTHER PROVISIONS.**

18 (a) BOARD OF TRUSTEES.—Section 9702(b) of the
19 Internal Revenue Code of 1986 (relating to board of trust-
20 ees of the Combined Fund) is amended to read as follows:

21 “(b) BOARD OF TRUSTEES.—

22 “(1) IN GENERAL.—For purposes of subsection
23 (a), the board of trustees for the Combined Fund
24 shall be appointed as follows:

1 “(A) 2 individuals who represent employers
2 in the coal mining industry shall be designated
3 by the BCOA;

4 “(B) 2 individuals designated by the
5 United Mine Workers of America; and

6 “(C) 3 individuals selected by the individ-
7 uals appointed under subparagraphs (A) and
8 (B).

9 “(2) SUCCESSOR TRUSTEES.—Any successor
10 trustee shall be appointed in the same manner as
11 the trustee being succeeded. The plan establishing
12 the Combined Fund shall provide for the removal of
13 trustees.

14 “(3) SPECIAL RULE.—If the BCOA ceases to
15 exist, any trustee or successor under paragraph
16 (1)(A) shall be designated by the 3 employers who
17 were members of the BCOA on the enactment date
18 and who have been assigned the greatest number of
19 eligible beneficiaries under section 9706.”.

20 (b) ENFORCEMENT OF OBLIGATIONS.—

21 (1) FAILURE TO PAY PREMIUMS.—Section
22 9707(a) of the Internal Revenue Code of 1986 is
23 amended to read as follows:

24 “(a) FAILURES TO PAY.—

1 “(1) PREMIUMS FOR ELIGIBLE BENE-
2 FICIARIES.—There is hereby imposed a penalty on
3 the failure of any assigned operator to pay any pre-
4 mium required to be paid under section 9704 with
5 respect to any eligible beneficiary.

6 “(2) CONTRIBUTIONS REQUIRED UNDER THE
7 MINING LAWS.—There is hereby imposed a penalty
8 on the failure of any person to make a contribution
9 required under section 402(h)(5)(B)(ii) of the Sur-
10 face Mining Control and Reclamation Act of 1977 to
11 a plan referred to in section 402(h)(2)(C) of such
12 Act. For purposes of applying this section, each such
13 required monthly contribution for the hours worked
14 of any individual shall be treated as if it were a pre-
15 mium required to be paid under section 9704 with
16 respect to an eligible beneficiary.”

17 (2) CIVIL ENFORCEMENT.—Section 9721 of
18 such Code is amended to read as follows:

19 **“SEC. 9721. CIVIL ENFORCEMENT.**

20 “The provisions of section 4301 of the Employee Re-
21 tirement Income Security Act of 1974 shall apply, in the
22 same manner as any claim arising out of an obligation
23 to pay withdrawal liability under subtitle E of title IV of
24 such Act, to any claim—

1 “(1) arising out of an obligation to pay any
2 amount required to be paid by this chapter; or

3 “(2) arising out of an obligation to pay any
4 amount required by section 402(h)(5)(B)(ii) of the
5 Surface Mining Control and Reclamation Act of
6 1977 (30 U.S.C. 1232(h)(5)(B)(ii)).”.

7 **TITLE III—OTHER PROVISIONS**

8 **SEC. 301. TOBACCO PERSONAL USE QUANTITY EXCEPTION**

9 **TO NOT APPLY TO DELIVERY SALES.**

10 (a) DEFINITIONS.—Section 801 of the Tariff Act of
11 1930 (19 U.S.C. 1681) is amended by adding at the end
12 the following:

13 “(3) DELIVERY SALE.—The term ‘delivery sale’
14 means any sale of cigarettes or a smokeless tobacco
15 product to a consumer if—

16 “(A) the consumer submits the order for
17 such sale by means of a telephone or other
18 method of voice transmission, the mail, or the
19 Internet or other online service, or the seller is
20 otherwise not in the physical presence of the
21 buyer when the request for purchase or order is
22 made; or

23 “(B) the cigarettes or smokeless tobacco
24 product is delivered by use of a common carrier,
25 private delivery service, or the mail, or the sell-

1 er is not in the physical presence of the buyer
2 when the buyer obtains personal possession of
3 the delivered cigarettes or smokeless tobacco
4 product.”.

5 (b) INAPPLICABILITY OF EXEMPTIONS FROM RE-
6 QUIREMENTS FOR ENTRY OF CERTAIN CIGARETTES AND
7 SMOKELESS TOBACCO PRODUCTS.—Section 802(b)(1) of
8 the Tariff Act of 1930 (19 U.S.C. 1681a(b)(1)) is amend-
9 ed by adding at the end the following new sentence: “The
10 preceding sentence shall not apply to any cigarettes or
11 smokeless tobacco products sold in connection with a deliv-
12 ery sale.”.

13 (c) STATE ACCESS TO CUSTOMS CERTIFICATIONS.—
14 Section 802 of the Tariff Act of 1930 (19 U.S.C. 1681a)
15 is amended by adding at the end the following new sub-
16 section:

17 “(d) STATE ACCESS TO CUSTOMS CERTIFI-
18 CATIONS.—A State, through its Attorney General, shall be
19 entitled to obtain copies of any certification required under
20 subsection (c) directly—

21 “(1) upon request to the agency of the United
22 States responsible for collecting such certification; or
23 “(2) upon request to the importer, manufac-
24 turer, or authorized official of such importer or
25 manufacturer.”.

1 (d) ENFORCEMENT PROVISIONS.—Section 803(b) of
2 the Tariff Act of 1930 (19 U.S.C. 1681b(b)) is amend-
3 ed—

4 (1) in the first sentence, by inserting before the
5 period at the end the following: “, or to any State
6 in which such tobacco product, cigarette papers, or
7 tube is found”; and

8 (2) in the second sentence, by inserting “, or to
9 any State,” after “the United States”.

10 (e) INCLUSION OF SMOKELESS TOBACCO.—

11 (1) Sections 802 and 803(a) of the Tariff Act
12 of 1930 (19 U.S.C. 1681a and 1681b(a)) (other
13 than the last sentence of section 802(b)(1), as added
14 by subsection (b) of this section) are further amend-
15 ed by inserting “or smokeless tobacco products”
16 after “cigarettes” each place it appears.

17 (2) Section 802 of such Act is further amend-
18 ed—

19 (A) in subsection (a)—

20 (i) in paragraph (1), by inserting “or
21 section 4 of the Comprehensive Smokeless
22 Tobacco Health Education Act of 1986
23 (15 U.S.C. 4403), as the case may be”
24 after “section 7 of the Federal Cigarette

1 Labeling and Advertising Act (15 U.S.C.
2 1335a)”;

3 (ii) in paragraph (2), by inserting “or
4 section 3 of the Comprehensive Smokeless
5 Tobacco Health Education Act of 1986
6 (15 U.S.C. 4402), as the case may be,”
7 after “section 4 of the Federal Cigarette
8 Labeling and Advertising Act (15 U.S.C.
9 1333)”;

10 (iii) in paragraph (3), by inserting “or
11 section 3(d) of the Comprehensive Smoke-
12 less Tobacco Health Education Act of
13 1986 (15 U.S.C. 4402(d)), as the case
14 may be” after “section 4(c) of the Federal
15 Cigarette Labeling and Advertising Act
16 (15 U.S.C. 1333(c))”;

17 (B) in subsection (b)—

18 (i) in the heading of paragraph (1),
19 by inserting “OR SMOKELESS TOBACCO
20 PRODUCTS” after “CIGARETTES”; and

21 (ii) in the heading of paragraphs (2)
22 and (3), by inserting “OR SMOKELESS TO-
23 BACCO PRODUCTS” after “CIGARETTES”;
24 and

25 (C) in subsection (c)—

1 (i) in the heading, by inserting “OR
2 SMOKELESS TOBACCO PRODUCT” after
3 “CIGARETTE”;

4 (ii) in paragraph (1), by inserting “or
5 section 4 of the Comprehensive Smokeless
6 Tobacco Health Education Act of 1986
7 (15 U.S.C. 4403), as the case may be”
8 after “section 7 of the Federal Cigarette
9 Labeling and Advertising Act (15 U.S.C.
10 1335a)”;

11 (iii) in paragraph (2)(A), by inserting
12 “or section 3 of the Comprehensive Smoke-
13 less Tobacco Health Education Act of
14 1986 (15 U.S.C. 4402), as the case may
15 be,” after “section 4 of the Federal Ciga-
16 rette Labeling and Advertising Act (15
17 U.S.C. 1333)”;

18 (iv) in paragraph (2)(B), by inserting
19 “or section 3(d) of the Comprehensive
20 Smokeless Tobacco Health Education Act
21 of 1986 (15 U.S.C. 4402(d)), as the case
22 may be” after “section 4(e) of the Federal
23 Cigarette Labeling and Advertising Act
24 (15 U.S.C. 1333(c))”.

1 (3) Section 803(b) of such Act, as amended by
2 subsection (d)(1) of this section, is further amended
3 by inserting “, or any smokeless tobacco product,”
4 after “or tube” the first place it appears.

5 (4)(A) The heading of title VIII of such Act is
6 amended by inserting “**AND SMOKELESS TO-**
7 **BACCO PRODUCTS**” after “**CIGA-**
8 **RETTES**”.

9 (B) The heading of section 802 of such Act is
10 amended by inserting “**AND SMOKELESS TO-**
11 **BACCO PRODUCTS**” after “**CIGARETTES**”.

12 (f) APPLICATION OF CIVIL PENALTIES TO RE-
13 LANDINGS OF TOBACCO PRODUCTS SOLD IN A DELIVERY
14 SALE.—

15 (1) IN GENERAL.—Section 5761 of the Internal
16 Revenue Code of 1986 (relating to civil penalties) is
17 amended by redesignating subsections (d) and (e) as
18 subsections (e) and (f), respectively, and inserting
19 after subsection (c) the following new subsection:

20 “(d) PERSONAL USE QUANTITIES.—

21 “(1) IN GENERAL.—No quantity of tobacco
22 products other than the quantity referred to in para-
23 graph (2) may be relanded or received as a personal
24 use quantity.

1 “(2) EXCEPTION FOR PERSONAL USE QUAN-
2 TITY.—Subsection (c) and section 5754 shall not
3 apply to any person who relands or receives tobacco
4 products in the quantity allowed entry free of tax
5 and duty under chapter 98 of the Harmonized Tariff
6 Schedule of the United States, and such person may
7 voluntarily relinquish to the Secretary at the time of
8 entry any excess of such quantity without incurring
9 the penalty under subsection (c).

10 “(3) SPECIAL RULE FOR DELIVERY SALES.—

11 “(A) IN GENERAL.—Paragraph (2) shall
12 not apply to any tobacco product sold in con-
13 nection with a delivery sale.

14 “(B) DELIVERY SALE.—For purposes of
15 subparagraph (A), the term ‘delivery sale’
16 means any sale of a tobacco product to a con-
17 sumer if—

18 “(i) the consumer submits the order
19 for such sale by means of a telephone or
20 other method of voice transmission, the
21 mail, or the Internet or other online serv-
22 ice, or the seller is otherwise not in the
23 physical presence of the buyer when the re-
24 quest for purchase or order is made, or

1 “(ii) the tobacco product is delivered
2 by use of a common carrier, private deliv-
3 ery service, or the mail, or the seller is not
4 in the physical presence of the buyer when
5 the buyer obtains personal possession of
6 the tobacco product.”.

7 (2) CONFORMING AMENDMENTS.—

8 (A) Subsection (c) of section 5761 of such
9 Code is amended by striking the last two sen-
10 tences.

11 (B) Paragraph (1) of section 5754(c) of
12 such Code is amended by striking “section
13 5761(c)” and inserting “section 5761(d)”.

14 (g) EFFECTIVE DATE.—The amendments made by
15 this section shall apply with respect to goods entered, or
16 withdrawn from warehouse for consumption, on or after
17 the 15th day after the date of the enactment of this Act.

18 **SEC. 302. ETHANOL TARIFF SCHEDULE.**

19 Headings 9901.00.50 and 9901.00.52 of the Har-
20 monized Tariff Schedule of the United States are each
21 amended in the effective period column by striking “10/
22 1/2007” each place it appears and inserting “1/1/2009”.

1 **SEC. 303. WITHDRAWAL OF CERTAIN FEDERAL LAND AND**
2 **INTERESTS IN CERTAIN FEDERAL LAND**
3 **FROM LOCATION, ENTRY, AND PATENT**
4 **UNDER THE MINING LAWS AND DISPOSITION**
5 **UNDER THE MINERAL AND GEOTHERMAL**
6 **LEASING LAWS.**

7 (a) DEFINITIONS.—In this section:

8 (1) BUREAU OF LAND MANAGEMENT LAND.—

9 The term “Bureau of Land Management land”
10 means the Bureau of Land Management land and
11 any federally-owned minerals located south of the
12 Blackfeet Indian Reservation and east of the Lewis
13 and Clark National Forest to the eastern edge of R.
14 8 W., beginning in T. 29 N. down to and including
15 T. 19 N. and all of T. 18 N., R. 7 W.

16 (2) ELIGIBLE FEDERAL LAND.—The term “eli-
17 gible Federal land” means the Bureau of Land Man-
18 agement land and the Forest Service land, as gen-
19 erally depicted on the map.

20 (3) FOREST SERVICE LAND.—The term “Forest
21 Service land” means—

22 (A) the Forest Service land and any feder-
23 ally-owned minerals located in the Rocky Moun-
24 tain Division of the Lewis and Clark National
25 Forest, including the approximately 356,111
26 acres of land made unavailable for leasing by

1 the August 28, 1997, Record of Decision for
2 the Lewis and Clark National Forest Oil and
3 Gas Leasing Environmental Impact Statement
4 and that is located from T. 31 N. to T. 16 N.
5 and R. 13 W. to R. 7 W.; and

6 (B) the Forest Service land and any feder-
7 ally-owned minerals located within the Badger
8 Two Medicine area of the Flathead National
9 Forest, including—

10 (i) the land located in T. 29 N. from
11 the western edge of R. 16 W. to the east-
12 ern edge of R. 13 W.; and

13 (ii) the land located in T. 28 N., Rs.
14 13 and 14 W.

15 (4) MAP.—The term “map” means the map en-
16 titled “Rocky Mountain Front Mineral Withdrawal
17 Area” and dated December 31, 2006.

18 (b) WITHDRAWAL.—

19 (1) IN GENERAL.—Subject to valid existing
20 rights, the eligible Federal land (including any inter-
21 est in the eligible Federal land) is withdrawn from—

22 (A) all forms of location, entry, and patent
23 under the mining laws; and

24 (B) disposition under all laws relating to
25 mineral and geothermal leasing.

1 (2) AVAILABILITY OF MAP.—The map shall be
2 on file and available for inspection in the Office of
3 the Chief of the Forest Service.

4 (c) TAX INCENTIVE FOR SALE OF EXISTING MIN-
5 ERAL AND GEOTHERMAL RIGHTS TO TAX-EXEMPT ENTI-
6 TIES.—

7 (1) EXCLUSION.—For purposes of the Internal
8 Revenue Code of 1986, gross income shall not in-
9 clude 25 percent of the qualifying gain from a con-
10 servation sale of a qualifying mineral or geothermal
11 interest.

12 (2) QUALIFYING GAIN.—For purposes of this
13 subsection, the term “qualifying gain” means any
14 gain which would be recognized as long-term capital
15 gain under such Code.

16 (3) CONSERVATION SALE.—For purposes of
17 this subsection, the term “conservation sale” means
18 a sale which meets the following requirements:

19 (A) TRANSFEREE IS AN ELIGIBLE ENTI-
20 TY.—The transferee of the qualifying mineral
21 or geothermal interest is an eligible entity.

22 (B) QUALIFYING LETTER OF INTENT RE-
23 QUIRED.—At the time of the sale, such trans-
24 feree provides the taxpayer with a qualifying
25 letter of intent.

1 (C) NONAPPLICATION TO CERTAIN
2 SALES.—The sale is not made pursuant to an
3 order of condemnation or eminent domain.

4 (4) QUALIFYING MINERAL OR GEOTHERMAL IN-
5 TEREST.—For purposes of this subsection—

6 (A) IN GENERAL.—The term “qualifying
7 mineral or geothermal interest” means an inter-
8 est in any mineral or geothermal deposit located
9 on eligible Federal land which constitutes a tax-
10 payer’s entire interest in such deposit.

11 (B) ENTIRE INTEREST.—For purposes of
12 subparagraph (A)—

13 (i) an interest in any mineral or geo-
14 thermal deposit is not a taxpayer’s entire
15 interest if such interest in such mineral or
16 geothermal deposit was divided in order to
17 avoid the requirements of such subpara-
18 graph or section 170(f)(3)(A) of such
19 Code, and

20 (ii) a taxpayer’s entire interest in such
21 deposit does not fail to satisfy such sub-
22 paragraph solely because the taxpayer has
23 retained an interest in other deposits, even
24 if the other deposits are contiguous with
25 such certain deposit and were acquired by

1 the taxpayer along with such certain de-
2 posit in a single conveyance.

3 (5) OTHER DEFINITIONS.—For purposes of this
4 subsection—

5 (A) ELIGIBLE ENTITY.—The term “eligible
6 entity” means—

7 (i) a governmental unit referred to in
8 section 170(c)(1) of such Code, or an
9 agency or department thereof operated pri-
10 marily for 1 or more of the conservation
11 purposes specified in clause (i), (ii), or (iii)
12 of section 170(h)(4)(A) of such Code, or

13 (ii) an entity which is—

14 (I) described in section
15 170(b)(1)(A)(vi) or section
16 170(h)(3)(B) of such Code, and

17 (II) organized and at all times
18 operated primarily for 1 or more of
19 the conservation purposes specified in
20 clause (i), (ii), or (iii) of section
21 170(h)(4)(A) of such Code.

22 (B) QUALIFYING LETTER OF INTENT.—
23 The term “qualifying letter of intent” means a
24 written letter of intent which includes the fol-
25 lowing statement: “The transferee’s intent is

1 that this acquisition will serve 1 or more of the
2 conservation purposes specified in clause (i),
3 (ii), or (iii) of section 170(h)(4)(A) of the Inter-
4 nal Revenue Code of 1986, that the transferee's
5 use of the deposits so acquired will be con-
6 sistent with section 170(h)(5) of such Code,
7 and that the use of the deposits will continue to
8 be consistent with such section, even if owner-
9 ship or possession of such deposits is subse-
10 quently transferred to another person.”.

11 (6) TAX ON SUBSEQUENT TRANSFERS.—

12 (A) IN GENERAL.—A tax is hereby im-
13 posed on any subsequent transfer by an eligible
14 entity of ownership or possession, whether by
15 sale, exchange, or lease, of an interest acquired
16 directly or indirectly in—

17 (i) a conservation sale described in
18 paragraph (1), or

19 (ii) a transfer described in clause (i),
20 (ii), or (iii) of subparagraph (D).

21 (B) AMOUNT OF TAX.—The amount of tax
22 imposed by subparagraph (A) on any transfer
23 shall be equal to the sum of—

24 (i) 20 percent of the fair market value
25 (determined at the time of the transfer) of

1 the interest the ownership or possession of
2 which is transferred, plus

3 (ii) the product of—

4 (I) the highest rate of tax speci-
5 fied in section 11 of such Code, times

6 (II) any gain or income realized
7 by the transferor as a result of the
8 transfer.

9 (C) LIABILITY.—The tax imposed by sub-
10 paragraph (A) shall be paid by the transferor.

11 (D) RELIEF FROM LIABILITY.—The person
12 (otherwise liable for any tax imposed by sub-
13 paragraph (A)) shall be relieved of liability for
14 the tax imposed by subparagraph (A) with re-
15 spect to any transfer if—

16 (i) the transferee is an eligible entity
17 which provides such person, at the time of
18 transfer, a qualifying letter of intent,

19 (ii) in any case where the transferee is
20 not an eligible entity, it is established to
21 the satisfaction of the Secretary of the
22 Treasury, that the transfer of ownership or
23 possession, as the case may be, will be con-
24 sistent with section 170(h)(5) of such
25 Code, and the transferee provides such

1 person, at the time of transfer, a quali-
2 fying letter of intent, or

3 (iii) tax has previously been paid
4 under this paragraph as a result of a prior
5 transfer of ownership or possession of the
6 same interest.

7 (E) ADMINISTRATIVE PROVISIONS.—For
8 purposes of subtitle F of such Code, the taxes
9 imposed by this paragraph shall be treated as
10 excise taxes with respect to which the deficiency
11 procedures of such subtitle apply.

12 (7) REPORTING.—The Secretary of the Treas-
13 ury may require such reporting as may be necessary
14 or appropriate to further the purpose under this
15 subsection that any conservation use be in per-
16 petuity.

17 (d) EFFECTIVE DATES.—

18 (1) MORATORIUM.—Subsection (b) shall take
19 effect on the date of the enactment of this Act.

20 (2) TAX INCENTIVE.—Subsection (c) shall
21 apply to sales occurring on or after the date of the
22 enactment of this Act.

1 **SEC. 304. CONTINUING ELIGIBILITY FOR CERTAIN STU-**
2 **DENTS UNDER DISTRICT OF COLUMBIA**
3 **SCHOOL CHOICE PROGRAM.**

4 (a) IN GENERAL.—Section 307(a)(4) of the DC
5 School Choice Incentive Act of 2003 (sec. 38—
6 1851.06(a)(4), D.C. Official Code) is amended by striking
7 “200 percent” and inserting the following: “200 percent
8 (or, in the case of an eligible student whose first year of
9 participation in the program is an academic year ending
10 in June 2005 or June 2006 and whose second or suc-
11 ceeding year is an academic year ending on or before June
12 2009, 300 percent)”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall take effect as if included in the enact-
15 ment of the DC School Choice Incentive Act of 2003.

16 **SEC. 305. STUDY ON ESTABLISHING UNIFORM NATIONAL**
17 **DATABASE ON ELDER ABUSE.**

18 (a) STUDY.—

19 (1) IN GENERAL.—The Secretary of Health and
20 Human Services, in consultation with the Attorney
21 General, shall conduct a study on establishing a uni-
22 form national database on elder abuse.

23 (2) ISSUES STUDIED.—The study conducted
24 under paragraph (1) may consider the following:

25 (A) Current methodologies used for col-
26 lecting data on elder abuse, including a deter-

1 mination of the shortcomings, strengths, and
2 commonalities of existing data collection efforts
3 and reporting forms, and how a uniform na-
4 tional database would capitalize on such efforts.

5 (B) The process by which uniform national
6 standards for reporting on elder abuse could be
7 implemented, including the identification and
8 involvement of necessary stakeholders, financial
9 resources needed, timelines, and the treatment
10 of existing standards with respect to elder
11 abuse.

12 (C) Potential conflicts in Federal, State,
13 and local laws, and enforcement and jurisdic-
14 tional issues that could occur as a result of the
15 creation of a uniform national database on elder
16 abuse.

17 (D) The scope, purpose, and variability of
18 existing definitions used by Federal, State, and
19 local agencies with respect to elder abuse.

20 (3) DURATION.—The study conducted under
21 paragraph (1) shall be conducted for a period not to
22 exceed 2 years.

23 (b) REPORT.—Not later than 180 days after the com-
24 pletion of the study conducted under subsection (a)(1), the
25 Secretary of Health and Human Services shall submit a

1 report to the Committee on Finance of the Senate and
2 the Committee on Ways and Means of the House of Rep-
3 resentatives containing the findings of the study, together
4 with recommendations on how to implement a uniform na-
5 tional database on elder abuse.

6 (c) AUTHORIZATION.—There are authorized to be ap-
7 propriated to carry out this section, \$500,000 for each of
8 fiscal years 2007 and 2008.