

## Calendar No. 562

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION**H. R. 5970**

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IN THE SENATE OF THE UNITED STATES

JULY 31, 2006

Received; deemed read the first time on July 28 (legislative day, July 26),  
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JULY 31, 2006

Read the second time and placed on the calendar

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**AN ACT**

To amend the Internal Revenue Code of 1986 to increase the unified credit against the estate tax to an exclusion equivalent of \$5,000,000, to repeal the sunset provision for the estate and generation-skipping taxes, and 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 “Estate Tax and Extension of Tax Relief Act of 2006”.

6 (b) **REFERENCE.**—Except as otherwise expressly pro-  
7 vided, whenever in this Act an amendment or repeal is

1 expressed in terms of an amendment to, or repeal of, a  
 2 section or other provision, the reference shall be consid-  
 3 ered to be made to a section or other provision of the In-  
 4 ternal Revenue Code of 1986.

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

Sec. 1. Short title, etc.

#### TITLE I—REFORM AND EXTENSION OF ESTATE TAX AFTER 2009

Sec. 101. Reform and extension of estate tax after 2009.

Sec. 102. Unified credit increased by unused unified credit of deceased spouse.

#### TITLE II—EXTENSION AND EXPANSION OF CERTAIN TAX RELIEF PROVISIONS

##### Subtitle A—Extension and Modification of Certain Provisions

Sec. 201. Deduction for qualified tuition and related expenses.

Sec. 202. Extension and modification of new markets tax credit.

Sec. 203. Election to deduct State and local general sales taxes.

Sec. 204. Extension and modification of research credit.

Sec. 205. Work opportunity tax credit and welfare-to-work credit.

Sec. 206. Election to include combat pay as earned income for purposes of earned income credit.

Sec. 207. Extension and modification of qualified zone academy bonds.

Sec. 208. Above-the-line deduction for certain expenses of elementary and secondary school teachers.

Sec. 209. Extension and expansion of expensing of brownfields remediation costs.

Sec. 210. Tax incentives for investment in the District of Columbia.

Sec. 211. Indian employment tax credit.

Sec. 212. Accelerated depreciation for business property on Indian reservations.

Sec. 213. Fifteen-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant property.

Sec. 214. Cover over of tax on distilled spirits.

Sec. 215. Parity in application of certain limits to mental health benefits.

Sec. 216. Corporate donations of scientific property used for research and of computer technology and equipment.

Sec. 217. Availability of medical savings accounts.

Sec. 218. Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.

Sec. 219. American Samoa economic development credit.

Sec. 220. Restructuring of New York Liberty Zone tax credits.

Sec. 221. Extension of bonus depreciation for certain qualified Gulf Opportunity Zone property.

Sec. 222. Authority for undercover operations.

Sec. 223. Disclosures of certain tax return information.

## Subtitle B—Other Provisions

- Sec. 231. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 232. Credit for prior year minimum tax liability made refundable after period of years.
- Sec. 233. Returns required in connection with certain options.
- Sec. 234. Partial expensing for advanced mine safety equipment.
- Sec. 235. Mine rescue team training tax credit.
- Sec. 236. Whistleblower reforms.
- Sec. 237. Frivolous tax submissions.
- Sec. 238. Addition of meningococcal and human papillomavirus vaccines to list of taxable vaccines.
- Sec. 239. Clarification of taxation of certain settlement funds made permanent.
- Sec. 240. Modification of active business definition under section 355 made permanent.
- Sec. 241. Revision of State veterans limit made permanent.
- Sec. 242. Capital gains treatment for certain self-created musical works made permanent.
- Sec. 243. Reduction in minimum vessel tonnage which qualifies for tonnage tax made permanent.
- Sec. 244. Modification of special arbitrage rule for certain funds made permanent.
- Sec. 245. Great Lakes domestic shipping to not disqualify vessel from tonnage tax.
- Sec. 246. Use of qualified mortgage bonds to finance residences for veterans without regard to first-time homebuyer requirement.
- Sec. 247. Exclusion of gain from sale of a principal residence by certain employees of the intelligence community.
- Sec. 248. Treatment of coke and coke gas.
- Sec. 249. Sale of property by judicial officers.
- Sec. 250. Premiums for mortgage insurance.
- Sec. 251. Modification of refunds for kerosene used in aviation.
- Sec. 252. Deduction for qualified timber gain.
- Sec. 253. Credit to holders of rural renaissance bonds.
- Sec. 254. Restoration of deduction for travel expenses of spouse, etc. accompanying taxpayer on business travel.
- Sec. 255. Technical corrections.

TITLE III—SURFACE MINING CONTROL AND RECLAMATION ACT  
AMENDMENTS OF 2006

- Sec. 301. Short title.

Subtitle A—MINING CONTROL AND RECLAMATION

- Sec. 311. Abandoned Mine Reclamation Fund and purposes.
- Sec. 312. Reclamation fee.
- Sec. 313. Objectives of Fund.
- Sec. 314. Reclamation of rural land.
- Sec. 315. Liens.
- Sec. 316. Certification.
- Sec. 317. Remining incentives.
- Sec. 318. Extension of limitation on application of prohibition on issuance of permit.
- Sec. 319. Tribal regulation of surface coal mining and reclamation operations.

Subtitle B—Coal Industry Retiree Health Benefit Act

Sec. 321. Certain related persons and successors in interest relieved of liability if premiums prepaid.

Sec. 322. Transfers to funds; premium relief.

Sec. 323. Other provisions.

TITLE IV—INCREASE IN MINIMUM WAGE

Sec. 401. Minimum Wage.

Sec. 402. Tipped Wage Fairness.

1 **TITLE I—REFORM AND EXTEN-**  
 2 **SION OF ESTATE TAX AFTER**  
 3 **2009**

4 **SEC. 101. REFORM AND EXTENSION OF ESTATE TAX AFTER**  
 5 **2009.**

6 (a) RESTORATION OF UNIFIED CREDIT AGAINST  
 7 GIFT TAX.—Paragraph (1) of section 2505(a) (relating  
 8 to general rule for unified credit against gift tax), after  
 9 the application of subsection (g), is amended by striking  
 10 “(determined as if the applicable exclusion amount were  
 11 \$1,000,000)”.

12 (b) EXCLUSION EQUIVALENT OF UNIFIED CREDIT  
 13 INCREASED TO \$5,000,000.—Subsection (c) of section  
 14 2010 (relating to unified credit against estate tax) is  
 15 amended to read as follows:

16 “(c) APPLICABLE CREDIT AMOUNT.—

17 “(1) IN GENERAL.—For purposes of this sec-  
 18 tion, the applicable credit amount is the amount of  
 19 the tentative tax which would be determined under  
 20 the rate schedule set forth in section 2001(c) if the

1 amount with respect to which such tentative tax is  
2 to be computed were the applicable exclusion  
3 amount.

4 “(2) APPLICABLE EXCLUSION AMOUNT.—

5 “(A) IN GENERAL.—For purposes of this  
6 subsection, the applicable exclusion amount is  
7 as follows:

8 “(i) For calendar year 2010,  
9 \$3,750,000.

10 “(ii) For calendar year 2011,  
11 \$4,000,000.

12 “(iii) For calendar year 2012,  
13 \$4,250,000.

14 “(iv) For calendar year 2013,  
15 \$4,500,000.

16 “(v) For calendar year 2014,  
17 \$4,750,000.

18 “(vi) For calendar year 2015 and  
19 thereafter, \$5,000,000.

20 “(B) INFLATION ADJUSTMENT.—In the  
21 case of any decedent dying in a calendar year  
22 after 2015, the \$5,000,000 amount in subpara-  
23 graph (A)(vi) shall be increased by an amount  
24 equal to—

25 “(i) such dollar amount, multiplied by

1           “(ii) the cost-of-living adjustment de-  
2           termined under section 1(f)(3) for such  
3           calendar year by substituting ‘calendar  
4           year 2014’ for ‘calendar year 1992’ in sub-  
5           paragraph (B) thereof.

6           If any amount as adjusted under the preceding  
7           sentence is not a multiple of \$100,000, such  
8           amount shall be rounded to the nearest multiple  
9           of \$100,000.”.

10       (c) RATE SCHEDULE.—

11           (1) IN GENERAL.—Subsection (c) of section  
12       2001 (relating to rate schedule) is amended to read  
13       as follows:

14       “(c) RATE SCHEDULE.—

15           “(1) IN GENERAL.—The tentative tax is equal  
16       to the sum of—

17           “(A) the product of the rate specified in  
18           section 1(h)(1)(C) in effect on the date of the  
19           decedent’s death multiplied by so much of the  
20           sum described in subsection (b)(1) as does not  
21           exceed \$25,000,000, and

22           “(B) the applicable percentage effective on  
23           the date of the decedent’s death of so much of  
24           the sum described in subsection (b)(1) as ex-  
25           ceeds \$25,000,000.

1           “(2) APPLICABLE PERCENTAGE.—For purposes  
2 of paragraph (1)(B), the applicable percentage is—

3           “(A) in the case the decedent’s death is in  
4 2010, 40 percent,

5           “(B) in the case the decedent’s death is in  
6 2011, 38 percent,

7           “(C) in the case the decedent’s death is in  
8 2012, 36 percent,

9           “(D) in the case the decedent’s death is in  
10 2013, 34 percent,

11           “(E) in the case the decedent’s death is in  
12 2014, 32 percent, and

13           “(F) in the case the decedent’s death is in  
14 2015 or thereafter, 30 percent.

15           “(3) INFLATION ADJUSTMENT.—In the case of  
16 any decedent dying in a calendar year after 2015,  
17 each \$25,000,000 amount in subparagraphs (A) and  
18 (B) of paragraph (1) shall be increased by an  
19 amount equal to—

20           “(A) such dollar amount, multiplied by

21           “(B) the cost-of-living adjustment deter-  
22 mined under section 1(f)(3) for such calendar  
23 year by substituting ‘calendar year 2014’ for  
24 ‘calendar year 1992’ in subparagraph (B)  
25 thereof.

1 If any amount as adjusted under the preceding sen-  
2 tence is not a multiple of \$100,000, such amount  
3 shall be rounded to the nearest multiple of  
4 \$100,000.”.

5 (2) CONFORMING AMENDMENT.—Section  
6 2502(a) (relating to computation of tax), after the  
7 application of subsection (g), is amended by adding  
8 at the end the following flush sentence:

9 “In computing the tentative tax under section 2001(c) for  
10 purposes of this subsection, ‘the last day of the calendar  
11 year in which the gift was made’ shall be substituted for  
12 ‘the date of the decedent’s death’ each place it appears  
13 in such section.”.

14 (d) MODIFICATIONS OF ESTATE AND GIFT TAXES TO  
15 REFLECT DIFFERENCES IN UNIFIED CREDIT RESULTING  
16 FROM DIFFERENT TAX RATES.—

17 (1) ESTATE TAX.—

18 (A) IN GENERAL.—Section 2001(b)(2) (re-  
19 lating to computation of tax) is amended by  
20 striking “if the provisions of subsection (c) (as  
21 in effect at the decedent’s death)” and inserting  
22 “if the modifications described in subsection  
23 (g)”.

1                   (B) MODIFICATIONS.—Section 2001 is  
2                   amended by adding at the end the following  
3                   new subsection:

4                   “(g) MODIFICATIONS TO GIFT TAX PAYABLE TO RE-  
5 FLECT DIFFERENT TAX RATES.—For purposes of apply-  
6 ing subsection (b)(2) with respect to 1 or more gifts, the  
7 rates of tax under subsection (c) in effect on the date of  
8 the decedent’s death shall, in lieu of the rates of tax in  
9 effect at the time of such gifts, be used both to compute—

10                   “(1) the tax imposed by chapter 12 with respect  
11 to such gifts, and

12                   “(2) the credit allowed against such tax under  
13 section 2505, including in computing—

14                   “(A) the applicable credit amount under  
15 section 2505(a)(1), and

16                   “(B) the sum of the amounts allowed as a  
17 credit for all preceding periods under section  
18 2505(a)(2).

19 For purposes of paragraph (2)(A), the applicable  
20 credit amount for any calendar year before 1998 is  
21 the amount which would be determined under sec-  
22 tion 2010(c) if the applicable exclusion amount were  
23 the dollar amount under section 6018(a)(1) for such  
24 year.”.

1           (2) GIFT TAX.—Section 2505(a) (relating to  
2 unified credit against gift tax), after the application  
3 of subsection (g), is amended by adding at the end  
4 the following new flush sentence:

5 “For purposes of applying paragraph (2) for any calendar  
6 year, the rate schedule under section 2001(c) used in com-  
7 puting the applicable credit amount under paragraph (1)  
8 for such calendar year shall, in lieu of the rates of tax  
9 in effect for preceding calendar periods, be used in deter-  
10 mining the amounts allowable as a credit under this sec-  
11 tion for all preceding calendar periods.”.

12           (e) REPEAL OF DEDUCTION FOR STATE DEATH  
13 TAXES.—

14           (1) IN GENERAL.—Section 2058 (relating to  
15 State death taxes) is amended by adding at the end  
16 the following:

17           “(c) TERMINATION.—This section shall not apply to  
18 the estates of decedents dying after December 31, 2009.”.

19           (2) CONFORMING AMENDMENT.—Section  
20 2106(a)(4) is amended by adding at the end the fol-  
21 lowing new sentence: “This paragraph shall not  
22 apply to the estates of decedents dying after Decem-  
23 ber 31, 2009.”.

24           (f) EFFECTIVE DATE.—The amendments made by  
25 this section shall apply to estates of decedents dying, gen-

1 eration-skipping transfers, and gifts made, after Decem-  
2 ber 31, 2009.

3 (g) ADDITIONAL MODIFICATIONS TO ESTATE TAX.—

4 (1) IN GENERAL.—The following provisions of  
5 the Economic Growth and Tax Relief Reconciliation  
6 Act of 2001, and the amendments made by such  
7 provisions, are hereby repealed:

8 (A) Subtitles A and E of title V.

9 (B) Subsection (d), and so much of sub-  
10 section (f)(3) as relates to subsection (d), of  
11 section 511.

12 (C) Paragraph (2) of subsection (b), and  
13 paragraph (2) of subsection (e), of section 521.

14 The Internal Revenue Code of 1986 shall be applied  
15 as if such provisions and amendments had never  
16 been enacted.

17 (2) SUNSET NOT TO APPLY.—Section 901 of  
18 the Economic Growth and Tax Relief Reconciliation  
19 Act of 2001 shall not apply to title V (other than  
20 subtitles F, G, and H thereof) of such Act.

21 (3) REPEAL OF DEADWOOD.—

22 (A) Sections 2011, 2057, and 2604 of the  
23 Internal Revenue Code of 1986 are hereby re-  
24 pealed.

1 (B) The table of sections for part II of  
2 subchapter A of chapter 11 of such Code is  
3 amended by striking the item relating to section  
4 2011.

5 (C) The table of sections for part IV of  
6 subchapter A of chapter 11 of such Code is  
7 amended by striking the item relating to section  
8 2057.

9 (D) The table of sections for subchapter A  
10 of chapter 13 of such Code is amended by strik-  
11 ing the item relating to section 2604.

12 **SEC. 102. UNIFIED CREDIT INCREASED BY UNUSED UNI-**  
13 **FIED CREDIT OF DECEASED SPOUSE.**

14 (a) IN GENERAL.—Subsection (c) of section 2010  
15 (defining applicable credit amount), as amended by section  
16 101(b), is amended by striking paragraph (2) and insert-  
17 ing the following new paragraphs:

18 “(2) APPLICABLE EXCLUSION AMOUNT.—For  
19 purposes of this subsection, the applicable exclusion  
20 amount is the sum of—

21 “(A) the basic exclusion amount, and

22 “(B) in the case of a surviving spouse, the  
23 aggregate deceased spousal unused exclusion  
24 amount.

25 “(3) BASIC EXCLUSION AMOUNT.—

1           “(A) IN GENERAL.—For purposes of this  
2 subsection, the basic exclusion amount is as fol-  
3 lows:

4                   “(i) For calendar year 2010,  
5                   \$3,750,000.

6                   “(ii) For calendar year 2011,  
7                   \$4,000,000.

8                   “(iii) For calendar year 2012,  
9                   \$4,250,000.

10                   “(iv) For calendar year 2013,  
11                   \$4,500,000.

12                   “(v) For calendar year 2014,  
13                   \$4,750,000.

14                   “(vi) For calendar year 2015 and  
15                   thereafter, \$5,000,000.

16           “(B) INFLATION ADJUSTMENT.—In the  
17 case of any decedent dying in a calendar year  
18 after 2015, the \$5,000,000 amount in subpara-  
19 graph (A)(vi) shall be increased by an amount  
20 equal to—

21                   “(i) such dollar amount, multiplied by

22                   “(ii) the cost-of-living adjustment de-  
23 termined under section 1(f)(3) for such  
24 calendar year by substituting ‘calendar

1                   year 2014’ for ‘calendar year 1992’ in sub-  
2                   paragraph (B) thereof.

3                   If any amount as adjusted under the preceding  
4                   sentence is not a multiple of \$100,000, such  
5                   amount shall be rounded to the nearest multiple  
6                   of \$100,000.

7                   “(4) AGGREGATE DECEASED SPOUSAL UNUSED  
8                   EXCLUSION AMOUNT.—For purposes of this sub-  
9                   section, the term ‘aggregate deceased spousal unused  
10                  exclusion amount’ means the lesser of—

11                  “(A) the basic exclusion amount, or

12                  “(B) the sum of the deceased spousal un-  
13                  used exclusion amounts of the surviving spouse.

14                  “(5) DECEASED SPOUSAL UNUSED EXCLUSION  
15                  AMOUNT.—For purposes of this subsection, the term  
16                  ‘deceased spousal unused exclusion amount’ means,  
17                  with respect to the surviving spouse of any deceased  
18                  spouse dying after December 31, 2009, the excess (if  
19                  any) of—

20                  “(A) the applicable exclusion amount of  
21                  the deceased spouse, over

22                  “(B) the amount with respect to which the  
23                  tentative tax is determined under section  
24                  2001(b)(1) on the estate of such deceased  
25                  spouse.

1 “(6) SPECIAL RULES.—

2 “(A) ELECTION REQUIRED.—A deceased  
3 spousal unused exclusion amount may not be  
4 taken into account by a surviving spouse under  
5 paragraph (5) unless the executor of the estate  
6 of the deceased spouse files an estate tax return  
7 on which such amount is computed and makes  
8 an election on such return that such amount  
9 may be so taken into account. Such election,  
10 once made, shall be irrevocable. No election  
11 may be made under this subparagraph if such  
12 return is filed after the time prescribed by law  
13 (including extensions) for filing such return.

14 “(B) EXAMINATION OF PRIOR RETURNS  
15 AFTER EXPIRATION OF PERIOD OF LIMITATIONS  
16 WITH RESPECT TO DECEASED SPOUSAL UN-  
17 USED EXCLUSION AMOUNT.—Notwithstanding  
18 any period of limitation in section 6501, after  
19 the time has expired under section 6501 within  
20 which a tax may be assessed under chapter 11  
21 or 12 with respect to a deceased spousal unused  
22 exclusion amount, the Secretary may examine a  
23 return of the deceased spouse to make deter-  
24 minations with respect to such amount for pur-  
25 poses of carrying out this subsection.

1           “(7) REGULATIONS.—The Secretary shall pre-  
2       scribe such regulations as may be necessary or ap-  
3       propriate to carry out this subsection.”.

4       (b) CONFORMING AMENDMENTS.—

5           (1) Paragraph (1) of section 2505(a), as  
6       amended by section 101, is amended to read as fol-  
7       lows:

8           “(1) the applicable credit amount under section  
9       2010(c) which would apply if the donor died as of  
10      the end of the calendar year, reduced by”.

11          (2) Section 2631(c) is amended by striking “the  
12      applicable exclusion amount” and inserting “the  
13      basic exclusion amount”.

14          (3) Section 6018(a)(1), after the application of  
15      section 101(g), is amended by striking “applicable  
16      exclusion amount” and inserting “basic exclusion  
17      amount”.

18      (c) EFFECTIVE DATE.—The amendments made by  
19      this section shall apply to estates of decedents dying, gen-  
20      eration-skipping transfers, and gifts made, after Decem-  
21      ber 31, 2009.

1 **TITLE II—EXTENSION AND EX-**  
2 **PANSION OF CERTAIN TAX**  
3 **RELIEF PROVISIONS**

4 **Subtitle A—Extension and**  
5 **Modification of Certain Provisions**

6 **SEC. 201. 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. 202. 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. 203. 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. 204. 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.—The amendments made  
16           by this subsection shall apply to amounts paid or in-  
17           curred after December 31, 2006.

18           (c) ALTERNATIVE SIMPLIFIED CREDIT FOR QUALI-  
19           FIED RESEARCH EXPENSES.—

20           (1) IN GENERAL.—Subsection (c) of section 41  
21           (relating to base amount) is amended by redesign-  
22           nating paragraphs (5) and (6) as paragraphs (6)  
23           and (7), respectively, and by inserting after para-  
24           graph (4) the following new paragraph:

1           “(5) ELECTION OF ALTERNATIVE SIMPLIFIED  
2 CREDIT.—

3           “(A) IN GENERAL.—At the election of the  
4 taxpayer, the credit determined under sub-  
5 section (a)(1) shall be equal to 12 percent of so  
6 much of the qualified research expenses for the  
7 taxable year as exceeds 50 percent of the aver-  
8 age qualified research expenses for the 3 tax-  
9 able years preceding the taxable year for which  
10 the credit is being determined.

11           “(B) SPECIAL RULE IN CASE OF NO  
12 QUALIFIED RESEARCH EXPENSES IN ANY OF 3  
13 PRECEDING TAXABLE YEARS.—

14           “(i) TAXPAYERS TO WHICH SUBPARA-  
15 GRAPH APPLIES.—The credit under this  
16 paragraph shall be determined under this  
17 subparagraph if the taxpayer has no quali-  
18 fied research expenses in any one of the 3  
19 taxable years preceding the taxable year  
20 for which the credit is being determined.

21           “(ii) CREDIT RATE.—The credit de-  
22 termined under this subparagraph shall be  
23 equal to 6 percent of the qualified research  
24 expenses for the taxable year.

1           “(C) ELECTION.—An election under this  
2 paragraph shall apply to the taxable year for  
3 which made and all succeeding taxable years  
4 unless revoked with the consent of the Sec-  
5 retary. An election under this paragraph may  
6 not be made for any taxable year to which an  
7 election under paragraph (4) applies.”.

8           (2) COORDINATION WITH ELECTION OF ALTER-  
9 NATIVE INCREMENTAL CREDIT.—

10           (A) IN GENERAL.—Section 41(c)(4)(B)  
11 (relating to election) is amended by adding at  
12 the end the following: “An election under this  
13 paragraph may not be made for any taxable  
14 year to which an election under paragraph (5)  
15 applies.”.

16           (B) TRANSITION RULE.—In the case of an  
17 election under section 41(c)(4) of the Internal  
18 Revenue Code of 1986 which applies to the tax-  
19 able year which includes the date of the enact-  
20 ment of this Act, such election shall be treated  
21 as revoked with the consent of the Secretary of  
22 the Treasury if the taxpayer makes an election  
23 under section 41(c)(5) of such Code (as added  
24 by subsection (c)) for such year.

1           (3) EFFECTIVE DATE.—The amendments made  
2           by this subsection shall apply to amounts paid or in-  
3           curred after December 31, 2006.

4 **SEC. 205. WORK OPPORTUNITY TAX CREDIT AND WELFARE-**  
5 **TO-WORK CREDIT.**

6           (a) IN GENERAL.—Sections 51(c)(4)(B) and 51A(f)  
7           are each amended by striking “2005” and inserting  
8           “2007”.

9           (b) ELIGIBILITY OF EX-FELONS DETERMINED  
10          WITHOUT REGARD TO FAMILY INCOME.—Paragraph (4)  
11          of section 51(d) is amended by adding “and” at the end  
12          of subparagraph (A), by striking “, and” at the end of  
13          subparagraph (B) and inserting a period, and by striking  
14          all that follows subparagraph (B).

15          (c) INCREASE IN MAXIMUM AGE FOR ELIGIBILITY OF  
16          FOOD STAMP RECIPIENTS.—Clause (i) of section  
17          51(d)(8)(A) is amended by striking “25” and inserting  
18          “40”.

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

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

24                  (1) IN GENERAL.—Paragraph (1) of section  
25                  51(d) is amended by striking “or” at the end of sub-

1 paragraph (G), by striking the period at the end of  
2 subparagraph (H) and inserting “, or”, and by add-  
3 ing at the end the following new subparagraph:

4 “(I) a long-term family assistance recipi-  
5 ent.”.

6 (2) LONG-TERM FAMILY ASSISTANCE RECIPI-  
7 ENT.—Subsection (d) of section 51 is amended by  
8 redesignating paragraphs (10) through (12) as para-  
9 graphs (11) through (13), respectively, and by in-  
10 sserting after paragraph (9) the following new para-  
11 graph:

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

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

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

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

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

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

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

13          “(e) CREDIT FOR SECOND-YEAR WAGES FOR EM-  
14          PLOYMENT OF LONG-TERM FAMILY ASSISTANCE RECIPI-  
15          ENTS.—

16                 “(1) IN GENERAL.—With respect to the em-  
17          ployment of a long-term family assistance recipi-  
18          ent—

19                         “(A) the amount of the work opportunity  
20                         credit determined under this section for the tax-  
21                         able year shall include 50 percent of the quali-  
22                         fied second-year wages for such year, and

23                         “(B) in lieu of applying subsection (b)(3),  
24                         the amount of the qualified first-year wages,  
25                         and the amount of qualified second-year wages,

1           which may be taken into account with respect  
2           to such a recipient shall not exceed \$10,000 per  
3           year.

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

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

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

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

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

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

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

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

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

7 (f) EFFECTIVE DATES.—

8 (1) IN GENERAL.—Except as provided in para-  
9 graph (2), the amendments made by this section  
10 shall apply to individuals who begin work for the  
11 employer after December 31, 2005.

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

16 **SEC. 206. ELECTION TO INCLUDE COMBAT PAY AS EARNED**  
17 **INCOME FOR PURPOSES OF EARNED INCOME**  
18 **CREDIT.**

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

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

1 **SEC. 207. EXTENSION AND MODIFICATION OF QUALIFIED**  
2 **ZONE ACADEMY BONDS.**

3 (a) IN GENERAL.—Paragraph (1) of section  
4 1397E(e) is amended by striking “and 2005” and insert-  
5 ing “2005, 2006, and 2007”.

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

8 (1) IN GENERAL.—Section 1397E is amend-  
9 ed—

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

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

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

21 “(f) SPECIAL RULES RELATING TO EXPENDI-  
22 TURES.—

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

1           “(A) at least 95 percent of the proceeds  
2           from the sale of the issue are to be spent for  
3           1 or more qualified purposes with respect to  
4           qualified zone academies within the 5-year pe-  
5           riod beginning on the date of issuance of the  
6           qualified zone academy bond,

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

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

16          “(2) EXTENSION OF PERIOD.—Upon submis-  
17          sion of a request prior to the expiration of the period  
18          described in paragraph (1)(A), the Secretary may  
19          extend such period if the issuer establishes that the  
20          failure to satisfy the 5-year requirement is due to  
21          reasonable cause and the related purposes will con-  
22          tinue to proceed with due diligence.

23          “(3) FAILURE TO SPEND REQUIRED AMOUNT  
24          OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-  
25          tent that less than 95 percent of the proceeds of

1 such issue are expended by the close of the 5-year  
2 period beginning on the date of issuance (or if an  
3 extension has been obtained under paragraph (2), by  
4 the close of the extended period), the issuer shall re-  
5 deem all of the nonqualified bonds within 90 days  
6 after the end of such period. For purposes of this  
7 paragraph, the amount of the nonqualified bonds re-  
8 quired to be redeemed shall be determined in the  
9 same manner as under section 142.

10 “(g) SPECIAL RULES RELATING TO ARBITRAGE.—

11 An issue shall be treated as meeting the requirements of  
12 this subsection if the issuer satisfies the arbitrage require-  
13 ments of section 148 with respect to proceeds of the issue.

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

17 (2) CONFORMING AMENDMENTS.—Sections  
18 54(l)(3)(B) and 1400N(l)(7)(B)(ii) are each amend-  
19 ed by striking “section 1397E(i)” and inserting  
20 “section 1397E(l)”.

21 (c) EFFECTIVE DATES.—

22 (1) EXTENSION.—The amendment made by  
23 subsection (a) shall apply to obligations issued after  
24 December 31, 2005.

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

6 **SEC. 208. ABOVE-THE-LINE DEDUCTION FOR CERTAIN EX-**  
7                                   **PENSES OF ELEMENTARY AND SECONDARY**  
8                                   **SCHOOL TEACHERS.**

9           (a) IN GENERAL.—Subparagraph (D) of section  
10 62(a)(2) is amended by striking “or 2005” and inserting  
11 “2005, 2006, or 2007”.

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

15 **SEC. 209. EXTENSION AND EXPANSION OF EXPENSING OF**  
16                                   **BROWNFIELDS REMEDIATION COSTS.**

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

19          (b) EXPANSION.—Section 198(d)(1) (defining haz-  
20 ardous substance) is amended by striking “and” at the  
21 end of subparagraph (A), by striking the period at the  
22 end of subparagraph (B) and inserting “, and”, and by  
23 adding at the end the following new subparagraph:

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

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

4 **SEC. 210. TAX INCENTIVES FOR INVESTMENT IN THE DIS-**  
5 **TRICT OF COLUMBIA.**

6 (a) DESIGNATION OF ZONE.—

7 (1) IN GENERAL.—Subsection (f) of section  
8 1400 is amended by striking “2005” both places it  
9 appears and inserting “2007”.

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

13 (b) TAX-EXEMPT ECONOMIC DEVELOPMENT  
14 BONDS.—

15 (1) IN GENERAL.—Subsection (b) of section  
16 1400A is amended by striking “2005” and inserting  
17 “2007”.

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

21 (c) ZERO PERCENT CAPITAL GAINS RATE.—

22 (1) IN GENERAL.—Subsection (b) of section  
23 1400B is amended by striking “2006” each place it  
24 appears and inserting “2008”.

25 (2) CONFORMING AMENDMENTS.—

1 (A) Section 1400B(e)(2) is amended—

2 (i) by striking “2010” and inserting  
3 “2012”, and

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

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

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

10 (3) EFFECTIVE DATES.—

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

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

17 (d) FIRST-TIME HOMEBUYER CREDIT.—

18 (1) IN GENERAL.—Subsection (i) of section  
19 1400C is amended by striking “2006” and inserting  
20 “2008”.

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

1 **SEC. 211. INDIAN EMPLOYMENT TAX CREDIT.**

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

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

7 **SEC. 212. ACCELERATED DEPRECIATION FOR BUSINESS**  
8 **PROPERTY ON INDIAN RESERVATIONS.**

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

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

14 **SEC. 213. FIFTEEN-YEAR STRAIGHT-LINE COST RECOVERY**  
15 **FOR QUALIFIED LEASEHOLD IMPROVEMENTS**  
16 **AND QUALIFIED RESTAURANT PROPERTY.**

17 (a) IN GENERAL.—Clauses (iv) and (v) of section  
18 168(e)(3)(E) are each amended by striking “2006” and  
19 inserting “2008”.

20 (b) TREATMENT OF RESTAURANT PROPERTY TO IN-  
21 CLUDE NEW CONSTRUCTION.—Paragraph (7) of section  
22 168(e) (relating to classification of property) is amended  
23 to read as follows:

24 “(7) QUALIFIED RESTAURANT PROPERTY.—The  
25 term ‘qualified restaurant property’ means any sec-  
26 tion 1250 property which is a building or an im-

1       provement to a building if more than 50 percent of  
2       the building's square footage is devoted to prepara-  
3       tion of, and seating for on-premises consumption of,  
4       prepared meals.”.

5       (c) EFFECTIVE DATES.—

6           (1) SUBSECTION (a).—The amendments made  
7       by subsection (a) shall apply to property placed in  
8       service after December 31, 2005.

9           (2) SUBSECTION (b).—The amendment made  
10      by subsection (b) shall apply to property placed in  
11      service after the date of the enactment of this Act.

12   **SEC. 214. COVER OVER OF TAX ON DISTILLED SPIRITS.**

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

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

18   **SEC. 215. PARITY IN APPLICATION OF CERTAIN LIMITS TO**  
19           **MENTAL HEALTH BENEFITS.**

20      (a) AMENDMENT TO THE INTERNAL REVENUE CODE  
21      OF 1986.—Section 9812(f)(3) is amended by striking  
22      “2006” and inserting “2007”.

23      (b) AMENDMENT TO THE EMPLOYEE RETIREMENT  
24      INCOME SECURITY ACT OF 1974.—Section 712(f) of the  
25      Employee Retirement Income Security Act of 1974 (29

1 U.S.C. 1185a(f)) is amended by striking “2006” and in-  
2 serting “2007”.

3 (c) AMENDMENT TO THE PUBLIC HEALTH SERVICE  
4 ACT.—Section 2705(f) of the Public Health Service Act  
5 (42 U.S.C. 300gg–5(f)) is amended by striking  
6 “2006” and inserting “2007”.

7 **SEC. 216. CORPORATE DONATIONS OF SCIENTIFIC PROP-**  
8 **ERTY USED FOR RESEARCH AND OF COM-**  
9 **PUTER TECHNOLOGY AND EQUIPMENT.**

10 (a) EXTENSION OF COMPUTER TECHNOLOGY AND  
11 EQUIPMENT DONATION.—

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

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

17 (b) EXPANSION OF CHARITABLE CONTRIBUTION AL-  
18 LOWED FOR SCIENTIFIC PROPERTY USED FOR RESEARCH  
19 AND FOR COMPUTER TECHNOLOGY AND EQUIPMENT  
20 USED FOR EDUCATIONAL PURPOSES.—

21 (1) SCIENTIFIC PROPERTY USED FOR RE-  
22 SEARCH.—

23 (A) IN GENERAL.—Clause (ii) of section  
24 170(e)(4)(B) (defining qualified research con-

1           tributions) is amended by inserting “or assem-  
2           bled” after “constructed”.

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

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

8           (A) IN GENERAL.—Clause (ii) of section  
9           170(e)(6)(B) is amended by inserting “or as-  
10          sembled” after “constructed” and “or assem-  
11          bling” after “construction”.

12          (B) CONFORMING AMENDMENT.—Subpara-  
13          graph (D) of section 170(e)(6) is amended by  
14          inserting “or assembled” after “constructed”  
15          and “or assembly” after “construction”.

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

19 **SEC. 217. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.**

20          (a) IN GENERAL.—Paragraphs (2) and (3)(B) of sec-  
21          tion 220(i) are each amended by striking “2005” each  
22          place it appears in the text and headings and inserting  
23          “2007”.

24          (b) CONFORMING AMENDMENTS.—

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

3                   (A) in the text by striking “or 2004” each  
4 place it appears and inserting “2004, 2005, or  
5 2006”, and

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

8           (2) Subparagraph (A) of section 220(j)(4) is  
9 amended by striking “and 2004” and inserting  
10 “2004, 2005, and 2006”.

11 (c) TIME FOR FILING REPORTS, ETC.—

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

17           (2) The determination and publication required  
18 by section 220(j)(5) of such Code with respect to  
19 calendar year 2005 shall be treated as timely if  
20 made before the close of the 120-day period begin-  
21 ning on the date of the enactment of this Act. If the  
22 determination under the preceding sentence is that  
23 2005 is a cut-off year under section 220(i) of such  
24 Code, the cut-off date under such section 220(i)  
25 shall be the last day of such 120-day period.

1 **SEC. 218. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLE-**  
2 **TION FOR OIL AND NATURAL GAS PRODUCED**  
3 **FROM MARGINAL PROPERTIES.**

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

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

9 **SEC. 219. AMERICAN SAMOA ECONOMIC DEVELOPMENT**  
10 **CREDIT.**

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

15 (1) is an existing credit claimant with respect  
16 to American Samoa, and

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

20 (b) SPECIAL RULES FOR APPLICATION OF SEC-  
21 TION.—The following rules shall apply in applying section  
22 30A of the Internal Revenue Code of 1986 for purposes  
23 of this section:

24 (1) AMOUNT OF CREDIT.—Notwithstanding sec-  
25 tion 30A(a)(1) of such Code, the amount of the  
26 credit determined under section 30A(a)(1) of such

1 Code for any taxable year shall be the amount deter-  
2 mined under section 30A(d) of such Code, except  
3 that section 30A(d) shall be applied without regard  
4 to paragraph (3) thereof.

5 (2) SEPARATE APPLICATION.—In applying sec-  
6 tion 30A(a)(3) of such Code in the case of a cor-  
7 poration treated as a qualified domestic corporation  
8 by reason of this section, section 30A of such Code  
9 (and so much of section 936 of such Code as relates  
10 to such section 30A) shall be applied separately with  
11 respect to American Samoa.

12 (3) FOREIGN TAX CREDIT ALLOWED.—Notwith-  
13 standing section 30A(e) of such Code, the provisions  
14 of section 936(e) of such Code shall not apply with  
15 respect to the credit allowed by reason of this sec-  
16 tion.

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

21 (d) APPLICATION OF SECTION.—Notwithstanding  
22 section 30A(h) or section 936(j) of such Code, this section  
23 (and so much of section 30A and section 936 of such Code  
24 as relates to this section) shall apply to the first two tax-  
25 able years of a corporation to which subsection (a) applies

1 which begin after December 31, 2005, and before January  
2 1, 2008.

3 **SEC. 220. RESTRUCTURING OF NEW YORK LIBERTY ZONE**  
4 **TAX CREDITS.**

5 (a) IN GENERAL.—Part I of subchapter Y of chapter  
6 1 is amended by redesignating section 1400L as 1400K  
7 and by adding at the end the following new section:

8 **“SEC. 1400L. NEW YORK LIBERTY ZONE TAX CREDITS.**

9 “(a) IN GENERAL.—In the case of a New York Lib-  
10 erty Zone governmental unit, there shall be allowed as a  
11 credit against any taxes imposed for any payroll period  
12 by section 3402 for which such governmental unit is liable  
13 under section 3403 an amount equal to so much of the  
14 portion of the qualifying project expenditure amount allo-  
15 cated under subsection (b)(3) to such governmental unit  
16 for the calendar year as is allocated by such governmental  
17 unit to such period under subsection (b)(4).

18 “(b) QUALIFYING PROJECT EXPENDITURE  
19 AMOUNT.—For purposes of this section—

20 “(1) IN GENERAL.—The term ‘qualifying  
21 project expenditure amount’ means, with respect to  
22 any calendar year, the sum of—

23 “(A) the total expenditures paid or in-  
24 curred during such calendar year by all New  
25 York Liberty Zone governmental units and the

1 Port Authority of New York and New Jersey  
2 for any portion of qualifying projects located  
3 wholly within the City of New York, New York,  
4 and

5 “(B) any such expenditures—

6 “(i) paid or incurred in any preceding  
7 calendar year which begins after the date  
8 of enactment of this section, and

9 “(ii) not previously allocated under  
10 paragraph (3).

11 “(2) QUALIFYING PROJECT.—The term ‘quali-  
12 fying project’ means any transportation infrastruc-  
13 ture project, including highways, mass transit sys-  
14 tems, railroads, airports, ports, and waterways, in or  
15 connecting with the New York Liberty Zone (as de-  
16 fined in section 1400K(h)), which is designated as a  
17 qualifying project under this section jointly by the  
18 Governor of the State of New York and the Mayor  
19 of the City of New York, New York.

20 “(3) GENERAL ALLOCATION.—

21 “(A) IN GENERAL.—The Governor of the  
22 State of New York and the Mayor of the City  
23 of New York, New York, shall jointly allocate to  
24 each New York Liberty Zone governmental unit  
25 the portion of the qualifying project expenditure

1 amount which may be taken into account by  
2 such governmental unit under subsection (a) for  
3 any calendar year in the credit period.

4 “(B) AGGREGATE LIMIT.—The aggregate  
5 amount which may be allocated under subpara-  
6 graph (A) for all calendar years in the credit  
7 period shall not exceed \$1,750,000,000.

8 “(C) ANNUAL LIMIT.—

9 “(i) IN GENERAL.—The aggregate  
10 amount which may be allocated under sub-  
11 paragraph (A) for any calendar year in the  
12 credit period shall not exceed the sum of—

13 “(I) the applicable limit, plus

14 “(II) the aggregate amount au-  
15 thorized to be allocated under this  
16 paragraph for all preceding calendar  
17 years in the credit period which was  
18 not so allocated.

19 “(ii) APPLICABLE LIMIT.—For pur-  
20 poses of clause (i), the applicable limit for  
21 any calendar year is—

22 “(I) in the case of calendar years  
23 2007 through 2016, \$100,000,000,

24 “(II) in the case of calendar year  
25 2017 or 2018, \$200,000,000,

1                   “(III) in the case of calendar  
2                   year 2019, \$150,000,000,

3                   “(IV) in the case of calendar  
4                   year 2020 or 2021, \$100,000,000,  
5                   and

6                   “(V) in the case of any calendar  
7                   year after 2021, zero.

8                   “(D) UNALLOCATED AMOUNTS AT END OF  
9                   CREDIT PERIOD.—If, as of the close of the cred-  
10                  it period, the amount under subparagraph (B)  
11                  exceeds the aggregate amount allocated under  
12                  subparagraph (A) for all calendar years in the  
13                  credit period, the Governor of the State of New  
14                  York and the Mayor of the City of New York,  
15                  New York, may jointly allocate to New York  
16                  Liberty Zone governmental units for any cal-  
17                  endar year in the 5-year period following the  
18                  credit period an amount equal to—

19                   “(i) the lesser of—

20                   “(I) such excess, or

21                   “(II) the qualifying project ex-  
22                   penditure amount for such calendar  
23                   year, reduced by

1                   “(ii) the aggregate amount allocated  
2                   under this subparagraph for all preceding  
3                   calendar years.

4                   “(4) ALLOCATION TO PAYROLL PERIODS.—  
5                   Each New York Liberty Zone governmental unit  
6                   which has been allocated a portion of the qualifying  
7                   project expenditure amount under paragraph (3) for  
8                   a calendar year may allocate such portion to payroll  
9                   periods beginning in such calendar year as such gov-  
10                  ernmental unit determines appropriate.

11                  “(c) CARRYOVER OF UNUSED ALLOCATIONS.—

12                  “(1) IN GENERAL.—Except as provided in para-  
13                  graph (2), if the amount allocated under subsection  
14                  (b)(3) to a New York Liberty Zone governmental  
15                  unit for any calendar year exceeds the aggregate  
16                  taxes imposed by section 3402 for which such gov-  
17                  ernmental unit is liable under section 3403 for peri-  
18                  ods beginning in such year, such excess shall be car-  
19                  ried to the succeeding calendar year and added to  
20                  the allocation of such governmental unit for such  
21                  succeeding calendar year. No amount may be carried  
22                  under the preceding sentence to a calendar year  
23                  after 2026.

24                  “(2) REALLOCATION.—If a New York Liberty  
25                  Zone governmental unit does not use an amount al-

1 located to it under subsection (b)(3) within the time  
2 prescribed by the Governor of the State of New York  
3 and the Mayor of the City of New York, New York,  
4 then such amount shall after such time be treated  
5 for purposes of subsection (b)(3) in the same man-  
6 ner as if it had never been allocated.

7 “(d) DEFINITIONS AND SPECIAL RULES.—For pur-  
8 poses of this section—

9 “(1) CREDIT PERIOD.—The term ‘credit period’  
10 means the 15-year period beginning on January 1,  
11 2007.

12 “(2) NEW YORK LIBERTY ZONE GOVERN-  
13 MENTAL UNIT.—The term ‘New York Liberty Zone  
14 governmental unit’ means—

15 “(A) the State of New York,

16 “(B) the City of New York, New York, and

17 “(C) any agency or instrumentality of such  
18 State or City.

19 “(3) TREATMENT OF FUNDS.—Any expenditure  
20 for a qualifying project taken into account for pur-  
21 poses of the credit under this section shall be consid-  
22 ered State and local funds for the purpose of any  
23 Federal program.

24 “(4) TREATMENT OF CREDIT AMOUNTS FOR  
25 PURPOSES OF WITHHOLDING TAXES.—For purposes

1 of this title, a New York Liberty Zone governmental  
2 unit shall be treated as having paid to the Secretary,  
3 on the day on which wages are paid to employees,  
4 an amount equal to the amount of the credit allowed  
5 to such entity under subsection (a) with respect to  
6 such wages, but only if such governmental unit de-  
7 ducts and withholds wages for such payroll period  
8 under section 3401 (relating to wage withholding).

9 “(e) REPORTING.—The Governor of the State of New  
10 York and the Mayor of the City of New York, New York,  
11 shall jointly submit to the Secretary an annual report—

12 “(1) which certifies—

13 “(A) the qualifying project expenditure  
14 amount for the calendar year, and

15 “(B) the amount allocated to each New  
16 York Liberty Zone governmental unit under  
17 subsection (b)(3) for the calendar year, and

18 “(2) includes such other information as the  
19 Secretary may require to carry out this section.

20 “(f) GUIDANCE.—The Secretary may prescribe such  
21 guidance as may be necessary or appropriate to ensure  
22 compliance with the purposes of this section.

23 “(g) TERMINATION.—No credit shall be allowed  
24 under subsection (a) for any calendar year after 2026.”.

1 (b) TERMINATION OF CERTAIN NEW YORK LIBERTY  
2 ZONE BENEFITS.—

3 (1) SPECIAL ALLOWANCE AND EXPENSING.—

4 Section 1400K(b)(2)(A)(v), as redesignated by sub-  
5 section (a), is amended by striking “the termination  
6 date” and inserting “the date of the enactment of  
7 the Estate Tax and Extension of Tax Relief Act of  
8 2006 or the termination date if pursuant to a bind-  
9 ing contract in effect on such enactment date”.

10 (2) LEASEHOLD.—Section 1400K(c)(2)(B), as  
11 so redesignated, is amended by striking “before Jan-  
12 uary 1, 2007” and inserting “on or before the date  
13 of the enactment of the Estate Tax and Extension  
14 of Tax Relief Act of 2006 or before January 1,  
15 2007, if pursuant to a binding contract in effect on  
16 such enactment date”.

17 (c) CONFORMING AMENDMENTS.—

18 (1) Section 38(c)(3)(B) is amended by striking  
19 “section 1400L(a)” and inserting “section  
20 1400K(a)”.

21 (2) Section 168(k)(2)(D)(ii) is amended by  
22 striking “section 1400L(c)(2)” and inserting  
23 “1400K(c)(2)”.

1           (3) The table of sections for part I of sub-  
 2 chapter Y of chapter 1 is amended by striking  
 3 “1400L” and inserting “1400K”.

4           (d) EFFECTIVE DATE.—

5           (1) IN GENERAL.—Except as provided in para-  
 6 graph (2), the amendments made by this section  
 7 shall apply to periods beginning after December 31,  
 8 2006.

9           (2) SUBSECTION (b).—The amendments made  
 10 by subsection (b) shall take effect as if included in  
 11 section 301 of the Job Creation and Worker Assist-  
 12 ance Act of 2002.

13 **SEC. 221. EXTENSION OF BONUS DEPRECIATION FOR CER-**  
 14 **TAIN QUALIFIED GULF OPPORTUNITY ZONE**  
 15 **PROPERTY.**

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

19           “(6) EXTENSION FOR CERTAIN PROPERTY.—

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

24           “(B) SPECIFIED GULF OPPORTUNITY ZONE  
 25 EXTENSION PROPERTY.—For purposes of this

1 paragraph, the term ‘specified Gulf Opportunity  
2 Zone extension property’ means property—

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

6 “(ii) which is—

7 “(I) nonresidential real property  
8 or residential rental property which is  
9 placed in service by the taxpayer on or  
10 before December 31, 2009, or

11 “(II) in the case of a taxpayer  
12 who places a building described in  
13 subclause (I) in service on or before  
14 December 31, 2009, property de-  
15 scribed in section 168(k)(2)(A)(i) if  
16 substantially all of the use of such  
17 property is in such building and such  
18 property is placed in service by the  
19 taxpayer not later than 90 days after  
20 such building is placed in service.

21 “(C) SPECIFIED PORTIONS OF THE GO  
22 ZONE.—For purposes of this paragraph, the  
23 term ‘specified portions of the GO Zone’ means  
24 those portions of the GO Zone which are in any  
25 county or parish which is identified by the Sec-

1           retary as being a county or parish in which hur-  
2           ricanes occurring during 2005 damaged (in the  
3           aggregate) more than 40 percent of the housing  
4           units in such county or parish which were occu-  
5           pied (determined according to the 2000 Cen-  
6           sus).”.

7           (b) EXTENSION NOT APPLICABLE TO INCREASED  
8 SECTION 179 EXPENSING.—Paragraph (2) of section  
9 1400N(e) is amended by inserting “without regard to sub-  
10 section (d)(6)” after “subsection (d)(2)”.

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

14 **SEC. 222. AUTHORITY FOR UNDERCOVER OPERATIONS.**

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

18 **SEC. 223. DISCLOSURES OF CERTAIN TAX RETURN INFOR-**  
19 **MATION.**

20          (a) DISCLOSURES TO FACILITATE COMBINED EM-  
21 PLOYMENT TAX REPORTING.—

22           (1) IN GENERAL.—Subparagraph (B) of section  
23 6103(d)(5) (relating to termination) is amended by  
24 striking “2006” and inserting “2007”.

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

4           (b) DISCLOSURES RELATING TO TERRORIST ACTIVI-  
5           TIES.—

6           (1) IN GENERAL.—Clause (iv) of section  
7           6103(i)(3)(C) and subparagraph (E) of section  
8           6103(i)(7) are each amended by striking “2006”  
9           and inserting “2007”.

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

13          (c) DISCLOSURES RELATING TO STUDENT LOANS.—

14          (1) IN GENERAL.—Subparagraph (D) of section  
15          6103(l)(13) (relating to termination) is amended by  
16          striking “2006” and inserting “2007”.

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

## 20           **Subtitle B—Other Provisions**

### 21   **SEC. 231. DEDUCTION ALLOWABLE WITH RESPECT TO IN-** 22                           **COME ATTRIBUTABLE TO DOMESTIC PRO-** 23                           **DUCTION ACTIVITIES IN PUERTO RICO.**

24          (a) IN GENERAL.—Subsection (d) of section 199 (re-  
25          lating to definitions and special rules) is amended by re-

1 designating paragraph (8) as paragraph (9) and by insert-  
2 ing after paragraph (7) the following new paragraph:

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

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

15           “(B) SPECIAL RULE FOR APPLYING WAGE  
16 LIMITATION.—In the case of any taxpayer de-  
17 scribed in subparagraph (A), for purposes of  
18 applying the limitation under subsection (b) for  
19 any taxable year, the determination of W-2  
20 wages of such taxpayer shall be made without  
21 regard to any exclusion under section  
22 3401(a)(8) for remuneration paid for services  
23 performed in Puerto Rico.

24           “(C) TERMINATION.—This paragraph shall  
25 apply only with respect to the first 2 taxable

1           years of the taxpayer beginning after December  
2           31, 2005, and before January 1, 2008.”.

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

6 **SEC. 232. CREDIT FOR PRIOR YEAR MINIMUM TAX LIABIL-**  
7 **ITY MADE REFUNDABLE AFTER PERIOD OF**  
8 **YEARS.**

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

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

14           “(1) IN GENERAL.—If an individual has a long-  
15 term unused minimum tax credit for any taxable  
16 year beginning before January 1, 2013, the amount  
17 determined under subsection (c) for such taxable  
18 year shall not be less than the AMT refundable cred-  
19 it amount for such taxable year.

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

22           “(A) IN GENERAL.—The term ‘AMT re-  
23 fundable credit amount’ means, with respect to  
24 any taxable year, the amount equal to the  
25 greater of—

1 “(i) the lesser of—  
2 “(I) \$5,000, or  
3 “(II) the amount of long-term  
4 unused minimum tax credit for such  
5 taxable year, or  
6 “(ii) 20 percent of the amount of such  
7 credit.

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

10 “(i) IN GENERAL.—In the case of an  
11 individual whose adjusted gross income for  
12 any taxable year exceeds the threshold  
13 amount (within the meaning of section  
14 151(d)(3)(C)), the AMT refundable credit  
15 amount determined under subparagraph  
16 (A) for such taxable year shall be reduced  
17 by the applicable percentage (within the  
18 meaning of section 151(d)(3)(B)).

19 “(ii) ADJUSTED GROSS INCOME.—For  
20 purposes of clause (i), adjusted gross in-  
21 come shall be determined without regard to  
22 sections 911, 931, and 933.

23 “(3) LONG-TERM UNUSED MINIMUM TAX CRED-  
24 IT.—

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

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

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

17 (b) CONFORMING AMENDMENTS.—

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

20           (2) Paragraph (2) of section 1324(b) of title  
21 31, United States Code, is amended by inserting “or  
22 53(e)” after “section 35”.

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

1 **SEC. 233. RETURNS REQUIRED IN CONNECTION WITH CER-**  
2 **TAIN OPTIONS.**

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

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

8 (b) STATEMENTS TO PERSONS WITH RESPECT TO  
9 WHOM INFORMATION IS FURNISHED.—Section 6039 is  
10 amended by redesignating subsections (b) and (c) as sub-  
11 section (c) and (d), respectively, and by inserting after  
12 subsection (a) the following new subsection:

13 “(b) STATEMENTS TO BE FURNISHED TO PERSONS  
14 WITH RESPECT TO WHOM INFORMATION IS RE-  
15 PORTED.—Every corporation making a return under sub-  
16 section (a) shall furnish to each person whose name is set  
17 forth in such return a written statement setting forth such  
18 information as the Secretary may by regulations prescribe.  
19 The written statement required under the preceding sen-  
20 tence shall be furnished to such person on or before Janu-  
21 ary 31 of the year following the calendar year for which  
22 the return under subsection (a) was made.”.

23 (c) CONFORMING AMENDMENTS.—

24 (1) Section 6724(d)(1)(B) is amended by strik-  
25 ing “or” at the end of clause (xvii), by striking

1 “and” at the end of clause (xviii) and inserting “or”,  
2 and by adding at the end the following new clause:

3 “(xix) section 6039(a) (relating to re-  
4 turns required with respect to certain op-  
5 tions), and”.

6 (2) Section 6724(d)(2)(B) is amended by strik-  
7 ing “section 6039(a)” and inserting “section  
8 6039(b)”.

9 (3) The heading of section 6039 and the item  
10 relating to such section in the table of sections of  
11 subpart A of part III of subchapter A of chapter 61  
12 of such Code are each amended by striking “Infor-  
13 mation” and inserting “Returns”.

14 (4) The heading of subsection (a) of section  
15 6039 is amended by striking “FURNISHING OF IN-  
16 FORMATION” and inserting “REQUIREMENT OF RE-  
17 PORTING”.

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

21 **SEC. 234. PARTIAL EXPENSING FOR ADVANCED MINE SAFE-**  
22 **TY EQUIPMENT.**

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

1 **“SEC. 179E. ELECTION TO EXPENSE ADVANCED MINE SAFE-**  
2 **TY EQUIPMENT.**

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

10 “(b) ELECTION.—

11 “(1) IN GENERAL.—An election under this sec-  
12 tion for any taxable year shall be made on the tax-  
13 payer’s return of the tax imposed by this chapter for  
14 the taxable year. Such election shall specify the ad-  
15 vanced mine safety equipment property to which the  
16 election applies and shall be made in such manner  
17 as the Secretary may by regulations prescribe.

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

21 “(c) QUALIFIED ADVANCED MINE SAFETY EQUIP-  
22 MENT PROPERTY.—For purposes of this section, the term  
23 ‘qualified advanced mine safety equipment property’  
24 means any advanced mine safety equipment property for  
25 use in any underground mine located in the United  
26 States—

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

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

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

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

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

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

20          “(4) Pre-positioned supplies of oxygen which (in  
21          combination with self-rescue devices) can be used to  
22          provide each miner on a shift, in the event of an ac-  
23          cident or other event which traps the miner in the  
24          mine or otherwise necessitates the use of such a self-

1 rescue device, the ability to survive for at least 48  
2 hours.

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

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

12 “(f) REPORTING.—No deduction shall be allowed  
13 under subsection (a) to any taxpayer for any taxable year  
14 unless such taxpayer files with the Secretary a report con-  
15 taining such information with respect to the operation of  
16 the mines of the taxpayer as the Secretary shall require.

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

19 (b) CONFORMING AMENDMENTS.—

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

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

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

6           (3) Paragraphs (2)(C) and (3)(C) of section  
7           1245(a) are each amended by inserting “179E,”  
8           after “179D,”.

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

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

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

16   **SEC. 235. MINE RESCUE TEAM TRAINING TAX CREDIT.**

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

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

22          “(a) AMOUNT OF CREDIT.—For purposes of section  
23          38, the mine rescue team training credit determined under  
24          this section with respect to each qualified mine rescue

1 team employee of an eligible employer for any taxable year  
2 is an amount equal to the lesser of—

3 “(1) 20 percent of the amount paid or incurred  
4 by the taxpayer during the taxable year with respect  
5 to the training program costs of such qualified mine  
6 rescue team employee (including wages of such em-  
7 ployee while attending such program), or

8 “(2) \$10,000.

9 “(b) QUALIFIED MINE RESCUE TEAM EMPLOYEE.—

10 For purposes of this section, the term ‘qualified mine res-  
11 cue team employee’ means with respect to any taxable year  
12 any full-time employee of the taxpayer who is—

13 “(1) a miner eligible for more than 6 months  
14 of such taxable year to serve as a mine rescue team  
15 member as a result of completing, at a minimum, an  
16 initial 20-hour course of instruction as prescribed by  
17 the Mine Safety and Health Administration’s Office  
18 of Educational Policy and Development, or

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

23 “(c) ELIGIBLE EMPLOYER.—For purposes of this  
24 section, the term ‘eligible employer’ means any taxpayer

1 which employs individuals as miners in underground mines  
2 in the United States.

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

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

9 (b) CREDIT MADE PART OF GENERAL BUSINESS  
10 CREDIT.—Section 38(b) is amended by striking “and” at  
11 the end of paragraph (29), by striking the period at the  
12 end of paragraph (30) and inserting “, plus”, and by add-  
13 ing at the end the following new paragraph:

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

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

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

23 (d) CLERICAL AMENDMENT.—The table of sections  
24 for subpart D of part IV of subchapter A of chapter 1  
25 is amended by adding at the end the following new item:

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

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

4 **SEC. 236. WHISTLEBLOWER REFORMS.**

5 (a) AWARDS TO WHISTLEBLOWERS.—

6 (1) IN GENERAL.—Section 7623 (relating to ex-  
7 penses of detection of underpayments and fraud,  
8 etc.) is amended—

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

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

13 (C) by striking “(other than interest)”,  
14 and

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

17 “(b) AWARDS TO WHISTLEBLOWERS.—

18 “(1) IN GENERAL.—If the Secretary proceeds  
19 with any administrative or judicial action described  
20 in subsection (a) based on information brought to  
21 the Secretary’s attention by an individual, such indi-  
22 vidual shall, subject to paragraph (2), receive as an  
23 award at least 15 percent but not more than 30 per-  
24 cent of the collected proceeds (including penalties,  
25 interest, additions to tax, and additional amounts)

1 resulting from the action (including any related ac-  
2 tions) or from any settlement in response to such ac-  
3 tion. The determination of the amount of such  
4 award by the Whistleblower Office shall depend upon  
5 the extent to which the individual substantially con-  
6 tributed to such action.

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

9 “(A) IN GENERAL.—In the event the ac-  
10 tion described in paragraph (1) is one which the  
11 Whistleblower Office determines to be based  
12 principally on disclosures of specific allegations  
13 (other than information provided by the indi-  
14 vidual described in paragraph (1)) resulting  
15 from a judicial or administrative hearing, from  
16 a governmental report, hearing, audit, or inves-  
17 tigation, or from the news media, the Whistle-  
18 blower Office may award such sums as it con-  
19 siders appropriate, but in no case more than 10  
20 percent of the collected proceeds (including pen-  
21 alties, interest, additions to tax, and additional  
22 amounts) resulting from the action (including  
23 any related actions) or from any settlement in  
24 response to such action, taking into account the  
25 significance of the individual’s information and

1 the role of such individual and any legal rep-  
2 resentative of such individual in contributing to  
3 such action.

4 “(B) NONAPPLICATION OF PARAGRAPH  
5 WHERE INDIVIDUAL IS ORIGINAL SOURCE OF  
6 INFORMATION.—Subparagraph (A) shall not  
7 apply if the information resulting in the initi-  
8 ation of the action described in paragraph (1)  
9 was originally provided by the individual de-  
10 scribed in paragraph (1).

11 “(3) REDUCTION IN OR DENIAL OF AWARD.—  
12 If the Whistleblower Office determines that the  
13 claim for an award under paragraph (1) or (2) is  
14 brought by an individual who planned and initiated  
15 the actions that led to the underpayment of tax or  
16 actions described in subsection (a)(2), then the  
17 Whistleblower Office may appropriately reduce such  
18 award. If such individual is convicted of criminal  
19 conduct arising from the role described in the pre-  
20 ceding sentence, the Whistleblower Office shall deny  
21 any award.

22 “(4) APPEAL OF AWARD DETERMINATION.—  
23 Any determination regarding an award under para-  
24 graph (1), (2), or (3) may, within 30 days of such  
25 determination, be appealed to the Tax Court (and

1 the Tax Court shall have jurisdiction with respect to  
2 such matter).

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

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

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

12 “(6) ADDITIONAL RULES.—

13 “(A) NO CONTRACT NECESSARY.—No con-  
14 tract with the Internal Revenue Service is nec-  
15 essary for any individual to receive an award  
16 under this subsection.

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

20 “(C) SUBMISSION OF INFORMATION.—No  
21 award may be made under this subsection  
22 based on information submitted to the Sec-  
23 retary unless such information is submitted  
24 under penalty of perjury.”.

25 (2) ASSIGNMENT TO SPECIAL TRIAL JUDGES.—

1 (A) IN GENERAL.—Section 7443A(b) (re-  
2 relating to proceedings which may be assigned to  
3 special trial judges) is amended by striking  
4 “and” at the end of paragraph (4), by redesignig-  
5 nating paragraph (5) as paragraph (6), and by  
6 inserting after paragraph (4) the following new  
7 paragraph:

8 “(5) any proceeding under section 7623(b)(4),  
9 and”.

10 (B) CONFORMING AMENDMENT.—Section  
11 7443A(c) is amended by striking “or (4)” and  
12 inserting “(4), or (5)”.

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

18 “(21) ATTORNEYS FEES RELATING TO AWARDS  
19 TO WHISTLEBLOWERS.—Any deduction allowable  
20 under this chapter for attorney fees and court costs  
21 paid by, or on behalf of, the taxpayer in connection  
22 with any award under section 7623(b) (relating to  
23 awards to whistleblowers). The preceding sentence  
24 shall not apply to any deduction in excess of the

1 amount includible in the taxpayer's gross income for  
2 the taxable year on account of such award.”.

3 (b) WHISTLEBLOWER OFFICE.—

4 (1) IN GENERAL.—Not later than the date  
5 which is 12 months after the date of the enactment  
6 of this Act, the Secretary of the Treasury shall issue  
7 guidance for the operation of a whistleblower pro-  
8 gram to be administered in the Internal Revenue  
9 Service by an office to be known as the “Whistle-  
10 blower Office” which—

11 (A) shall at all times operate at the direc-  
12 tion of the Commissioner of Internal Revenue  
13 and coordinate and consult with other divisions  
14 in the Internal Revenue Service as directed by  
15 the Commissioner of Internal Revenue,

16 (B) shall analyze information received from  
17 any individual described in section 7623(b) of  
18 the Internal Revenue Code of 1986 and either  
19 investigate the matter itself or assign it to the  
20 appropriate Internal Revenue Service office,  
21 and

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

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

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

14                 (1) an analysis of the use of such section dur-  
15                 ing the preceding year and the results of such use,  
16                 and

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

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

23          **SEC. 237. FRIVOLOUS TAX SUBMISSIONS.**

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

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

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

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

6 “(A) does not contain information on  
7 which the substantial correctness of the self-as-  
8 sessment may be judged, or

9 “(B) contains information that on its face  
10 indicates that the self-assessment is substan-  
11 tially incorrect, and

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

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

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

18 “(b) CIVIL PENALTY FOR SPECIFIED FRIVOLOUS  
19 SUBMISSIONS.—

20 “(1) IMPOSITION OF PENALTY.—Except as pro-  
21 vided in paragraph (3), any person who submits a  
22 specified frivolous submission shall pay a penalty of  
23 \$5,000.

24 “(2) SPECIFIED FRIVOLOUS SUBMISSION.—For  
25 purposes of this section—

1           “(A) SPECIFIED FRIVOLOUS SUBMIS-  
2           SION.—The term ‘specified frivolous submis-  
3           sion’ means a specified submission if any por-  
4           tion of such submission—

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

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

11           “(B) SPECIFIED SUBMISSION.—The term  
12           ‘specified submission’ means—

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

14                           “(I) section 6320 (relating to no-  
15                           tice and opportunity for hearing upon  
16                           filing of notice of lien), or

17                           “(II) section 6330 (relating to  
18                           notice and opportunity for hearing be-  
19                           fore levy), and

20                   “(ii) an application under—

21                           “(I) section 6159 (relating to  
22                           agreements for payment of tax liabil-  
23                           ity in installments),

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

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

3                   “(3) OPPORTUNITY TO WITHDRAW SUBMIS-  
4                   SION.—If the Secretary provides a person with no-  
5                   tice that a submission is a specified frivolous sub-  
6                   mission and such person withdraws such submission  
7                   within 30 days after such notice, the penalty im-  
8                   posed under paragraph (1) shall not apply with re-  
9                   spect to such submission.

10                  “(c) LISTING OF FRIVOLOUS POSITIONS.—The Sec-  
11                  retary shall prescribe (and periodically revise) a list of po-  
12                  sitions which the Secretary has identified as being frivo-  
13                  lous for purposes of this subsection. The Secretary shall  
14                  not include in such list any position that the Secretary  
15                  determines meets the requirement of section  
16                  6662(d)(2)(B)(ii)(II).

17                  “(d) REDUCTION OF PENALTY.—The Secretary may  
18                  reduce the amount of any penalty imposed under this sec-  
19                  tion if the Secretary determines that such reduction would  
20                  promote compliance with and administration of the Fed-  
21                  eral tax laws.

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

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

3 (1) FRIVOLOUS REQUESTS DISREGARDED.—

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

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

8 Notwithstanding any other provision of this section, if the  
9 Secretary determines that any portion of a request for a  
10 hearing under this section or section 6320 meets the re-  
11 quirement of clause (i) or (ii) of section 6702(b)(2)(A),  
12 then the Secretary may treat such portion as if it were  
13 never submitted and such portion shall not be subject to  
14 any further administrative or judicial review.”.

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

18 (A) by striking “(A)” and inserting  
19 “(A)(i)”;

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

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

23 (D) by inserting after subparagraph (A)(ii)  
24 (as so redesignated) the following:

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

3           (3) STATEMENT OF GROUNDS.—Section  
4           6330(b)(1) is amended by striking “under sub-  
5           section (a)(3)(B)” and inserting “in writing under  
6           subsection (a)(3)(B) and states the grounds for the  
7           requested hearing”.

8           (c) TREATMENT OF FRIVOLOUS REQUESTS FOR  
9           HEARINGS UPON FILING OF NOTICE OF LIEN.—Section  
10          6320 is amended—

11           (1) in subsection (b)(1), by striking “under sub-  
12           section (a)(3)(B)” and inserting “in writing under  
13           subsection (a)(3)(B) and states the grounds for the  
14           requested hearing”, and

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

17          (d) TREATMENT OF FRIVOLOUS APPLICATIONS FOR  
18          OFFERS-IN-COMPROMISE AND INSTALLMENT AGREE-  
19          MENTS.—Section 7122 is amended by adding at the end  
20          the following new subsection:

21           “(f) FRIVOLOUS SUBMISSIONS, ETC.—Notwith-  
22          standing any other provision of this section, if the Sec-  
23          retary determines that any portion of an application for  
24          an offer-in-compromise or installment agreement sub-  
25          mitted under this section or section 6159 meets the re-

1 quirement of clause (i) or (ii) of section 6702(b)(2)(A),  
 2 then the Secretary may treat such portion as if it were  
 3 never submitted and such portion shall not be subject to  
 4 any further administrative or judicial review.”.

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

“Sec. 6702. Frivolous tax submissions.”.

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

14 **SEC. 238. ADDITION OF MENINGOCOCCAL AND HUMAN**  
 15 **PAPILLOMAVIRUS VACCINES TO LIST OF TAX-**  
 16 **ABLE VACCINES.**

17 (a) MENINGOCOCCAL VACCINE.—Section 4132(a)(1)  
 18 (defining taxable vaccine) is amended by adding at the end  
 19 the following new subparagraph:

20 “(O) Any meningococcal vaccine.”.

21 (b) HUMAN PAPILLOMAVIRUS VACCINE.—Section  
 22 4132(a)(1), as amended by subsection (a), is amended by  
 23 adding at the end the following new subparagraph:

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

1 (c) EFFECTIVE DATE.—

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

7 (2) DELIVERIES.—For purposes of paragraph  
8 (1) and section 4131 of the Internal Revenue Code  
9 of 1986, in the case of sales on or before the effec-  
10 tive date described in such paragraph for which de-  
11 livery is made after such date, the delivery date shall  
12 be considered the sale date.

13 **SEC. 239. CLARIFICATION OF TAXATION OF CERTAIN SET-**  
14 **TLEMENT FUNDS MADE PERMANENT.**

15 (a) IN GENERAL.—Subsection (g) of section 468B,  
16 as amended by section 201 of the Tax Increase Prevention  
17 and Reconciliation Act of 2005, is amended by striking  
18 paragraph (3).

19 (b) EFFECTIVE DATE.—The amendment made by  
20 this section shall take effect as if included in section 201  
21 of the Tax Increase Prevention and Reconciliation Act of  
22 2005.

1 **SEC. 240. MODIFICATION OF ACTIVE BUSINESS DEFINITION**  
2 **UNDER SECTION 355 MADE PERMANENT.**

3 (a) IN GENERAL.—Subparagraphs (A) and (D) of  
4 section 355(b)(3), as amended by section 202 of the Tax  
5 Increase Prevention and Reconciliation Act of 2005, are  
6 each amended by striking “and on or before December 31,  
7 2010”.

8 (b) EFFECTIVE DATE.—The amendments made by  
9 this section shall take effect as if included in section 202  
10 of the Tax Increase Prevention and Reconciliation Act of  
11 2005.

12 **SEC. 241. REVISION OF STATE VETERANS LIMIT MADE PER-**  
13 **MANENT.**

14 (a) IN GENERAL.—Subparagraph (B) of section  
15 143(l)(3), as amended by section 203 of the Tax Increase  
16 Prevention and Reconciliation Act of 2005, is amended by  
17 striking clause (iv).

18 (b) EFFECTIVE DATE.—The amendment made by  
19 this section shall take effect as if included in section 203  
20 of the Tax Increase Prevention and Reconciliation Act of  
21 2005.

22 **SEC. 242. CAPITAL GAINS TREATMENT FOR CERTAIN SELF-**  
23 **CREATED MUSICAL WORKS MADE PERMA-**  
24 **NENT.**

25 (a) IN GENERAL.—Paragraph (3) of section 1221(b),  
26 as amended by section 204 of the Tax Increase Prevention

1 and Reconciliation Act of 2005, is amended by striking  
2 “before January 1, 2011,”.

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

7 **SEC. 243. REDUCTION IN MINIMUM VESSEL TONNAGE**  
8 **WHICH QUALIFIES FOR TONNAGE TAX MADE**  
9 **PERMANENT.**

10 (a) IN GENERAL.—Paragraph (4) of section 1355(a),  
11 as amended by section 205 of the Tax Increase Prevention  
12 and Reconciliation Act of 2005, is amended by striking  
13 “10,000 (6,000, in the case of taxable years beginning  
14 after December 31, 2005, and ending before January 1,  
15 2011)” and inserting “6,000”.

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

20 **SEC. 244. MODIFICATION OF SPECIAL ARBITRAGE RULE**  
21 **FOR CERTAIN FUNDS MADE PERMANENT.**

22 (a) IN GENERAL.—Section 206 of the Tax Increase  
23 Prevention and Reconciliation Act of 2005 is amended by  
24 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. 245. 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. 246. 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           dence for a veteran (as defined in section 101  
2           of title 38, United States Code), if such veteran  
3           has not previously qualified for and received  
4           such financing by reason of this subpara-  
5           graph.”.

6           (b) EFFECTIVE DATE.—The amendments made by  
7           this section shall apply to bonds issued after the date of  
8           the enactment of this Act.

9   **SEC. 247. EXCLUSION OF GAIN FROM SALE OF A PRINCIPAL**  
10                           **RESIDENCE BY CERTAIN EMPLOYEES OF THE**  
11                           **INTELLIGENCE COMMUNITY.**

12           (a) IN GENERAL.—Subparagraph (A) of section  
13           121(d)(9) (relating to exclusion of gain from sale of prin-  
14           cipal residence) is amended by striking “duty” and all that  
15           follows and inserting “duty—

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

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

20                           “(iii) as an employee of the intel-  
21                           ligence community.”.

22           (b) EMPLOYEE OF INTELLIGENCE COMMUNITY DE-  
23           FINED.—Subparagraph (C) of section 121(d)(9) is amend-  
24           ed by redesignating clause (iv) as clause (v) and by insert-  
25           ing after clause (iii) the following new clause:

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. 248. TREATMENT OF COKE AND COKE GAS.**

5 (a) NONAPPLICATION OF PHASEOUT.—Section  
6 45K(g)(2) is amended by adding at the end the following  
7 new subparagraph:

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

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

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

16 **SEC. 249. SALE OF PROPERTY BY JUDICIAL OFFICERS.**

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

20 (1) in paragraph (1)—

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

1 (B) in subparagraph (B), by inserting “ju-  
2 dicial canon,” after “any statute, regulation,  
3 rule,”;

4 (2) in paragraph (2)—

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

8 (B) in subparagraph (B), by inserting  
9 after “the Director of the Office of Government  
10 Ethics,” the following: “in the case of executive  
11 branch officers or employees, or by the Judicial  
12 Conference of the United States (or its des-  
13 ignee), in the case of judicial officers,”; and

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

16 (b) JUDICIAL OFFICER DEFINED.—Section 1043(b)  
17 is amended by adding at the end the following new para-  
18 graph:

19 “(6) JUDICIAL OFFICER.—The term ‘judicial  
20 officer’ means the Chief Justice of the United  
21 States, the Associate Justices of the Supreme Court,  
22 and the judges of the United States courts of ap-  
23 peals, United States district courts, including the  
24 district courts in Guam, the Northern Mariana Is-  
25 lands, and the Virgin Islands, Court of Appeals for

1 the Federal Circuit, Court of International Trade,  
2 Tax Court, Court of Federal Claims, Court of Ap-  
3 peals for Veterans Claims, United States Court of  
4 Appeals for the Armed Forces, and any court cre-  
5 ated by Act of Congress, the judges of which are en-  
6 titled to hold office during good behavior.”.

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

10 **SEC. 250. PREMIUMS FOR MORTGAGE INSURANCE.**

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

14 “(E) MORTGAGE INSURANCE PREMIUMS  
15 TREATED AS INTEREST.—

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

24 “(ii) PHASEOUT.—The amount other-  
25 wise treated as interest under clause (i)

1 shall be reduced (but not below zero) by 10  
2 percent of such amount for each \$1,000  
3 (\$500 in the case of a married individual  
4 filing a separate return) (or fraction there-  
5 of) that the taxpayer's adjusted gross in-  
6 come for the taxable year exceeds  
7 \$100,000 (\$50,000 in the case of a mar-  
8 ried individual filing a separate return).

9 “(iii) LIMITATION.—Clause (i) shall  
10 not apply with respect to any mortgage in-  
11 surance contracts issued before January 1,  
12 2007.

13 “(iv) TERMINATION.—Clause (i) shall  
14 not apply to amounts—

15 “(I) paid or accrued after De-  
16 cember 31, 2007, or

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

19 (b) DEFINITION AND SPECIAL RULES.—Section  
20 163(h)(4) (relating to other definitions and special rules)  
21 is amended by adding at the end the following new sub-  
22 paragraphs:

23 “(E) QUALIFIED MORTGAGE INSUR-  
24 ANCE.—The term ‘qualified mortgage insur-  
25 ance’ means—

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

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

10           “(F) SPECIAL RULES FOR PREPAID QUALI-  
11           FIED MORTGAGE INSURANCE.—Any amount  
12           paid by the taxpayer for qualified mortgage in-  
13           surance that is properly allocable to any mort-  
14           gage the payment of which extends to periods  
15           that are after the close of the taxable year in  
16           which such amount is paid shall be chargeable  
17           to capital account and shall be treated as paid  
18           in such periods to which so allocated. No deduc-  
19           tion shall be allowed for the unamortized bal-  
20           ance of such account if such mortgage is satis-  
21           fied before the end of its term. The preceding  
22           sentences shall not apply to amounts paid for  
23           qualified mortgage insurance provided by the  
24           Veterans Administration or the Rural Housing  
25           Administration.”.

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

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

8                   “(1) IN GENERAL.—The Secretary may pre-  
9 scribe, by regulations, that any person who, in the  
10 course of a trade or business, receives from any indi-  
11 vidual premiums for mortgage insurance aggregating  
12 \$600 or more for any calendar year, shall make a  
13 return with respect to each such individual. Such re-  
14 turn shall be in such form, shall be made at such  
15 time, and shall contain such information as the Sec-  
16 retary may prescribe.

17                   “(2) STATEMENT TO BE FURNISHED TO INDI-  
18 VIDUALS WITH RESPECT TO WHOM INFORMATION IS  
19 REQUIRED.—Every person required to make a re-  
20 turn under paragraph (1) shall furnish to each indi-  
21 vidual with respect to whom a return is made a writ-  
22 ten statement showing such information as the Sec-  
23 retary may prescribe. Such written statement shall  
24 be furnished on or before January 31 of the year

1 following the calendar year for which the return  
2 under paragraph (1) was required to be made.

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

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

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

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

13 “(ii) private mortgage insurance (as  
14 defined by section 2 of the Homeowners  
15 Protection Act of 1998 (12 U.S.C. 4901),  
16 as in effect on the date of the enactment  
17 of this subsection).”.

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

21 **SEC. 251. MODIFICATION OF REFUNDS FOR KEROSENE**  
22 **USED IN AVIATION.**

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

1           “(4) REFUNDS FOR KEROSENE USED IN AVIA-  
2           TION.—

3           “(A) KEROSENE USED IN COMMERCIAL  
4           AVIATION.—In the case of kerosene used in  
5           commercial aviation (as defined in section  
6           4083(b)) (other than supplies for vessels or air-  
7           craft within the meaning of section 4221(d)(3)),  
8           paragraph (1) shall not apply to so much of the  
9           tax imposed by section 4041 or 4081, as the  
10          case may be, as is attributable to—

11                  “(i) the Leaking Underground Stor-  
12                  age Tank Trust Fund financing rate im-  
13                  posed by such section, and

14                  “(ii) so much of the rate of tax speci-  
15                  fied in section 4041(c) or  
16                  4081(a)(2)(A)(iii), as the case may be, as  
17                  does not exceed 4.3 cents per gallon.

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

1           “(i) any tax imposed by section  
2           4041(c), and

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

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

8                   “(II) so much of the rate of tax  
9                   specified in section 4081(a)(2)(A)(iii)  
10                  as does not exceed the rate specified  
11                  in section 4081(a)(2)(C)(ii).

12           “(C) PAYMENTS TO ULTIMATE, REG-  
13           ISTERED VENDOR.—

14                   “(i) IN GENERAL.—With respect to  
15                   any kerosene used in aviation (other than  
16                   kerosene described in clause (ii) or ker-  
17                   osene to which paragraph (5) applies), if  
18                   the ultimate purchaser of such kerosene  
19                   waives (at such time and in such form and  
20                   manner as the Secretary shall prescribe)  
21                   the right to payment under paragraph (1)  
22                   and assigns such right to the ultimate ven-  
23                   dor, then the Secretary shall pay the  
24                   amount which would be paid under para-

1 graph (1) to such ultimate vendor, but  
2 only if such ultimate vendor—

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

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

8 “(ii) PAYMENTS FOR KEROSENE USED  
9 IN NONCOMMERCIAL AVIATION.—The  
10 amount which would be paid under para-  
11 graph (1) with respect to any kerosene to  
12 which subparagraph (B) applies shall be  
13 paid only to the ultimate vendor of such  
14 kerosene. A payment shall be made to such  
15 vendor if such 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 (b) CONFORMING AMENDMENTS.—

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

1           (2) Section 4082(d)(2)(B) is amended by strik-  
2           ing “section 6427(l)(6)(B)” and inserting “section  
3           6427(l)(5)(B)”.

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

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

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

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

13           (5) Section 9502(d) is amended—

14                   (A) in paragraph (2), by striking “and  
15                   (l)(5)”, and

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

17           (6) Section 9503(c)(7) is amended—

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

20                           “(A) 4.3 cents per gallon of kerosene sub-  
21                           ject to section 6427(l)(4)(A) with respect to  
22                           which a payment has been made by the Sec-  
23                           retary under section 6427(l), and

24                           “(B) 21.8 cents per gallon of kerosene sub-  
25                           ject to section 6427(l)(4)(B) with respect to

1           which a payment has been made by the Sec-  
2           retary under section 6427(l).”, and

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

5           (c) EFFECTIVE DATE.—

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

9                   (2) SPECIAL RULE FOR PENDING CLAIMS.—In  
10          the case of kerosene sold for use in aviation (other  
11          than kerosene to which section 6427(l)(4)(C)(ii) of  
12          the Internal Revenue Code of 1986 (as added by  
13          subsection (a)) applies or kerosene to which section  
14          6427(l)(5) of such Code (as redesignated by sub-  
15          section (b)) applies) after September 30, 2005, and  
16          before the date of the enactment of this Act, the ul-  
17          timate purchaser shall be treated as having waived  
18          the right to payment under section 6427(l)(1) of  
19          such Code and as having assigned such right to the  
20          ultimate vendor if such ultimate vendor has met the  
21          requirements of subparagraph (A), (B), or (D) of  
22          section 6416(a)(1) of such Code.

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

1           (1) REFUNDS FOR PURCHASES AFTER DECEM-  
2           BER 31, 2004, AND BEFORE OCTOBER 1, 2005.—  
3           The Secretary of the Treasury shall pay to the ulti-  
4           mate purchaser of any kerosene which is used in  
5           aviation on a farm for farming purposes and which  
6           was purchased after December 31, 2004, and before  
7           October 1, 2005, an amount equal to the aggregate  
8           amount of tax imposed on such fuel under section  
9           4041 or 4081 of the Internal Revenue Code of 1986,  
10          as the case may be, reduced by any payment to the  
11          ultimate vendor under section 6427(l)(5)(C) of such  
12          Code (as in effect on the day before the date of the  
13          enactment of the Safe, Accountable, Flexible, Effi-  
14          cient Transportation Equity Act: a Legacy for  
15          Users).

16          (2) USE ON A FARM FOR FARMING PUR-  
17          POSES.—For purposes of paragraph (1), kerosene  
18          shall be treated as used on a farm for farming pur-  
19          poses if such kerosene is used for farming purposes  
20          (within the meaning of section 6420(c)(3) of the In-  
21          ternal Revenue Code of 1986) in carrying on a trade  
22          or business on a farm situated in the United States.  
23          For purposes of the preceding sentence, rules similar  
24          to the rules of section 6420(c)(4) of such Code shall  
25          apply.

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

5           (4) NO DOUBLE BENEFIT.—No amount shall be  
6           paid under paragraph (1) or section 6427(l) of the  
7           Internal Revenue Code of 1986 with respect to any  
8           kerosene described in paragraph (1) to the extent  
9           that such amount is in excess of the tax imposed on  
10          such kerosene under section 4041 or 4081 of such  
11          Code, as the case may be.

12          (5) APPLICABLE LAWS.—For purposes of this  
13          subsection, rules similar to the rules of section  
14          6427(j) of the Internal Revenue Code of 1986 shall  
15          apply.

16 **SEC. 252. DEDUCTION FOR QUALIFIED TIMBER GAIN.**

17          (a) IN GENERAL.—Part I of subchapter P of chapter  
18          1 is amended by adding at the end the following new sec-  
19          tion:

20 **“SEC. 1203. DEDUCTION FOR QUALIFIED TIMBER GAIN.**

21          “(a) IN GENERAL.—In the case of a taxpayer which  
22          elects the application of this section for a taxable year,  
23          there shall be allowed a deduction against gross income  
24          equal to 60 percent of the lesser of—

1           “(1) the taxpayer’s qualified timber gain for  
2 such year, or

3           “(2) the taxpayer’s net capital gain for such  
4 year.

5           “(b) QUALIFIED TIMBER GAIN.—For purposes of  
6 this section, the term ‘qualified timber gain’ means, with  
7 respect to any taxpayer for any taxable year, the excess  
8 (if any) of—

9           “(1) the sum of the taxpayer’s gains described  
10 in subsections (a) and (b) of section 631 for such  
11 year, over

12           “(2) the sum of the taxpayer’s losses described  
13 in such subsections for such year.

14           “(c) SPECIAL RULES FOR PASS-THRU ENTITIES.—  
15 In the case of any qualified timber gain of a pass-thru  
16 entity (as defined in section 1(h)(10))—

17           “(1) the election under this section shall be  
18 made separately by each taxpayer subject to tax on  
19 such gain, and

20           “(2) the Secretary may prescribe such regula-  
21 tions as are appropriate to apply this section to such  
22 gain.

23           “(d) TERMINATION.—No disposition of timber after  
24 December 31, 2007, shall be taken into account under  
25 subsection (b).”.

1 (b) COORDINATION WITH MAXIMUM CAPITAL GAINS  
2 RATES.—

3 (1) TAXPAYERS OTHER THAN CORPORA-  
4 TIONS.—Paragraph (2) of section 1(h) is amended  
5 to read as follows:

6 “(2) REDUCTION OF NET CAPITAL GAIN.—For  
7 purposes of this subsection, the net capital gain for  
8 any taxable year shall be reduced (but not below  
9 zero) by the sum of—

10 “(A) the amount which the taxpayer takes  
11 into account as investment income under sec-  
12 tion 163(d)(4)(B)(iii), and

13 “(B) in the case of a taxable year with re-  
14 spect to which an election is in effect under sec-  
15 tion 1203, the lesser of—

16 “(i) the amount described in para-  
17 graph (1) of section 1203(a), or

18 “(ii) the amount described in para-  
19 graph (2) of such section.”.

20 (2) CORPORATIONS.—Section 1201 is amended  
21 by redesignating subsection (b) as subsection (c) and  
22 inserting after subsection (a) the following new sub-  
23 section:

24 “(b) QUALIFIED TIMBER GAIN NOT TAKEN INTO  
25 ACCOUNT.—For purposes of this section, in the case of

1 a corporation with respect to which an election is in effect  
2 under section 1203, the net capital gain for any taxable  
3 year shall be reduced (but not below zero) by the corpora-  
4 tion's qualified timber gain (as defined in section  
5 1203(b)).”.

6 (c) DEDUCTION ALLOWED WHETHER OR NOT INDI-  
7 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)  
8 of section 62, as amended by this Act, is amended by in-  
9 serting before the last sentence the following new para-  
10 graph:

11 “(22) QUALIFIED TIMBER GAINS.—The deduc-  
12 tion allowed by section 1203.”.

13 (d) DEDUCTION ALLOWED IN COMPUTING AD-  
14 JUSTED CURRENT EARNINGS.—Subparagraph (C) of sec-  
15 tion 56(g)(4) is amended by adding at the end the fol-  
16 lowing new clause:

17 “(vii) DEDUCTION FOR QUALIFIED  
18 TIMBER GAIN.—Clause (i) shall not apply  
19 to any deduction allowed under section  
20 1203.”.

21 (e) DEDUCTION ALLOWED IN COMPUTING TAXABLE  
22 INCOME OF ELECTING SMALL BUSINESS TRUSTS.—Sub-  
23 paragraph (C) of section 641(e)(2) is amended by insert-  
24 ing after clause (iii) the following new clause:

1                   “(iv) The deduction allowed under  
2                   section 1203.”.

3           (f) CONFORMING AMENDMENTS.—

4           (1) Subparagraph (B) of section 172(d)(2) is  
5           amended to read as follows:

6                   “(B) the exclusion under section 1202 and  
7                   the deduction under section 1203 shall not be  
8                   allowed.”.

9           (2) Paragraph (4) of section 642(c) is amended  
10           by striking the first sentence and inserting the fol-  
11           lowing: “To the extent that the amount otherwise al-  
12           lowable as a deduction under this subsection consists  
13           of gain described in section 1202(a) or qualified tim-  
14           ber gain (as defined in section 1203(b)), proper ad-  
15           justment shall be made for any exclusion allowable  
16           to the estate or trust under section 1202 and for  
17           any deduction allowable to the estate or trust under  
18           section 1203.”.

19           (3) Paragraph (3) of section 643(a) is amended  
20           by striking the last sentence and inserting the fol-  
21           lowing: “The exclusion under section 1202 and the  
22           deduction under section 1203 shall not be taken into  
23           account.”.

24           (4) Subparagraph (C) of section 643(a)(6) is  
25           amended to read as follows:

1           “(C) Paragraph (3) shall not apply to a  
2 foreign trust. In the case of such a trust—

3           “(i) there shall be included gains from  
4 the sale or exchange of capital assets, re-  
5 duced by losses from such sales or ex-  
6 changes to the extent such losses do not  
7 exceed gains from such sales or exchanges,  
8 and

9           “(ii) the deduction under section 1203  
10 shall not be taken into account.”.

11           (5) Paragraph (4) of section 691(c) is amended  
12 by inserting “1203,” after “1202,”.

13           (6) Paragraph (2) of section 871(a) is amended  
14 by striking “section 1202” and inserting “sections  
15 1202 and 1203”.

16           (7) The table of sections for part I of sub-  
17 chapter P of chapter 1 is amended by adding at the  
18 end the following new item:

“Sec. 1203. Deduction for qualified timber gain.”.

19           (g) EFFECTIVE DATE.—

20           (1) IN GENERAL.—The amendments made by  
21 this section shall apply to taxable years ending after  
22 the date of the enactment of this Act.

23           (2) TAXABLE YEARS WHICH INCLUDE DATE OF  
24 ENACTMENT.—In the case of any taxable year which  
25 includes the date of the enactment of this Act, for

1 purposes of the Internal Revenue Code of 1986, the  
2 taxpayer's qualified timber gain shall not exceed the  
3 excess that would be described in section 1203(b) of  
4 such Code, as added by this section, if only disposi-  
5 tions of timber after such date were taken into ac-  
6 count.

7 **SEC. 253. CREDIT TO HOLDERS OF RURAL RENAISSANCE**  
8 **BONDS.**

9 (a) IN GENERAL.—Subpart H of part IV of sub-  
10 chapter A of chapter 1 (relating to credits against tax)  
11 is amended by adding at the end the following new section:

12 **“SEC. 54A. CREDIT TO HOLDERS OF RURAL RENAISSANCE**  
13 **BONDS.**

14 “(a) ALLOWANCE OF CREDIT.—In the case of a tax-  
15 payer who holds a rural renaissance bond on a credit al-  
16 lowance date of such bond, which occurs during the tax-  
17 able year, there shall be allowed as a credit against the  
18 tax imposed by this chapter for such taxable year an  
19 amount equal to the sum of the credits determined under  
20 subsection (b) with respect to credit allowance dates dur-  
21 ing such year on which the taxpayer holds such bond.

22 “(b) AMOUNT OF CREDIT.—

23 “(1) IN GENERAL.—The amount of the credit  
24 determined under this subsection with respect to any  
25 credit allowance date for a rural renaissance bond is

1 25 percent of the annual credit determined with re-  
2 spect to such bond.

3 “(2) ANNUAL CREDIT.—The annual credit de-  
4 termined with respect to any rural renaissance bond  
5 is the product of—

6 “(A) the credit rate determined by the Sec-  
7 retary under paragraph (3) for the day on  
8 which such bond was sold, multiplied by

9 “(B) the outstanding face amount of the  
10 bond.

11 “(3) DETERMINATION.—For purposes of para-  
12 graph (2), with respect to any rural renaissance  
13 bond, the Secretary shall determine daily or caused  
14 to be determined daily a credit rate which shall  
15 apply to the first day on which there is a binding,  
16 written contract for the sale or exchange of the  
17 bond. The credit rate for any day is the credit rate  
18 which the Secretary or the Secretary’s designee esti-  
19 mates will permit the issuance of rural renaissance  
20 bonds with a specified maturity or redemption date  
21 without discount and without interest cost to the  
22 qualified issuer.

23 “(4) CREDIT ALLOWANCE DATE.—For purposes  
24 of this section, the term ‘credit allowance date’  
25 means—

- 1           “(A) March 15,  
2           “(B) June 15,  
3           “(C) September 15, and  
4           “(D) December 15.

5           Such term also includes the last day on which the  
6           bond is outstanding.

7           “(5) SPECIAL RULE FOR ISSUANCE AND RE-  
8           DEMPTION.—In the case of a bond which is issued  
9           during the 3-month period ending on a credit allow-  
10          ance date, the amount of the credit determined  
11          under this subsection with respect to such credit al-  
12          lowance date shall be a ratable portion of the credit  
13          otherwise determined based on the portion of the 3-  
14          month period during which the bond is outstanding.  
15          A similar rule shall apply when the bond is redeemed  
16          or matures.

17          “(c) LIMITATION BASED ON AMOUNT OF TAX.—The  
18          credit allowed under subsection (a) for any taxable year  
19          shall not exceed the excess of—

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

23                 “(2) the sum of the credits allowable under this  
24                 part (other than subpart C and this section).

1       “(d) RURAL RENAISSANCE BOND.—For purposes of  
2 this section—

3           “(1) IN GENERAL.—The term ‘rural renaiss-  
4 sance bond’ means any bond issued as part of an  
5 issue if—

6           “(A) the bond is issued by a qualified  
7 issuer,

8           “(B) 95 percent or more of the proceeds  
9 from the sale of such issue are to be used for  
10 capital expenditures incurred for 1 or more  
11 qualified projects,

12           “(C) the qualified issuer designates such  
13 bond for purposes of this section and the bond  
14 is in registered form, and

15           “(D) the issue meets the requirements of  
16 subsections (e) and (h).

17           “(2) QUALIFIED PROJECT; SPECIAL USE  
18 RULES.—

19           “(A) IN GENERAL.—The term ‘qualified  
20 project’ means 1 or more projects described in  
21 subparagraph (B) located in a rural area.

22           “(B) PROJECTS DESCRIBED.—A project  
23 described in this subparagraph is—

24           “(i) a water or waste treatment  
25 project,

- 1           “(ii) an affordable housing project,
- 2           “(iii) a community facility project, in-
- 3           cluding hospitals, fire and police stations,
- 4           and nursing and assisted-living facilities,
- 5           “(iv) a value-added agriculture or re-
- 6           newable energy facility project for agricul-
- 7           tural producers or farmer-owned entities,
- 8           including any project to promote the pro-
- 9           duction, processing, or retail sale of eth-
- 10          anol (including fuel at least 85 percent of
- 11          the volume of which consists of ethanol),
- 12          biodiesel, animal waste, biomass, raw com-
- 13          modities, or wind as a fuel,
- 14          “(v) a distance learning or telemedi-
- 15          cine project,
- 16          “(vi) a rural utility infrastructure
- 17          project, including any electric or telephone
- 18          system,
- 19          “(vii) a project to expand broadband
- 20          technology,
- 21          “(viii) a rural teleworks project, and
- 22          “(ix) any project described in any pre-
- 23          ceding clause carried out by the Delta Re-
- 24          gional Authority.

1           “(C) SPECIAL RULES.—For purposes of  
2 this paragraph—

3           “(i) any project described in subpara-  
4 graph (B)(iv) for a farmer-owned entity  
5 may be considered a qualified project if  
6 such entity is located in a rural area, or in  
7 the case of a farmer-owned entity the  
8 headquarters of which are located in a  
9 nonrural area, if the project is located in  
10 a rural area, and

11           “(ii) any project for a farmer-owned  
12 entity which is a facility described in sub-  
13 paragraph (B)(iv) for agricultural pro-  
14 ducers may be considered a qualified  
15 project regardless of whether the facility is  
16 located in a rural or nonrural area.

17           “(3) SPECIAL USE RULES.—

18           “(A) REFINANCING RULES.—For purposes  
19 of paragraph (1)(B), a qualified project may be  
20 refinanced with proceeds of a rural renaissance  
21 bond only if the indebtedness being refinanced  
22 (including any obligation directly or indirectly  
23 refinanced by such indebtedness) was originally  
24 incurred after the date of the enactment of this  
25 section.

1           “(B) REIMBURSEMENT.—For purposes of  
2 paragraph (1)(B), a rural renaissance bond  
3 may be issued to reimburse a borrower for  
4 amounts paid after the date of the enactment  
5 of this section with respect to a qualified  
6 project, but only if—

7                   “(i) prior to the payment of the origi-  
8 nal expenditure, the borrower declared its  
9 intent to reimburse such expenditure with  
10 the proceeds of a rural renaissance bond,

11                   “(ii) not later than 60 days after pay-  
12 ment of the original expenditure, the quali-  
13 fied issuer adopts an official intent to re-  
14 imburse the original expenditure with such  
15 proceeds, and

16                   “(iii) the reimbursement is made not  
17 later than 18 months after the date the  
18 original expenditure is paid.

19           “(C) TREATMENT OF CHANGES IN USE.—  
20 For purposes of paragraph (1)(B), the proceeds  
21 of an issue shall not be treated as used for a  
22 qualified project to the extent that a borrower  
23 takes any action within its control which causes  
24 such proceeds not to be used for a qualified  
25 project. The Secretary shall prescribe regula-

1           tions specifying remedial actions that may be  
2           taken (including conditions to taking such re-  
3           medial actions) to prevent an action described  
4           in the preceding sentence from causing a bond  
5           to fail to be a rural renaissance bond.

6           “(e) MATURITY LIMITATIONS.—

7           “(1) DURATION OF TERM.—A bond shall not be  
8           treated as a rural renaissance bond if the maturity  
9           of such bond exceeds the maximum term determined  
10          by the Secretary under paragraph (2) with respect  
11          to such bond.

12          “(2) MAXIMUM TERM.—During each calendar  
13          month, the Secretary shall determine the maximum  
14          term permitted under this paragraph for bonds  
15          issued during the following calendar month. Such  
16          maximum term shall be the term which the Sec-  
17          retary estimates will result in the present value of  
18          the obligation to repay the principal on the bond  
19          being equal to 50 percent of the face amount of such  
20          bond. Such present value shall be determined with-  
21          out regard to the requirements of paragraph (3) and  
22          using as a discount rate the average annual interest  
23          rate of tax-exempt obligations having a term of 10  
24          years or more which are issued during the month. If  
25          the term as so determined is not a multiple of a

1 whole year, such term shall be rounded to the next  
2 highest whole year.

3 “(3) RATABLE PRINCIPAL AMORTIZATION RE-  
4 QUIRED.—A bond shall not be treated as a rural  
5 renaissance bond unless it is part of an issue which  
6 provides for an equal amount of principal to be paid  
7 by the qualified issuer during each calendar year  
8 that the issue is outstanding.

9 “(f) LIMITATION ON AMOUNT OF BONDS DES-  
10 IGNATED.—

11 “(1) NATIONAL LIMITATION.—There is a rural  
12 renaissance bond limitation of \$200,000,000.

13 “(2) ALLOCATION BY SECRETARY.—The Sec-  
14 retary shall allocate the amount described in para-  
15 graph (1) among qualified projects in such manner  
16 as the Secretary determines appropriate.

17 “(g) CREDIT INCLUDED IN GROSS INCOME.—Gross  
18 income includes the amount of the credit allowed to the  
19 taxpayer under this section (determined without regard to  
20 subsection (c)) and the amount so included shall be treat-  
21 ed as interest income.

22 “(h) SPECIAL RULES RELATING TO EXPENDI-  
23 TURES.—

24 “(1) IN GENERAL.—An issue shall be treated as  
25 meeting the requirements of this subsection if, as of

1 the date of issuance, the qualified issuer reasonably  
2 expects—

3 “(A) at least 95 percent of the proceeds  
4 from the sale of the issue are to be spent for  
5 1 or more qualified projects within the 5-year  
6 period beginning on the date of issuance of the  
7 rural renaissance bond,

8 “(B) a binding commitment with a third  
9 party to spend at least 10 percent of the pro-  
10 ceeds from the sale of the issue will be incurred  
11 within the 6-month period beginning on the  
12 date of issuance of the rural renaissance bond  
13 or, in the case of a rural renaissance bond, the  
14 proceeds of which are to be loaned to 2 or more  
15 borrowers, such binding commitment will be in-  
16 curred within the 6-month period beginning on  
17 the date of the loan of such proceeds to a bor-  
18 rower, and

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

22 “(2) EXTENSION OF PERIOD.—Upon submis-  
23 sion of a request prior to the expiration of the period  
24 described in paragraph (1)(A), the Secretary may  
25 extend such period if the qualified issuer establishes

1 that the failure to satisfy the 5-year requirement is  
2 due to reasonable cause and the related projects will  
3 continue to proceed with due diligence.

4 “(3) FAILURE TO SPEND REQUIRED AMOUNT  
5 OF BOND PROCEEDS WITHIN 5 YEARS.—To the ex-  
6 tent that less than 95 percent of the proceeds of  
7 such issue are expended by the close of the 5-year  
8 period beginning on the date of issuance (or if an  
9 extension has been obtained under paragraph (2), by  
10 the close of the extended period), the qualified issuer  
11 shall redeem all of the nonqualified bonds within 90  
12 days after the end of such period. For purposes of  
13 this paragraph, the amount of the nonqualified  
14 bonds required to be redeemed shall be determined  
15 in the same manner as under section 142.

16 “(i) SPECIAL RULES RELATING TO ARBITRAGE.—A  
17 bond which is part of an issue shall not be treated as a  
18 rural renaissance bond unless, with respect to the issue  
19 of which the bond is a part, the qualified issuer satisfies  
20 the arbitrage requirements of section 148 with respect to  
21 proceeds of the issue.

22 “(j) QUALIFIED ISSUER.—For purposes of this sec-  
23 tion—

24 “(1) IN GENERAL.—The term ‘qualified issuer’  
25 means any not-for-profit cooperative lender which

1 has as of the date of the enactment of this section  
2 received a guarantee under section 306 of the Rural  
3 Electrification Act and which meets the requirement  
4 of paragraph (2).

5 “(2) USER FEE REQUIREMENT.—The require-  
6 ment of this paragraph is met if the issuer of any  
7 rural renaissance bond makes grants for qualified  
8 projects as defined under subsection (d)(2) on a  
9 semi-annual basis every year that such bond is out-  
10 standing in an annual amount equal to one-half of  
11 the rate on United States Treasury Bills of the same  
12 maturity multiplied by the outstanding principal bal-  
13 ance of rural renaissance bonds issued by such  
14 issuer.

15 “(k) SPECIAL RULES RELATING TO POOL BONDS.—  
16 No portion of a pooled financing bond may be allocable  
17 to a loan unless the borrower has entered into a written  
18 loan commitment for such portion prior to the issue date  
19 of such issue.

20 “(l) OTHER DEFINITIONS AND SPECIAL RULES.—  
21 For purposes of this section—

22 “(1) BOND.—The term ‘bond’ includes any ob-  
23 ligation.

1           “(2) POOLED FINANCING BOND.—The term  
2 ‘pooled financing bond’ shall have the meaning given  
3 such term by section 149(f)(4)(A).

4           “(3) RURAL AREA.—The term ‘rural area’  
5 means any area other than—

6                   “(A) a city or town which has a population  
7 of greater than 50,000 inhabitants, or

8                   “(B) the urbanized area contiguous and  
9 adjacent to such a city or town.

10           “(4) PARTNERSHIP; S CORPORATION; AND  
11 OTHER PASS-THRU ENTITIES.—

12                   “(A) IN GENERAL.—Under regulations  
13 prescribed by the Secretary, in the case of a  
14 partnership, trust, S corporation, or other pass-  
15 thru entity, rules similar to the rules of section  
16 41(g) shall apply with respect to the credit al-  
17 lowable under subsection (a).

18                   “(B) NO BASIS ADJUSTMENT.—In the case  
19 of a bond held by a partnership or an S cor-  
20 poration, rules similar to the rules under sec-  
21 tion 1397E(l) shall apply.

22           “(5) BONDS HELD BY REGULATED INVEST-  
23 MENT COMPANIES.—If any rural renaissance bond is  
24 held by a regulated investment company, the credit  
25 determined under subsection (a) shall be allowed to

1 shareholders of such company under procedures pre-  
2 scribed by the Secretary.

3 “(6) REPORTING.—Issuers of rural renaissance  
4 bonds shall submit reports similar to the reports re-  
5 quired under section 149(e).”.

6 (b) REPORTING.—Subsection (d) of section 6049 (re-  
7 lating to returns regarding payments of interest) is  
8 amended by adding at the end the following new para-  
9 graph:

10 “(9) REPORTING OF CREDIT ON RURAL RENAISSANCE BONDS.—  
11

12 “(A) IN GENERAL.—For purposes of sub-  
13 section (a), the term ‘interest’ includes amounts  
14 includible in gross income under section 54A(f)  
15 and such amounts shall be treated as paid on  
16 the credit allowance date (as defined in section  
17 54A(b)(4)).

18 “(B) REPORTING TO CORPORATIONS,  
19 ETC.—Except as otherwise provided in regula-  
20 tions, in the case of any interest described in  
21 subparagraph (A), subsection (b)(4) shall be  
22 applied without regard to subparagraphs (A),  
23 (H), (I), (J), (K), and (L)(i) of such subsection.

24 “(C) REGULATORY AUTHORITY.—The Sec-  
25 retary may prescribe such regulations as are

1           necessary or appropriate to carry out the pur-  
2           poses of this paragraph, including regulations  
3           which require more frequent or more detailed  
4           reporting.”.

5           (c) CONFORMING AMENDMENTS.—

6           (1) The table of sections for subpart H of part  
7           IV of subchapter A of chapter 1 is amended by add-  
8           ing at the end the following new item:

          “Sec. 54A. Credit to holders of rural renaissance bonds.”.

9           (2) Section 54(c)(2) is amended by inserting “,  
10          section 54A,” after “subpart C”.

11          (3) Section 1400N(l)(3)(B) is amended by in-  
12          serting “, section 54A,” after “subpart C”.

13          (d) ISSUANCE OF REGULATIONS.—The Secretary of  
14          Treasury shall issue regulations required under section  
15          54A of the Internal Revenue Code of 1986 (as added by  
16          this section) not later than 120 days after the date of the  
17          enactment of this Act.

18          (e) EFFECTIVE DATE.—The amendments made by  
19          this section shall apply to bonds issued after the date of  
20          the enactment of this Act and before January 1, 2010.

21       **SEC. 254. RESTORATION OF DEDUCTION FOR TRAVEL EX-**  
22                               **PENSES OF SPOUSE, ETC. ACCOMPANYING**  
23                               **TAXPAYER ON BUSINESS TRAVEL.**

24          (a) IN GENERAL.—Subsection (m) of section 274 (re-  
25          lating to additional limitations on travel expenses) is

1 amended by adding at the end the following new para-  
2 graph:

3           “(4) TERMINATION.—Paragraph (3) shall not  
4           apply to any expense paid or incurred after the date  
5           of the enactment of this paragraph and before Janu-  
6           ary 1, 2008.”.

7           (b) EFFECTIVE DATE.—The amendment made by  
8 this section shall apply to amounts paid or incurred after  
9 the date of the enactment of this Act.

10 **SEC. 255. TECHNICAL CORRECTIONS.**

11           (a) TECHNICAL CORRECTION RELATING TO LOOK-  
12 THROUGH TREATMENT OF PAYMENTS BETWEEN RE-  
13 LATED CONTROLLED FOREIGN CORPORATIONS UNDER  
14 THE FOREIGN PERSONAL HOLDING COMPANY RULES.—

15           (1) IN GENERAL.—

16           (A) The first sentence of section  
17 954(c)(6)(A), as amended by section 103(b) of  
18 the Tax Increase Prevention and Reconciliation  
19 Act of 2005, is amended by striking “which is  
20 not subpart F income” and inserting “which is  
21 neither subpart F income nor income treated as  
22 effectively connected with the conduct of a  
23 trade or business in the United States”.

24           (B) Section 954(c)(6)(A), as so amended,  
25 is amended by striking the last sentence and in-

1           serting the following: “The Secretary shall pre-  
2           scribe such regulations as may be necessary or  
3           appropriate to carry out this paragraph, includ-  
4           ing such regulations as may be necessary or ap-  
5           propriate to prevent the abuse of the purposes  
6           of this paragraph.”

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

11          (b) TECHNICAL CORRECTION REGARDING AUTHOR-  
12          ITY TO EXERCISE REASONABLE CAUSE AND GOOD FAITH  
13          EXCEPTION.—

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

20                (2) EFFECTIVE DATE.—The amendment made  
21                by this subsection shall take effect as if included in  
22                the provisions of the American Jobs Creation Act of  
23                2004 to which it relates.

1 **TITLE III—SURFACE MINING**  
2 **CONTROL AND RECLAMATION**  
3 **ACT AMENDMENTS OF 2006**

4 **SEC. 301. SHORT TITLE.**

5 This title may be cited as the “Surface Mining Con-  
6 trol and Reclamation Act Amendments of 2006”.

7 **Subtitle A—MINING CONTROL**  
8 **AND RECLAMATION**

9 **SEC. 311. ABANDONED MINE RECLAMATION FUND AND**  
10 **PURPOSES.**

11 (a) IN GENERAL.—Section 401 of the Surface Min-  
12 ing Control and Reclamation Act of 1977 (30 U.S.C.  
13 1231) is amended—

14 (1) in subsection (c)—

15 (A) by striking paragraphs (2) and (6);

16 and

17 (B) by redesignating paragraphs (3), (4),

18 and (5) and paragraphs (7) through (13) as

19 paragraphs (2) through (11), respectively;

20 (2) by striking subsection (d) and inserting the

21 following:

22 “(d) AVAILABILITY OF MONEYS; NO FISCAL YEAR

23 LIMITATION.—

24 “(1) IN GENERAL.—Moneys from the fund for

25 expenditures under subparagraphs (A) through (D)

1 of section 402(g)(3) shall be available only when ap-  
2 propriated for those subparagraphs.

3 “(2) NO FISCAL YEAR LIMITATION.—Appropria-  
4 tions described in paragraph (1) shall be made with-  
5 out fiscal year limitation.

6 “(3) OTHER PURPOSES.—Moneys from the  
7 fund shall be available for all other purposes of this  
8 title without prior appropriation as provided in sub-  
9 section (f).”;

10 (3) in subsection (e)—

11 (A) in the second sentence, by striking  
12 “the needs of such fund” and inserting “achiev-  
13 ing the purposes of the transfers under section  
14 402(h)”; and

15 (B) in the third sentence, by inserting be-  
16 fore the period the following: “for the purpose  
17 of the transfers under section 402(h)”; and

18 (4) by adding at the end the following:

19 “(f) GENERAL LIMITATION ON OBLIGATION AU-  
20 THORITY.—

21 “(1) IN GENERAL.—From amounts deposited  
22 into the fund under subsection (b), the Secretary  
23 shall distribute during each fiscal year beginning  
24 after September 30, 2007, an amount determined  
25 under paragraph (2).

1 “(2) AMOUNTS.—

2 “(A) FOR FISCAL YEARS 2008 THROUGH  
3 2022.—For each of fiscal years 2008 through  
4 2022, the amount distributed by the Secretary  
5 under this subsection shall be equal to—

6 “(i) the amounts deposited into the  
7 fund under paragraphs (1), (2), and (4) of  
8 subsection (b) for the preceding fiscal year  
9 that were allocated under paragraphs (1)  
10 and (5) of section 402(g); plus

11 “(ii) the amount needed for the ad-  
12 justment under section 402(g)(8) for the  
13 current fiscal year.

14 “(B) FISCAL YEARS 2023 AND THERE-  
15 AFTER.—For fiscal year 2023 and each fiscal  
16 year thereafter, to the extent that funds are  
17 available, the Secretary shall distribute an  
18 amount equal to the amount distributed under  
19 subparagraph (A) during fiscal year 2022.

20 “(3) DISTRIBUTION.—

21 “(A) IN GENERAL.—Except as provided in  
22 subparagraph (B), for each fiscal year, of the  
23 amount to be distributed to States and Indian  
24 tribes pursuant to paragraph (2), the Secretary  
25 shall distribute—

1           “(i) the amounts allocated under  
2           paragraph (1) of section 402(g), the  
3           amounts allocated under paragraph (5) of  
4           section 402(g), and any amount reallocated  
5           under section 411(h)(3) in accordance with  
6           section 411(h)(2), for grants to States and  
7           Indian tribes under section 402(g)(5); and

8           “(ii) the amounts allocated under sec-  
9           tion 402(g)(8).

10           “(B) EXCLUSION.—Beginning on October  
11           1, 2007, certified States shall be ineligible to  
12           receive amounts under section 402(g)(1).

13           “(4) AVAILABILITY.—Amounts in the fund  
14           available to the Secretary for obligation under this  
15           subsection shall be available until expended.

16           “(5) ADDITION.—

17           “(A) IN GENERAL.—Subject to subpara-  
18           graph (B), the amount distributed under this  
19           subsection for each fiscal year shall be in addi-  
20           tion to the amount appropriated from the fund  
21           during the fiscal year.

22           “(B) EXCEPTIONS.—Notwithstanding  
23           paragraph (3), the amount distributed under  
24           this subsection for the first 4 fiscal years begin-  
25           ning on and after October 1, 2007, shall be

1 equal to the following percentage of the amount  
2 otherwise required to be distributed:

3 “(i) 50 percent in fiscal year 2008.

4 “(ii) 50 percent in fiscal year 2009.

5 “(iii) 75 percent in fiscal year 2010.

6 “(iv) 75 percent in fiscal year 2011.”.

7 (b) CONFORMING AMENDMENT.—Section 712(b) of  
8 the Surface Mining Control and Reclamation Act of 1977  
9 (30 U.S.C. 1302(b)) is amended by striking “section  
10 401(c)(11)” and inserting “section 401(c)(9)”.

11 **SEC. 312. RECLAMATION FEE.**

12 (a) AMOUNTS.—

13 (1) FISCAL YEARS 2008–2012.—Effective Octo-  
14 ber 1, 2007, section 402(a) of the Surface Mining  
15 Control and Reclamation Act of 1977 (30 U.S.C.  
16 1232(a)) is amended—

17 (A) by striking “35” and inserting “31.5”;

18 (B) by striking “15” and inserting “13.5”;

19 and

20 (C) by striking “10 cents” and inserting  
21 “9 cents”.

22 (2) FISCAL YEARS 2013–2021.—Effective Octo-  
23 ber 1, 2012, section 402(a) of the Surface Mining  
24 Control and Reclamation Act of 1977 (30 U.S.C.

1       1232(a)) (as amended by paragraph (1)) is amend-  
2       ed—

3                   (A) by striking “31.5” and inserting “28”;

4                   (B) by striking “13.5” and inserting “12”;

5                   and

6                   (C) by striking “9 cents” and inserting “8  
7       cents”.

8       (b) DURATION.—Effective September 30, 2007, sec-  
9       tion 402(b) of the Surface Mining Control and Reclama-  
10       tion Act of 1977 (30 U.S.C. 1232(b)) (as amended by sec-  
11       tion 7007 of the Emergency Supplemental Appropriations  
12       Act for Defense, the Global War on Terror, and Hurricane  
13       Recovery, 2006 (Public Law 109–234; 120 Stat. 484)) is  
14       amended by striking “September 30, 2007” and all that  
15       follows through the end of the sentence and inserting  
16       “September 30, 2021.”.

17       (c) ALLOCATION OF FUNDS.—Section 402(g) of the  
18       Surface Mining Control and Reclamation Act of 1977 (30  
19       U.S.C. 1232(g)) is amended—

20                   (1) in paragraph (1)(D)—

21                   (A) by inserting “(except for grants award-  
22                   ed during fiscal years 2008, 2009, and 2010 to  
23                   the extent not expended within 5 years)” after  
24                   “this paragraph”; and

1 (B) by striking “in any area under para-  
2 graph (2), (3), (4), or (5)” and inserting  
3 “under paragraph (5)”;

4 (2) by striking paragraph (2) and inserting:

5 “(2) In making the grants referred to in paragraph  
6 (1)(C) and the grants referred to in paragraph (5), the  
7 Secretary shall ensure strict compliance by the States and  
8 Indian tribes with the priorities described in section  
9 403(a) until a certification is made under section  
10 411(a).”;

11 (3) in paragraph (3)—

12 (A) in the matter preceding subparagraph  
13 (A), by striking “paragraphs (2) and” and in-  
14 serting “paragraph”;

15 (B) in subparagraph (A), by striking  
16 “401(c)(11)” and inserting “401(c)(9)”; and

17 (C) by adding at the end the following:

18 “(E) For the purpose of paragraph (8).”;

19 (4) in paragraph (5)—

20 (A) by inserting “(A)” after “(5)”;

21 (B) in the first sentence, by striking “40”  
22 and inserting “60”;

23 (C) in the last sentence, by striking  
24 “Funds allocated or expended by the Secretary  
25 under paragraphs (2), (3), or (4)” and insert-

1           ing “Funds made available under paragraph (3)  
2           or (4)”;

3                   (D) by adding at the end the following:

4           “(B) Any amount that is reallocated and available  
5 under section 411(h)(3) shall be in addition to amounts  
6 that are allocated under subparagraph (A).”;

7                   (5) by striking paragraphs (6) through (8) and  
8           inserting the following:

9           “(6)(A) Any State with an approved abandoned mine  
10 reclamation program pursuant to section 405 may receive  
11 and retain, without regard to the 3-year limitation re-  
12 ferred to in paragraph (1)(D), up to 30 percent of the  
13 total of the grants made annually to the State under para-  
14 graphs (1) and (5) if those amounts are deposited into  
15 an acid mine drainage abatement and treatment fund es-  
16 tablished under State law, from which amounts (together  
17 with all interest earned on the amounts) are expended by  
18 the State for the abatement of the causes and the treat-  
19 ment of the effects of acid mine drainage in a comprehen-  
20 sive manner within qualified hydrologic units affected by  
21 coal mining practices.

22           “(B) In this paragraph, the term ‘qualified hydrologic  
23 unit’ means a hydrologic unit—

24                   “(i) in which the water quality has been signifi-  
25           cantly affected by acid mine drainage from coal min-

1       ing practices in a manner that adversely impacts bi-  
2       ological resources; and

3               “(ii) that contains land and water that are—

4                       “(I) eligible pursuant to section 404 and  
5                       include any of the priorities described in section  
6                       403(a); and

7                       “(II) the subject of expenditures by the  
8                       State from the forfeiture of bonds required  
9                       under section 509 or from other States sources  
10                      to abate and treat acid mine drainage.

11       “(7) In complying with the priorities described in sec-  
12       tion 403(a), any State or Indian tribe may use amounts  
13       available in grants made annually to the State or tribe  
14       under paragraphs (1) and (5) for the reclamation of eligi-  
15       ble land and water described in section 403(a)(3) before  
16       the completion of reclamation projects under paragraphs  
17       (1) and (2) of section 403(a) only if the expenditure of  
18       funds for the reclamation is done in conjunction with the  
19       expenditure before, on, or after the date of enactment of  
20       the Surface Mining Control and Reclamation Act Amend-  
21       ments of 2006 of funds for reclamation projects under  
22       paragraphs (1) and (2) of section 403(a).

23       “(8)(A) In making funds available under this title,  
24       the Secretary shall ensure that the grant awards total not  
25       less than \$3,000,000 annually to each State and each In-

1 dian tribe having an approved abandoned mine reclama-  
2 tion program pursuant to section 405 and eligible land  
3 and water pursuant to section 404, so long as an alloca-  
4 tion of funds to the State or tribe is necessary to achieve  
5 the priorities stated in paragraphs (1) and (2) of section  
6 403(a).

7 “(B) Notwithstanding any other provision of law, this  
8 paragraph applies to the States of Tennessee and Mis-  
9 souri.”.

10 (d) TRANSFERS OF INTEREST EARNED BY ABAN-  
11 DONED MINE RECLAMATION FUND.—Section 402 of the  
12 Surface Mining Control and Reclamation Act of 1977 (30  
13 U.S.C. 1232) is amended by striking subsection (h) and  
14 inserting the following:

15 “(h) TRANSFERS OF INTEREST EARNED BY FUND.—

16 “(1) IN GENERAL.—

17 “(A) TRANSFERS TO COMBINED BENEFIT  
18 FUND.—As soon as practicable after the begin-  
19 ning of fiscal year 2007 and each fiscal year  
20 thereafter, and before making any allocation  
21 with respect to the fiscal year under subsection  
22 (g), the Secretary shall use an amount not to  
23 exceed the amount of interest that the Sec-  
24 retary estimates will be earned and paid to the

1 fund during the fiscal year to make the transfer  
2 described in paragraph (2)(A).

3 “(B) TRANSFERS TO 1992 AND 1993  
4 PLANS.—As soon as practicable after the begin-  
5 ning of fiscal year 2008 and each fiscal year  
6 thereafter, and before making any allocation  
7 with respect to the fiscal year under subsection  
8 (g), the Secretary shall use an amount not to  
9 exceed the amount of interest that the Sec-  
10 retary estimates will be earned and paid to the  
11 fund during the fiscal year (reduced by the  
12 amount used under subparagraph (A)) to make  
13 the transfers described in paragraphs (2)(B)  
14 and (2)(C).

15 “(2) TRANSFERS DESCRIBED.—The transfers  
16 referred to in paragraph (1) are the following:

17 “(A) UNITED MINE WORKERS OF AMERICA  
18 COMBINED BENEFIT FUND.—A transfer to the  
19 United Mine Workers of America Combined  
20 Benefit Fund equal to the amount that the  
21 trustees of the Combined Benefit Fund esti-  
22 mate will be expended from the fund for the fis-  
23 cal year in which the transfer is made, reduced  
24 by—

1           “(i) the amount the trustees of the  
2           Combined Benefit Fund estimate the Com-  
3           bined Benefit Fund will receive during the  
4           fiscal year in—

5                   “(I) required premiums; and

6                   “(II) payments paid by Federal  
7                   agencies in connection with benefits  
8                   provided by the Combined Benefit  
9                   Fund; and

10           “(ii) the amount the trustees of the  
11           Combined Benefit Fund estimate will be  
12           expended during the fiscal year to provide  
13           health benefits to beneficiaries who are un-  
14           assigned beneficiaries solely as a result of  
15           the application of section 9706(h)(1) of the  
16           Internal Revenue Code of 1986, but only  
17           to the extent that such amount does not  
18           exceed the amounts described in subsection  
19           (i)(1)(A) that the Secretary estimates will  
20           be available to pay such estimated expendi-  
21           tures.

22           “(B) UNITED MINE WORKERS OF AMERICA  
23           1992 BENEFIT PLAN.—A transfer to the United  
24           Mine Workers of America 1992 Benefit Plan, in  
25           an amount equal to the difference between—

1           “(i) the amount that the trustees of  
2           the 1992 UMWA Benefit Plan estimate  
3           will be expended from the 1992 UMWA  
4           Benefit Plan during the next calendar year  
5           to provide the benefits required by the  
6           1992 UMWA Benefit Plan on the date of  
7           enactment of this subparagraph; minus

8           “(ii) the amount that the trustees of  
9           the 1992 UMWA Benefit Plan estimate  
10          the 1992 UMWA Benefit Plan will receive  
11          during the next calendar year in—

12                   “(I) required monthly per bene-  
13                   ficiary premiums, including the  
14                   amount of any security provided to  
15                   the 1992 UMWA Benefit Plan that is  
16                   available for use in the provision of  
17                   benefits; and

18                   “(II) payments paid by Federal  
19                   agencies in connection with benefits  
20                   provided by the 1992 UMWA benefit  
21                   plan.

22                   “(C) MULTIEMPLOYER HEALTH BENEFIT  
23          PLAN.—A transfer to the Multiemployer Health  
24          Benefit Plan established after July 20, 1992,  
25          by the parties that are the settlors of the 1992

1 UMWA Benefit Plan referred to in subpara-  
2 graph (B) (referred to in this subparagraph and  
3 subparagraph (D) as ‘the Plan’), in an amount  
4 equal to the excess (if any) of—

5 “(i) the amount that the trustees of  
6 the Plan estimate will be expended from  
7 the Plan during the next calendar year, to  
8 provide benefits no greater than those pro-  
9 vided by the Plan as of December 31,  
10 2006; over

11 “(ii) the amount that the trustees es-  
12 timated the Plan will receive during the  
13 next calendar year in payments paid by  
14 Federal agencies in connection with bene-  
15 fits provided by the Plan.

16 Such excess shall be calculated by taking into  
17 account only those beneficiaries actually en-  
18 rolled in the Plan as of December 31, 2006,  
19 who are eligible to receive benefits under the  
20 Plan on the first day of the calendar year for  
21 which the transfer is made.

22 “(D) INDIVIDUALS CONSIDERED EN-  
23 ROLLED.—For purposes of subparagraph (C),  
24 any individual who was eligible to receive bene-  
25 fits from the Plan as of the date of enactment

1 of this subsection, even though benefits were  
2 being provided to the individual pursuant to a  
3 settlement agreement approved by order of a  
4 bankruptcy court entered on or before Sep-  
5 tember 30, 2004, will be considered to be actu-  
6 ally enrolled in the Plan and shall receive bene-  
7 fits from the Plan beginning on December 31,  
8 2006.

9 “(3) ADJUSTMENT.—If, for any fiscal year, the  
10 amount of a transfer under subparagraph (A), (B),  
11 or (C) of paragraph (2) is more or less than the  
12 amount required to be transferred under that sub-  
13 paragraph, the Secretary shall appropriately adjust  
14 the amount transferred under that subparagraph for  
15 the next fiscal year.

16 “(4) ADDITIONAL AMOUNTS.—

17 “(A) PREVIOUSLY CREDITED INTEREST.—  
18 Notwithstanding any other provision of law, any  
19 interest credited to the fund that has not pre-  
20 viously been transferred to the Combined Ben-  
21 efit Fund referred to in paragraph (2)(A) under  
22 this section—

23 “(i) shall be held in reserve by the  
24 Secretary until such time as necessary to  
25 make the payments under subparagraphs

1 (A) and (B) of subsection (i)(1), as de-  
2 scribed in clause (ii); and

3 “(ii) in the event that the amounts de-  
4 scribed in subsection (i)(1) are insufficient  
5 to make the maximum payments described  
6 in subparagraphs (A) and (B) of sub-  
7 section (i)(1), shall be used by the Sec-  
8 retary to supplement the payments so that  
9 the maximum amount permitted under  
10 those paragraphs is paid.

11 “(B) PREVIOUSLY ALLOCATED  
12 AMOUNTS.—All amounts allocated under sub-  
13 section (g)(2) before the date of enactment of  
14 this subparagraph for the program described in  
15 section 406, but not appropriated before that  
16 date, shall be available to the Secretary to make  
17 the transfers described in paragraph (2).

18 “(C) ADEQUACY OF PREVIOUSLY CRED-  
19 ITED INTEREST.—The Secretary shall—

20 “(i) consult with the trustees of the  
21 plans described in paragraph (2) at rea-  
22 sonable intervals; and

23 “(ii) notify Congress if a determina-  
24 tion is made that the amounts held in re-  
25 serve under subparagraph (A) are insuffi-

1           cient to meet future requirements under  
2           subparagraph (A)(ii).

3           “(D) ADDITIONAL RESERVE AMOUNTS.—

4           In addition to amounts held in reserve under  
5           subparagraph (A), there is authorized to be ap-  
6           propriated such sums as may be necessary for  
7           transfer to the fund to carry out the purposes  
8           of subparagraph (A)(ii).

9           “(E) INAPPLICABILITY OF CAP.—The limi-  
10          tation described in subsection (i)(3)(A) shall  
11          not apply to payments made from the reserve  
12          fund under this paragraph.

13          “(5) LIMITATIONS.—

14          “(A) AVAILABILITY OF FUNDS FOR NEXT  
15          FISCAL YEAR.—The Secretary may make trans-  
16          fers under subparagraphs (B) and (C) of para-  
17          graph (2) for a calendar year only if the Sec-  
18          retary determines, using actuarial projections  
19          provided by the trustees of the Combined Ben-  
20          efit Fund referred to in paragraph (2)(A), that  
21          amounts will be available under paragraph (1),  
22          after the transfer, for the next fiscal year for  
23          making the transfer under paragraph (2)(A).

24          “(B) RATE OF CONTRIBUTIONS OF OBLI-  
25          GORS.—

1 “(i) IN GENERAL.—

2 “(I) RATE.—A transfer under  
3 paragraph (2)(C) shall not be made  
4 for a calendar year unless the persons  
5 that are obligated to contribute to the  
6 plan referred to in paragraph (2)(C)  
7 on the date of the transfer are obli-  
8 gated to make the contributions at  
9 rates that are no less than those in ef-  
10 fect on the date which is 30 days be-  
11 fore the date of enactment of this sub-  
12 section.

13 “(II) APPLICATION.—The con-  
14 tributions described in subclause (I)  
15 shall be applied first to the provision  
16 of benefits to those plan beneficiaries  
17 who are not described in paragraph  
18 (2)(C)(ii).

19 “(ii) INITIAL CONTRIBUTIONS.—

20 “(I) IN GENERAL.—From the  
21 date of enactment of the Surface Min-  
22 ing Control and Reclamation Act  
23 Amendments of 2006 through Decem-  
24 ber 31, 2010, the persons that, on the  
25 date of enactment of that Act, are ob-

1 ligated to contribute to the plan re-  
2 ferred to in paragraph (2)(C) shall be  
3 obligated, collectively, to make con-  
4 tributions equal to the amount de-  
5 scribed in paragraph (2)(C), less the  
6 amount actually transferred due to  
7 the operation of subparagraph (C).

8 “(II) FIRST CALENDAR YEAR.—  
9 Calendar year 2006 is the first cal-  
10 endar year for which contributions are  
11 required under this clause.

12 “(III) AMOUNT OF CONTRIBU-  
13 TION FOR 2006.—Except as provided  
14 in subclause (IV), the amount de-  
15 scribed in paragraph (2)(C) for cal-  
16 endar year 2006 shall be calculated as  
17 if paragraph (2)(C) had been in effect  
18 during 2005.

19 “(IV) LIMITATION.—The con-  
20 tributions required under this clause  
21 for calendar year 2006 shall not ex-  
22 ceed the amount necessary for sol-  
23 vency of the plan described in para-  
24 graph (2)(C), measured as of Decem-  
25 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. 313. 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. 314. 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. 315. 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. 316. 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. 317. 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 reining 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 reined 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. 318. 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. 319. 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           (1) IN GENERAL.—Section 9704 of the Internal  
2 Revenue Code of 1986 (relating to liability of as-  
3 signed operators) is amended by adding at the end  
4 the following new subsection:

5           “(j) PREPAYMENT OF PREMIUM LIABILITY.—

6                 “(1) IN GENERAL.—If—

7                         “(A) a payment meeting the requirements  
8 of paragraph (3) is made to the Combined  
9 Fund by or on behalf of—

10                                 “(i) any assigned operator to which  
11 this subsection applies, or

12                                 “(ii) any related person to any as-  
13 signed operator described in clause (i), and

14                         “(B) the common parent of the controlled  
15 group of corporations described in paragraph  
16 (2)(B) is jointly and severally liable for any pre-  
17 mium under this section which (but for this  
18 subsection) would be required to be paid by the  
19 assigned operator or related person,

20 then such common parent (and no other person)  
21 shall be liable for such premium.

22                 “(2) ASSIGNED OPERATORS TO WHICH SUB-  
23 SECTION APPLIES.—

24                         “(A) IN GENERAL.—This subsection shall  
25 apply to any assigned operator if—

1           “(i) the assigned operator (or a re-  
2           lated person to the assigned operator)—

3                   “(I) made contributions to the  
4                   1950 UMWA Benefit Plan and the  
5                   1974 UMWA Benefit Plan for em-  
6                   ployment during the period covered by  
7                   the 1988 agreement; and

8                   “(II) is not a 1988 agreement  
9                   operator,

10           “(ii) the assigned operator (and all re-  
11           lated persons to the assigned operator) are  
12           not actively engaged in the production of  
13           coal as of July 1, 2005, and

14           “(iii) the assigned operator was, as of  
15           July 20, 1992, a member of a controlled  
16           group of corporations described in sub-  
17           paragraph (B).

18           “(B) CONTROLLED GROUP OF CORPORA-  
19           TIONS.—A controlled group of corporations is  
20           described in this subparagraph if the common  
21           parent of such group is a corporation the shares  
22           of which are publicly traded on a United States  
23           exchange.

24           “(C) COORDINATION WITH REPEAL OF AS-  
25           SIGNMENTS.—A person shall not fail to be

1 treated as an assigned operator to which this  
2 subsection applies solely because the person  
3 ceases to be an assigned operator by reason of  
4 section 9706(h)(1) if the person otherwise  
5 meets the requirements of this subsection and  
6 is liable for the payment of premiums under  
7 section 9706(h)(3).

8 “(D) CONTROLLED GROUP.—For purposes  
9 of this subsection, the term ‘controlled group of  
10 corporations’ has the meaning given such term  
11 by section 52(a).

12 “(3) REQUIREMENTS.—A payment meets the  
13 requirements of this paragraph if—

14 “(A) the amount of the payment is not less  
15 than the present value of the total premium li-  
16 ability under this chapter with respect to the  
17 Combined Fund of the assigned operators or re-  
18 lated persons described in paragraph (1) or  
19 their assignees, as determined by the operator’s  
20 or related person’s enrolled actuary (as defined  
21 in section 7701(a)(35)) using actuarial methods  
22 and assumptions each of which is reasonable  
23 and which are reasonable in the aggregate, as  
24 determined by such enrolled actuary;

1           “(B) such enrolled actuary files with the  
2 Secretary of Labor a signed actuarial report  
3 containing—

4                   “(i) the date of the actuarial valuation  
5 applicable to the report; and

6                   “(ii) a statement by the enrolled actu-  
7 ary signing the report that, to the best of  
8 the actuary’s knowledge, the report is com-  
9 plete and accurate and that in the actu-  
10 ary’s opinion the actuarial assumptions  
11 used are in the aggregate reasonably re-  
12 lated to the experience of the operator and  
13 to reasonable expectations; and

14           “(C) 90 calendar days have elapsed after  
15 the report required by subparagraph (B) is filed  
16 with the Secretary of Labor, and the Secretary  
17 of Labor has not notified the assigned operator  
18 in writing that the requirements of this para-  
19 graph have not been satisfied.

20           “(4) USE OF PREPAYMENT.—The Combined  
21 Fund shall—

22                   “(A) establish and maintain an account for  
23 each assigned operator or related person by, or  
24 on whose behalf, a payment described in para-  
25 graph (3) was made,

1           “(B) credit such account with such pay-  
2           ment (and any earnings thereon), and

3           “(C) use all amounts in such account ex-  
4           clusively to pay premiums that would (but for  
5           this subsection) be required to be paid by the  
6           assigned operator.

7           Upon termination of the obligations for the premium  
8           liability of any assigned operator or related person  
9           for which such account is maintained, all funds re-  
10          maining in such account (and earnings thereon)  
11          shall be refunded to such person as may be des-  
12          ignated by the common parent described in para-  
13          graph (1)(B).”.

14          (b) INDIVIDUAL EMPLOYER PLANS.—Section  
15          9711(c) of the Internal Revenue Code of 1986 (relating  
16          to joint and several liability) is amended to read as follows:

17          “(c) JOINT AND SEVERAL LIABILITY OF RELATED  
18          PERSONS.—

19                 “(1) IN GENERAL.—Except as provided in para-  
20                 graph (2), each related person of a last signatory op-  
21                 erator to which subsection (a) or (b) applies shall be  
22                 jointly and severally liable with the last signatory op-  
23                 erator for the provision of health care coverage de-  
24                 scribed in subsection (a) or (b).

1           “(2) LIABILITY LIMITED IF SECURITY PRO-  
2           VIDED.—If—

3           “(A) security meeting the requirements of  
4           paragraph (3) is provided by or on behalf of—

5           “(i) any last signatory operator which  
6           is an assigned operator described in section  
7           9704(j)(2), or

8           “(ii) any related person to any last  
9           signatory operator described in clause (i),  
10          and

11          “(B) the common parent of the controlled  
12          group of corporations described in section  
13          9704(j)(2)(B) is jointly and severally liable for  
14          the provision of health care under this section  
15          which, but for this paragraph, would be re-  
16          quired to be provided by the last signatory op-  
17          erator or related person,

18          then, as of the date the security is provided, such  
19          common parent (and no other person) shall be liable  
20          for the provision of health care under this section  
21          which the last signatory operator or related person  
22          would otherwise be required to provide. Security may  
23          be provided under this paragraph without regard to  
24          whether a payment was made under section 9704(j).

1           “(3) SECURITY.—Security meets the require-  
2           ments of this paragraph if—

3                   “(A) the security—

4                           “(i) is in the form of a bond, letter of  
5                           credit, or cash escrow,

6                           “(ii) is provided to the trustees of the  
7                           1992 UMWA Benefit Plan solely for the  
8                           purpose of paying premiums for bene-  
9                           ficiaries who would be described in section  
10                          9712(b)(2)(B) if the requirements of this  
11                          section were not met by the last signatory  
12                          operator, and

13                          “(iii) is in an amount equal to 1 year  
14                          of liability of the last signatory operator  
15                          under this section, determined by using the  
16                          average cost of such operator’s liability  
17                          during the prior 3 calendar years;

18                          “(B) the security is in addition to any  
19                          other security required under any other provi-  
20                          sion of this title; and

21                          “(C) the security remains in place for 5  
22                          years.

23           “(4) REFUNDS OF SECURITY.—The remaining  
24           amount of any security provided under this sub-

1 section (and earnings thereon) shall be refunded to  
2 the last signatory operator as of the earlier of—

3 “(A) the termination of the obligations of  
4 the last signatory operator under this section,  
5 or

6 “(B) the end of the 5-year period described  
7 in paragraph (4)(C).”.

8 (c) 1992 UMWA BENEFIT PLAN.—Section  
9 9712(d)(4) of the Internal Revenue Code of 1986 (relating  
10 to joint and several liability) is amended by adding at the  
11 end the following new sentence: “The provisions of section  
12 9711(c)(2) shall apply to any last signatory operator de-  
13 scribed in such section (without regard to whether security  
14 is provided under such section, a payment is made under  
15 section 9704(j), or both) and if security meeting the re-  
16 quirements of section 9711(c)(3) is provided, the common  
17 parent described in section 9711(c)(2)(B) shall be exclu-  
18 sively responsible for any liability for premiums under this  
19 section which, but for this sentence, would be required to  
20 be paid by the last signatory operator or any related per-  
21 son.”.

22 (d) SUCCESSOR IN INTEREST.—Section 9701(c) of  
23 the Internal Revenue Code of 1986 (relating to terms re-  
24 lating to operators) is amended by adding at the end the  
25 following new paragraph:

1           “(8) SUCCESSOR IN INTEREST.—

2                   “(A) SAFE HARBOR.—The term ‘successor  
3 in interest’ shall not include any person who—

4                           “(i) is an unrelated person to an eligi-  
5 ble seller described in subparagraph (C);  
6 and

7                           “(ii) purchases for fair market value  
8 assets, or all of the stock, of a related per-  
9 son to such seller, in a bona fide, arm’s-  
10 length sale.

11                   “(B) UNRELATED PERSON.—The term  
12 ‘unrelated person’ means a purchaser who does  
13 not bear a relationship to the eligible seller de-  
14 scribed in section 267(b).

15                   “(C) ELIGIBLE SELLER.—For purposes of  
16 this paragraph, the term ‘eligible seller’ means  
17 an assigned operator described in section  
18 9704(j)(2) or a related person to such assigned  
19 operator.”.

20           (e) EFFECTIVE DATE.—The amendments made by  
21 this section shall take effect on the date of the enactment  
22 of this Act, except that the amendment made by sub-  
23 section (d) shall apply to transactions after the date of  
24 the enactment of this Act.

1 **SEC. 322. TRANSFERS TO FUNDS; PREMIUM RELIEF.**

2 (a) COMBINED FUND.—

3 (1) FEDERAL TRANSFERS.—Section 9705(b) of  
4 the Internal Revenue Code of 1986 (relating to  
5 transfers from Abandoned Mine Reclamation Fund)  
6 is amended—

7 (A) in paragraph (1), by striking “section  
8 402(h)” and inserting “subsections (h) and (i)  
9 of section 402”;

10 (B) by striking paragraph (2) and insert-  
11 ing the following new paragraph:

12 “(2) USE OF FUNDS.—Any amount transferred  
13 under paragraph (1) for any fiscal year shall be used  
14 to pay benefits and administrative costs of bene-  
15 ficiaries of the Combined Fund or for such other  
16 purposes as are specifically provided in the Acts de-  
17 scribed in paragraph (1).”; and

18 (C) by striking “FROM ABANDONED MINE  
19 RECLAMATION FUND”.

20 (2) MODIFICATIONS OF PREMIUMS TO REFLECT  
21 FEDERAL TRANSFERS.—

22 (A) ELIMINATION OF UNASSIGNED BENE-  
23 FICIARIES PREMIUM.—Section 9704(d) of such  
24 Code (establishing unassigned beneficiaries pre-  
25 mium) is amended to read as follows:

26 “(d) UNASSIGNED BENEFICIARIES PREMIUM.—

1           “(1) PLAN YEARS ENDING ON OR BEFORE SEP-  
2           TEMBER 30, 2006.—For plan years ending on or be-  
3           fore September 30, 2006, the unassigned bene-  
4           ficiaries premium for any assigned operator shall be  
5           equal to the applicable percentage of the product of  
6           the per beneficiary premium for the plan year multi-  
7           plied by the number of eligible beneficiaries who are  
8           not assigned under section 9706 to any person for  
9           such plan year.

10           “(2) PLAN YEARS BEGINNING ON OR AFTER OC-  
11           TOBER 1, 2006.—

12           “(A) IN GENERAL.—For plan years begin-  
13           ning on or after October 1, 2006, subject to  
14           subparagraph (B), there shall be no unassigned  
15           beneficiaries premium, and benefit costs with  
16           respect to eligible beneficiaries who are not as-  
17           signed under section 9706 to any person for  
18           any such plan year shall be paid from amounts  
19           transferred under section 9705(b).

20           “(B) INADEQUATE TRANSFERS.—If, for  
21           any plan year beginning on or after October 1,  
22           2006, the amounts transferred under section  
23           9705(b) are less than the amounts required to  
24           be transferred to the Combined Fund under  
25           subsection (h)(2)(A) or (i) of section 402 of the

1 Surface Mining Control and Reclamation Act of  
2 1977 (30 U.S.C. 1232)), then the unassigned  
3 beneficiaries premium for any assigned operator  
4 shall be equal to the operator's applicable per-  
5 centage of the amount required to be so trans-  
6 ferred which was not so transferred.”.

7 (B) PREMIUM ACCOUNTS.—

8 (i) CREDITING OF ACCOUNTS.—Sec-  
9 tion 9704(e)(1) of such Code (relating to  
10 premium accounts; adjustments) is amend-  
11 ed by inserting “and amounts transferred  
12 under section 9705(b)” after “premiums  
13 received”.

14 (ii) SURPLUSES ATTRIBUTABLE TO  
15 PUBLIC FUNDING.—Section 9704(e)(3)(A)  
16 of such Code is amended by adding at the  
17 end the following new sentence: “Amounts  
18 credited to an account from amounts  
19 transferred under section 9705(b) shall not  
20 be taken into account in determining  
21 whether there is a surplus in the account  
22 for purposes of this paragraph.”.

23 (C) APPLICABLE PERCENTAGE.—Section  
24 9704(f)(2) of such Code (relating to annual ad-

1 justments) is amended by adding at the end the  
2 following new subparagraph:

3 “(C) In the case of plan years beginning  
4 on or after October 1, 2007, the total number  
5 of assigned eligible beneficiaries shall be re-  
6 duced by the eligible beneficiaries whose assign-  
7 ments have been revoked under section  
8 9706(h).”.

9 (3) ASSIGNMENTS AND REASSIGNMENT.—Sec-  
10 tion 9706 of the Internal Revenue Code of 1986 (re-  
11 lating to assignment of eligible beneficiaries) is  
12 amended by adding at the end the following:

13 “(h) ASSIGNMENTS AS OF OCTOBER 1, 2007.—

14 “(1) IN GENERAL.—Subject to the premium ob-  
15 ligation set forth in paragraph (3), the Commis-  
16 sioner of Social Security shall—

17 “(A) revoke all assignments to persons  
18 other than 1988 agreement operators for pur-  
19 poses of assessing premiums for plan years be-  
20 ginning on and after October 1, 2007; and

21 “(B) make no further assignments to per-  
22 sons other than 1988 agreement operators, ex-  
23 cept that no individual who becomes an unas-  
24 signed beneficiary by reason of subparagraph

1 (A) may be assigned to a 1988 agreement oper-  
2 ator.

3 “(2) REASSIGNMENT UPON PURCHASE.—This  
4 subsection shall not be construed to prohibit the re-  
5 assignment under subsection (b)(2) of an eligible  
6 beneficiary.

7 “(3) LIABILITY OF PERSONS DURING THREE  
8 FISCAL YEARS BEGINNING ON AND AFTER OCTOBER  
9 1, 2007.—In the case of each of the fiscal years be-  
10 ginning on October 1, 2007, 2008, and 2009, each  
11 person other than a 1988 agreement operator shall  
12 pay to the Combined Fund the following percentage  
13 of the amount of annual premiums that such person  
14 would otherwise be required to pay under section  
15 9704(a), determined on the basis of assignments in  
16 effect without regard to the revocation of assign-  
17 ments under paragraph (1)(A):

18 “(A) For the fiscal year beginning on Oc-  
19 tober 1, 2007, 55 percent.

20 “(B) For the fiscal year beginning on Oc-  
21 tober 1, 2008, 40 percent.

22 “(C) For the fiscal year beginning on Oc-  
23 tober 1, 2009, 15 percent.”.

24 (4) EFFECTIVE DATE.—The amendments made  
25 by this subsection shall apply to plan years of the

1 Combined Fund beginning after September 30,  
2 2006.

3 (b) 1992 UMWA BENEFIT AND OTHER PLANS.—

4 (1) TRANSFERS TO PLANS.—Section 9712(a) of  
5 the Internal Revenue Code of 1986 (relating to the  
6 establishment and coverage of the 1992 UMWA  
7 Benefit Plan) is amended by adding at the end the  
8 following:

9 “(3) TRANSFERS UNDER OTHER FEDERAL  
10 STATUTES.—

11 “(A) IN GENERAL.—The 1992 UMWA  
12 Benefit Plan shall include any amount trans-  
13 ferred to the plan under subsections (h) and (i)  
14 of section 402 of the Surface Mining Control  
15 and Reclamation Act of 1977 (30 U.S.C. 1232).

16 “(B) USE OF FUNDS.—Any amount trans-  
17 ferred under subparagraph (A) for any fiscal  
18 year shall be used to provide the health benefits  
19 described in subsection (c) with respect to any  
20 beneficiary for whom no monthly per bene-  
21 ficiary premium is paid pursuant to paragraph  
22 (1)(A) or (3) of subsection (d).

23 “(4) SPECIAL RULE FOR 1993 PLAN.—

24 “(A) IN GENERAL.—The plan described in  
25 section 402(h)(2)(C) of the Surface Mining

1 Control and Reclamation Act of 1977 (30  
2 U.S.C. 1232(h)(2)(C)) shall include any  
3 amount transferred to the plan under sub-  
4 sections (h) and (i) of the Surface Mining Con-  
5 trol and Reclamation Act of 1977 (30 U.S.C.  
6 1232).

7 “(B) USE OF FUNDS.—Any amount trans-  
8 ferred under subparagraph (A) for any fiscal  
9 year shall be used to provide the health benefits  
10 described in section 402(h)(2)(C)(i) of the Sur-  
11 face Mining Control and Reclamation Act of  
12 1977 (30 U.S.C. 1232(h)(2)(C)(i)) to individ-  
13 uals described in section 402(h)(2)(C) of such  
14 Act (30 U.S.C. 1232(h)(2)(C)).”.

15 (2) PREMIUM ADJUSTMENTS.—

16 (A) IN GENERAL.—Section 9712(d)(1) of  
17 such Code (relating to guarantee of benefits) is  
18 amended to read as follows:

19 “(1) IN GENERAL.—All 1988 last signatory op-  
20 erators shall be responsible for financing the benefits  
21 described in subsection (c) by meeting the following  
22 requirements in accordance with the contribution re-  
23 quirements established in the 1992 UMWA Benefit  
24 Plan:

1           “(A) The payment of a monthly per bene-  
2           ficiary premium by each 1988 last signatory op-  
3           erator for each eligible beneficiary of such oper-  
4           ator who is described in subsection (b)(2) and  
5           who is receiving benefits under the 1992  
6           UMWA benefit plan.

7           “(B) The provision of a security (in the  
8           form of a bond, letter of credit, or cash escrow)  
9           in an amount equal to a portion of the pro-  
10          jected future cost to the 1992 UMWA Benefit  
11          Plan of providing health benefits for eligible  
12          and potentially eligible beneficiaries attributable  
13          to the 1988 last signatory operator.

14          “(C) If the amounts transferred under  
15          subsection (a)(3) are less than the amounts re-  
16          quired to be transferred to the 1992 UMWA  
17          Benefit Plan under subsections (h) and (i) of  
18          section 402 of the Surface Mining Control and  
19          Reclamation Act of 1977 (30 U.S.C. 1232), the  
20          payment of an additional backstop premium by  
21          each 1988 last signatory operator which is  
22          equal to such operator’s share of the amounts  
23          required to be so transferred but which were  
24          not so transferred, determined on the basis of

1 the number of eligible and potentially eligible  
2 beneficiaries attributable to the operator.”.

3 (B) CONFORMING AMENDMENTS.—Section  
4 9712(d) of such Code is amended—

5 (i) in paragraph (2)(B), by striking  
6 “prefunding” and inserting “backstop”,  
7 and

8 (ii) in paragraph (3), by striking  
9 “paragraph (1)(B)” and inserting “para-  
10 graph (1) (A)”.

11 (C) EFFECTIVE DATE.—The amendments  
12 made by this paragraph shall apply to fiscal  
13 years beginning on or after October 1, 2010.

14 **SEC. 323. OTHER PROVISIONS.**

15 (a) BOARD OF TRUSTEES.—Section 9702(b) of the  
16 Internal Revenue Code of 1986 (relating to board of trust-  
17 ees of the Combined Fund) is amended to read as follows:

18 “(b) BOARD OF TRUSTEES.—

19 “(1) IN GENERAL.—For purposes of subsection  
20 (a), the board of trustees for the Combined Fund  
21 shall be appointed as follows:

22 “(A) 2 individuals who represent employers  
23 in the coal mining industry shall be designated  
24 by the BCOA;

1           “(B) 2 individuals designated by the  
2           United Mine Workers of America; and

3           “(C) 3 individuals selected by the individ-  
4           uals appointed under subparagraphs (A) and  
5           (B).

6           “(2) SUCCESSOR TRUSTEES.—Any successor  
7           trustee shall be appointed in the same manner as  
8           the trustee being succeeded. The plan establishing  
9           the Combined Fund shall provide for the removal of  
10          trustees.

11          “(3) SPECIAL RULE.—If the BCOA ceases to  
12          exist, any trustee or successor under paragraph  
13          (1)(A) shall be designated by the 3 employers who  
14          were members of the BCOA on the enactment date  
15          and who have been assigned the greatest number of  
16          eligible beneficiaries under section 9706.”.

17          (b) ENFORCEMENT OF OBLIGATIONS.—

18                 (1) FAILURE TO PAY PREMIUMS.—Section  
19                 9707(a) of the Internal Revenue Code of 1986 is  
20                 amended to read as follows:

21                 “(a) FAILURES TO PAY.—

22                         “(1) PREMIUMS FOR ELIGIBLE BENE-  
23                         FICIARIES.—There is hereby imposed a penalty on  
24                         the failure of any assigned operator to pay any pre-

1 mium required to be paid under section 9704 with  
2 respect to any eligible beneficiary.

3 “(2) CONTRIBUTIONS REQUIRED UNDER THE  
4 MINING LAWS.—There is hereby imposed a penalty  
5 on the failure of any person to make a contribution  
6 required under section 402(h)(5)(B)(ii) of the Sur-  
7 face Mining Control and Reclamation Act of 1977 to  
8 a plan referred to in section 402(h)(2)(C) of such  
9 Act. For purposes of applying this section, each such  
10 required monthly contribution for the hours worked  
11 of any individual shall be treated as if it were a pre-  
12 mium required to be paid under section 9704 with  
13 respect to an eligible beneficiary.”

14 (2) CIVIL ENFORCEMENT.—Section 9721 of  
15 such Code is amended to read as follows:

16 **“SEC. 9721. CIVIL ENFORCEMENT.**

17 “The provisions of section 4301 of the Employee Re-  
18 tirement Income Security Act of 1974 shall apply, in the  
19 same manner as any claim arising out of an obligation  
20 to pay withdrawal liability under subtitle E of title IV of  
21 such Act, to any claim—

22 “(1) arising out of an obligation to pay any  
23 amount required to be paid by this chapter; or

24 “(2) arising out of an obligation to pay any  
25 amount required by section 402(h)(5)(B)(ii) of the

1 Surface Mining Control and Reclamation Act of  
2 1977 (30 U.S.C. 1232(h)(5)(B)(ii)).”.

3 **TITLE IV—INCREASE IN**  
4 **MINIMUM WAGE**

5 **SEC. 401. MINIMUM WAGE.**

6 Section 6(a)(1) of the Fair Labor Standards Act of  
7 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

8 “(1) except as otherwise provided in this sec-  
9 tion, not less than—

10 “(A) \$5.15 an hour beginning September  
11 1, 1997;

12 “(B) \$5.85 an hour, beginning on January  
13 1, 2007;

14 “(C) \$6.55 an hour, beginning June 1,  
15 2008; and

16 “(D) \$7.25 an hour, beginning June 1,  
17 2009;”.

18 **SEC. 402. TIPPED WAGE FAIRNESS.**

19 Section 3(m) of the Fair Labor Standards Act of  
20 1938 (29 U.S.C. 203(m)) is amended—

21 (1) by redesignating paragraphs (1) and (2) as  
22 subparagraphs (A) and (B), respectively;

23 (2) by striking “‘Wage’ paid to any employee”  
24 and inserting “(1) ‘Wage’ paid to any employee”;

1           (3) in subparagraph (B) (as so redesignated),  
2           by inserting before the period the following: “: *Pro-*  
3           *vided*, That the tips shall not be included as part of  
4           the wage paid to an employee to the extent that they  
5           are excluded therefrom under the terms of a bona  
6           fide collective bargaining agreement applicable to the  
7           particular employee”; and

8           (4) by adding at the end of the following:  
9           “(2) Notwithstanding any other provision of this Act,  
10          any State or political subdivision of a State which on or  
11          after the date of enactment of the Estate Tax and Exten-  
12          sion of Tax Relief Act of 2006 excludes all of a tipped  
13          employee’s tips from being considered as wages in deter-  
14          mining if such tipped employee has been paid the applica-  
15          ble minimum wage rate, may not establish or enforce the  
16          minimum wage rate provisions of such law, ordinance, reg-  
17          ulation, or order in such State or political subdivision  
18          thereof with respect to tipped employees unless such law,  
19          ordinance, regulation, or order is revised or amended to  
20          permit such employee to be paid a wage by the employee’s  
21          employer in an amount not less than an amount equal  
22          to—

23                   “(A) the cash wage paid such employee which  
24                   is required under such law, ordinance, regulation, or

1 order on the date of enactment of the Estate Tax  
2 and Extension of Tax Relief Act of 2006; and

3 “(B) an additional amount on account of tips  
4 received by such employee which amount is equal to  
5 the difference between the cash wage described in  
6 subparagraph (A) and the minimum wage rate in ef-  
7 fect under such law, ordinance, regulation, or order,  
8 or the minimum wage rate in effect under section  
9 6(a), whichever is higher.”.

Passed the House of Representatives July 29 (legis-  
lative day, July 28), 2006.

Attest:

KAREN L. HAAS,

*Clerk.*

Calendar No. 562

109<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

**H. R. 5970**

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**AN ACT**

To amend the Internal Revenue Code of 1986 to increase the unified credit against the estate tax to an exclusion equivalent of \$5,000,000, to repeal the sunset provision for the estate and generation-skipping taxes, and to extend expiring provisions, and for other purposes.

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JULY 31, 2006

Received: deemed read the first time on July 28 (legislative day, July 26), 2006, pursuant to the order of July 28, 2006

JULY 31, 2006

Read the second time and placed on the calendar