Summary of Senate Package on Tax, Trade, and Health Provisions

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DIVISION A

I. Extensions and Modifications of Certain Provisions

Sec. 101. Deduction for qualified tuition and related expenses. The Economic Growth and Tax Relief Reconciliation Act of 2001 created an above-the-line tax deduction for qualified higher education expenses (defined in the same manner as the HOPE and Lifetime Learning credits). For tax year 2005, the maximum deduction was $4,000 for taxpayers with AGI of $65,000 or less ($130,000 for joint returns) or $2,000 for taxpayers with AGI of $80,000 or less ($160,000 for joint returns). The proposal extends the deduction to taxable years beginning in 2006 and 2007. The estimated cost is $3.3 billion for five and ten years.

Sec. 102. Extension and modification of new markets tax credit. Present law provides a new markets tax credit for taxpayers who hold a qualified equity investment on a credit allowance date. The proposal extends the new markets tax for one additional year (through the end of 2008), permitting a $3.5 billion maximum annual amount of qualified equity investments. The proposal also requires that the Secretary prescribe regulations to ensure that non-metropolitan counties receive a proportional allocation of qualified entity investments. The effective date is the date of enactment. The estimated cost is $637 million over five years and $1.3 billion over ten years.

Sec. 103. Election to deduct state and local general sales taxes. The American Jobs Creation Act of 2004 ("AJCA") provided that a taxpayer may elect to take an itemized deduction for State and local general sales taxes in lieu of the itemized deduction permitted for State and local income taxes for tax years 2004 and 2005. Taxpayers were given two options for determining deductible sales tax: (1) actual sales tax paid if receipts are maintained for IRS verification; or (2) approximate sales tax paid as estimated in tables provided by the Secretary of the Treasury plus sales taxes paid on major purchases, such as a boat or car. This proposal extends the election to taxable years beginning after December 31, 2005, and expires December 31, 2007. The estimated cost is $5.5 billion over five years and ten years.

Sec. 104. Extension and modification of research credit. In general, the law provides a research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenses for a taxable year exceed its base amount for that year. The provision extends the research credit for qualified amounts paid or incurred in 2006 and 2007. The proposal also enhances the credit for portions of tax years that are in 2007 by (1) increasing the rates of the alternative incremental credit; and (2) creating a new alternative simplified credit that does not use a gross receipts factor. The estimated cost is $16.3 billion over five years and $16.5 billion over ten years.

Sec. 105. Work opportunity tax credit and welfare-to-work credit. The proposal extends the WOTC and WTW credits for an additional two years (to include wages paid or incurred for individuals beginning work after December 31, 2005, and before January 1, 2008). For wages paid or incurred for individuals who begin work for the employer after December 31, 2006, the proposal combines the two credits, expands eligibility for WOTC by raising the age ceiling for food stamp recipients from 25 to 40, eliminates the WOTC family income restrictions for ex-felons, and extends the paperwork filing deadline from 21 days to 28 days. The estimated cost is $979 million over five years and $1.002 billion over ten years.

Sec. 106. Election to include combat pay as earned income for purposes of earned income credit. Present law allows the use of combat pay in earned income for purposes of calculating the earned income tax credit. The proposal extends this provision for one year (for taxable years ending before January 1, 2008). The estimated cost is $12 million over five and ten years.

Sec. 107. Extension and modification of qualified zone academy bonds. Qualified zone academy bonds (QZABs) are an alternative to traditional tax-exempt bonds. State and local governments are authorized to issue QZABs for purposes of financing renovation, equipment purchases, developing course material, and training teachers and personnel at a qualified zone academy. In general, a qualified zone academy is any public school (or academic program within a public school) below college level that is designed in cooperation with businesses to enhance the academic curriculum and increase graduation and employment rates and such public school is located in an empowerment zone or enterprise community. The QZABs offer the holder a federal tax credit instead of interest (there has been an allocation of $400 million of QZABs each year since 1998). The QZABs program expired on December 31, 2005. This proposal allows another $400 million of issuing authority to state and local governments for 2006 and 2007 for qualified zone academy bonds. The proposal also adds special rules relating to expenditures and arbitrage and adds a reporting requirement for issuers of QZABs. The proposal is effective for bonds issued after December 31, 2005, and expires on December 31, 2007. The proposal is estimated to cost $132 million over five years and $330 million over ten.

Sec. 108. Above-the-line deduction for certain expenses of elementary and secondary school teachers. The Job Creation and Worker Assistance Act of 2002 provided a $250 above-the-line deduction for teachers and other school professionals for expenses paid or incurred for books, supplies (other than non-athletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services), other equipment, and supplementary materials used by the educator in the classroom. The proposal extends the deduction for two years (to expenses paid or incurred in taxable years beginning during 2006 and 2007). The estimated cost is $379 million over five and ten years.

Sec. 109. Extension and expansion of expensing of brownfields remediation costs. The provision that permits expensing of costs associated with cleaning up hazardous

("brownfield") sites expired on December 31, 2005. The proposal would extend current law through the end of 2007. In addition, it provides that petroleum products may be treated as hazardous substances and permits the expensing of payments made or incurred during 2006 and 2007 to abate contamination related thereto. The estimated cost is $531 million over five years and $349 million over ten years.

Sec. 110. Tax incentives for investment in the District of Columbia. The Taxpayer Relief Act of 1997 designated certain economically depressed census tracts within the District of Columbia as the District of Columbia Enterprise Zone, within which businesses and individual residents are eligible for special tax incentives. The Taxpayer Relief Act of 1997 also provided a $5,000 first-time homebuyer credit for the District of Columbia. The zone designation and the first-time homebuyer credit expired December 31, 2005. The proposal extends for two years (through 2007) the first-time homebuyer tax credit and four specific tax benefits available to businesses operating in designated DC enterprise zones (i.e., 20% wage credit; $35,000 of additional small business expensing; tax exempt bonds and zero capital gains for property held five years). The estimated cost is $150 million over five years and $392 million over ten years.

Sec. 111. Indian employment tax credit. The Omnibus Budget Reconciliation Act of 1993 created a business tax credit for the employer of qualified employees that work and live on or near an Indian reservation. The credit is for wages and health insurance costs paid to qualified employees (up to $20,000) in the current year over the amount paid in 1993. Wages for which the work opportunity tax credit is available are not qualified wages for the Indian employment tax credit. The Indian employment tax credit expired on December 31, 2005. The proposal would extend the credit for two additional years (through the end of 2007). The estimated cost is $117 million over five and ten years.

Sec. 112. Accelerated depreciation for business property on Indian reservation. A special depreciation recovery period applies to qualified Indian reservation property placed in service before January 1, 2006. In general, qualified Indian reservation property is property used predominantly in the active conduct of a trade or business within an Indian reservation, which is not used outside the reservation on a regular basis and was not acquired from a related person. This proposal extends the special depreciation for two additional years (to qualified Indian reservation property placed in service before January 1, 2008). This proposal is estimated to cost $602 million over five years and $288 million over ten years.

Sec. 113. Fifteen-year straight-line cost recovery for qualified leasehold improvements and qualified restaurant improvements. In AJCA, Congress shortened the cost recovery of certain leasehold improvements and restaurant property from 39 to 15 years for the remainder of 2004 and 2005. The proposal extends this provision to property placed in service after December 31, 2005, and expires December 31, 2007. The estimated cost is $2.7 billion over five years and $5.2 billion over ten years.

Sec. 114. Cover over of tax on distilled spirits. The present law imposes a $13.50 per proof gallon excise tax on distilled spirits produced in or imported into the United States.

The Code provides a payment to Puerto Rico and the Virgin Islands of the excise tax on rum imported into the United States. The payment is limited to $10.50 per proof gallon. This was increased to $13.25 per proof gallon during the period July 1, 1999 through December 31, 2005. The proposal extends the $13.25 per proof gallon provision to articles brought into the United States after December 31, 2005, and expires December 31, 2007. The estimated cost of the proposal is $184 million over five and ten years.

Sec. 115. Parity in application of certain limits to mental health benefits. Group health plans that provide medical/surgical and mental health benefits cannot impose limits on mental health that are not imposed on health. There is a $100 excise per day for violations. The provision is scheduled to expire after December 31, 2006. The proposal extends the present law excise tax effective on the date of enactment for one additional year (through December 31, 2007). The estimated cost of this proposal is $35 million over five and ten years.

Sec. 116. Corporate donations of scientific property used for research and of computer technology and equipment. The proposal would extend a provision that encourages businesses to contribute computer equipment software to elementary, secondary, and post-secondary schools by allowing an enhanced deduction for such contributions. The provision would also allow equipment "assembled by" the donor to qualify for the enhanced deduction. This proposal extends the computer deduction provisions for contributions made during taxable years beginning after December 31, 2005, and expires December 31, 2007. The estimated cost is $275 million over five years and $280 million over ten years.

Sec. 117. Availability of Medical Savings Accounts. Medical Savings Accounts (or Archer MSA's) allow favorable tax treatment of money saved for medical expenses by certain taxpayers covered by high-deductible health plans. This provision allows new contributions through December 31, 2007. The cost is negligible.

Sec. 118. Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties. Taxpayers recover investments in oil and gas wells either through cost depletion or percentage depletion (depletion is like depreciation). Percentage depletion is only available to independent producers. Typically under percentage depletion, a taxpayer cannot deduct more than the income derived from the well in a given year. Congress suspended this 100% limitation for 1998 through 2005. The proposal would extend the suspension of the 100% limitation for taxable years beginning in 2006 and 2007. The estimated cost is $176 million for five and ten years.

Sec. 119. American Samoa economic development credit. Certain domestic corporations operating in American Samoa were eligible for a possessions tax credit, which offset their U.S. tax liability on income earned in American Samoa from active business operations, sales of assets used in a business, or certain investments in American Samoa. Further, the credit was held to an economic activity-based limit, measuring the credit against wages, depreciation, and American Samoa income taxes. The credit expired

December 31, 2005. The provision creates a temporary, two year credit for possessions corporations operating in American Samoa. The credit is generally based on the amount of wages paid in American Samoa and depreciation deductions with respect to property located in American Samoa, and is effective for the first two taxable years beginning after December 31, 2005 and before January 1, 2008. The provision is estimated to cost $25 million over five and ten years.

Sec. 120. Authority for undercover operations. Present law authorizes the IRS to use the proceeds from an undercover operation to pay additional expenses incurred in the undercover operation. The IRS must deposit any surpluses into the General Fund. The IRS is required to conduct a detailed financial audit of large undercover operations in which the IRS is churning funds and provide an annual audit report to the Congress on all such large undercover operations. The provision expires at the end of 2006. This proposal extends the provision to apply before January 1, 2008. This proposal raises less than $500,000 over five and 10 years.

Sec. 121. Disclosure of certain tax return information. There are several provisions that allow IRS to share information with other agencies. These provisions were most recently extended as part of the Katrina legislation through 2006. The proposal extends the provisions to requests made after December 31, 2006, and expires December 31, 2007. The proposal has no revenue effect.

Sec. 122. Special rule for elections under expired provisions. The provision gives fiscal year taxpayers with tax years ending in 2006, but before date of enactment, an opportunity to change elections already made on their originally filed returns to take into account the extension of the provisions that expired at the end of 2005. The revenue effect is included in the revenue effect of the extension and modification of the research credit.

II. Other Provisions

Sec. 201. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico. The manufacturing deduction under Section 199 (as enacted in AJCA) allows a deduction from taxable income for up to 3% of domestic manufacturing income (gradually rising to 9% by 2009, which effectively lowers the corporate rate on manufacturing income to approximately 32%). Activities in Puerto Rico do not qualify. The proposal expands this deduction to activities in Puerto Rico. The proposal is effective for the first two taxable years beginning after December 31, 2005 and before January 1, 2008. The estimated cost is $162 million over five and ten years.

Sec. 202. Credit for prior year minimum tax liability made refundable after period of years. Incentive Stock Options (ISO's) are granted by companies to workers at all levels, not just executives, and typically have a long term holding period of at least one year. The grant of these options, even before exercised, is subject to tax under the Alternative Minimum Tax at the value of the stock on the date the option was granted. A

large number of taxpayers have been hit with AMT bills that far exceed income or the sale value of the stock. The proposal allows certain taxpayers who have unused AMT credits to claim a refundable credit at 20% of the long-term unused AMT credits per year (up to $5,000) for the next five years. The refundable credit phases out for higher income taxpayers. The proposal is effective for taxable years beginning after the date of enactment and sunsets on December 31, 2012. The estimated cost is $1.7 billion over five years and $51 million over ten years (which includes the revenue increase expected from the following provision).

Sec. 203. Returns required in connection with certain options. Present law requires that every corporation report transfers of stock pursuant to a person's exercise of an incentive stock option or a transfer of legal title of a share of stock acquired by the transferor pursuant to the exercise of an option. The proposal requires the corporation reporting the transfer to provide a statement to the person named in the information return. The proposal is effective for calendar years beginning after the date of enactment.

Sec. 204. Partial expensing for advanced mine safety equipment. Present law generally provides that a taxpayer must capitalize the cost of property used in a trade or business and recover such cost over time through annual deductions for depreciation or amortization. The proposal provides 50% immediate expensing for qualified underground mine safety equipment (that goes above and beyond current safety equipment requirements), including: (1) communications technology enabling miners to remain in constant contact with an individual above ground; (2) electronic tracking devices that enable an individual above ground to locate miners in the mine at all times; (3) self-contained self-rescue emergency breathing apparatuses carried by the miners and additional oxygen supplies stored in the mine; and (4) mine atmospheric monitoring equipment to measure levels of carbon monoxide, methane, and oxygen in the mine. This provision will encourage mining companies to invest in safety equipment that goes above and beyond current safety equipment requirements. The proposal is effective for costs paid or incurred after the date of enactment and does not apply to property placed in service after December 31, 2008. The estimated cost is $17 million over five years and less than $1 million over ten years.

Sec. 205. Mine rescue team training tax credit. The proposal provides a credit of up to $10,000 for training of mine rescue team members. This tax incentive is effective for taxable years beginning after December 31, 2005, and expires on December 31, 2008. The estimated cost is $4 million over five years and $9 million over ten years.

Sec. 206. Whistleblower reforms. Present law authorizes the IRS to pay such sums as deemed necessary for: (1) detecting underpayments of tax; and (2) detecting and bringing to trial and punishing persons guilty of violating the internal revenue laws or conniving at the same. Amounts are paid based on a percentage of the tax, fines, and penalties (but not interest) actually collected based on the information provided. The proposal reforms the reward program for individuals who provide information regarding violations of the tax laws to the Secretary that involve an individual whose gross income exceeds $200,000 for any taxable year subject to such action and that involves tax, penalties, and

interest of over $2 million. Generally, the proposal establishes a reward floor of 15% and a cap of 30% of the collected proceeds (including penalties, interest, additions to tax and additional amounts) if the IRS moves forward with an administrative or judicial action based on information brought to the IRS's attention by an individual. Under certain specified circumstances, the proposal permits awards of lesser amounts. The proposal provides an above-the-line deduction for attorneys' fees and costs paid by, or on behalf of, the individual in connection with any award for providing information regarding violations of the tax laws. The proposal allows the whistleblower to appeal the award determination with the Tax Court. The proposal also creates a Whistleblower Office within the IRS to administer the reward program. The proposal requires a yearly study and report by the Secretary of the Treasury. The proposal is effective for information provided on or after the date of enactment. The proposal is estimated to raise $32 million over five years and $182 million over ten years.

Sec. 207. Frivolous Submissions. The proposal modifies the IRS-imposed penalty by increasing the amount of the penalty from $500 to $5,000 and by applying it to all taxpayers and to all types of Federal taxes. The proposal also modifies present law with respect to certain submissions that raise frivolous arguments or that are intended to delay or impede tax administration. The submissions to which the proposal applies are requests for a collection due process hearing, installment agreements, offers-in-compromise, and taxpayer assistance orders. First, the proposal permits the IRS to disregard such requests. Second, the proposal permits the IRS to impose a penalty of up to $5,000 for such requests, unless the taxpayer withdraws the request after being given an opportunity to do so. The proposal requires the IRS to publish a list of positions, arguments, requests, and submissions determined to be frivolous for purposes of these proposals. This proposal is estimated to raise $15 million over five years and $30 million over 10 years.

Sec. 208. Addition of meningococcal and human papillomavirus vaccines to list of taxable vaccines. Certain vaccines are taxed at $0.75 per dose and the tax is put into the Vaccine Injury Compensation Trust Fund. The trust fund provides for payment of compensation for vaccine-related injury or death with respect to a taxable vaccine. This proposal adds meningococcal and human papillomavirus vaccines to the list of taxable vaccines for purposes of the Vaccine Injury Compensation Trust Fund. This is effective one month after the date of enactment. This proposal is estimated to raise $7 million over five and ten years.

Sec. 209. Clarification of taxation of certain settlement funds made permanent. The Tax Increase Prevention and Reconciliation Act of 2005 ("TIPRA") provided that certain escrow accounts or settlement funds established before January 1, 2011 for resolving liability claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) are to be treated as beneficially owned by the U.S. government and therefore, not subject to Federal income tax. The provision makes this change permanent. The estimated cost is $2 million over five years and $45 million over ten years.

Sec. 210. Modification of active business definition under section 355 made permanent. Normally, corporations are taxed on distributions of property to shareholders as if sold at fair market value. However, section 355 of the tax code provides corporations with the flexibility to distribute one or more of their businesses to their shareholders, such as in a spin-off, without triggering tax consequences if the transaction meets important requirements. An exception is allowed only if both the distributing and distributed corporations continue to conduct an "active trade or business." TIPRA simplified the active trade or business test by looking at all corporations in the distributing corporation's and the distributed subsidiary's respective affiliated group to determine if the active trade or business test is satisfied. The changes were set to expire after 2010. The provision makes the changes permanent. The estimated cost is $2 million over five years and $71 million over ten years.

Sec. 211. Revision of State veterans limit made permanent. Qualified veterans' mortgage bonds are private activity bonds the proceeds of which are used to make mortgage loans to certain veterans. The five States eligible to issue these bonds are Alaska, California, Oregon, Texas, and Wisconsin. TIPRA revised eligibility requirements for veterans' mortgage bonds issued by the States of Alaska, Oregon, and Wisconsin to provide that veterans must apply for financing within 25 years of leaving active duty. In addition, the annual issuance volume limits on veterans' mortgage bonds for the States of Alaska, Oregon, and Wisconsin were changed and are to be phased in between the years 2006 and 2010. The veterans' mortgage bonds issued by Texas and California were not amended. These changes were set to expire after 2010. The proposal makes the TIPRA qualified veteran's mortgage bond provision permanent. The estimated cost is less than $500,000 over five years and $19 million over ten years.

Sec. 212. Capital gains treatment for certain self-created musical works made permanent. TIPRA allowed for a taxpayer to elect to have the sale or exchange before January 1, 2011, of musical compositions or copyrights in musical works created by the taxpayer's personal efforts (or having a basis determined by reference to the basis in the hands of the taxpayer whose personal efforts created the compositions or copyrights) to be treated as the sale or exchange of a capital asset. The changes were set to expire after 2010. The provision makes these changes permanent. The estimated cost is $3 million over five years and $29 million over ten years.

Sec. 213. Reduction in minimum vessel tonnage which qualifies for tonnage tax made permanent. Corporations that are qualifying vessel operators may elect a "tonnage tax" in lieu of the corporate tax on taxable income from certain foreign shipping activities. The tonnage tax was enacted to help U.S. vessel operators involved in international shipping be more competitive with foreign-flag ship operators. TIPRA lowered from 10,000 to 6,000 deadweight tons the limitation on vessels qualifying to elect into the tonnage tax regime. for taxable years beginning after December 31, 2005, and ending before January 1, 2011. The provision makes this change permanent. The estimated cost is $3 million over five years and $108 million over ten years.

Sec. 214. Modification of special arbitrage rule for certain funds made permanent. Under current law, issuers of tax exempt bonds are restricted as to the amount of arbitrage activity that they can engage in with their bond proceeds. The TIPRA extended and updated the grandfather exception from the arbitrage bond rules for certain permanent university funds. It is scheduled to sunset on August 31, 2009. The proposal makes the arbitrage rule permanent. The estimated cost is $3 million over five years and $20 million over ten years.

Sec. 215. Great Lakes domestic shipping to not disqualify vessel from tonnage tax. Currently, if a vessel operates in the U.S. domestic trade for more than 30 days a year, it cannot qualify for the alternative tonnage tax regime for income from its operations in U.S. foreign trade. This means vessel operators in the Great Lakes generally do not qualify for the tonnage tax regime. The provision modifies the treatment of shipping within the Great Lakes to permit vessel operators in the region to qualify for the tonnage tax regime. The proposal is effective for taxable years beginning after the date of enactment. The estimated cost is $20 million over five years and $52 million over ten years.

Sec. 216. Use of qualified mortgage bonds to finance residences for veterans without regard to first-time homebuyer requirement. States operate tax-exempt mortgage revenue bond programs to provide lower-income individuals access to mortgages with lower interest costs. Normally, only first-time homebuyers qualify. The proposal allows veterans to have a second chance at being a first-time homebuyer. The proposal is effective for bonds issued after date of enactment and before January 1, 2008. The estimated cost is $156 million over five years and $339 million over ten years.

Sec. 217. Exclusion of gain from sale of a principal residence by certain employees of the intelligence community. Current law provides an exclusion from capital gains tax for $250,000 from the sale of a primary residence ($500,000 for married couples). Taxpayers must have lived in the residence for at least two of the five years prior to the sale. Much like military service personnel and foreign service officers, intelligence officers who have been stationed overseas cannot always meet the residency requirement to avoid the capital gains tax. In 2003, Congress changed the law to permit military service personnel and foreign service officers to toll the five year period for up to 10 years while they are stationed 50 miles from home. This provision provides the same residency requirement exclusion offered to military service personnel to intelligence officers, except that it requires that the intelligence officers be stationed overseas. The proposal is effective for sales and exchanges after the date of enactment through December 31, 2010. The estimated cost is $1 million over five and ten years.

Sec. 218. Treatment of Coke and Coke Gas. Certain fuels produced from nonconventional sources and sold to unrelated parties are eligible for an income tax credit. Qualified fuels must be within the United States. The proposal clarifies that petroleum coke, or pet coke, is not a qualifying product for purposes of the nonconventional production tax credit and eliminates the phase-out of the credit for

facilities producing coke or coke gas. The provision is effective the date of enactment and is estimated to have no revenue effect.

Sec. 219. Sale of property by judicial officers. The provision extends to Federal judges the ability, currently available to executive branch employees, to elect to defer capital gains on property sold to avoid conflicts of interest to the extent the proceeds are reinvested in other permitted property. The provision is effective for divestitures after the date of enactment. The estimated cost is $1 million over five years and $3 million over ten years.

Sec. 220. Premiums for mortgage insurance. The proposal establishes an itemized deduction for the cost of mortgage insurance on a qualified personal residence. The deduction is phased-out ratably by 10% for each $1,000 by which the taxpayer's AGI exceeds $100,000. Thus, the deduction is unavailable for a taxpayer with an AGI in excess of $110,000. The proposal is effective for amounts paid or accrued (and applicable to the period) after December 31, 2006 and before January 1, 2008 for mortgage contracts issued after December 31, 2006. The estimated cost is $91 million over five and ten years.

Sec. 221. Modification of refunds for kerosene used in aviation. The proposal allows tax exempt users of fuel, such as crop dusters and air ambulances, to file for a refund or waive their right to claim the refund to the registered vendor. The proposal is effective for kerosene sold before the date of enactment to ultimate purchasers at a price that included the tax imposed on such fuel and for which the amount of the tax has not been repaid or credited, and for fuel sold on or after the date of enactment. The proposal is estimated to cost less than $500,000 for five and ten years.

Sec. 222. Railroad track maintenance credit. Present law provides, subject to limitations, a tax credit equal to 50 percent of the "qualified railroad track maintenance expenditures" paid or incurred by eligible taxpayers including Class II and Class III railroads. The proposed provision modifies the definition of qualified railroad track maintenance expenditures to include gross expenditures. Under the proposal, qualified railroad track maintenance expenditures should be determined without regard to any consideration for such expenditures given by the Class II or Class III railroad which assign the track for purposes of the credit. The provision would be effective as if included in the AJCA. The proposal is expected to cost $49 million over five years and $49 million over 10 years.

Section 223. Restructuring of New York Liberty Zone tax credits. The provision would terminate several Liberty Zone provisions that expire in 2006 and 2007 including bonus depreciation, increased section 179 expensing, and accelerated leasehold improvements and replace them with a credit for certain transportation infrastructure expenditures incurred in New York City. The maximum amount of credits, which would be allocated by the mayor of New York City and the governor of New York would be $100 million per year through 2016, $200 million per year for 2017 and 2018, $150 million for 2019, and $100 million for 2020 and 2021. Unused credits could be carried

over and used in subsequent years. The terminations would be effective on the date of enactment and the tax credits begin for expenditures incurred on or after January 1, 2007. The proposal is estimated to cost $350 million over five years and $871 million over ten years.

Sec. 224. Extension of bonus depreciation for certain qualified Gulf Opportunity Zone property. The proposal extends the placed-in-service deadline for certain GO Zone property in specified portions of the GO Zone to qualify for bonus depreciation. The placed in service deadline is extended to December 31, 2010 for nonresidential real property or residential rental property. For such property, only the adjusted basis of such property attributable to manufacture, construction, or production before January 1, 2010 ("progress expenditures") would qualify for bonus depreciation. The placed in service deadline is extended for personal property if substantially all the use of such property is in such building and such personal property is placed in service within 90 days of the date the building is placed in service. The specified portions of the GO Zone to which the proposal applies are defined as those portions of the GO Zone which are in a county or parish which is identified as being a county or parish with damage to more than 60 percent of the housing units in the county or parish. The estimated cost is $539 million over five years and $465 million over ten years.

Sec. 225. Technical corrections.

a. Look-through treatment of payments between related controlled foreign corporations under the foreign personal holding company rules. Subpart F of the Code taxes on a current basis certain mobile income earned by foreign subsidiaries of U.S. persons. TIPRA created a new exception from Subpart F for certain payments between related foreign subsidiaries of U.S. persons. The provision conforms this new rule to its purpose of allowing U.S. companies to redeploy their active foreign earnings without an additional U.S. tax burden in appropriate circumstances. In order to qualify for this exception from Subpart F, a related party payment must not be attributable to income of the payor that is effectively connected with the conduct of a U.S. trade or business. The provision also clarifies Treasury's regulatory authority. This proposal has no revenue effect.

b. Technical Correction regarding authority to exercise reasonable cause and good faith exception. This proposal clarifies H.R. 4440 (Gulf Opportunity Zone Act of 2005) Section 303 (a)(2)(B)(iii). As originally enacted in the GoZone bill, this section made retroactive a provision in AJCA that repealed interest suspension rules on tax shelter listed transactions and nondisclosed reportable transactions (i.e., the 18-month interest suspension rules do not apply to interest on tax deficiencies resulting from certain tax shelter transactions). The GoZone provision contained an exception to encourage taxpayers to elect into the Notice 2005-80 IRS global tax shelter settlement initiative (i.e., interest on those deficiencies would continue to be suspended for periods later than 18 months from the due date of the return, or the date of filing, whichever was later). It included a similar exception for taxpayers who acted reasonably and in good faith. Under the terms of the GoZone provision, only the Secretary of the Treasury could

determine whether taxpayers were acting reasonably and in good faith. The provision clarifies that the Secretary of the Treasury may delegate his authority to permit interest suspension where taxpayers have acted reasonably and in good faith. The provision has no revenue effect.

III. Extension of Expiring Energy and Excise Tax Provisions

Sec. 301. Extension and modification of renewable electricity production credit (Section 45). Provision extends placed-in-service date by one year (through December 31, 2008) for qualifying facilities: wind facilities; closed-loop biomass facilities; open loop biomass facilities; geothermal facilities; small irrigation power facilities; landfill gas facilities and trash combustion facilities; and qualified hydropower. Placed-in-service dates for solar facilities and refined coal facilities are not altered. Provision is generally effective on date of enactment. This provision is estimated to cost $1.069 billion over five years and $2.893 billion over 10 years.

Sec. 302. Clean renewable energy bonds. Provision adds additional $400 million to a category of tax credit bond called Clean Renewable Energy Bonds ("CREBs"). CREBs are defined as bond issued by qualified issuer if, in addition to other requirements, 95 percent of proceeds are used to finance capital expenditures incurred for facilities qualifying for tax credit under section 45. Qualified issuers include governmental bodies (including Indian tribal governments) and mutual or cooperative electric companies. Provision is effective for bonds issued after December 31, 2006. This provision is estimated to cost $73 million over five years and $174 million over 10 years.

Sec. 303. Credit for investment in clean coal facilities. Provision establishes an alternative measurement to achieve low sulfur dioxide emissions for advanced coal-based generation technology units designed to use sub-bituminous coal, for the investment tax credits for clean coal facilities established in the Energy Policy Act of 2005. Integrated gasification combined cycle (IGCC) projects get a 20 percent investment tax credit and other advanced coal-based projects that produce electricity get a 15 percent credit. The Secretary may allocate up to $800 million for IGCC projects and up to $500 million for other advanced coal-based technologies. This provision is has no revenue effect.

Sec. 304. Energy efficient commercial building deduction. Provision extends for one year a deduction for energy efficient commercial buildings that reduce annual energy and power consumption by 50 percent compared to the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) standard. The deduction would equal the cost of energy efficient property installed during construction, with a maximum deduction of $1.80 per square foot of the building. In addition, a partial deduction of 60 cents per square foot would be provided for building subsystems. This provision is estimated to cost $179 million over five years and $159 million over 10 years.

Sec. 305. Business credit of energy efficient new homes. Provision extends for one year a credit to eligible contractor for construction of a qualified new energy-efficient

home. Credit applies to manufactured homes meeting Energy Star Standards and other homes meeting a 50 percent standard. Credit applies to homes which are purchased prior to January 1, 2009. This provision is estimated to cost $45 million over five years and $56 million over 10 years.

Sec. 306. Credit for residential energy efficient property purchases. Provision extends for one year a credit, equal to 30 percent of qualifying expenditures, for purchase for qualified photovoltaic property and solar water heating property used exclusively for purposes other than heating swimming pools and hot tubs. Provision also provides a 30 percent credit for the purchase of qualified fuel cell power plants and applies to property placed prior to January 1, 2009. This provision is estimated to cost $37 million over five and 10 years.

Sec. 307. Credit for business installation of qualified fuel cells, stationary microturbine power plants, and solar. Provision extends for one year a 30 percent business energy credit for purchase of qualified fuel cell power plants for businesses and a 10 percent credit for purchase of qualifying stationary microturbine power plants. Additionally, a 30 percent credit for purchase of qualifying solar energy property is also extended. Credits apply to periods before January 1, 2009. This provision is estimated to cost $64 million over five years and $65 million over 10 years.

Sec. 308. Reduced excise tax on methanol or ethanol fuel derived from coal. Provision extends a reduced excise tax rate on methanol or ethanol fuel derived from coal (including peat). This provision is estimated to cost less than $500,000 over five and 10 years.

Sec. 309. Ethanol tariff extension. Provision extends a 54-cent-per-gallon tariff on imported ethanol. Provision applies to imported ethanol through January 1, 2009. This provision is estimated to raise $16 million over five and 10 years.

Sec. 310. Accelerated depreciation for cellulosic biomass ethanol facilities. Provision allows for 50 percent accelerated depreciation in the year a new cellulosic biomass ethanol facility is placed in service. Cellulosic biomass ethanol is defined as ethanol produced by enzymatic hydrolysis of any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis. Provision applies to facilities placed in service prior to January 1, 2013. This provision is estimated to cost $17 million over five years and $9 million over 10 years.

Sec. 311. Taxable fuel removed from a foreign trade zone. Provision requires fuel sold from a refinery or terminal located in a foreign trade zone via truck or train to pay excise tax if the fuel breaks bulk in the United States. This would provide parity for refineries and terminals located in the United States with those refineries and terminals in the United States but also in a foreign trade zone. This provision is estimated to raise $18 million over five years and $33 million over 10 years.

Sec. 312. Expenditures permitted from the Leaking Underground Storage Tank Trust Fund. Monies appropriated from the Leaking Underground Storage Tank ("LUST") trust fund are used for detection, prevention, and cleanup of leaking underground storage tanks to reduce water pollution. The provision expands the purposes the LUST trust fund can be spent on protective and corrective measures for the national water supply. New purposes include: expanding corrective action in response to underground storage tanks petroleum releases; making funds available to carry out corrective actions for the release of MTBEs and other oxygenated fuel additive; requiring new tanks near community water systems to be secondarily contained; expanding inspections of underground storage tanks; implementing tank operator training requirements; expanding Federal and state enforcement efforts; improving prevention measures and compliance; and developing and implementing a strategy for addressing petroleum releases from tanks on tribal lands. This provision has no revenue effect.

Sec. 313. Sales of Interests on Federal Land. The proposal excludes from income 25 percent of any long-term capital gain recognized upon sale of the taxpayer's entire interest in a mineral or geothermal deposit that is located on certain Federal land. To qualify, the sale must be to a government or to a section 501(c)(3) conservation organization. The proposal would make permanent current government policy not to issue any new oil and gas leases on the Forest Service and BLM land south of the Glacier National Park. Over the last 50 years, the Forest Service and BLM have issued 60 leases for oil and gas development in this area. However, none of these leases is currently producing. The issuance of future leases has been administratively suspended and the proposal would make permanent the current Federal moratorium. This provision is estimated to cost $1 million over five and 10 years.

DIVISION B

Nontax Provisions

Surface Mining Control and Reclamation Act Amendments of 2006. The proposal extends the AML program for fifteen years and ensures that reclamation funds collected from fees on coal production will be distributed to the states that have the most dangerous abandoned mine sites. Annual appropriations since the program's inception have been severely limited due to ongoing budget constraints, but significant problems remain in many states that threaten the health and safety people who live near them. In addition, this legislation repays states the money they paid into the AML Fund. Each year, fees imposed on coal production are held in this fund and have not been fully redistributed. The proposal also requires annual transfers of AML Fund interest to pay for the health benefits of orphan beneficiaries in the Combined Benefit Fund, and the 1992 and 1993 plans. In addition, coal receipts received through the Mineral Leasing Act will be used as needed to pay for any benefits not covered by the AML Fund interest. This provision addresses the problem of the current structure for financing orphan benefits, which is no longer sustainable because of the declining number of contributing employers.

Regulation of Agricultural Dust. The proposal provides a 5 year moratorium on Environmental Protection Agency's national ambient air quality standard for particulate matter promulgated to the Clean Air Act, with respect to particulate matter deposited in the ambient air as a result of the conduct of an agricultural activity (as that term is defined by the Secretary of Agriculture). This provision has no revenue effect.

Outer Continental Shelf (OCS). The provision provides for opening more than 8.3 million acres on the outer Continental Shelf for oil and gas leasing. The provision calls for opening approximately 2.5 million as soon as practicable, but no later than one year of the date of enactment. It calls for opening an additional 5.8 million acres as soon as practicable**.** The provision also directs leasing in the 181 Area, excluding areas East of the Military Mission Line, areas in the New Eastern Gulf of Mexico Planning Area within 125 miles of the State of Florida, and areas in the New Central Gulf of Mexico Planning Area within 100 miles of the State of Florida. The provision also directs leasing in the 181 South Area, excluding areas East of the Military Mission Line, and areas east of the New Eastern Gulf of Mexico Planning Area. The provision directs the Secretary of the Interior to establish within one year of enactment a regulation that provides for an option to exchange leases in areas unavailable for leases within 125 miles of Florida coastline in New Eastern Gulf Planning Area for leases in areas available for leasing in the Gulf of Mexico. The provision provides for revenue sharing on new areas of production made available by this agreement and new leases beginning in FY 2007 and each fiscal year thereafter (181 Area above the CBO baseline and 181 South Area) and on new leases after date of enactment in existing planning areas beginning in FY 2016 and each fiscal year thereafter (Gulf of Mexico planning areas) as follows: 37.5 % to Gulf producing states, 12.5 % to Stateside LWCF, and 50 % to Federal Treasury. There is a $500 million annual net spending cap on revenue. "Net" means spending in excess of receipts coming in from new areas opened up under this bill.

DIVISION C

Trade Provisions

Generalized System of Preferences (GSP). The GSP program, which expires at the end of 2006, offers developing countries duty-free access to the U.S. market for certain products. The package includes a straight extension of the program for one year.

Andean Trade Preference Act (ATPA). The ATPA program offers the four Andean countries – Colombia, Peru, Ecuador, and Bolivia – duty-free access to the U.S. market for a variety of products. The program expires at the end of 2006. The package includes a straight extension of the program for one year.

African Growth Opportunity Act (AGOA). The AGOA program offers sub-Saharan countries duty-free access to the U.S. market. One important piece of AGOA – the "third country fabric provision" – expires in October 2007. That provision allows AGOA countries to keep AGOA benefits on certain apparel made with fabric from countries

other than the United States or African countries. This package will extend the "third country fabric" provision until 2015. It will also include Mauritius in the program until 2010.

Permanent Normal Trade Relations (PNTR) for Vietnam. As part of Vietnam's accession to the WTO, it has committed to open its markets to more U.S. products and services. But the United States cannot take advantage of Vietnam's commitments until we extend PNTR. Currently, we review our trade relations with Vietnam on a yearly basis. This bill would end that practice and grant unconditional normal trade relations to Vietnam.

Haitian Hemispheric Opportunity through Partnership Encouragement ("HOPE") Act. The principal provisions of the bill would allow duty-free entry to specified apparel articles made and/or assembled in Haiti, the United States, a beneficiary country of a U.S. trade preference program, or a country party to a U.S. free trade agreement. The sum of material and production costs must be an increasing percentage of the customs value over a five-year period (starting at 50 percent in year one), and import quantities are capped at an increasing percentage not to exceed 2 percent of annual U.S. apparel imports. The bill would also extend duty-free entry to certain wire harness automotive components if the cost of materials and processing operations performed in Haiti, the United States, or both, exceeds 50 percent of the declared customs value of such articles. Haiti may only receive benefits under this Act if the President certifies that Haiti meets certain political, economic, and labor criteria, as well as textile and apparel transshipment enforcement requirements.

Miscellaneous Tariff Bill (MTB). The MTB offers temporary duty reductions on a variety of items not manufactured in the United States. The MTB also provides for a very limited number of reliquidations of entries in cases of government error. The House passed its MTB earlier this year. Some MTB items were included in the pensions bill (i.e. those that were in the House-passed MTB that had Senate companions). Other non-controversial items not included in the pensions bill are included in this bill.

Cotton Trust Fund. The bill suspends duties on certain cotton fabrics and establishes a trust fund not to exceed $16,000,000 each fiscal year. Funds will be distributed among eligible yarn spinners and shirt manufacturers, and to a nationally recognized association established to promote the growth of pima cotton in the United States. The trust fund terminates October 1, 2008.

Modifications to the tariff schedule. Periodically, USTR must make changes to tariff lines in the Harmonized Tariff Schedule of the United States (HTSUS) to conform to changes agreed upon in the World Customs Organization. This year, due to the thousands of changes to be made and to administrative delays, the business community has expressed interest in extending the period before such changes take effect. The bill would extend the current 15-day window for implementation to 30 days in order to afford the private sector sufficient time to incorporate all of the changes in their computer systems and avoid costly, time-consuming errors to entries. We expect the administration

to notice the changes in the Federal Register sometime in early January. The bill would also streamline the period for legislative review of future changes to the HTSUS.

DIVISION D

Medicare Provisions

2007 Update for Medicare Physician Services. Provides a one year zero percent update for 2007. Establishes a quality reporting system for eligible professionals using consensus-based quality measures for 2007 beginning July 1, 2007 through December 31, 2007. Physicians and other eligible practitioners who submit data on applicable quality measures will receive bonus incentive payments of 1.5 percent for covered services beginning July 1, 2007 through December 31, 2007.

Extension of expiring Medicare Modernization Act Provisions.

- **Floor on Medicare Work Geographic Adjustment:** Extends the 1.0 floor in the work geographic index for any locality for which the index is less than 1.0 established in the Medicare Modernization Act for services furnished from January 1, 2007 through December 31, 2007.

- **Medicare Reasonable Costs for Rural Clinical Labs:** Extends cost-based payments for clinical diagnostic laboratory tests covered under Part B for an additional year from July 1, 2006 through June 30, 2007.

- **Treatment of Physician Pathology Services:** Extends direct payments for the technical component for certain pathology services permitted by the Medicare Modernization Act for services furnished during CY 07.

- **Extension of Medicare Wage Index:** Extends 6 month duration of certain area wage index reclassifications and requires study on Medicare wage index classification system and alternative methodologies to compute the wage index.

- **Extension of Payments for Brachytherapy:** Extends payment rule for brachytherapy devices at hospital's charges adjusted to cost from January 1, 2007 through December 31, 2007.

- **Extension of Therapy Caps:** One year extension of DRA policy on Medicare therapy caps.

Funding for Health Care Fraud and Abuse Control Account. Provides annual funding updates based on changes in the consumer price index.

Payment for Dialysis Services. Increases the composite rate component of the current case-mix adjusted system for services beginning April 1, 2007 by 1.6 percent above the amount of the composite rate component for such services.

Spending Under the Medicare Advantage Stabilization Fund. Limits spending under the Medicare Advantage (MA) Stabilization Fund between January 1, 2007 and September 30, 2011.

Payment for Administration of Part D Vaccines. Provides for payment under Part B in 2007 of the administration of a Part D covered vaccine. Beginning in 2008, includes administration of a Part D covered vaccine under Part D.

Deficit Reduction Act (DRA) Technical Corrections. Makes technical clarifications to the DRA.

Access of Congressional Support Agencies to Medicare Advantage and Prescription Drug Plan Data. Ensures that the Congressional Budget Office (CBO), Government Accountability Office (GAO), Medicare Payment Advisory Commission (MedPAC), and Congressional Research Service (CRS) have access to data submitted to the Centers for Medicare and Medicaid Services (CMS) by MA and Prescription Drug Plans.

Implementation Funding. Provides $45 million in FY 07 and 08 for purposes of implementing provisions included in and amendments made by this Title.

Medicaid/SCHIP Extender Provisions

Medicaid Provider Tax Rate Codification. Codifies the maximum rate at which a state can tax its health care providers under their Medicaid plan at 5.5 percent through Fiscal Year 2011. Under current rules, the maximum rate is set at 6 percent, a rate likely to be reduced to 3 percent under an anticipated proposed rule.

Transitional Medical Assistance (TMA)/Abstinence Education. Provides TMA for two quarters of FY 07. TMA is the continuation of Medicaid benefits for up to 1 year for certain low-income families who would otherwise lose coverage because of changes in their income, due to increased hours of work or income from employment or due to child or spousal support. Provides funding for matching grants to states to provide abstinence education for two quarters of FY 07.

State Children's Health Insurance Plan (SCHIP) Redistribution Plan. Redirects existing unspent FY 04 and FY 05 SCHIP funds to prioritize reducing FY 07 federal funding gaps. States, receiving redistributed funds, that have expanded SCHIP coverage to populations other than children and pregnant women would be eligible for a Medicaid funding match for these individuals. It has been estimated that redistributed funds will defer shortfalls through June, 2007. Extends a provision enacted in the DRA allowing certain states that had expanded Medicaid eligibility before SCHIP was enacted to use up to 20 percent of their FY 06 and 07 SCHIP allotments to fund coverage for Medicaid children.

Elder Justice Act. Elevates the issues of elder abuse, neglect and exploitation to the federal level. Establishes within the Department of Health and Human Services programmatic, grant-making, policy and technical assistance functions related to elder justice. Creates a public-private Elder Justice Coordinating Council to coordinate

government and private resources devoted to fighting elder abuse. Improves the quality, quantity and accessibility of information about elder abuse. Increases research, forensic capacity, and training related to elder abuse, neglect and exploitation. Requires additional reporting of instances of abuse in nursing homes and a study on creating a federal nurse aide registry.

DRA Technical Corrections: Makes technical clarifications to the DRA.