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1 SECTION 1. SHORT TITLE, ETC.

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

4 (b) **TABLE OF CONTENTS.**—The table of contents for
5 this Act is as follows:

Sec. 1. Short title, etc.

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

Sec. 100. Reference.

**TITLE I—EXTENSION AND MODIFICATION OF CERTAIN
PROVISIONS**

Sec. 101. Deduction for qualified tuition and related expenses.

Sec. 102. Extension and modification of new markets tax credit.

Sec. 103. Election to deduct State and local general sales taxes.

Sec. 104. Extension and modification of research credit.

Sec. 105. Work opportunity tax credit and welfare-to-work credit.

Sec. 106. Election to include combat pay as earned income for purposes of
earned income credit.

Sec. 107. Extension and modification of qualified zone academy bonds.

Sec. 108. Above-the-line deduction for certain expenses of elementary and sec-
ondary school teachers.

Sec. 109. Extension and expansion of expensing of brownfields remediation
costs.

Sec. 110. Tax incentives for investment in the District of Columbia.

Sec. 111. Indian employment tax credit.

Sec. 112. Accelerated depreciation for business property on Indian reservations.

Sec. 113. Fifteen-year straight-line cost recovery for qualified leasehold im-
provements and qualified restaurant property.

Sec. 114. Cover over of tax on distilled spirits.

Sec. 115. Parity in application of certain limits to mental health benefits.

Sec. 116. Corporate donations of scientific property used for research and of
computer technology and equipment.

Sec. 117. Availability of medical savings accounts.

Sec. 118. Taxable income limit on percentage depletion for oil and natural gas
produced from marginal properties.

Sec. 119. American Samoa economic development credit.

Sec. 120. Extension of bonus depreciation for certain qualified Gulf Oppor-
tunity Zone property.

Sec. 121. Authority for undercover operations.

- Sec. 122. Disclosures of certain tax return information.
- Sec. 123. Special rule for elections under expired provisions.

TITLE II—ENERGY TAX PROVISIONS

- Sec. 201. Credit for electricity produced from certain renewable resources.
- Sec. 202. Credit to holders of clean renewable energy bonds.
- Sec. 203. Performance standards for sulfur dioxide removal in advanced coal-based generation technology units designed to use subbituminous coal.
- Sec. 204. Deduction for energy efficient commercial buildings.
- Sec. 205. Credit for new energy efficient homes.
- Sec. 206. Credit for residential energy efficient property.
- Sec. 207. Energy credit.
- Sec. 208. Special rule for qualified methanol or ethanol fuel.
- Sec. 209. Special depreciation allowance for cellulosic biomass ethanol plant property.
- Sec. 210. Expenditures permitted from the Leaking Underground Storage Tank Trust Fund.
- Sec. 211. Treatment of coke and coke gas.

TITLE III—HEALTH SAVINGS ACCOUNTS

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

TITLE IV—OTHER PROVISIONS

- Sec. 401. Deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
- Sec. 402. Credit for prior year minimum tax liability made refundable after period of years.
- Sec. 403. Returns required in connection with certain options.
- Sec. 404. Partial expensing for advanced mine safety equipment.
- Sec. 405. Mine rescue team training tax credit.
- Sec. 406. Whistleblower reforms.
- Sec. 407. Frivolous tax submissions.
- Sec. 408. Addition of meningococcal and human papillomavirus vaccines to list of taxable vaccines.
- Sec. 409. Clarification of taxation of certain settlement funds made permanent.
- Sec. 410. Modification of active business definition under section 355 made permanent.
- Sec. 411. Revision of State veterans limit made permanent.
- Sec. 412. Capital gains treatment for certain self-created musical works made permanent.
- Sec. 413. Reduction in minimum vessel tonnage which qualifies for tonnage tax made permanent.
- Sec. 414. Modification of special arbitrage rule for certain funds made permanent.

- Sec. 415. Great Lakes domestic shipping to not disqualify vessel from tonnage tax.
- Sec. 416. Use of qualified mortgage bonds to finance residences for veterans without regard to first-time homebuyer requirement.
- Sec. 417. Exclusion of gain from sale of a principal residence by certain employees of the intelligence community.
- Sec. 418. Sale of property by judicial officers.
- Sec. 419. Premiums for mortgage insurance.
- Sec. 420. Modification of refunds for kerosene used in aviation.
- Sec. 421. Regional income tax agencies treated as States for purposes of confidentiality and disclosure requirements.
- Sec. 422. Designation of wines by semi-generic names.
- Sec. 423. Modification of railroad track maintenance credit.
- Sec. 424. Modification of excise tax on unrelated business taxable income of charitable remainder trusts.
- Sec. 425. Loans to qualified continuing care facilities made permanent.
- Sec. 426. Technical corrections.

DIVISION B—MEDICARE AND OTHER HEALTH PROVISIONS

- Sec. 1. Short title of division.

TITLE I—MEDICARE IMPROVED QUALITY AND PROVIDER PAYMENTS

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

TITLE II—MEDICARE BENEFICIARY PROTECTIONS

- Sec. 201. Extension of exceptions process for Medicare therapy caps.
- Sec. 202. Payment for administration of part D vaccines.
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- Sec. 204. Medicare medical home demonstration project.
- Sec. 205. Medicare DRA technical corrections.
- Sec. 206. Limited continuous open enrollment of original medicare fee-for-service enrollees into Medicare Advantage non-prescription drug plans.

TITLE III—MEDICARE PROGRAM INTEGRITY EFFORTS

- Sec. 301. Offsetting adjustment in Medicare Advantage Stabilization Fund.

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- Sec. 302. Extension and expansion of recovery audit contractor program under the Medicare Integrity Program.
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TITLE IV—MEDICAID AND OTHER HEALTH PROVISIONS

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

DIVISION C—OTHER PROVISIONS

TITLE I—GULF OF MEXICO ENERGY SECURITY

- Sec. 101. Short title.
- Sec. 102. Definitions.
- Sec. 103. Offshore oil and gas leasing in 181 Area and 181 south Area of Gulf of Mexico.
- Sec. 104. Moratorium on oil and gas leasing in certain areas of Gulf of Mexico.
- Sec. 105. Disposition of qualified outer Continental Shelf revenues from 181 Area, 181 south Area, and 2002–2007 planning areas of Gulf of Mexico.

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

- Sec. 200. Short title.

Subtitle A—Mining Control and Reclamation

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

Subtitle B—Coal Industry Retiree Health Benefit Act

- Sec. 211. Certain related persons and successors in interest relieved of liability if premiums prepaid.
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TITLE III—WHITE PINE COUNTY CONSERVATION, RECREATION,
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Subtitle B—Wilderness Areas

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Sec. 322. Findings.

Sec. 323. Additions to National Wilderness Preservation System.

Sec. 324. Administration.

Sec. 325. Adjacent management.

Sec. 326. Military overflights.

Sec. 327. Native American cultural and religious uses.

Sec. 328. Release of wilderness study areas.

Sec. 329. Wildlife management.

Sec. 330. Wildfire, insect, and disease management.

Sec. 331. Climatological data collection.

Subtitle C—Transfers of Administrative Jurisdiction

Sec. 341. Transfer to the United States Fish and Wildlife Service.

Sec. 342. Transfer to the Bureau of Land Management.

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Sec. 344. Availability of map and legal descriptions.

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Sec. 351. Conveyance to the State of Nevada.

Sec. 352. Conveyance to White Pine County, Nevada.

Subtitle E—Silver State Off-Highway Vehicle Trail

Sec. 355. Silver State off-highway vehicle trail.

Subtitle F—Transfer of Land to Be Held in Trust for the Ely Shoshone Tribe.

Sec. 361. Transfer of land to be held in trust for the Ely Shoshone Tribe.

Subtitle G—Eastern Nevada Landscape Restoration Project.

Sec. 371. Findings; purposes.

Sec. 372. Definitions.

Sec. 373. Restoration project.

Subtitle H—Amendments to the Southern Nevada Public Land Management Act of 1998

Sec. 381. Findings.

Sec. 382. Availability of special account.

Subtitle I—Amendments to the Lincoln County Conservation, Recreation, and Development Act of 2004

Sec. 391. Disposition of proceeds.

Subtitle J—All American Canal Projects

- Sec. 395. All American Canal Lining Project.
Sec. 396. Regulated storage water facility.
Sec. 397. Application of law.

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- Sec. 401. Tobacco personal use quantity exception to not apply to delivery sales.
Sec. 402. Ethanol Tariff Schedule.
Sec. 403. Withdrawal of certain Federal land and interests in certain Federal land from location, entry, and patent under the mining laws and disposition under the mineral and geothermal leasing laws.
Sec. 404. Continuing eligibility for certain students under District of Columbia School Choice Program.
Sec. 405. Study on Establishing Uniform National Database on Elder Abuse.
Sec. 406. Temporary duty reductions for certain cotton shirting fabric.
Sec. 407. Cotton Trust Fund.
Sec. 408. Tax court review of requests for equitable relief from joint and several liability.

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

5 **SEC. 100. REFERENCE.**

6 Except as otherwise expressly provided, whenever in
7 this division an amendment or repeal is expressed in terms
8 of an amendment to, or repeal of, a section or other provi-
9 sion, the reference shall be considered to be made to a
10 section or other provision of the Internal Revenue Code
11 of 1986.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 “(B) COMPARABILITY EXCISE TAX.—

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

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

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

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

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

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

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

11 (c) APPLICATION OF SECTION.—

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

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

18 **SEC. 303. REPEAL OF ANNUAL DEDUCTIBLE LIMITATION**

19 **ON HSA CONTRIBUTIONS.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 “(C) LIMITATIONS.—
26

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

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

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

15 “(ii) ONE-TIME TRANSFER.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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