



JOINT COMMITTEE ON TAXATION

May 14, 2008

JCX-41-08

**DESCRIPTION OF AN AMENDMENT IN THE NATURE OF
A SUBSTITUTE TO THE PROVISIONS OF H.R. 6049**

A. Clerical Amendment

The Chairman's amendment modifies sec. 127(d) of H.R. 6049 to provide a conforming amendment to subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code (the "Code"), the effect of which is to add the credit for plug-in hybrid automobiles to the list of credits therein.

B. Mental Health Parity

The Chairman's amendment also adds a proposal to H.R. 6049 to extend the parity requirements in the application of certain limits to mental health benefits. Under present law, the Code, the Employee Retirement Income Security Act of 1974 ("ERISA") and the Public Health Service Act ("PHSA") contain provisions under which group health plans that provide both medical and surgical benefits and mental health benefits cannot impose aggregate lifetime or annual dollar limits on mental health benefits that are not imposed on substantially all medical and surgical benefits ("mental health parity requirements"). In the case of a group health plan which provides benefits for mental health, the mental health parity requirements do not affect the terms and conditions (including cost sharing, limits on numbers of visits or days of coverage, and requirements relating to medical necessity) relating to the amount, duration, or scope of mental health benefits under the plan, except as specifically provided in regard to parity in the imposition of aggregate lifetime limits and annual limits.

The mental health parity requirements do not apply to group health plans of small employers nor do they apply if their application results in an increase in the cost under a group health plan of at least one percent. Further, the mental health parity requirements do not require group health plans to provide mental health benefits. The Code imposes an excise tax on group health plans which fail to meet the mental health parity requirements. The excise tax is equal to \$100 per day during the period of noncompliance and is generally imposed on the employer sponsoring the plan if the plan fails to meet the requirements.

The Code, ERISA and PHSA mental health parity requirements expired with respect to benefits for services furnished after December 31, 2007. The proposal extends the present-law Code excise tax for failure to comply with the mental health parity requirements for benefits for services furnished on or after the date of enactment through December 31, 2008.