

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide a substitute.

IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.

H. R. 3768

To provide emergency tax relief for persons affected by
Hurricane Katrina.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRASSLEY (for
himself and Mr. BAUCUS)

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

4 **TABLE OF CONTENTS.**

5 (a) **SHORT TITLE.**—This Act may be cited as the
6 “Hurricane Katrina Tax Relief Act of 2005”.

7 (b) **AMENDMENT OF 1986 CODE.**—Except as other-
8 wise expressly provided, whenever in this Act an amend-
9 ment or repeal is expressed in terms of an amendment
10 to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-
2 sion of the Internal Revenue Code of 1986.

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

Sec. 1. Short title; amendment of 1986 Code; table of contents.

Sec. 2. Hurricane Katrina disaster area.

TITLE I—PENALTY FREE USE OF RETIREMENT FUNDS IN THE CASE OF NATURAL DISASTERS

Sec. 101. Penalty free withdrawals from retirement plans for victims of feder-
ally declared natural disasters.

Sec. 102. Income averaging for disaster-relief distributions related to Hurricane
Katrina.

Sec. 103. Recontributions of withdrawals for home purchases cancelled due to
Hurricane Katrina.

Sec. 104. Loans from qualified plans to victims of Hurricane Katrina.

Sec. 105. Provisions relating to plan amendments.

TITLE II—EMPLOYMENT RELIEF

Sec. 201. Work opportunity tax credit for Hurricane Katrina employee sur-
vivors.

Sec. 202. Employee retention credit for employers affected by Hurricane
Katrina.

TITLE III—CHARITABLE GIVING INCENTIVES

Sec. 301. Temporary suspension of limitations on charitable contributions.

Sec. 302. Charitable deduction for contributions of food inventories.

Sec. 303. Charitable deduction for contributions of book inventories.

Sec. 304. Additional exemption for housing Hurricane Katrina displaced indi-
viduals.

Sec. 305. Increase in standard mileage rate for charitable use of passenger
automobile.

Sec. 306. Mileage reimbursements to charitable volunteers excluded from gross
income.

TITLE IV—ADDITIONAL TAX RELIEF PROVISIONS

Sec. 401. Exclusions of certain cancellations of indebtedness for victims of Hur-
ricane Katrina.

Sec. 402. Suspension of certain limitations on personal casualty losses.

Sec. 403. Required exercise of authority under section 7508A for tax relief for
victims of Hurricane Katrina.

Sec. 404. Special mortgage financing rules for residences located in Hurricane
Katrina disaster area.

Sec. 405. Extension of replacement period for nonrecognition of gain for prop-
erty located in Hurricane Katrina disaster area.

Sec. 406. Special rule for determining earned income.

Sec. 407. Secretarial authority to make adjustments regarding taxpayer and de-
pendency status.

TITLE V—EMERGENCY REQUIREMENT

Sec. 501. Emergency requirement.

1 **SEC. 2. HURRICANE KATRINA DISASTER AREA.**

2 For purposes of this Act, the term “Hurricane
3 Katrina disaster area” means an area—

4 (1) with respect to which a major disaster has
5 been declared by the President before September 14,
6 2005, under section 401 of the Robert T. Stafford
7 Disaster Relief and Emergency Assistance Act in
8 connection with Hurricane Katrina, and

9 (2) which—

10 (A) except as provided in subparagraph
11 (B), is determined by the President before such
12 date to warrant assistance from the Federal
13 Government under such Act, and

14 (B) in the case of sections 201 and 202,
15 is determined by the President before such date
16 to warrant individual assistance, or individual
17 and public assistance, from the Federal Govern-
18 ment under such Act.

1 **TITLE I—PENALTY FREE USE OF**
2 **RETIREMENT FUNDS IN THE**
3 **CASE OF NATURAL DISAS-**
4 **TERS**

5 **SEC. 101. PENALTY FREE WITHDRAWALS FROM RETIRE-**
6 **MENT PLANS FOR VICTIMS OF FEDERALLY**
7 **DECLARED NATURAL DISASTERS.**

8 (a) IN GENERAL.—Paragraph (2) of section 72(t)
9 (relating to 10-percent additional tax on early distribu-
10 tions from qualified retirement plans) is amended by add-
11 ing at the end the following new subparagraph:

12 “(G) DISTRIBUTIONS FROM RETIREMENT
13 PLANS TO VICTIMS OF FEDERALLY DECLARED
14 NATURAL DISASTERS.—

15 “(i) DISTRIBUTION ALLOWED.—Any
16 qualified disaster-relief distribution.

17 “(ii) AMOUNT DISTRIBUTED MAY BE
18 REPAID.—

19 “(I) IN GENERAL.—Any indi-
20 vidual who receives a qualified dis-
21 aster-relief distribution may, at any
22 time during the 3-year period begin-
23 ning on the day after the date on
24 which such distribution was made,
25 make one or more contributions in an

1 aggregate amount not to exceed the
2 amount of such distribution to an eli-
3 gible retirement plan (as defined in
4 section 402(c)(8)(B)) of which such
5 individual is a beneficiary and to
6 which a rollover contribution of such
7 distribution could be made under sec-
8 tion 402(c), 403(a)(4), 403(b)(8),
9 408(d)(3), or 457(e)(16), as the case
10 may be.

11 “(II) TREATMENT OF REPAY-
12 MENTS FOR DISTRIBUTIONS FROM ELI-
13 GIBLE RETIREMENT PLANS OTHER
14 THAN IRAS.—For purposes of this
15 title, if a contribution is made pursu-
16 ant to subclause (I) with respect to a
17 qualified disaster-relief distribution
18 from an eligible retirement plan (as so
19 defined) other than an individual re-
20 tirement plan, then the taxpayer shall,
21 to the extent of the amount of the
22 contribution, be treated as having re-
23 ceived the qualified disaster-relief dis-
24 tribution in an eligible rollover dis-
25 tribution (as defined in section

1 402(c)(4)) and as having transferred
2 the amount to the eligible retirement
3 plan in a direct trustee to trustee
4 transfer within 60 days of the dis-
5 tribution.

6 “(III) TREATMENT OF REPAY-
7 MENTS FOR DISTRIBUTIONS FROM
8 IRAS.—For purposes of this title, if a
9 contribution is made pursuant to sub-
10 clause (I) with respect to a qualified
11 disaster-relief distribution from an in-
12 dividual retirement plan, then, to the
13 extent of the amount of the contribu-
14 tion, the qualified disaster-relief dis-
15 tribution shall be treated as a dis-
16 tribution described in section
17 408(d)(3) and as having been trans-
18 ferred to the eligible retirement plan
19 in a direct trustee to trustee transfer
20 within 60 days of the distribution.

21 “(IV) APPLICATION TO GOVERN-
22 MENTAL SECTION 457 PLANS.—In de-
23 termining whether any distribution is
24 a qualified disaster-relief distribution
25 for purposes of this clause, an eligible

1 deferred compensation plan (as de-
2 fined in section 457(b)) maintained by
3 an employer described in section
4 457(e)(1)(A) shall be treated as a
5 qualified retirement plan.

6 “(iii) QUALIFIED DISASTER-RELIEF
7 DISTRIBUTION.—Except as provided in
8 clause (iv), for purposes of this subpara-
9 graph, the term ‘qualified disaster-relief
10 distribution’ means any distribution—

11 “(I) to an individual who has
12 sustained a loss as a result of a major
13 disaster declared under section 401 of
14 the Robert T. Stafford Disaster Relief
15 and Emergency Assistance Act and
16 who has a principal place of abode im-
17 mediately before the declaration in a
18 qualified disaster area, and

19 “(II) which is made during the 1-
20 year period beginning on the date
21 such declaration is made.

22 “(iv) DOLLAR LIMITATION.—

23 “(I) IN GENERAL.—The term
24 ‘qualified disaster-relief distribution’
25 shall not include any distributions for

1 any taxable year to the extent the ag-
2 gregate amount of such distributions
3 exceeds \$100,000, reduced by the ag-
4 gregate amounts treated as qualified
5 disaster-relief distributions with re-
6 spect to such individual for all prior
7 taxable years.

8 “(II) TREATMENT OF PLAN DIS-
9 TRIBUTIONS.—If a distribution to an
10 individual with respect to any such
11 major disaster would (without regard
12 to subclause (I)) be a qualified dis-
13 aster-relief distribution, a plan shall
14 not be treated as violating any re-
15 quirement of this title merely because
16 it treats such distribution as a quali-
17 fied disaster-relief distribution, unless
18 the aggregate amount of such dis-
19 tributions from all plans maintained
20 by the employer (and any member of
21 any controlled group which includes
22 the employer) to such individual ex-
23 ceeds \$100,000.

24 “(v) QUALIFIED DISASTER AREA.—

25 For purposes of this subparagraph, the

1 term ‘qualified disaster area’ means an
2 area—

3 “(I) with respect to which a
4 major disaster has been declared by
5 the President before September 14,
6 2005, under section 401 of the Robert
7 T. Stafford Disaster Relief and Emer-
8 gency Assistance Act in connection
9 with Hurricane Katrina, and

10 “(II) which is determined by the
11 President before such date to warrant
12 assistance from the Federal Govern-
13 ment under such Act.”.

14 (b) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE
15 TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—
16 Paragraph (4) of section 402(c) (relating to eligible roll-
17 over distribution) is amended by striking “and” at the end
18 of subparagraph (B), by striking the period at the end
19 of subparagraph (C) and inserting “, and”, and by insert-
20 ing at the end the following new subparagraph:

21 “(D) any qualified disaster-relief distribu-
22 tion (within the meaning of section
23 72(t)(2)(G)).”.

24 (c) CONFORMING AMENDMENTS.—

1 (1) Section 401(k)(2)(B)(i) is amended by
2 striking “or” at the end of subclause (III), by strik-
3 ing “and” at the end of subclause (IV) and inserting
4 “or”, and by inserting after subclause (IV) the fol-
5 lowing new subclause:

6 “(V) the date on which a period
7 referred to in section
8 72(t)(2)(G)(iii)(II) begins (but only to
9 the extent provided in section
10 72(t)(2)(G)), and”.

11 (2) Section 403(b)(7)(A)(ii) is amended by in-
12 serting “sustains a loss as a result of a major dis-
13 aster declared under section 401 of the Robert T.
14 Stafford Disaster Relief and Emergency Assistance
15 Act by reason of Hurricane Katrina (but only to the
16 extent provided in section 72(t)(2)(G)),” before
17 “or”.

18 (3) Section 403(b)(11) is amended by striking
19 “or” at the end of subparagraph (A), by striking the
20 period at the end of subparagraph (B) and inserting
21 “, or”, and by inserting after subparagraph (B) the
22 following new subparagraph:

23 “(C) for distributions to which section
24 72(t)(2)(G) applies.”.

1 (4) Section 457(d)(1)(A) is amended by strik-
2 ing “or” at the end of clause (ii), by adding “or”
3 at the end of clause (iii), and by adding at the end
4 the following new clause:

5 “(iv) in the case of an eligible de-
6 ferred compensation plan established and
7 maintained by an employer described in
8 subsection (e)(1)(A), when the participant
9 sustains a loss as a result of a major dis-
10 aster declared under section 401 of the
11 Robert T. Stafford Disaster Relief and
12 Emergency Assistance Act by reason of
13 Hurricane Katrina (but only to the extent
14 provided in section 72(t)(2)(G)),”.

15 (d) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to distributions received after Au-
17 gust 28, 2005.

18 **SEC. 102. INCOME AVERAGING FOR DISASTER-RELIEF DIS-**
19 **TRIBUTIONS RELATED TO HURRICANE**
20 **KATRINA.**

21 (a) IN GENERAL.—In the case of any qualified dis-
22 aster-relief distribution (within the meaning of section
23 72(t)(2)(G) of the Internal Revenue Code of 1986) from
24 a qualified retirement plan (as defined in section 4974(c)
25 of such Code) to a qualified individual, unless the taxpayer

1 elects not to have this section apply for any taxable year,
2 any amount required to be included in gross income for
3 such taxable year shall be so included ratably over the 3-
4 taxable year period beginning with such taxable year.

5 (b) SPECIAL RULES.—

6 (1) APPLICATION TO GOVERNMENTAL SECTION
7 457 PLANS.—In determining whether any distribu-
8 tion is a qualified disaster-relief distribution (as so
9 defined) for purposes of this section, an eligible de-
10 ferred compensation plan (as defined in section
11 457(b) of such Code) maintained by an employer de-
12 scribed in section 457(e)(1)(A) of such Code shall be
13 treated as a qualified retirement plan (as so defined)

14 (2) CERTAIN RULES TO APPLY.—Rules similar
15 to the rules of subparagraph (E) of section
16 408A(d)(3) of such Code shall apply for purposes of
17 this section.

18 (c) QUALIFIED INDIVIDUAL.—For purposes of this
19 section, the term “qualified individual” means an indi-
20 vidual who has sustained a loss as a result of the major
21 disaster declared under section 401 of the Robert T. Staf-
22 ford Disaster Relief and Emergency Assistance Act (42
23 U.S.C. 5170) in connection with Hurricane Katrina and
24 who has a principal place of abode immediately before the
25 declaration in a Hurricane Katrina disaster area.

1 **SEC. 103. RECONTRIBUTIONS OF WITHDRAWALS FOR HOME**
2 **PURCHASES CANCELLED DUE TO HURRI-**
3 **CANE KATRINA.**

4 (a) RECONTRIBUTIONS.—

5 (1) IN GENERAL.—Any individual who received
6 a qualified distribution may, at any time during the
7 6-month period beginning on the day after the dis-
8 aster declaration date, make one or more contribu-
9 tions in an aggregate amount not to exceed the
10 amount of such qualified distribution to an eligible
11 retirement plan (as defined in section 402(c)(8)(B)
12 of the Internal Revenue Code of 1986) of which such
13 individual is a beneficiary and to which a rollover
14 contribution of such distribution could be made
15 under section 402(c), 403(a)(4), 403(b)(8), or
16 408(d)(3) of such Code, as the case may be.

17 (2) TREATMENT OF REPAYMENTS.—

18 (A) TREATMENT OF REPAYMENTS FOR
19 DISTRIBUTIONS FROM ELIGIBLE RETIREMENT
20 PLANS OTHER THAN IRAS.—For purposes of
21 the Internal Revenue Code of 1986, if a con-
22 tribution is made pursuant to paragraph (1)
23 with respect to a qualified distribution from an
24 eligible retirement plan (as so defined) other
25 than an individual retirement plan (as defined
26 in section 7701(a)(37) of such Code), then the

1 taxpayer shall, to the extent of the amount of
2 the contribution, be treated as having received
3 the qualified distribution in an eligible rollover
4 distribution (as defined in section 402(c)(4) of
5 such Code) and as having transferred the
6 amount to the eligible retirement plan in a di-
7 rect trustee to trustee transfer within 60 days
8 of the distribution.

9 (B) TREATMENT OF REPAYMENTS FOR
10 DISTRIBUTIONS FROM IRAS.—For purposes of
11 the Internal Revenue Code of 1986, if a con-
12 tribution is made pursuant to paragraph (1)
13 with respect to a qualified distribution from an
14 individual retirement plan (as so defined), then,
15 to the extent of the amount of the contribution,
16 the qualified distribution shall be treated as a
17 distribution described in section 408(d)(3) of
18 such Code and as having been transferred to
19 the eligible retirement plan (as so defined) in a
20 direct trustee to trustee transfer within 60 days
21 of the distribution.

22 (b) DEFINITIONS.—For purposes of this section—

23 (1) QUALIFIED DISTRIBUTION.—The term
24 “qualified distribution” means any distribution—

1 (A) described in section
2 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only
3 to the extent such distribution relates to finan-
4 cial hardship), 403(b)(11)(B), or 72(t)(2)(F) of
5 the Internal Revenue Code of 1986,

6 (B) received after February 28, 2005, and
7 before August 29, 2005, and

8 (C) which was to be used to purchase or
9 construct a principal residence in a Hurricane
10 Katrina disaster area, but which was not so
11 purchased or constructed.

12 (2) DISASTER DECLARATION DATE.—The term
13 “disaster declaration date” means the date on which
14 the President designated the area as a Hurricane
15 Katrina disaster area.

16 **SEC. 104. LOANS FROM QUALIFIED PLANS TO VICTIMS OF**
17 **HURRICANE KATRINA.**

18 (a) INCREASE IN LIMIT ON LOANS NOT TREATED AS
19 DISTRIBUTIONS.—In the case of any loan from a qualified
20 employer plan (as defined under section 72(p)(4) of the
21 Internal Revenue Code of 1986) to a qualified individual
22 (as defined in section 102(e)) made after the date of en-
23 actment of this Act and before the date which is 1 year
24 after the disaster declaration date (as defined in section
25 103(b)(2))—

1 (1) clause (i) of section 72(p)(2)(A) of such
2 Code shall be applied by substituting “\$100,000”
3 for “\$50,000”, and

4 (2) clause (ii) of such section shall be applied
5 by substituting “the present value of the nonforfeit-
6 able accrued benefit of the employee under the plan”
7 for “one-half of the present value of the nonforfeit-
8 able accrued benefit of the employee under the
9 plan”.

10 (b) DELAY OF REPAYMENT.—In the case of a quali-
11 fied individual (as defined in section 102(c)) with an out-
12 standing loan on or after August 26, 2005, from a quali-
13 fied employer plan (as defined in section 72(p)(4) of the
14 Internal Revenue Code of 1986)—

15 (1) if the due date pursuant to subparagraph
16 (B) or (C) of section 72(p)(2) of such Code for any
17 repayment with respect to such loan occurs during
18 the period beginning after August 29, 2005, and
19 ending before August 30, 2006, such due date shall
20 be delayed for 1 year,

21 (2) any subsequent repayments with respect to
22 any such loan shall be appropriately adjusted to re-
23 flect the delay in the due date under paragraph (1)
24 and any interest accruing during such delay, and

1 (3) in determining the 5-year period and the
2 term of a loan under subparagraph (B) or (C) of
3 section 72(p)(2) of such Code, such period shall be
4 disregarded.

5 **SEC. 105. PROVISIONS RELATING TO PLAN AMENDMENTS.**

6 (a) IN GENERAL.—If this section applies to any plan
7 or contract amendment such plan or contract shall be
8 treated as being operated in accordance with the terms
9 of the plan during the period described in subsection
10 (b)(2)(A).

11 (b) AMENDMENTS TO WHICH SECTION APPLIES.—

12 (1) IN GENERAL.—This section shall apply to
13 any amendment to any plan or annuity contract
14 which is made—

15 (A) pursuant to any amendment made by
16 this title, or pursuant to any regulation issued
17 by the Secretary of the Treasury or the Sec-
18 retary of Labor under this title, and

19 (B) on or before the last day of the first
20 plan year beginning on or after January 1,
21 2007, or such later date as the Secretary of the
22 Treasury may prescribe.

23 In the case of a governmental plan (as defined in
24 section 414(d) of the Internal Revenue Code of
25 1986), subparagraph (B) shall be applied by sub-

1 stituting the date which is 2 years after the date
2 otherwise applied under subparagraph (B).

3 (2) CONDITIONS.—This section shall not apply
4 to any amendment unless—

5 (A) during the period—

6 (i) beginning on the date the legisla-
7 tive or regulatory amendment described in
8 paragraph (1)(A) takes effect (or in the
9 case of a plan or contract amendment not
10 required by such legislative or regulatory
11 amendment, the effective date specified by
12 the plan), and

13 (ii) ending on the date described in
14 paragraph (1)(B) (or, if earlier, the date
15 the plan or contract amendment is adopt-
16 ed),

17 the plan or contract is operated as if such plan
18 or contract amendment were in effect; and

19 (B) such plan or contract amendment ap-
20 plies retroactively for such period.

21 **TITLE II—EMPLOYMENT RELIEF**

22 **SEC. 201. WORK OPPORTUNITY TAX CREDIT FOR HURRI- 23 CANE KATRINA EMPLOYEE SURVIVORS.**

24 (a) IN GENERAL.—For purposes of section 51 of the
25 Internal Revenue Code of 1986, a Hurricane Katrina em-

1 ployee survivor shall be treated as a member of a targeted
2 group.

3 (b) HURRICANE KATRINA EMPLOYEE SURVIVOR.—

4 For purposes of this section, the term “Hurricane Katrina
5 employee survivor” means any individual who is certified
6 as an individual who—

7 (1) on August 28, 2005, had a principal place
8 of abode in a Hurricane Katrina disaster area, and

9 (2) became unemployed as a result of Hurri-
10 cane Katrina.

11 (c) SPECIAL RULES FOR DETERMINING CREDIT.—

12 For purposes of applying subpart F of part IV of sub-
13 chapter A of chapter 1 of such Code to wages paid or in-
14 curred to any Hurricane Katrina employee survivor—

15 (1) section 51(c)(4) of such Code shall not
16 apply,

17 (2) notwithstanding section 51(d)(12) of such
18 Code, the certification under subsection (b) shall be
19 made in such manner and at such time as deter-
20 mined by the Secretary of the Treasury, except that
21 the certification shall be made by a person other
22 than the such employee survivor or the employer
23 (within the meaning of section 51 of such Code),
24 and

1 (3) section 51(i)(2) of such Code shall not
2 apply with respect to the first hire of such employee
3 survivor, unless such employee survivor was an em-
4 ployee of the employer on August 28, 2005.

5 (d) APPLICATION OF SECTION.—This section shall
6 apply to wages (within the meaning on section 51(c) of
7 such Code) paid or incurred to any individual who begins
8 work—

9 (1) for an employer during the 6-month period
10 beginning on August 29, 2005, or

11 (2) in the case of an individual who is being
12 hired for a position the principal place of employ-
13 ment of which is located in a Hurricane Katrina dis-
14 aster area, for any employer during the 2-year pe-
15 riod beginning on such date.

16 **SEC. 202. EMPLOYEE RETENTION CREDIT FOR EMPLOYERS**
17 **AFFECTED BY HURRICANE KATRINA.**

18 (a) IN GENERAL.—In the case of an eligible em-
19 ployer, there shall be allowed as a credit against the tax
20 imposed by chapter 1 of the Internal Revenue Code of
21 1986 for the taxable year an amount equal to 40 percent
22 of the qualified wages with respect to each eligible em-
23 ployee of such employer for such taxable year. For pur-
24 poses of the preceding sentence, the amount of qualified

1 wages which may be taken into account with respect to
2 any individual shall not exceed \$6,000.

3 (b) DEFINITIONS.—For purposes of this section—

4 (1) ELIGIBLE EMPLOYER.—The term “eligible
5 employer” means any employer—

6 (A) which conducted an active trade or
7 business on August 28, 2005, in a Hurricane
8 Katrina disaster area, and

9 (B) with respect to whom the trade or
10 business described in subparagraph (A) is inop-
11 erable on any day after August 28, 2005, and
12 before January 1, 2006, as a result of damage
13 sustained in connection with Hurricane
14 Katrina.

15 (2) ELIGIBLE EMPLOYEE.—The term “eligible
16 employee” means with respect to an eligible em-
17 ployer—

18 (A) an employee whose principal place of
19 employment on August 28, 2005, with such eli-
20 gible employer was in a Hurricane Katrina dis-
21 aster area, or

22 (B) a Ready Reserve-National Guard em-
23 ployee of such eligible employer who is per-
24 forming qualified active duty and whose prin-
25 cipal place of employment immediately before

1 the date on which such employee began per-
2 forming such qualified active duty was in a
3 Hurricane Katrina disaster area.

4 (3) QUALIFIED WAGES.—The term “qualified
5 wages” means wages (as defined in section 51(c)(1)
6 of the Internal Revenue Code of 1986, but without
7 regard to section 3306(b)(2)(B) of such Code) paid
8 or incurred by an eligible employer with respect to
9 an eligible employee on any day after August 28,
10 2005, and before January 1, 2006, which occurs
11 during the period—

12 (A) beginning on the date on which the
13 trade or business described in paragraph (1)
14 first became inoperable at the principal place of
15 employment of the employee immediately before
16 Hurricane Katrina, and

17 (B) ending on the date on which such
18 trade or business has resumed significant oper-
19 ations at such principal place of employment.

20 Such term shall include wages paid without regard
21 to whether the employee performs no services, per-
22 forms services at a different place of employment
23 than such principal place of employment, or per-
24 forms services at such principal place of employment
25 before significant operations have resumed.

1 (4) READY RESERVE-NATIONAL GUARD EM-
2 PLOYEE.—The term “Ready Reserve-National
3 Guard employee” means an employee who is a mem-
4 ber of the Ready Reserve of a reserve component of
5 an Armed Force of the United States as described
6 in section 10142 and 10101 of title 10, United
7 States Code and who is performing qualified active
8 duty.

9 (5) QUALIFIED ACTIVE DUTY.—The term
10 “qualified active duty” means—

11 (A) active duty, other than the training
12 duty specified in section 10147 of title 10,
13 United States Code (relating to training re-
14 quirements for Ready Reserve), or section
15 502(a) of title 32, United States Code (relating
16 to required drills and field exercises for the Na-
17 tional Guard), in connection with which an em-
18 ployee is entitled to reemployment rights and
19 other benefits or to a leave of absence from em-
20 ployment under chapter 43 of title 38, United
21 States Code, and

22 (B) hospitalization incident to such duty.

23 (c) CERTAIN RULES TO APPLY.—For purposes of
24 this section, rules similar to the rules of sections 51(i)(1),

1 52, and 280C(a) of the Internal Revenue Code of 1986
2 of the shall apply.

3 (d) CREDIT TO BE PART OF GENERAL BUSINESS
4 CREDIT.—The credit allowed under this section shall be
5 added to the current year business credit under section
6 38(b) of the Internal Revenue Code of 1986 and shall be
7 treated as a credit allowed under subpart D of part IV
8 of subchapter A of chapter 1 of such Code.

9 **TITLE III—CHARITABLE GIVING**
10 **INCENTIVES**

11 **SEC. 301. TEMPORARY SUSPENSION OF LIMITATIONS ON**
12 **CHARITABLE CONTRIBUTIONS.**

13 (a) IN GENERAL.—Except as otherwise provided in
14 subsection (b), section 170(b) of the Internal Revenue
15 Code of 1986 shall not apply to qualified contributions and
16 such contributions shall not be taken into account for pur-
17 poses of subsections (b) and (d) of section 170 of the In-
18 ternal Revenue Code of 1986.

19 (b) TREATMENT OF EXCESS CONTRIBUTIONS.—For
20 purposes of section 170 of such Code—

21 (1) INDIVIDUALS.—In the case of an indi-
22 vidual—

23 (A) LIMITATION.—Any qualified contribu-
24 tion shall be allowed only to the extent that the
25 aggregate of such contributions does not exceed

1 the excess of the taxpayer's contribution base
2 (as defined in paragraph (1) of section 170(b)
3 of such Code) over the amount of all other
4 charitable contributions allowed under such
5 paragraph.

6 (B) CARRYOVER.—If the aggregate
7 amount of qualified contributions made in the
8 contribution year (within the meaning of section
9 170(d)(1) of such Code) exceeds the limitation
10 of subparagraph (A), such excess shall be added
11 to the excess described in the portion of sub-
12 paragraph (A) of such section which precedes
13 clause (i) thereof for purposes of applying such
14 section.

15 (2) CORPORATIONS.—In the case of a corpora-
16 tion—

17 (A) LIMITATION.—Any qualified contribu-
18 tion shall be allowed only to the extent that the
19 aggregate of such contributions does not exceed
20 the excess of the taxpayer's taxable income (as
21 determined under paragraph (2) of section
22 170(b) of such Code) over the amount of all
23 other charitable contributions allowed under
24 such paragraph.

1 (B) CARRYOVER.—Rules similar to the
2 rules of paragraph (1)(B) shall apply for pur-
3 poses of this paragraph.

4 (c) EXCEPTION TO OVERALL LIMITATION ON
5 ITEMIZED DEDUCTIONS.—So much of any deduction al-
6 lowed under section 170 of such Code as does not exceed
7 the qualified contributions made during the taxable year
8 shall not be treated as an itemized deduction for purposes
9 of section 68 of such Code.

10 (d) QUALIFIED CONTRIBUTIONS.—For purposes of
11 this section, the term “qualified contribution” means any
12 charitable contribution (as defined in section 170(c) of
13 such Code)—

14 (1) made during the period beginning on Au-
15 gust 28, 2005, and ending on December 31, 2005,
16 in cash to an organization described in section
17 170(b)(1)(A) of such Code (other than an organiza-
18 tion described in section 509(a)(3) of such Code),
19 and

20 (2) with respect to which the taxpayer has
21 elected the application of this section.

22 In the case of a partnership or S corporation, the election
23 under paragraph (2) shall be made separately by each
24 partner or shareholder. For purposes of subsection (b)(2),
25 a contribution shall be treated as a qualified contribution

1 only if the contribution is for relief efforts related to Hur-
2 ricane Katrina.

3 **SEC. 302. CHARITABLE DEDUCTION FOR CONTRIBUTIONS**
4 **OF FOOD INVENTORIES.**

5 (a) IN GENERAL.—Subsection (e) of section 170 (re-
6 lating to certain contributions of ordinary income and cap-
7 ital gain property) is amended by adding at the end the
8 following new paragraph:

9 “(7) APPLICATION OF PARAGRAPH (3) TO CER-
10 TAIN CONTRIBUTIONS OF FOOD INVENTORY.—For
11 purposes of this section—

12 “(A) EXTENSION TO INDIVIDUALS.—In the
13 case of a charitable contribution of apparently
14 wholesome food—

15 “(i) paragraph (3)(A) shall be applied
16 without regard to whether the contribution
17 is made by a C corporation, and

18 “(ii) in the case of a taxpayer other
19 than a C corporation, the aggregate
20 amount of such contributions for any tax-
21 able year which may be taken into account
22 under this section shall not exceed 10 per-
23 cent of the taxpayer’s net income for such
24 taxable year from all trades or businesses
25 from which such contributions were made

1 for such taxable year, computed without
2 regard to this section.

3 “(B) LIMITATION ON REDUCTION.—In the
4 case of a charitable contribution of apparently
5 wholesome food, notwithstanding paragraph
6 (3)(B), the amount of the reduction determined
7 under paragraph (1)(A) shall not exceed the
8 amount by which the fair market value of such
9 property exceeds twice the basis of such prop-
10 erty.

11 “(C) DETERMINATION OF BASIS.—If a
12 taxpayer—

13 “(i) does not account for inventories
14 under section 471, and

15 “(ii) is not required to capitalize indi-
16 rect costs under section 263A,

17 the taxpayer may elect, solely for purposes of
18 paragraph (3)(B), to treat the basis of any ap-
19 parently wholesome food as being equal to 25
20 percent of the fair market value of such food.

21 “(D) DETERMINATION OF FAIR MARKET
22 VALUE.—In the case of a charitable contribu-
23 tion of apparently wholesome food which is a
24 qualified contribution (within the meaning of
25 paragraph (3), as modified by subparagraph

1 (A) of this paragraph) and which, solely by rea-
2 son of internal standards of the taxpayer or
3 lack of market, cannot or will not be sold, the
4 fair market value of such contribution shall be
5 determined—

6 “(i) without regard to such internal
7 standards or such lack of market and

8 “(ii) by taking into account the price
9 at which the same or substantially the
10 same food items (as to both type and qual-
11 ity) are sold by the taxpayer at the time of
12 the contribution (or, if not so sold at such
13 time, in the recent past).

14 “(E) APPARENTLY WHOLESOME FOOD.—
15 For purposes of this paragraph, the term ‘ap-
16 parently wholesome food’ has the meaning given
17 such term by section 22(b)(2) of the Bill Emer-
18 son Good Samaritan Food Donation Act (42
19 U.S.C. 1791(b)(2)), as in effect on the date of
20 the enactment of this paragraph.

21 “(F) APPLICATION.—This paragraph shall
22 apply to contributions made after August 28,
23 2005, and before January 1, 2006.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to contributions made after August
3 28, 2005.

4 **SEC. 303. CHARITABLE DEDUCTION FOR CONTRIBUTIONS**
5 **OF BOOK INVENTORIES.**

6 (a) IN GENERAL.—Section 170(e)(3) (relating to cer-
7 tain contributions of ordinary income and capital gain
8 property) is amended by redesignating subparagraph (C)
9 as subparagraph (D) and by inserting after subparagraph
10 (B) the following new subparagraph:

11 “(C) SPECIAL RULE FOR CONTRIBUTIONS
12 OF BOOK INVENTORY FOR EDUCATIONAL PUR-
13 POSES.—

14 “(i) CONTRIBUTIONS OF BOOK INVEN-
15 TORY.—In determining whether a qualified
16 book contribution is a qualified contribu-
17 tion, subparagraph (A) shall be applied
18 without regard to whether—

19 “(I) the donee is an organization
20 described in the matter preceding
21 clause (i) of subparagraph (A), and

22 “(II) the property is to be used
23 by the donee solely for the care of the
24 ill, the needy, or infants.

1 “(ii) AMOUNT OF REDUCTION.—Not-
2 withstanding subparagraph (B), the
3 amount of the reduction determined under
4 paragraph (1)(A) shall not exceed the
5 amount by which the fair market value of
6 the contributed property (as determined by
7 the taxpayer using a bona fide published
8 market price for such book) exceeds twice
9 the basis of such property.

10 “(iii) QUALIFIED BOOK CONTRIBU-
11 TION.—For purposes of this paragraph,
12 the term ‘qualified book contribution’
13 means a charitable contribution of books,
14 but only if the requirements of clauses (iv)
15 and (v) are met.

16 “(iv) IDENTITY OF DONEE.—The re-
17 quirement of this clause is met if the con-
18 tribution is to an organization—

19 “(I) described in subclause (I) or
20 (III) of paragraph (6)(B)(i), or

21 “(II) described in section
22 501(c)(3) and exempt from tax under
23 section 501(a) (other than a private
24 foundation, as defined in section
25 509(a), which is not an operating

1 foundation, as defined in section
2 4942(j)(3)), which is organized pri-
3 marily to make books available to the
4 general public at no cost or to operate
5 a literacy program.

6 “(v) CERTIFICATION BY DONEE.—The
7 requirement of this clause is met if, in ad-
8 dition to the certifications required by sub-
9 paragraph (A) (as modified by this sub-
10 paragraph), the donee certifies in writing
11 that—

12 “(I) the books are suitable, in
13 terms of currency, content, and quan-
14 tity, for use in the donee’s educational
15 programs, and

16 “(II) the donee will use the books
17 in its educational programs.

18 “(vi) BONA FIDE PUBLISHED MARKET
19 PRICE.—For purposes of this subpara-
20 graph, the term ‘bona fide published mar-
21 ket price’ means, with respect to any book,
22 a price—

23 “(I) determined using the same
24 printing and edition,

1 “(II) determined in the usual
2 market in which such a book has been
3 customarily sold by the taxpayer, and

4 “(III) for which the taxpayer can
5 demonstrate to the satisfaction of the
6 Secretary that the taxpayer custom-
7 arily sold such books in arm’s length
8 transactions within 7 years preceding
9 the contribution of such a book.

10 “(vii) APPLICATION.—This subpara-
11 graph shall apply to contributions made
12 after August 28, 2005, and before January
13 1, 2006.”.

14 (b) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to contributions made after August
16 28, 2005.

17 **SEC. 304. ADDITIONAL EXEMPTION FOR HOUSING HURRI-
18 CANE KATRINA DISPLACED INDIVIDUALS.**

19 (a) IN GENERAL.—In the case of taxable years of a
20 natural person beginning in 2005 and 2006, for purposes
21 of the Internal Revenue Code of 1986, taxable income
22 shall be reduced by \$500 for each Hurricane Katrina dis-
23 placed individual of the taxpayer for the taxable year.

24 (b) LIMITATIONS.—

1 (1) DOLLAR LIMITATION.—The reduction under
2 subsection (a) shall not exceed \$2,000, reduced by
3 the amount of the reduction under this section for
4 all previous taxable years.

5 (2) INDIVIDUALS TAKEN INTO ACCOUNT ONLY
6 ONCE.—An individual shall not be taken into ac-
7 count under subsection (a) if such individual was
8 taken into account under such subsection by the tax-
9 payer in any prior taxable year.

10 (c) HURRICANE KATRINA DISPLACED INDIVIDUAL.—
11 For purposes of this subsection, the term “Hurricane
12 Katrina displaced individual” means, with respect to any
13 taxpayer for any taxable year, a natural person who—

14 (1) was (as of August 28, 2005) a resident of
15 any Hurricane Katrina disaster area,

16 (2) is displaced from the person’s residence lo-
17 cated in the area described in paragraph (1), and

18 (3) is provided housing free of charge by the
19 taxpayer in the principal residence of the taxpayer
20 for a period of 60 consecutive days which ends in
21 such taxable year.

22 Such term shall not include the spouse or any dependent
23 of the taxpayer.

1 **SEC. 305. INCREASE IN STANDARD MILEAGE RATE FOR**
2 **CHARITABLE USE OF PASSENGER AUTO-**
3 **MOBILE.**

4 Notwithstanding section 170(i) of the Internal Rev-
5 enue Code of 1986, for purposes of computing the deduc-
6 tion under section 170 of such Code for use of a vehicle
7 described in subsection (f)(12)(E)(i) for provision of relief
8 related to Hurricane Katrina during the period beginning
9 on August 29, 2005, and ending before January 1, 2007,
10 the standard mileage rate shall be 70 percent of the stand-
11 ard mileage rate in effect under section 162(a) of such
12 Code at the time of such use. Any increase under this sec-
13 tion shall be rounded to the next highest cent.

14 **SEC. 306. MILEAGE REIMBURSEMENTS TO CHARITABLE**
15 **VOLUNTEERS EXCLUDED FROM GROSS IN-**
16 **COME.**

17 (a) IN GENERAL.—Part III of subchapter B of chap-
18 ter 1 is amended by inserting after section 139A the fol-
19 lowing new section:

20 **“SEC. 139B. MILEAGE REIMBURSEMENTS TO CHARITABLE**
21 **VOLUNTEERS.**

22 “(a) IN GENERAL.—Gross income of an individual
23 does not include amounts received, from an organization
24 described in section 170(c), as reimbursement of operating
25 expenses with respect to use of a passenger automobile
26 for the benefit of such organization. The preceding sen-

1 tence shall apply only to the extent that the expenses
2 which are reimbursed would be deductible under this chap-
3 ter if section 274(d) were applied—

4 “(1) by using the standard business mileage
5 rate established under such section, and

6 “(2) as if the individual were an employee of an
7 organization not described in section 170(c).

8 “(b) APPLICATION TO VOLUNTEER SERVICES
9 ONLY.—Subsection (a) shall not apply with respect to any
10 expenses relating to the performance of services for com-
11 pensation.

12 “(c) NO DOUBLE BENEFIT.—A taxpayer may not
13 claim a deduction or credit under any other provision of
14 this title with respect to the expenses under subsection (a).

15 “(d) EXEMPTION FROM REPORTING REQUIRE-
16 MENTS.—Section 6041 shall not apply with respect to re-
17 imbursements excluded from income under subsection (a).

18 “(e) TERMINATION.—This section shall not apply to
19 use of a passenger automobile after December 31, 2006.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 for part III of subchapter B of chapter 1 is amended by
22 inserting after the item relating to section 139A the fol-
23 lowing new item:

“Sec. 139B. Mileage reimbursements to charitable volunteers”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall apply to the use of a passenger auto-

1 mobile after the date of the enactment of this Act, in tax-
2 able years ending after such date.

3 **TITLE IV—ADDITIONAL TAX**
4 **RELIEF PROVISIONS**

5 **SEC. 401. EXCLUSIONS OF CERTAIN CANCELLATIONS OF IN-**
6 **DEBTEDNESS FOR VICTIMS OF HURRICANE**
7 **KATRINA.**

8 (a) **IN GENERAL.**—For purposes of the Internal Rev-
9 enue Code of 1986, gross income shall not include any
10 amount which (but for this section) would be includible
11 in gross income by reason of the discharge (in whole or
12 in part) of indebtedness of a natural person by an applica-
13 ble entity (as defined in section 6050P(c)(1)) if the dis-
14 charge is by reason of the damage sustained by the tax-
15 payer in connection with Hurricane Katrina.

16 (b) **EXCEPTION.**—Subsection (a) shall not apply to
17 any indebtedness incurred in connection with a trade or
18 business.

19 (c) **DENIAL OF DOUBLE BENEFIT.**—The amount ex-
20 cluded from gross income under subsection (a) shall be
21 applied to reduce the tax attributes of the taxpayer as pro-
22 vided in section 108(b) of such Code.

23 (d) **EFFECTIVE DATE.**—This section shall apply to
24 discharges made on or after August 29, 2005, and before
25 January 1, 2007.

1 **SEC. 402. SUSPENSION OF CERTAIN LIMITATIONS ON PER-**
2 **SONAL CASUALTY LOSSES.**

3 Paragraphs (1) and (2)(A) of section 165(h) of the
4 Internal Revenue Code of 1986 shall not apply to losses
5 described in section 165(c)(3) of such Code which are at-
6 tributable to Hurricane Katrina. In the case of any other
7 losses, section 165(h)(2)(A) of such Code shall be applied
8 without regard to the losses referred to in the preceding
9 sentence.

10 **SEC. 403. REQUIRED EXERCISE OF AUTHORITY UNDER SEC-**
11 **TION 7508A FOR TAX RELIEF FOR VICTIMS OF**
12 **HURRICANE KATRINA.**

13 (a) **AUTHORITY INCLUDES SUSPENSION OF PAY-**
14 **MENT OF EMPLOYMENT AND EXCISE TAXES.**—Subpara-
15 graphs (A) and (B) of section 7508(a)(1) are amended
16 to read as follows:

17 “(A) Filing any return of income, estate,
18 gift, employment, or excise tax;

19 “(B) Payment of any income, estate, gift,
20 employment, or excise tax or any installment
21 thereof or of any other liability to the United
22 States in respect thereof;”.

23 (b) **APPLICATION TO VICTIMS OF HURRICANE**
24 **KATRINA.**—In the case of any taxpayer determined by the
25 Secretary of the Treasury to be affected by the Presi-
26 dentially declared disaster relating to Hurricane Katrina,

1 any relief provided by the Secretary of the Treasury under
2 section 7508A of the Internal Revenue Code of 1986 shall
3 be for a period ending not earlier than February 28, 2006,
4 and shall be treated as applying to the filing of returns
5 relating to, and the payment of, employment and excise
6 taxes.

7 (c) EFFECTIVE DATE.—The amendment made by
8 subsection (a) shall apply for any period for performing
9 an act which has not expired before August 29, 2005.

10 **SEC. 404. SPECIAL MORTGAGE FINANCING RULES FOR**
11 **RESIDENCES LOCATED IN HURRICANE**
12 **KATRINA DISASTER AREA.**

13 In the case of a residence located in a Hurricane
14 Katrina disaster area which replaces a residence destroyed
15 by Hurricane Katrina or which is being repaired for dam-
16 age caused by Hurricane Katrina, section 143 of the In-
17 ternal Revenue Code of 1986 shall be applied with the fol-
18 lowing modifications to financing provided with respect to
19 such residence within 3 years after the date of the disaster
20 declaration:

21 (1) Subsections (d) of such section 143 shall be
22 applied as if such residence were a targeted area
23 residence.

24 (2) The limitation under subsection (k)(4) of
25 such section 143 shall be increased (but not above

1 \$150,000) to the extent the qualified home-improve-
2 ment loan is for the repair of damage caused by
3 Hurricane Katrina.

4 This section shall apply only with respect to bonds issued
5 after August 28, 2005, and before August 29, 2008.

6 **SEC. 405. EXTENSION OF REPLACEMENT PERIOD FOR NON-**
7 **RECOGNITION OF GAIN FOR PROPERTY LO-**
8 **CATED IN HURRICANE KATRINA DISASTER**
9 **AREA.**

10 Notwithstanding subsections (g) and (h) of section
11 1033 of the Internal Revenue Code of 1986, clause (i) of
12 section 1033(a)(2)(B) of such Code shall be applied by
13 substituting “5 years” for “2 years” with respect to prop-
14 erty which is compulsorily or involuntarily converted as
15 a result of Hurricane Katrina in a Hurricane Katrina dis-
16 aster area, but only if substantially all of the use of the
17 replacement property is in such area.

18 **SEC. 406. SPECIAL RULE FOR DETERMINING EARNED IN-**
19 **COME.**

20 (a) IN GENERAL.—In the case of a qualified indi-
21 vidual, if the earned income of the taxpayer for the taxable
22 year of such taxpayer which includes August 28, 2005,
23 is less than the earned income which is attributable to the
24 taxpayer for the preceding taxable year, the credits al-
25 lowed under sections 24(d) and 32 of the Internal Revenue

1 Code of 1986 may, at the election of the taxpayer, be de-
2 termined by substituting—

3 (1) such earned income for the preceding tax-
4 able year, for

5 (2) such earned income for the taxable year
6 which includes August 28, 2005.

7 (b) QUALIFIED INDIVIDUAL.—For purposes of this
8 section, the term “qualified individual” means any indi-
9 vidual whose principal place of abode was (as of August
10 28, 2005) in any Hurricane Katrina disaster area.

11 (c) EARNED INCOME.—For purposes of this section,
12 the term “earned income” has the meaning given such
13 term under section 32(c) of such Code.

14 (d) SPECIAL RULES.—

15 (1) APPLICATION TO JOINT RETURNS.—For
16 purpose of subsection (a), in the case of a joint re-
17 turn for a taxable year which includes August 28,
18 2005,

19 (A) such subsection shall apply if either
20 spouse is a qualified individual,

21 (B) the earned income which is attrib-
22 utable to the taxpayer for the preceding taxable
23 year shall be the sum of the earned income
24 which is attributable to each spouse for such
25 preceding taxable year, and

1 (C) the substitution described in such sub-
2 section shall apply only with respect to earned
3 income which is attributable to a spouse who is
4 a qualified individual.

5 (2) UNIFORM APPLICATION OF ELECTION.—
6 Any election made under subsection (a) shall apply
7 with respect to both section 24(d) and section 32 of
8 such Code.

9 (3) ERRORS TREATED AS MATHEMATICAL
10 ERROR.—For purposes of section 6213 of such
11 Code, an incorrect use on a return of earned income
12 pursuant to subsection (a) shall be treated as a
13 mathematical or clerical error.

14 (4) NO EFFECT ON DETERMINATION OF GROSS
15 INCOME.—For purposes of the Internal Revenue
16 Code of 1986, gross income shall be determined
17 without regard to any substitution under subsection
18 (a).

19 **SEC. 407. SECRETARIAL AUTHORITY TO MAKE ADJUST-**
20 **MENTS REGARDING TAXPAYER AND DEPEND-**
21 **ENCY STATUS.**

22 With respect to taxable years beginning in 2005 or
23 2006, the Secretary of the Treasury or the Secretary's del-
24 egate may make such adjustments in the application of
25 the internal revenue laws as may be necessary to ensure

1 that taxpayers do not lose any deduction or credit or expe-
2 rience a change of filing status by reason of temporary
3 relocations after Hurricane Katrina or by reason of the
4 receipt of hurricane relief. Any adjustments made under
5 the preceding sentence shall ensure that an individual is
6 not taken into account by more than one taxpayer with
7 respect to the same tax benefit.

8 **TITLE V—EMERGENCY**
9 **REQUIREMENT**

10 **SEC. 501. EMERGENCY REQUIREMENT.**

11 Any provision of this Act causing an effect on re-
12 ceipts, budget authority, or outlays is designated as an
13 emergency requirement pursuant to section 402 of H.
14 Con. Res. 95 (109th Congress).