

***In the Senate of the United States,***

*September 15, 2005.*

*Resolved*, That the bill from the House of Representatives (H.R. 3768) entitled “An Act to provide emergency tax relief for persons affected by Hurricane Katrina.”, do pass with the following

**AMENDMENT:**

Strike all after the enacting clause and insert the following:

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

2 ***TABLE OF CONTENTS.***

3 (a) *SHORT TITLE.*—*This Act may be cited as the*

4 *“Hurricane Katrina Tax Relief Act of 2005”.*

1           (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*  
 2 *expressly provided, whenever in this Act an amendment or*  
 3 *repeal is expressed in terms of an amendment to, or repeal*  
 4 *of, a section or other provision, the reference shall be consid-*  
 5 *ered to be made to a section or other provision of the Inter-*  
 6 *nal Revenue Code of 1986.*

7           (c) *TABLE OF CONTENTS.*—*The table of contents for*  
 8 *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 federally  
 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 survivors.*

*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 individ-*  
*uals.*

*Sec. 305. Increase in standard mileage rate for charitable use of passenger auto-*  
*mobile.*

*Sec. 306. Mileage reimbursements to charitable volunteers excluded from gross in-*  
*come.*

*TITLE IV—ADDITIONAL TAX RELIEF PROVISIONS*

*Sec. 401. Exclusions of certain cancellations of indebtedness for victims of Hurri-*  
*cane Katrina.*

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

*Sec. 403. Required exercise of authority under section 7508A for tax relief for vic-*  
*tims 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 property located in Hurricane Katrina disaster area.*

*Sec. 406. Special rule for determining earned income.*

*Sec. 407. Secretarial authority to make adjustments regarding taxpayer and dependency 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 Katrina*  
3 *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 Dis-*  
7 *aster Relief and Emergency Assistance Act in connec-*  
8 *tion 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 Gov-*  
13 *ernment under such Act, and*

14           (B) *in the case of sections 201 and 202, is*  
15 *determined by the President before such date to*  
16 *warrant individual assistance, or individual and*  
17 *public assistance, from the Federal Government*  
18 *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) (re-*  
 9 *lating to 10-percent additional tax on early distributions*  
 10 *from qualified retirement plans) is amended by adding at*  
 11 *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 in-*  
5           *dividual is a beneficiary and to which*  
6           *a rollover contribution of such dis-*  
7           *tribution could be made under section*  
8           *402(c), 403(a)(4), 403(b)(8), 408(d)(3),*  
9           *or 457(e)(16), as the case may be.*

10           “(II) *TREATMENT OF REPAY-*  
11           *MENTS FOR DISTRIBUTIONS FROM ELI-*  
12           *GIBLE RETIREMENT PLANS OTHER*  
13           *THAN IRAS.—For purposes of this title,*  
14           *if a contribution is made pursuant to*  
15           *subclause (I) with respect to a quali-*  
16           *fied disaster-relief distribution from an*  
17           *eligible retirement plan (as so defined)*  
18           *other than an individual retirement*  
19           *plan, then the taxpayer shall, to the ex-*  
20           *tent of the amount of the contribution,*  
21           *be treated as having received the quali-*  
22           *fied disaster-relief distribution in an*  
23           *eligible rollover distribution (as defined*  
24           *in section 402(c)(4)) and as having*  
25           *transferred the amount to the eligible*

1                   *retirement plan in a direct trustee to*  
2                   *trustee transfer within 60 days of the*  
3                   *distribution.*

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

19                  “(IV) *APPLICATION TO GOVERN-*  
20                  *MENTAL SECTION 457 PLANS.—In deter-*  
21                  *mining whether any distribution is a*  
22                  *qualified disaster-relief distribution for*  
23                  *purposes of this clause, an eligible de-*  
24                  *ferred compensation plan (as defined*  
25                  *in section 457(b)) maintained by an*

1            *employer described in section*  
2            *457(e)(1)(A) shall be treated as a*  
3            *qualified retirement plan.*

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

9            *“(I) to an individual who has sus-*  
10           *tained a loss as a result of a major dis-*  
11           *aster declared under section 401 of the*  
12           *Robert T. Stafford Disaster Relief and*  
13           *Emergency Assistance Act and who has*  
14           *a principal place of abode immediately*  
15           *before the declaration in a qualified*  
16           *disaster area, and*

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

20           “(iv) *DOLLAR LIMITATION.—*

21           *“(I) IN GENERAL.—The term*  
22           *‘qualified disaster-relief distribution’*  
23           *shall not include any distributions for*  
24           *any taxable year to the extent the ag-*  
25           *gregate amount of such distributions*

1           *exceeds \$100,000, reduced by the aggregate*  
2           *amounts treated as qualified disaster-relief*  
3           *distributions with respect to*  
4           *such individual for all prior taxable*  
5           *years.*

6           “(II) *TREATMENT OF PLAN DISTRIBUTIONS.*—*If a distribution to an*  
7           *individual with respect to any such*  
8           *major disaster would (without regard*  
9           *to subclause (I)) be a qualified disaster-relief*  
10           *distribution, a plan shall*  
11           *not be treated as violating any require-*  
12           *ment of this title merely because it*  
13           *treats such distribution as a qualified*  
14           *disaster-relief distribution, unless the*  
15           *aggregate amount of such distributions*  
16           *from all plans maintained by the em-*  
17           *ployer (and any member of any con-*  
18           *trolled group which includes the em-*  
19           *ployer) to such individual exceeds*  
20           *\$100,000.*

21           “(v) *QUALIFIED DISASTER AREA.*—*For*  
22           *purposes of this subparagraph, the term*  
23           *‘qualified disaster area’ means an area—*  
24

1                   “(I) with respect to which a major  
2                   disaster has been declared by the Presi-  
3                   dent before September 14, 2005, under  
4                   section 401 of the Robert T. Stafford  
5                   Disaster Relief and Emergency Assist-  
6                   ance Act in connection with Hurricane  
7                   Katrina, and

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

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

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

22                  (c) *CONFORMING AMENDMENTS.*—

23                   (1) *Section 401(k)(2)(B)(i) is amended by strik-*  
24 *ing “or” at the end of subclause (III), by striking*  
25 *“and” at the end of subclause (IV) and inserting*

1       *“or”, and by inserting after subclause (IV) the fol-*  
2       *lowing new subclause:*

3                       *“(V) the date on which a period*  
4                       *referred to in section*  
5                       *72(t)(2)(G)(iii)(II) begins (but only to*  
6                       *the extent provided in section*  
7                       *72(t)(2)(G)), and”.*

8               (2) *Section 403(b)(7)(A)(ii) is amended by in-*  
9       *serting “sustains a loss as a result of a major disaster*  
10       *declared under section 401 of the Robert T. Stafford*  
11       *Disaster Relief and Emergency Assistance Act by rea-*  
12       *son of Hurricane Katrina (but only to the extent pro-*  
13       *vided in section 72(t)(2)(G)),” before “or”.*

14               (3) *Section 403(b)(11) is amended by striking*  
15       *“or” at the end of subparagraph (A), by striking the*  
16       *period at the end of subparagraph (B) and inserting*  
17       *“, or”, and by inserting after subparagraph (B) the*  
18       *following new subparagraph:*

19                       *“(C) for distributions to which section*  
20                       *72(t)(2)(G) applies.”.*

21               (4) *Section 457(d)(1)(A) is amended by striking*  
22       *“or” at the end of clause (ii), by adding “or” at the*  
23       *end of clause (iii), and by adding at the end the fol-*  
24       *lowing new clause:*

1           “(iv) in the case of an eligible deferred  
2           compensation plan established and main-  
3           tained by an employer described in sub-  
4           section (e)(1)(A), when the participant sus-  
5           tains a loss as a result of a major disaster  
6           declared under section 401 of the Robert T.  
7           Stafford Disaster Relief and Emergency As-  
8           sistance Act by reason of Hurricane  
9           Katrina (but only to the extent provided in  
10          section 72(t)(2)(G)),”.

11          (d) *EFFECTIVE DATE.*—The amendments made by this  
12 section shall apply to distributions received after August  
13 28, 2005.

14 **SEC. 102. INCOME AVERAGING FOR DISASTER-RELIEF DIS-**  
15                           **TRIBUTIONS RELATED TO HURRICANE**  
16                           **KATRINA.**

17          (a) *IN GENERAL.*—In the case of any qualified dis-  
18 aster-relief distribution (within the meaning of section  
19 72(t)(2)(G) of the Internal Revenue Code of 1986) from a  
20 qualified retirement plan (as defined in section 4974(c) of  
21 such Code) to a qualified individual, unless the taxpayer  
22 elects not to have this section apply for any taxable year,  
23 any amount required to be included in gross income for  
24 such taxable year shall be so included ratably over the 3-  
25 taxable year period beginning with such taxable year.

1       **(b) SPECIAL RULES.**—

2               **(1) APPLICATION TO GOVERNMENTAL SECTION**  
3       **457 PLANS.**—*In determining whether any distribution*  
4       *is a qualified disaster-relief distribution (as so de-*  
5       *defined) for purposes of this section, an eligible deferred*  
6       *compensation plan (as defined in section 457(b) of*  
7       *such Code) maintained by an employer described in*  
8       *section 457(e)(1)(A) of such Code shall be treated as*  
9       *a qualified retirement plan (as so defined)*

10              **(2) CERTAIN RULES TO APPLY.**—*Rules similar to*  
11       *the rules of subparagraph (E) of section 408A(d)(3)*  
12       *of such Code shall apply for purposes of this section.*

13              **(c) QUALIFIED INDIVIDUAL.**—*For purposes of this sec-*  
14       *tion, the term “qualified individual” means an individual*  
15       *who has sustained a loss as a result of the major disaster*  
16       *declared under section 401 of the Robert T. Stafford Dis-*  
17       *aster Relief and Emergency Assistance Act (42 U.S.C.*  
18       *5170) in connection with Hurricane Katrina and who has*  
19       *a principal place of abode immediately before the declara-*  
20       *tion in a Hurricane Katrina disaster area.*

21       **SEC. 103. RECONTRIBUTIONS OF WITHDRAWALS FOR HOME**  
22                               **PURCHASES CANCELLED DUE TO HURRICANE**  
23                               **KATRINA.**

24              **(a) RECONTRIBUTIONS.**—

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

13           (2) *TREATMENT OF REPAYMENTS.*—

14           (A) *TREATMENT OF REPAYMENTS FOR DIS-*  
15 *TRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS*  
16 *OTHER THAN IRAS.*—For purposes of the Inter-  
17 nal Revenue Code of 1986, if a contribution is  
18 made pursuant to paragraph (1) with respect to  
19 a qualified distribution from an eligible retire-  
20 ment plan (as so defined) other than an indi-  
21 vidual retirement plan (as defined in section  
22 7701(a)(37) of such Code), then the taxpayer  
23 shall, to the extent of the amount of the contribu-  
24 tion, be treated as having received the qualified  
25 distribution in an eligible rollover distribution

1           *(as defined in section 402(c)(4) of such Code)*  
2           *and as having transferred the amount to the eli-*  
3           *gible retirement plan in a direct trustee to trust-*  
4           *ee transfer within 60 days of the distribution.*

5           *(B) TREATMENT OF REPAYMENTS FOR DIS-*  
6           *TRIBUTIONS FROM IRAS.—For purposes of the*  
7           *Internal Revenue Code of 1986, if a contribution*  
8           *is made pursuant to paragraph (1) with respect*  
9           *to a qualified distribution from an individual*  
10           *retirement plan (as so defined), then, to the ex-*  
11           *tent of the amount of the contribution, the quali-*  
12           *fied distribution shall be treated as a distribu-*  
13           *tion described in section 408(d)(3) of such Code*  
14           *and as having been transferred to the eligible re-*  
15           *irement plan (as so defined) in a direct trustee*  
16           *to trustee transfer within 60 days of the distribu-*  
17           *tion.*

18           *(b) DEFINITIONS.—For purposes of this section—*

19           *(1) QUALIFIED DISTRIBUTION.—The term*  
20           *“qualified distribution” means any distribution—*

21           *(A) described in section 401(k)(2)(B)(i)(IV),*  
22           *403(b)(7)(A)(ii) (but only to the extent such dis-*  
23           *tribution relates to financial hardship),*  
24           *403(b)(11)(B), or 72(t)(2)(F) of the Internal*  
25           *Revenue Code of 1986,*

1           (B) received after February 28, 2005, and  
2           before August 29, 2005, and

3           (C) which was to be used to purchase or  
4           construct a principal residence in a Hurricane  
5           Katrina disaster area, but which was not so pur-  
6           chased or constructed.

7           (2) *DISASTER DECLARATION DATE.*—The term  
8           “disaster declaration date” means the date on which  
9           the President designated the area as a Hurricane  
10          Katrina disaster area.

11 **SEC. 104. LOANS FROM QUALIFIED PLANS TO VICTIMS OF**  
12 **HURRICANE KATRINA.**

13          (a) *INCREASE IN LIMIT ON LOANS NOT TREATED AS*  
14 *DISTRIBUTIONS.*—In the case of any loan from a qualified  
15 employer plan (as defined under section 72(p)(4) of the In-  
16 ternal Revenue Code of 1986) to a qualified individual (as  
17 defined in section 102(c)) made after the date of enactment  
18 of this Act and before the date which is 1 year after the  
19 disaster declaration date (as defined in section 103(b)(2))—

20           (1) clause (i) of section 72(p)(2)(A) of such Code  
21           shall be applied by substituting “\$100,000” for  
22           “\$50,000”, and

23           (2) clause (ii) of such section shall be applied by  
24           substituting “the present value of the nonforfeitable  
25           accrued benefit of the employee under the plan” for

1       *“one-half of the present value of the nonforfeitable ac-*  
2       *crued benefit of the employee under the plan”.*

3       **(b) DELAY OF REPAYMENT.**—*In the case of a qualified*  
4       *individual (as defined in section 102(c)) with an out-*  
5       *standing loan on or after August 26, 2005, from a qualified*  
6       *employer plan (as defined in section 72(p)(4) of the Inter-*  
7       *nal Revenue Code of 1986)—*

8               *(1) if the due date pursuant to subparagraph (B)*  
9               *or (C) of section 72(p)(2) of such Code for any repay-*  
10              *ment with respect to such loan occurs during the pe-*  
11              *riod beginning after August 29, 2005, and ending be-*  
12              *fore August 30, 2006, such due date shall be delayed*  
13              *for 1 year,*

14              *(2) any subsequent repayments with respect to*  
15              *any such loan shall be appropriately adjusted to re-*  
16              *fect the delay in the due date under paragraph (1)*  
17              *and any interest accruing during such delay, and*

18              *(3) in determining the 5-year period and the*  
19              *term of a loan under subparagraph (B) or (C) of sec-*  
20              *tion 72(p)(2) of such Code, such period shall be dis-*  
21              *regarded.*

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

23              **(a) IN GENERAL.**—*If this section applies to any plan*  
24       *or contract amendment such plan or contract shall be treat-*

1 *ed as being operated in accordance with the terms of the*  
2 *plan during the period described in subsection (b)(2)(A).*

3 *(b) AMENDMENTS TO WHICH SECTION APPLIES.—*

4 *(1) IN GENERAL.—This section shall apply to*  
5 *any amendment to any plan or annuity contract*  
6 *which is made—*

7 *(A) pursuant to any amendment made by*  
8 *this title, or pursuant to any regulation issued*  
9 *by the Secretary of the Treasury or the Secretary*  
10 *of Labor under this title, and*

11 *(B) on or before the last day of the first*  
12 *plan year beginning on or after January 1,*  
13 *2007, or such later date as the Secretary of the*  
14 *Treasury may prescribe.*

15 *In the case of a governmental plan (as defined in sec-*  
16 *tion 414(d) of the Internal Revenue Code of 1986),*  
17 *subparagraph (B) shall be applied by substituting the*  
18 *date which is 2 years after the date otherwise applied*  
19 *under subparagraph (B).*

20 *(2) CONDITIONS.—This section shall not apply to*  
21 *any amendment unless—*

22 *(A) during the period—*

23 *(i) beginning on the date the legislative*  
24 *or regulatory amendment described in para-*  
25 *graph (1)(A) takes effect (or in the case of*

1           a plan or contract amendment not required  
 2           by such legislative or regulatory amend-  
 3           ment, the effective date specified by the  
 4           plan), and

5                   (ii) ending on the date described in  
 6                   paragraph (1)(B) (or, if earlier, the date the  
 7                   plan or contract amendment is adopted),  
 8           the plan or contract is operated as if such plan  
 9           or contract amendment were in effect; and

10                   (B) such plan or contract amendment ap-  
 11                   plies retroactively for such period.

## 12   **TITLE II—EMPLOYMENT RELIEF**

### 13   **SEC. 201. WORK OPPORTUNITY TAX CREDIT FOR HURRI-** 14                   **CANE KATRINA EMPLOYEE SURVIVORS.**

15           (a) *IN GENERAL.*—For purposes of section 51 of the  
 16   Internal Revenue Code of 1986, a Hurricane Katrina em-  
 17   ployee survivor shall be treated as a member of a targeted  
 18   group.

19           (b) *HURRICANE KATRINA EMPLOYEE SURVIVOR.*—For  
 20   purposes of this section, the term “Hurricane Katrina em-  
 21   ployee survivor” means any individual who is certified as  
 22   an individual who—

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

1           (2) became unemployed as a result of Hurricane  
2     *Katrina*.

3           (c) *SPECIAL RULES FOR DETERMINING CREDIT*.—For  
4     purposes of applying subpart F of part IV of subchapter  
5     A of chapter 1 of such Code to wages paid or incurred to  
6     any Hurricane Katrina employee survivor—

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

8           (2) notwithstanding section 51(d)(12) of such  
9     Code, the certification under subsection (b) shall be  
10    made in such manner and at such time as determined  
11    by the Secretary of the Treasury, except that the cer-  
12    tification shall be made by a person other than the  
13    such employee survivor or the employer (within the  
14    meaning of section 51 of such Code), and

15          (3) section 51(i)(2) of such Code shall not apply  
16    with respect to the first hire of such employee sur-  
17    vivor, unless such employee survivor was an employee  
18    of the employer on August 28, 2005.

19          (d) *APPLICATION OF SECTION*.—This section shall  
20    apply to wages (within the meaning on section 51(c) of such  
21    Code) paid or incurred to any individual who begins  
22    work—

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

1           (2) *in the case of an individual who is being*  
2           *hired for a position the principal place of employ-*  
3           *ment of which is located in a Hurricane Katrina dis-*  
4           *aster area, for any employer during the 2-year period*  
5           *beginning on such date.*

6   **SEC. 202. EMPLOYEE RETENTION CREDIT FOR EMPLOYERS**  
7                           **AFFECTED BY HURRICANE KATRINA.**

8           (a) *IN GENERAL.*—*In the case of an eligible employer,*  
9           *there shall be allowed as a credit against the tax imposed*  
10           *by chapter 1 of the Internal Revenue Code of 1986 for the*  
11           *taxable year an amount equal to 40 percent of the qualified*  
12           *wages with respect to each eligible employee of such em-*  
13           *ployer for such taxable year. For purposes of the preceding*  
14           *sentence, the amount of qualified wages which may be taken*  
15           *into account with respect to any individual shall not exceed*  
16           *\$6,000.*

17           (b) *DEFINITIONS.*—*For purposes of this section—*

18                   (1) *ELIGIBLE EMPLOYER.*—*The term “eligible*  
19                   *employer” means any employer—*

20                           (A) *which conducted an active trade or*  
21                           *business on August 28, 2005, in a Hurricane*  
22                           *Katrina disaster area, and*

23                           (B) *with respect to whom the trade or busi-*  
24                           *ness described in subparagraph (A) is inoperable*  
25                           *on any day after August 28, 2005, and before*

1           *January 1, 2006, as a result of damage sus-*  
2           *tained in connection with Hurricane Katrina.*

3           (2) *ELIGIBLE EMPLOYEE.*—*The term “eligible*  
4           *employee” means with respect to an eligible*  
5           *employer—*

6                     (A) *an employee whose principal place of*  
7                     *employment on August 28, 2005, with such eligi-*  
8                     *ble employer was in a Hurricane Katrina dis-*  
9                     *aster area, or*

10                    (B) *a Ready Reserve-National Guard em-*  
11                    *ployee of such eligible employer who is per-*  
12                    *forming qualified active duty and whose prin-*  
13                    *cipal place of employment immediately before*  
14                    *the date on which such employee began per-*  
15                    *forming such qualified active duty was in a*  
16                    *Hurricane Katrina disaster area.*

17           (3) *QUALIFIED WAGES.*—*The term “qualified*  
18           *wages” means wages (as defined in section 51(c)(1) of*  
19           *the Internal Revenue Code of 1986, but without re-*  
20           *gard to section 3306(b)(2)(B) of such Code) paid or*  
21           *incurred by an eligible employer with respect to an*  
22           *eligible employee on any day after August 28, 2005,*  
23           *and before January 1, 2006, which occurs during the*  
24           *period—*

1           (A) beginning on the date on which the  
2           trade or business described in paragraph (1)  
3           first became inoperable at the principal place of  
4           employment of the employee immediately before  
5           Hurricane Katrina, and

6           (B) ending on the date on which such trade  
7           or business has resumed significant operations at  
8           such principal place of employment.

9           Such term shall include wages paid without regard to  
10          whether the employee performs no services, performs  
11          services at a different place of employment than such  
12          principal place of employment, or performs services  
13          at such principal place of employment before signifi-  
14          cant operations have resumed.

15          (4) *READY RESERVE-NATIONAL GUARD EM-*  
16          *PLOYEE.*—The term “Ready Reserve-National Guard  
17          employee” means an employee who is a member of the  
18          Ready Reserve of a reserve component of an Armed  
19          Force of the United States as described in section  
20          10142 and 10101 of title 10, United States Code and  
21          who is performing qualified active duty.

22          (5) *QUALIFIED ACTIVE DUTY.*—The term “quali-  
23          fied active duty” means—

24                 (A) active duty, other than the training  
25                 duty specified in section 10147 of title 10,

1           *United States Code (relating to training require-*  
2           *ments for Ready Reserve), or section 502(a) of*  
3           *title 32, United States Code (relating to required*  
4           *drills and field exercises for the National*  
5           *Guard), in connection with which an employee is*  
6           *entitled to reemployment rights and other bene-*  
7           *fits or to a leave of absence from employment*  
8           *under chapter 43 of title 38, United States Code,*  
9           *and*

10                   *(B) hospitalization incident to such duty.*

11           *(c) CERTAIN RULES TO APPLY.—For purposes of this*  
12           *section, rules similar to the rules of sections 51(i)(1), 52,*  
13           *and 280C(a) of the Internal Revenue Code of 1986 of the*  
14           *shall apply.*

15           *(d) CREDIT TO BE PART OF GENERAL BUSINESS*  
16           *CREDIT.—The credit allowed under this section shall be*  
17           *added to the current year business credit under section*  
18           *38(b) of the Internal Revenue Code of 1986 and shall be*  
19           *treated as a credit allowed under subpart D of part IV of*  
20           *subchapter A of chapter 1 of such Code.*

1     **TITLE III—CHARITABLE GIVING**  
2                     **INCENTIVES**

3     **SEC. 301. TEMPORARY SUSPENSION OF LIMITATIONS ON**  
4                     **CHARITABLE CONTRIBUTIONS.**

5             (a) *IN GENERAL.*—*Except as otherwise provided in*  
6 *subsection (b), section 170(b) of the Internal Revenue Code*  
7 *of 1986 shall not apply to qualified contributions and such*  
8 *contributions shall not be taken into account for purposes*  
9 *of subsections (b) and (d) of section 170 of the Internal Rev-*  
10 *enue Code of 1986.*

11            (b) *TREATMENT OF EXCESS CONTRIBUTIONS.*—*For*  
12 *purposes of section 170 of such Code—*

13                (1) *INDIVIDUALS.*—*In the case of an*  
14 *individual—*

15                    (A) *LIMITATION.*—*Any qualified contribu-*  
16 *tion shall be allowed only to the extent that the*  
17 *aggregate of such contributions does not exceed*  
18 *the excess of the taxpayer's contribution base (as*  
19 *defined in paragraph (1) of section 170(b) of*  
20 *such Code) over the amount of all other chari-*  
21 *table contributions allowed under such para-*  
22 *graph.*

23                    (B) *CARRYOVER.*—*If the aggregate amount*  
24 *of qualified contributions made in the contribu-*  
25 *tion year (within the meaning of section*

1           170(d)(1) of such Code) exceeds the limitation of  
2           subparagraph (A), such excess shall be added to  
3           the excess described in the portion of subpara-  
4           graph (A) of such section which precedes clause  
5           (i) thereof for purposes of applying such section.

6           (2) CORPORATIONS.—In the case of a  
7           corporation—

8                   (A) LIMITATION.—Any qualified contribu-  
9                   tion shall be allowed only to the extent that the  
10                   aggregate of such contributions does not exceed  
11                   the excess of the taxpayer's taxable income (as  
12                   determined under paragraph (2) of section  
13                   170(b) of such Code) over the amount of all other  
14                   charitable contributions allowed under such  
15                   paragraph.

16                   (B) CARRYOVER.—Rules similar to the rules  
17                   of paragraph (1)(B) shall apply for purposes of  
18                   this paragraph.

19           (c) EXCEPTION TO OVERALL LIMITATION ON ITEMIZED  
20           DEDUCTIONS.—So much of any deduction allowed under  
21           section 170 of such Code as does not exceed the qualified  
22           contributions made during the taxable year shall not be  
23           treated as an itemized deduction for purposes of section 68  
24           of such Code.

1           (d) *QUALIFIED CONTRIBUTIONS.*—For purposes of this  
2 section, the term “qualified contribution” means any chari-  
3 table contribution (as defined in section 170(c) of such  
4 Code)—

5           (1) *made during the period beginning on August*  
6 *28, 2005, and ending on December 31, 2005, in cash*  
7 *to an organization described in section 170(b)(1)(A)*  
8 *of such Code (other than an organization described in*  
9 *section 509(a)(3) of such Code), and*

10           (2) *with respect to which the taxpayer has elect-*  
11 *ed the application of this section.*

12 *In the case of a partnership or S corporation, the election*  
13 *under paragraph (2) shall be made separately by each part-*  
14 *ner or shareholder. For purposes of subsection (b)(2), a con-*  
15 *tribution shall be treated as a qualified contribution only*  
16 *if the contribution is for relief efforts related to Hurricane*  
17 *Katrina.*

18 **SEC. 302. CHARITABLE DEDUCTION FOR CONTRIBUTIONS**  
19 **OF FOOD INVENTORIES.**

20           (a) *IN GENERAL.*—Subsection (e) of section 170 (relat-  
21 *ing to certain contributions of ordinary income and capital*  
22 *gain property) is amended by adding at the end the fol-*  
23 *lowing new paragraph:*

1           “(7) *APPLICATION OF PARAGRAPH (3) TO CER-*  
2           *TAIN CONTRIBUTIONS OF FOOD INVENTORY.—For pur-*  
3           *poses of this section—*

4                   “(A) *EXTENSION TO INDIVIDUALS.—In the*  
5           *case of a charitable contribution of apparently*  
6           *wholesome food—*

7                           “(i) *paragraph (3)(A) shall be applied*  
8                           *without regard to whether the contribution*  
9                           *is made by a C corporation, and*

10                           “(ii) *in the case of a taxpayer other*  
11                           *than a C corporation, the aggregate amount*  
12                           *of such contributions for any taxable year*  
13                           *which may be taken into account under this*  
14                           *section shall not exceed 10 percent of the*  
15                           *taxpayer’s net income for such taxable year*  
16                           *from all trades or businesses from which*  
17                           *such contributions were made for such tax-*  
18                           *able year, computed without regard to this*  
19                           *section.*

20                   “(B) *LIMITATION ON REDUCTION.—In the*  
21           *case of a charitable contribution of apparently*  
22           *wholesome food, notwithstanding paragraph*  
23           *(3)(B), the amount of the reduction determined*  
24           *under paragraph (1)(A) shall not exceed the*

1           *amount by which the fair market value of such*  
2           *property exceeds twice the basis of such property.*

3           “(C) *DETERMINATION OF BASIS.—If a*  
4           *taxpayer—*

5                     *“(i) does not account for inventories*  
6                     *under section 471, and*

7                     *“(ii) is not required to capitalize indi-*  
8                     *rect costs under section 263A,*

9           *the taxpayer may elect, solely for purposes of*  
10           *paragraph (3)(B), to treat the basis of any ap-*  
11           *parently wholesome food as being equal to 25*  
12           *percent of the fair market value of such food.*

13           “(D) *DETERMINATION OF FAIR MARKET*  
14           *VALUE.—In the case of a charitable contribution*  
15           *of apparently wholesome food which is a quali-*  
16           *fied contribution (within the meaning of para-*  
17           *graph (3), as modified by subparagraph (A) of*  
18           *this paragraph) and which, solely by reason of*  
19           *internal standards of the taxpayer or lack of*  
20           *market, cannot or will not be sold, the fair mar-*  
21           *ket value of such contribution shall be*  
22           *determined—*

23                     *“(i) without regard to such internal*  
24                     *standards or such lack of market and*

1           “(ii) by taking into account the price  
2           at which the same or substantially the same  
3           food items (as to both type and quality) are  
4           sold by the taxpayer at the time of the con-  
5           tribution (or, if not so sold at such time, in  
6           the recent past).

7           “(E) APPARENTLY WHOLESOME FOOD.—For  
8           purposes of this paragraph, the term ‘apparently  
9           wholesome food’ has the meaning given such term  
10          by section 22(b)(2) of the Bill Emerson Good Sa-  
11          maritan Food Donation Act (42 U.S.C.  
12          1791(b)(2)), as in effect on the date of the enact-  
13          ment of this paragraph.

14          “(F) APPLICATION.—This paragraph shall  
15          apply to contributions made after August 28,  
16          2005, and before January 1, 2006.”.

17          (b) EFFECTIVE DATE.—The amendment made by this  
18          section shall apply to contributions made after August 28,  
19          2005.

20       **SEC. 303. CHARITABLE DEDUCTION FOR CONTRIBUTIONS**  
21       **OF BOOK INVENTORIES.**

22          (a) IN GENERAL.—Section 170(e)(3) (relating to cer-  
23          tain contributions of ordinary income and capital gain  
24          property) is amended by redesignating subparagraph (C)

1 *as subparagraph (D) and by inserting after subparagraph*  
2 *(B) the following new subparagraph:*

3                   “(C) *SPECIAL RULE FOR CONTRIBUTIONS*  
4                   *OF BOOK INVENTORY FOR EDUCATIONAL PUR-*  
5                   *POSES.—*

6                   “(i) *CONTRIBUTIONS OF BOOK INVEN-*  
7                   *TORY.—In determining whether a qualified*  
8                   *book contribution is a qualified contribu-*  
9                   *tion, subparagraph (A) shall be applied*  
10                   *without regard to whether—*

11                   “(I) *the donee is an organization*  
12                   *described in the matter preceding*  
13                   *clause (i) of subparagraph (A), and*

14                   “(II) *the property is to be used by*  
15                   *the donee solely for the care of the ill,*  
16                   *the needy, or infants.*

17                   “(ii) *AMOUNT OF REDUCTION.—Not-*  
18                   *withstanding subparagraph (B), the*  
19                   *amount of the reduction determined under*  
20                   *paragraph (1)(A) shall not exceed the*  
21                   *amount by which the fair market value of*  
22                   *the contributed property (as determined by*  
23                   *the taxpayer using a bona fide published*  
24                   *market price for such book) exceeds twice*  
25                   *the basis of such property.*

1                   “(iii) *QUALIFIED BOOK CONTRIBU-*  
2                   *TION.—For purposes of this paragraph, the*  
3                   *term ‘qualified book contribution’ means a*  
4                   *charitable contribution of books, but only if*  
5                   *the requirements of clauses (iv) and (v) are*  
6                   *met.*

7                   “(iv) *IDENTITY OF DONEE.—The re-*  
8                   *quirement of this clause is met if the con-*  
9                   *tribution is to an organization—*

10                   *“(I) described in subclause (I) or*  
11                   *(III) of paragraph (6)(B)(i), or*

12                   *“(II) described in section*  
13                   *501(c)(3) and exempt from tax under*  
14                   *section 501(a) (other than a private*  
15                   *foundation, as defined in section*  
16                   *509(a), which is not an operating*  
17                   *foundation, as defined in section*  
18                   *4942(j)(3)), which is organized pri-*  
19                   *marily to make books available to the*  
20                   *general public at no cost or to operate*  
21                   *a literacy program.*

22                   “(v) *CERTIFICATION BY DONEE.—The*  
23                   *requirement of this clause is met if, in addi-*  
24                   *tion to the certifications required by sub-*  
25                   *paragraph (A) (as modified by this sub-*

1 paragraph), the donee certifies in writing  
2 that—

3 “(I) the books are suitable, in  
4 terms of currency, content, and quan-  
5 tity, for use in the donee’s educational  
6 programs, and

7 “(II) the donee will use the books  
8 in its educational programs.

9 “(vi) *BONA FIDE PUBLISHED MARKET*  
10 *PRICE.*—For purposes of this subparagraph,  
11 the term ‘bona fide published market price’  
12 means, with respect to any book, a price—

13 “(I) determined using the same  
14 printing and edition,

15 “(II) determined in the usual  
16 market in which such a book has been  
17 customarily sold by the taxpayer, and

18 “(III) for which the taxpayer can  
19 demonstrate to the satisfaction of the  
20 Secretary that the taxpayer custom-  
21 arily sold such books in arm’s length  
22 transactions within 7 years preceding  
23 the contribution of such a book.

24 “(vii) *APPLICATION.*—This subpara-  
25 graph shall apply to contributions made

1                   *after August 28, 2005, and before January*  
2                   *1, 2006.”.*

3           **(b) EFFECTIVE DATE.**—*The amendments made by this*  
4 *section shall apply to contributions made after August 28,*  
5 *2005.*

6 **SEC. 304. ADDITIONAL EXEMPTION FOR HOUSING HURRI-**  
7 **CANE KATRINA DISPLACED INDIVIDUALS.**

8           **(a) IN GENERAL.**—*In the case of taxable years of a*  
9 *natural person beginning in 2005 and 2006, for purposes*  
10 *of the Internal Revenue Code of 1986, taxable income shall*  
11 *be reduced by \$500 for each Hurricane Katrina displaced*  
12 *individual of the taxpayer for the taxable year.*

13           **(b) LIMITATIONS.**—

14                   **(1) DOLLAR LIMITATION.**—*The reduction under*  
15 *subsection (a) shall not exceed \$2,000, reduced by the*  
16 *amount of the reduction under this section for all pre-*  
17 *vious taxable years.*

18                   **(2) INDIVIDUALS TAKEN INTO ACCOUNT ONLY**  
19 **ONCE.**—*An individual shall not be taken into account*  
20 *under subsection (a) if such individual was taken*  
21 *into account under such subsection by the taxpayer in*  
22 *any prior taxable year.*

23           **(c) HURRICANE KATRINA DISPLACED INDIVIDUAL.**—  
24 *For purposes of this subsection, the term “Hurricane*

1 *Katrina displaced individual*” means, with respect to any  
2 taxpayer for any taxable year, a natural person who—

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

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

7 (3) is provided housing free of charge by the tax-  
8 payer in the principal residence of the taxpayer for  
9 a period of 60 consecutive days which ends in such  
10 taxable year.

11 Such term shall not include the spouse or any dependent  
12 of the taxpayer.

13 **SEC. 305. INCREASE IN STANDARD MILEAGE RATE FOR**  
14 **CHARITABLE USE OF PASSENGER AUTO-**  
15 **MOBILE.**

16 Notwithstanding section 170(i) of the Internal Revenue  
17 Code of 1986, for purposes of computing the deduction  
18 under section 170 of such Code for use of a vehicle described  
19 in subsection (f)(12)(E)(i) for provision of relief related to  
20 Hurricane Katrina during the period beginning on August  
21 29, 2005, and ending before January 1, 2007, the standard  
22 mileage rate shall be 70 percent of the standard mileage  
23 rate in effect under section 162(a) of such Code at the time  
24 of such use. Any increase under this section shall be rounded  
25 to the next highest cent.

1 **SEC. 306. MILEAGE REIMBURSEMENTS TO CHARITABLE**  
2 **VOLUNTEERS EXCLUDED FROM GROSS IN-**  
3 **COME.**

4 *(a) IN GENERAL.—Part III of subchapter B of chapter*  
5 *1 is amended by inserting after section 139A the following*  
6 *new section:*

7 **“SEC. 139B. MILEAGE REIMBURSEMENTS TO CHARITABLE**  
8 **VOLUNTEERS.**

9 *“(a) IN GENERAL.—Gross income of an individual*  
10 *does not include amounts received, from an organization*  
11 *described in section 170(c), as reimbursement of operating*  
12 *expenses with respect to use of a passenger automobile for*  
13 *the benefit of such organization. The preceding sentence*  
14 *shall apply only to the extent that the expenses which are*  
15 *reimbursed would be deductible under this chapter if section*  
16 *274(d) were applied—*

17 *“(1) by using the standard business mileage rate*  
18 *established under such section, and*

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

21 *“(b) APPLICATION TO VOLUNTEER SERVICES ONLY.—*  
22 *Subsection (a) shall not apply with respect to any expenses*  
23 *relating to the performance of services for compensation.*

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

1       “(d) *EXEMPTION FROM REPORTING REQUIRE-*  
 2 *MENTS.*—Section 6041 shall not apply with respect to reim-  
 3 *bursments excluded from income under subsection (a).*

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

6       (b) *CLERICAL AMENDMENT.*—The table of sections for  
 7 *part III of subchapter B of chapter 1 is amended by insert-*  
 8 *ing after the item relating to section 139A the following*  
 9 *new item:*

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

10       (c) *EFFECTIVE DATE.*—The amendments made by  
 11 this section shall apply to the use of a passenger auto-  
 12 mobile after the date of the enactment of this Act, in tax-  
 13 able years ending after such date.

## 14       **TITLE IV—ADDITIONAL TAX** 15       **RELIEF PROVISIONS**

### 16       **SEC. 401. EXCLUSIONS OF CERTAIN CANCELLATIONS OF IN-** 17       **DEBTEDNESS FOR VICTIMS OF HURRICANE** 18       **KATRINA.**

19       (a) *IN GENERAL.*—For purposes of the Internal Rev-  
 20 enue Code of 1986, gross income shall not include any  
 21 amount which (but for this section) would be includible  
 22 in gross income by reason of the discharge (in whole or  
 23 in part) of indebtedness of a natural person by an applica-  
 24 ble entity (as defined in section 6050P(c)(1)) if the dis-

1 charge is by reason of the damage sustained by the tax-  
2 payer in connection with Hurricane Katrina.

3 (b) EXCEPTION.—Subsection (a) shall not apply to  
4 any indebtedness incurred in connection with a trade or  
5 business.

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

10 (d) EFFECTIVE DATE.—This section shall apply to  
11 discharges made on or after August 29, 2005, and before  
12 January 1, 2007.

13 **SEC. 402. SUSPENSION OF CERTAIN LIMITATIONS ON PER-**  
14 **SONAL CASUALTY LOSSES.**

15 Paragraphs (1) and (2)(A) of section 165(h) of the  
16 Internal Revenue Code of 1986 shall not apply to losses  
17 described in section 165(c)(3) of such Code which are at-  
18 tributable to Hurricane Katrina. In the case of any other  
19 losses, section 165(h)(2)(A) of such Code shall be applied  
20 without regard to the losses referred to in the preceding  
21 sentence.

1 **SEC. 403. REQUIRED EXERCISE OF AUTHORITY UNDER SEC-**  
2 **TION 7508A FOR TAX RELIEF FOR VICTIMS OF**  
3 **HURRICANE KATRINA.**

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

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

10 “(B) Payment of any income, estate, gift,  
11 employment, or excise tax or any installment  
12 thereof or of any other liability to the United  
13 States in respect thereof;”.

14 (b) **APPLICATION TO VICTIMS OF HURRICANE**  
15 **KATRINA.**—In the case of any taxpayer determined by the  
16 Secretary of the Treasury to be affected by the Presi-  
17 dentially declared disaster relating to Hurricane Katrina,  
18 any relief provided by the Secretary of the Treasury under  
19 section 7508A of the Internal Revenue Code of 1986 shall  
20 be for a period ending not earlier than February 28, 2006,  
21 and shall be treated as applying to the filing of returns  
22 relating to, and the payment of, employment and excise  
23 taxes.

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

1 **SEC. 404. SPECIAL MORTGAGE FINANCING RULES FOR**  
2 **RESIDENCES LOCATED IN HURRICANE**  
3 **KATRINA DISASTER AREA.**

4 In the case of a residence located in a Hurricane  
5 Katrina disaster area which replaces a residence destroyed  
6 by Hurricane Katrina or which is being repaired for dam-  
7 age caused by Hurricane Katrina, section 143 of the In-  
8 ternal Revenue Code of 1986 shall be applied with the fol-  
9 lowing modifications to financing provided with respect to  
10 such residence within 3 years after the date of the disaster  
11 declaration:

12 (1) Subsections (d) of such section 143 shall be  
13 applied as if such residence were a targeted area  
14 residence.

15 (2) The limitation under subsection (k)(4) of  
16 such section 143 shall be increased (but not above  
17 \$150,000) to the extent the qualified home-improve-  
18 ment loan is for the repair of damage caused by  
19 Hurricane Katrina.

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

1 **SEC. 405. EXTENSION OF REPLACEMENT PERIOD FOR NON-**  
2 **RECOGNITION OF GAIN FOR PROPERTY LO-**  
3 **CATED IN HURRICANE KATRINA DISASTER**  
4 **AREA.**

5 Notwithstanding subsections (g) and (h) of section  
6 1033 of the Internal Revenue Code of 1986, clause (i) of  
7 section 1033(a)(2)(B) of such Code shall be applied by  
8 substituting “5 years” for “2 years” with respect to prop-  
9 erty which is compulsorily or involuntarily converted as  
10 a result of Hurricane Katrina in a Hurricane Katrina dis-  
11 aster area, but only if substantially all of the use of the  
12 replacement property is in such area.

13 **SEC. 406. SPECIAL RULE FOR DETERMINING EARNED IN-**  
14 **COME.**

15 (a) IN GENERAL.—In the case of a qualified indi-  
16 vidual, if the earned income of the taxpayer for the taxable  
17 year of such taxpayer which includes August 28, 2005,  
18 is less than the earned income which is attributable to the  
19 taxpayer for the preceding taxable year, the credits al-  
20 lowed under sections 24(d) and 32 of the Internal Revenue  
21 Code of 1986 may, at the election of the taxpayer, be de-  
22 termined by substituting—

23 (1) such earned income for the preceding tax-  
24 able year, for

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

1           (b) QUALIFIED INDIVIDUAL.—For purposes of this  
2 section, the term “qualified individual” means any indi-  
3 vidual whose principal place of abode was (as of August  
4 28, 2005) in any Hurricane Katrina disaster area.

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

8           (d) SPECIAL RULES.—

9               (1) APPLICATION TO JOINT RETURNS.—For  
10 purpose of subsection (a), in the case of a joint re-  
11 turn for a taxable year which includes August 28,  
12 2005,

13                   (A) such subsection shall apply if either  
14 spouse is a qualified individual,

15                   (B) the earned income which is attrib-  
16 utable to the taxpayer for the preceding taxable  
17 year shall be the sum of the earned income  
18 which is attributable to each spouse for such  
19 preceding taxable year, and

20                   (C) the substitution described in such sub-  
21 section shall apply only with respect to earned  
22 income which is attributable to a spouse who is  
23 a qualified individual.

24               (2) UNIFORM APPLICATION OF ELECTION.—  
25 Any election made under subsection (a) shall apply

1 with respect to both section 24(d) and section 32 of  
2 such Code.

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

8 (4) NO EFFECT ON DETERMINATION OF GROSS  
9 INCOME.—For purposes of the Internal Revenue  
10 Code of 1986, gross income shall be determined  
11 without regard to any substitution under subsection  
12 (a).

13 **SEC. 407. SECRETARIAL AUTHORITY TO MAKE ADJUST-**  
14 **MENTS REGARDING TAXPAYER AND DEPEND-**  
15 **ENCY STATUS.**

16 With respect to taxable years beginning in 2005 or  
17 2006, the Secretary of the Treasury or the Secretary's del-  
18 egate may make such adjustments in the application of  
19 the internal revenue laws as may be necessary to ensure  
20 that taxpayers do not lose any deduction or credit or expe-  
21 rience a change of filing status by reason of temporary  
22 relocations after Hurricane Katrina or by reason of the  
23 receipt of hurricane relief. Any adjustments made under  
24 the preceding sentence shall ensure that an individual is

1 not taken into account by more than one taxpayer with  
2 respect to the same tax benefit.

3                   **TITLE V—EMERGENCY**  
4                   **REQUIREMENT**

5 **SEC. 501. EMERGENCY REQUIREMENT.**

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

Attest:

*Secretary.*

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 3768**

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**AMENDMENT**