

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 242) providing for acceptance of a statue of Po'Pay, presented by the State of New Mexico, for placement in National Statuary Hall, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 242) was agreed to.

#### DISASTER RELIEF EMPLOYMENT

Mr. BENNETT. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 3761, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 3761) to provide special rules for disaster relief employment under the Workforce Investment Act of 1998 for individuals displaced by Hurricane Katrina.

There being no objection, the Senate proceeded to consider the bill.

Mr. BENNETT. Mr. President, I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3761) was read the third time and passed.

#### KATRINA EMERGENCY TAX RELIEF ACT OF 2005

Mr. BENNETT. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3768, which was received from the House.

There being no objection, the Presiding officer laid before the Senate the following message from the House of Representatives:

H.R. 3768

*Resolved*, That the House agree to the amendment of the Senate to the bill (H.R. 3768) entitled "An Act to provide emergency tax relief for persons affected by Hurricane Katrina", with the following House amendment to Senate amendment:

In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

#### SECTION 1. SHORT TITLE, ETC.

(a) **SHORT TITLE.**—This Act may be cited as the "Katrina Emergency Tax Relief Act of 2005".

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

Sec. 1. Short title, etc.

Sec. 2. Hurricane Katrina disaster area.

#### TITLE I—SPECIAL RULES FOR USE OF RETIREMENT FUNDS FOR RELIEF RELATING TO HURRICANE KATRINA

Sec. 101. Tax-favored withdrawals from retirement plans for relief relating to Hurricane Katrina.

Sec. 102. Recontributions of withdrawals for home purchases cancelled due to Hurricane Katrina.

Sec. 103. Loans from qualified plans for relief relating to Hurricane Katrina.

Sec. 104. Provisions relating to plan amendments.

#### TITLE II—EMPLOYMENT RELIEF

Sec. 201. Work opportunity tax credit for Hurricane Katrina employees.

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. Additional exemption for housing Hurricane Katrina displaced individuals.

Sec. 303. Increase in standard mileage rate for charitable use of vehicles.

Sec. 304. Mileage reimbursements to charitable volunteers excluded from gross income.

Sec. 305. Charitable deduction for contributions of food inventory.

Sec. 306. Charitable deduction for contributions of book inventories to public schools.

#### TITLE IV—ADDITIONAL TAX RELIEF PROVISIONS

Sec. 401. Exclusions of certain cancellations of indebtedness by reason of Hurricane Katrina.

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

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

Sec. 404. Special rules for mortgage revenue bonds.

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.

#### SEC. 2. HURRICANE KATRINA DISASTER AREA.

For purposes of this Act—

(1) **HURRICANE KATRINA DISASTER AREA.**—

The term "Hurricane Katrina disaster area" means an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

(2) **CORE DISASTER AREA.**—The term "core disaster area" means that portion of the Hurricane Katrina disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act.

#### TITLE I—SPECIAL RULES FOR USE OF RETIREMENT FUNDS FOR RELIEF RELATING TO HURRICANE KATRINA

##### SEC. 101. TAX-FAVORED WITHDRAWALS FROM RETIREMENT PLANS FOR RELIEF RELATING TO HURRICANE KATRINA.

(a) **IN GENERAL.**—Section 72(t) of the Internal Revenue Code of 1986 shall not apply to any qualified Hurricane Katrina distribution.

(b) **AGGREGATE DOLLAR LIMITATION.**—

(1) **IN GENERAL.**—For purposes of this section, the aggregate amount of distributions received by an individual which may be treated as qualified Hurricane Katrina distributions for any taxable year shall not exceed the excess (if any) of—

(A) \$100,000, over

(B) the aggregate amounts treated as qualified Hurricane Katrina distributions received by such individual for all prior taxable years.

(2) **TREATMENT OF PLAN DISTRIBUTIONS.**—If a distribution to an individual would (without regard to paragraph (1)) be a qualified Hurricane Katrina distribution, a plan shall not be treated as violating any requirement of the Internal Revenue Code of 1986 merely because the plan treats such distribution as a qualified Hurricane Katrina distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds \$100,000.

(3) **CONTROLLED GROUP.**—For purposes of paragraph (2), the term "controlled group" means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of such Code.

(c) **AMOUNT DISTRIBUTED MAY BE REPAYED.**—

(1) **IN GENERAL.**—Any individual who receives a qualified Hurricane Katrina distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16) of such Code, as the case may be.

(2) **TREATMENT OF REPAYMENTS OF DISTRIBUTIONS FROM ELIGIBLE RETIREMENT PLANS OTHER THAN IRAS.**—For purposes of such Code, if a contribution is made pursuant to paragraph (1) with respect to a qualified Hurricane Katrina distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified Hurricane Katrina distribution in an eligible rollover distribution (as defined in section 402(c)(4) of such Code) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(3) **TREATMENT OF REPAYMENTS FOR DISTRIBUTIONS FROM IRAS.**—For purposes of such Code, if a contribution is made pursuant to paragraph (1) with respect to a qualified Hurricane Katrina distribution from an individual retirement plan (as defined by section 7701(a)(37) of such Code), then, to the extent of the amount of the contribution, the qualified Hurricane Katrina distribution shall be treated as a distribution described in section 408(d)(3) of such Code and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

(d) **DEFINITIONS.**—For purposes of this section—

(1) **QUALIFIED HURRICANE KATRINA DISTRIBUTION.**—Except as provided in subsection (b), the term "qualified Hurricane Katrina distribution" means any distribution from an eligible retirement plan made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina.

(2) ELIGIBLE RETIREMENT PLAN.—The term “eligible retirement plan” shall have the meaning given such term by section 402(c)(8)(B) of such Code.

(e) INCOME INCLUSION SPREAD OVER 3 YEAR PERIOD FOR QUALIFIED HURRICANE KATRINA DISTRIBUTIONS.—

(1) IN GENERAL.—In the case of any qualified Hurricane Katrina distribution, unless the taxpayer elects not to have this subsection apply for any taxable year, any amount required to be included in gross income for such taxable year shall be so included ratably over the 3-taxable year period beginning with such taxable year.

(2) SPECIAL RULE.—For purposes of paragraph (1), rules similar to the rules of subparagraph (E) of section 408A(d)(3) of such Code shall apply.

(f) SPECIAL RULES.—

(1) EXEMPTION OF DISTRIBUTIONS FROM TRUSTEE TO TRUSTEE TRANSFER AND WITHHOLDING RULES.—For purposes of sections 401(a)(31), 402(f), and 3405 of such Code, qualified Hurricane Katrina distributions shall not be treated as eligible rollover distributions.

(2) QUALIFIED HURRICANE KATRINA DISTRIBUTIONS TREATED AS MEETING PLAN DISTRIBUTION REQUIREMENTS.—For purposes of such Code, a qualified Hurricane Katrina distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A) of such Code.

**SEC. 102. RECONTRIBUTIONS OF WITHDRAWALS FOR HOME PURCHASES CANCELLED DUE TO HURRICANE KATRINA.**

(a) RECONTRIBUTIONS.—

(1) IN GENERAL.—Any individual who received a qualified distribution may, during the period beginning on August 25, 2005, and ending on February 28, 2006, make one or more contributions in an aggregate amount not to exceed the amount of such qualified distribution to an eligible retirement plan (as defined in section 402(c)(8)(B) of the Internal Revenue Code of 1986) of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3) of such Code, as the case may be.

(2) TREATMENT OF REPAYMENTS.—Rules similar to the rules of paragraphs (2) and (3) of section 101(c) of this Act shall apply for purposes of this section.

(b) QUALIFIED DISTRIBUTION DEFINED.—For purposes of this section, the term “qualified distribution” means any distribution—

(1) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F) of such Code,

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

(3) which was to be used to purchase or construct a principal residence in the Hurricane Katrina disaster area, but which was not so purchased or constructed on account of Hurricane Katrina.

**SEC. 103. LOANS FROM QUALIFIED PLANS FOR RELIEF RELATING TO HURRICANE KATRINA.**

(a) INCREASE IN LIMIT ON LOANS NOT TREATED AS DISTRIBUTIONS.—In the case of any loan from a qualified employer plan (as defined under section 72(p)(4) of the Internal Revenue Code of 1986) to a qualified individual made after the date of enactment of this Act and before January 1, 2007—

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

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

present value of the nonforfeitable accrued benefit of the employee under the plan”.

(b) DELAY OF REPAYMENT.—In the case of a qualified individual with an outstanding loan on or after August 25, 2005, from a qualified employer plan (as defined in section 72(p)(4) of such Code)—

(1) if the due date pursuant to subparagraph (B) or (C) of section 72(p)(2) of such Code for any repayment with respect to such loan occurs during the period beginning on August 25, 2005, and ending on December 31, 2006, such due date shall be delayed for 1 year,

(2) any subsequent repayments with respect to any such loan shall be appropriately adjusted to reflect the delay in the due date under paragraph (1) and any interest accruing during such delay, and

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

(c) QUALIFIED INDIVIDUAL.—For purposes of this section, the term “qualified individual” means an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina.

**SEC. 104. PROVISIONS RELATING TO PLAN AMENDMENTS.**

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

(b) AMENDMENTS TO WHICH SECTION APPLIES.—

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

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

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

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), subparagraph (B) shall be applied by substituting the date which is 2 years after the date otherwise applied under subparagraph (B).

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

(A) during the period—

(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and

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

(B) such plan or contract amendment applies retroactively for such period.

**TITLE II—EMPLOYMENT RELIEF**

**SEC. 201. WORK OPPORTUNITY TAX CREDIT FOR HURRICANE KATRINA EMPLOYEES.**

(a) IN GENERAL.—For purposes of section 51 of the Internal Revenue Code of 1986, a Hurricane Katrina employee shall be treated as a member of a targeted group.

(b) HURRICANE KATRINA EMPLOYEE.—For purposes of this section, the term “Hurricane Katrina employee” means—

(1) any individual who on August 28, 2005, had a principal place of abode in the core dis-

aster area and who is hired during the 2-year period beginning on such date for a position the principal place of employment of which is located in the core disaster area, and

(2) any individual who on such date had a principal place of abode in the core disaster area, who is displaced from such abode by reason of Hurricane Katrina, and who is hired during the period beginning on such date and ending on December 31, 2005.

(c) REASONABLE IDENTIFICATION ACCEPTABLE.—In lieu of the certification requirement under subparagraph (A) of section 51(d)(12) of such Code, an individual may provide to the employer reasonable evidence that the individual is a Hurricane Katrina employee, and subparagraph (B) of such section shall be applied as if such evidence were a certification described in such subparagraph.

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

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

(2) section 51(i)(2) of such Code shall not apply with respect to the first hire of such employee as a Hurricane Katrina employee, unless such employee was an employee of the employer on August 28, 2005.

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

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

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

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

(A) which conducted an active trade or business on August 28, 2005, in a core disaster area, and

(B) with respect to whom the trade or business described in subparagraph (A) is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Katrina.

(2) ELIGIBLE EMPLOYEE.—The term “eligible employee” means with respect to an eligible employer an employee whose principal place of employment on August 28, 2005, with such eligible employer was in a core disaster area.

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

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

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

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

(c) CREDIT NOT ALLOWED FOR LARGE BUSINESSES.—The term “eligible employer” shall not include any trade or business for any taxable year if such trade or business employed an average of more than 200 employees on business days during the taxable year.

(d) CERTAIN RULES TO APPLY.—For purposes of this section, rules similar to the rules of sections 51(i)(1), 52, and 280C(a) of such Code shall apply.

(e) EMPLOYEE NOT TAKEN INTO ACCOUNT MORE THAN ONCE.—An employee shall not be treated as an eligible employee for purposes of this section for any period with respect to any employer if such employer is allowed a credit under section 51 of such Code with respect to such employee for such period.

(f) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—The credit allowed under this section shall be added to the current year business credit under section 38(b) of such Code and shall be treated as a credit allowed under subpart D of part IV of subchapter A of chapter 1 of such Code.

### TITLE III—CHARITABLE GIVING INCENTIVES

#### SEC. 301. TEMPORARY SUSPENSION OF LIMITATIONS ON CHARITABLE CONTRIBUTIONS.

(a) IN GENERAL.—Except as otherwise provided in subsection (b), section 170(b) of the Internal Revenue Code of 1986 shall not apply to qualified contributions and such contributions shall not be taken into account for purposes of applying subsections (b) and (d) of section 170 of such Code to other contributions.

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

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

(A) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer’s contribution base (as defined in subparagraph (F) of section 170(b)(1) of such Code) over the amount of all other charitable contributions allowed under such section 170(b)(1).

(B) CARRYOVER.—If the aggregate amount of qualified contributions made in the contribution year (within the meaning of section 170(d)(1) of such Code) exceeds the limitation of subparagraph (A), such excess shall be added to the excess described in the portion of subparagraph (A) of such section which precedes clause (i) thereof for purposes of applying such section.

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

(A) LIMITATION.—Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer’s taxable income (as determined under paragraph (2) of section 170(b) of such Code) over the amount of all other charitable contributions allowed under such paragraph.

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

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

(d) QUALIFIED CONTRIBUTIONS.—

(1) IN GENERAL.—For purposes of this section, the term “qualified contribution” means any charitable contribution (as defined in section 170(c) of such Code)—

(A) paid during the period beginning on August 28, 2005, and ending on December 31, 2005, in cash to an organization described in

section 170(b)(1)(A) of such Code (other than an organization described in section 509(a)(3) of such Code),

(B) in the case of a contribution paid by a corporation, such contribution is for relief efforts related to Hurricane Katrina, and

(C) with respect to which the taxpayer has elected the application of this section.

(2) EXCEPTION.—Such term shall not include a contribution if the contribution is for establishment of a new, or maintenance in an existing, segregated fund or account with respect to which the donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to distributions or investments by reason of the donor’s status as a donor.

(3) APPLICATION OF ELECTION TO PARTNERSHIPS AND S CORPORATIONS.—In the case of a partnership or S corporation, the election under paragraph (1)(C) shall be made separately by each partner or shareholder.

#### SEC. 302. ADDITIONAL EXEMPTION FOR HOUSING HURRICANE KATRINA DISPLACED INDIVIDUALS.

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

(b) LIMITATIONS.—

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

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

(3) IDENTIFYING INFORMATION REQUIRED.—An individual shall not be taken into account under subsection (a) for a taxable year unless the taxpayer identification number of such individual is included on the return of the taxpayer for such taxable year.

(c) HURRICANE KATRINA DISPLACED INDIVIDUAL.—For purposes of this section, the term “Hurricane Katrina displaced individual” means, with respect to any taxpayer for any taxable year, any natural person if—

(1) such person’s principal place of abode on August 28, 2005, was in the Hurricane Katrina disaster area,

(2)(A) in the case of such an abode located in the core disaster area, such person is displaced from such abode, or

(B) in the case of such an abode located outside of the core disaster area, such person is displaced from such abode, and

(i) such abode was damaged by Hurricane Katrina, or

(ii) such person was evacuated from such abode by reason of Hurricane Katrina, and

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

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

(d) COMPENSATION FOR HOUSING.—No deduction shall be allowed under this section if the taxpayer receives any rent or other amount (from any source) in connection with the providing of such housing.

#### SEC. 303. INCREASE IN STANDARD MILEAGE RATE FOR CHARITABLE USE OF VEHICLES.

Notwithstanding section 170(i) of the Internal Revenue Code of 1986, for purposes of computing the deduction under section 170 of such Code for use of a vehicle described in subsection (f)(12)(E)(i) of such section for

provision of relief related to Hurricane Katrina during the period beginning on August 25, 2005, and ending on December 31, 2006, the standard mileage rate shall be 70 percent of the standard mileage rate in effect under section 162(a) of such Code at the time of such use. Any increase under this section shall be rounded to the next highest cent.

#### SEC. 304. MILEAGE REIMBURSEMENTS TO CHARITABLE VOLUNTEERS EXCLUDED FROM GROSS INCOME.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gross income of an individual for taxable years ending on or after August 25, 2005, does not include amounts received, from an organization described in section 170(c) of such Code, as reimbursement of operating expenses with respect to use of a passenger automobile for the benefit of such organization in connection with providing relief relating to Hurricane Katrina during the period beginning on August 25, 2005, and ending on December 31, 2006. The preceding sentence shall apply only to the extent that the expenses which are reimbursed would be deductible under chapter 1 of such Code if section 274(d) of such Code were applied—

(1) by using the standard business mileage rate in effect under section 162(a) at the time of such use, and

(2) as if the individual were an employee of an organization not described in section 170(c) of such Code.

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

(c) NO DOUBLE BENEFIT.—No deduction or credit shall be allowed under any other provision of such Code with respect to the expenses excludable from gross income under subsection (a).

#### SEC. 305. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Paragraph (3) of section 170(e) of the Internal Revenue Code of 1986 (relating to special rule for certain contributions of inventory and other property) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

“(C) SPECIAL RULE FOR CONTRIBUTIONS OF FOOD INVENTORY.—

“(i) GENERAL RULE.—In the case of a charitable contribution of food from any trade or business of the taxpayer, this paragraph shall be applied—

“(I) without regard to whether the contribution is made by a C corporation, and

“(II) only to food that is apparently wholesome food.

“(ii) LIMITATION.—In the case of a taxpayer other than a C corporation, the aggregate amount of such contributions for any taxable year which may be taken into account under this section shall not exceed 10 percent of the taxpayer’s aggregate net income for such taxable year from all trades or businesses from which such contributions were made for such year, computed without regard to this section.

“(iii) APPARENTLY WHOLESOME FOOD.—For purposes of this subparagraph, the term ‘apparently wholesome food’ has the meaning given to such term by section 22(b)(2) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)(2)), as in effect on the date of the enactment of this subparagraph.

“(iv) TERMINATION.—This subparagraph shall not apply to contributions made after December 31, 2005.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made on or after August 28, 2005, in taxable years ending after such date.

**SEC. 306. CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORIES TO PUBLIC SCHOOLS.**

(a) IN GENERAL.—Paragraph (3) of section 170(e) of the Internal Revenue Code of 1986 (relating to certain contributions of ordinary income and capital gain property), as amended by section 305, is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

**“(D) SPECIAL RULE FOR CONTRIBUTIONS OF BOOK INVENTORY TO PUBLIC SCHOOLS.—**

“(i) CONTRIBUTIONS OF BOOK INVENTORY.—In determining whether a qualified book contribution is a qualified contribution, subparagraph (A) shall be applied without regard to whether the donee is an organization described in the matter preceding clause (i) of subparagraph (A).

“(ii) QUALIFIED BOOK CONTRIBUTION.—For purposes of this paragraph, the term ‘qualified book contribution’ means a charitable contribution of books to a public school which is an educational organization described in subsection (b)(1)(A)(ii) and which provides elementary education or secondary education (kindergarten through grade 12).

“(iii) CERTIFICATION BY DONEE.—Subparagraph (A) shall not apply to any contribution unless (in addition to the certifications required by subparagraph (A) (as modified by this subparagraph)), the donee certifies in writing that—

“(I) the books are suitable, in terms of currency, content, and quantity, for use in the donee’s educational programs, and

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

“(iv) TERMINATION.—This subparagraph shall not apply to contributions made after December 31, 2005.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made on or after August 28, 2005, in taxable years ending after such date.

**TITLE IV—ADDITIONAL TAX RELIEF PROVISIONS****SEC. 401. EXCLUSIONS OF CERTAIN CANCELLATIONS OF INDEBTEDNESS BY REASON OF HURRICANE KATRINA.**

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gross income shall not include any amount which (but for this section) would be includable in gross income by reason of the discharge (in whole or in part) of indebtedness of a natural person described in subsection (b) by an applicable entity (as defined in section 6050P(c)(1) of such Code).

(b) PERSONS DESCRIBED.—A natural person is described in this subsection if the principal place of abode of such person on August 25, 2005, was located—

(1) in the core disaster area, or

(2) in the Hurricane Katrina disaster area (but outside the core disaster area) and such person suffered economic loss by reason of Hurricane Katrina.

**(c) EXCEPTIONS.—**

(1) BUSINESS INDEBTEDNESS.—Subsection (a) shall not apply to any indebtedness incurred in connection with a trade or business.

(2) REAL PROPERTY OUTSIDE CORE DISASTER AREA.—Subsection (a) shall not apply to any discharge of indebtedness to the extent that real property constituting security for such indebtedness is located outside of the Hurricane Katrina disaster area.

(d) DENIAL OF DOUBLE BENEFIT.—For purposes of the Internal Revenue Code of 1986, the amount excluded from gross income under subsection (a) shall be treated in the same manner as an amount excluded under section 108(a) of such Code.

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

**SEC. 402. SUSPENSION OF CERTAIN LIMITATIONS ON PERSONAL CASUALTY LOSSES.**

Paragraphs (1) and (2)(A) of section 165(h) of the Internal Revenue Code of 1986 shall not apply to losses described in section 165(c)(3) of such Code which arise in the Hurricane Katrina disaster area on or after August 25, 2005, and which are attributable to Hurricane Katrina. In the case of any other losses, section 165(h)(2)(A) of such Code shall be applied without regard to the losses referred to in the preceding sentence.

**SEC. 403. REQUIRED EXERCISE OF AUTHORITY UNDER SECTION 7508A FOR TAX RELIEF RELATING TO HURRICANE KATRINA.**

(a) AUTHORITY INCLUDES SUSPENSION OF PAYMENT OF EMPLOYMENT AND EXCISE TAXES.—Subparagraphs (A) and (B) of section 7508(a)(1) of the Internal Revenue Code of 1986 are amended to read as follows:

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

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

(b) APPLICATION WITH RESPECT TO HURRICANE KATRINA.—In the case of any taxpayer determined by the Secretary of the Treasury to be affected by the Presidential declared disaster relating to Hurricane Katrina, any relief provided by the Secretary of the Treasury under section 7508A of the Internal Revenue Code of 1986 shall be for a period ending not earlier than February 28, 2006, and shall be treated as applying to the filing of returns relating to, and the payment of, employment and excise taxes.

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

**SEC. 404. SPECIAL RULES FOR MORTGAGE REVENUE BONDS.**

(a) IN GENERAL.—In the case of financing provided with respect to a qualified Hurricane Katrina recovery residence, subsection (d) of section 143 of the Internal Revenue Code of 1986 shall be applied as if such residence were a targeted area residence.

(b) QUALIFIED HURRICANE KATRINA RECOVERY RESIDENCE.—For purposes of this section, the term “qualified Hurricane Katrina recovery residence” means—

(1) any residence in the core disaster area, and

(2) any other residence if—

(A) such other residence is located in the same State as the principal residence referred to in subparagraph (B), and

(B) the mortgagor with respect to such other residence owned a principal residence on August 28, 2005, which—

(i) was located in the Hurricane Katrina disaster area, and

(ii) was rendered uninhabitable by reason of Hurricane Katrina.

(c) SPECIAL RULE FOR HOME IMPROVEMENT LOANS.—In the case of any loan with respect to a residence in the Hurricane Katrina disaster area, section 143(k)(4) of such Code shall be applied by substituting \$150,000 for the dollar amount contained therein to the extent such loan is for the repair of damage by reason of Hurricane Katrina.

(d) APPLICATION.—Subsection (a) shall not apply to financing provided after December 31, 2007.

**SEC. 405. EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN FOR PROPERTY LOCATED IN HURRICANE KATRINA DISASTER AREA.**

Clause (i) of section 1033(a)(2)(B) of the Internal Revenue Code of 1986 shall be applied by substituting “5 years” for “2 years” with respect to property in the Hurricane Katrina disaster area which is compulsorily or invol-

untarily converted on or after August 25, 2005, by reason of Hurricane Katrina, but only if substantially all of the use of the replacement property is in such area.

**SEC. 406. SPECIAL RULE FOR DETERMINING EARNED INCOME.**

(a) IN GENERAL.—In the case of a qualified individual, if the earned income of the taxpayer for the taxable year which includes August 25, 2005, is less than the earned income of the taxpayer for the preceding taxable year, the credits allowed under sections 24(d) and 32 of the Internal Revenue Code of 1986 may, at the election of the taxpayer, be determined by substituting—

(1) such earned income for the preceding taxable year, for

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

(b) QUALIFIED INDIVIDUAL.—For purposes of this section, the term “qualified individual” means any individual whose principal place of abode on August 25, 2005, was located—

(1) in the core disaster area, or

(2) in the Hurricane Katrina disaster area (but outside the core disaster area) and such individual was displaced from such principal place of abode by reason of Hurricane Katrina.

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

**(d) SPECIAL RULES.—**

(1) APPLICATION TO JOINT RETURNS.—For purpose of subsection (a), in the case of a joint return for a taxable year which includes August 25, 2005—

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

(B) the earned income of the taxpayer for the preceding taxable year shall be the sum of the earned income of each spouse for such preceding taxable year.

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

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

(4) NO EFFECT ON DETERMINATION OF GROSS INCOME, ETC.—Except as otherwise provided in this section, the Internal Revenue Code of 1986 shall be applied without regard to any substitution under subsection (a).

**SEC. 407. SECRETARIAL AUTHORITY TO MAKE ADJUSTMENTS REGARDING TAXPAYER AND DEPENDENCY STATUS.**

With respect to taxable years beginning in 2005 or 2006, the Secretary of the Treasury or the Secretary’s delegate may make such adjustments in the application of the internal revenue laws as may be necessary to ensure that taxpayers do not lose any deduction or credit or experience a change of filing status by reason of temporary relocations by reason of Hurricane Katrina. Any adjustments made under the preceding sentence shall ensure that an individual is not taken into account by more than one taxpayer with respect to the same tax benefit.

**TITLE V—EMERGENCY REQUIREMENT****SEC. 501. EMERGENCY REQUIREMENT.**

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

Mr. GRASSLEY. Mr. President, so far, the Finance Committee has put forth two Hurricane Katrina relief bills. One is the emergency tax relief bill passed today.

The second is the health and welfare bill introduced last Thursday.

And we're working on a third bill to help rebuild and rejuvenate the Gulf region.

Today I met with Mississippi Governor Haley Barbour to hear about the needs of people in the Katrina area, both now and in the future.

In addition to Senator BAUCUS, I've been working with my colleagues from Mississippi, Louisiana, and Alabama, including the cosponsors of this tax bill—Senators LOTT, LANDRIEU, VITTER, COCHRAN and SHELBY.

For the next package, we're taking ideas from these senators.

I've talked with Senator VITTER, Senator LOTT and Senator LANDRIEU about tax incentives and expect to talk with the rest of the group in the coming days.

We've had the biggest natural disaster in history. People are hurting, and we're getting them help.

We know that tax incentives helped to revitalize New York after 9/11. They can do the same for New Orleans, Gulfport and the other hurricane-hit areas.

The immediate relief package will help get short-term aid to hurricane victims by encouraging food donations and the employment of displaced individuals, for example.

For those who've suffered casualty losses, we've liberalized the tax rules to permit affected taxpayers to deduct losses from damaged property.

We also want to help protect Katrina victims from undeserved IRS harassment.

It's good that the House and Senate quickly worked out minor differences in our respective versions of the bill.

We need to get these tax incentives on the books and help Katrina victims make a fresh start.

The President is working to restore a high quality of life to the people of the gulf region, and today we're contributing a solid piece of legislation to his effort.

After this package is completed, our focus will be on longer-term tax incentives to help rebuild homes and businesses.

We're looking at depreciation changes, tax-exempt bond authority, tax-exempt bond refunding, and enterprise-zone initiatives.

In the coming days and weeks, the Finance Committee will be examining these ideas with an eye toward the most effective and efficient use of the taxpayer's dollar.

The more thoughtful we are, and the more expeditiously we act, the sooner the people of the gulf region can return home, earn a living, and rebuild their communities.

Mr. BAUCUS. Mr. President, traveling down to the gulf coast region last week, I saw firsthand the havoc that Hurricane Katrina had wreaked. As colleagues who have been down there know, in many places, it is stunning. It is like a war zone. It is worse than the pictures.

At one stop, we went into what was left of a library. Muck and ruin covered books and other library materials. One shiny object caught my eye and I picked up. It was a DVD of the film, "The Perfect Storm."

The victims of Katrina have many immediate needs. The legislation that we pass today will address four of them.

One, they need cash. And they need it fast. Two, they need jobs. Three, they need housing. And four, charities need help from Congress so they can help the victims of the hurricane.

I am pleased that Congress could come together and act quickly on this emergency tax relief to address those needs.

First, victims of Katrina need immediate access to cash. The working poor should not lose government benefits that they currently receive. These benefits are an important supplement to low-income working families. A prolonged change in their living situation could affect their eligibility for these benefits, such as the earned income credit and the child tax credit. This bill will allow displaced individuals to use their 2004 income to calculate benefits on their 2005 tax return. It will further ensure that these working families do not lose deductions, credits or filing status because the family is displaced from their home.

We also allow victims of Katrina access to retirement accounts for immediate cash assistance. Under current law, there is a 10 percent penalty for early distributions of money in these accounts. We waive that penalty and allow displaced persons to recontribute to the retirement account over a 3-year period.

Victims also need tax relief if a commercial lender forgives their debt. When a commercial lender discharges debt—such as a cancellation of a mortgage—this amount is included as income for tax purposes. This legislation ensures that individuals affected by the hurricane are not taxed on this personal debt relief.

Second, victims of Katrina want to get back in the workforce. We provide businesses with the tools that they need to hire displaced workers. The Work Opportunity Tax Credit allows employers to claim a credit against wages paid to new workers that face barriers to employment. It applies to veterans, low-income families, and other targeted groups. We expand the Work Opportunity Tax Credit to cover all survivors of Hurricane Katrina who lived in the disaster zone no matter where they seek a job.

We also allow employers located in the disaster zone to take a \$2,400 tax credit on wages paid to employees during the period the business was shut down. These employees have tapped into their savings to help out their employees.

Third, we address the housing needs of people dislocated by the hurricane. Many folks across the country have

opened up their hearts and opened up their homes. These generous individuals now face increased living expenses—higher water, electric, and grocery bills. This is a considerable burden. We help defray these costs.

We create a special tax deduction for individuals who provide rent-free housing to dislocated persons for at least 60 days. The deduction is \$500 for each dislocated person up to a maximum of \$2,000.

Finally, the victims need the generosity of individuals and businesses across this country. There has been a surge in giving to charitable organizations. We should encourage this activity. Our bill provides incentives for corporations to increase gifts of cash, food, books, and other items sorely needed in the affected areas and communities.

We didn't get everything we wanted in this bill. I regret that my House colleagues did not accept our provision supporting "pay protection" for military reservists and guards and I will continue to work with my colleagues, Senators LANDRIEU and KERRY, to get this enacted. As passed by the Senate, employers in the disaster zone who continued to pay employees that were activated by the reserves or the National Guard would also be entitled to the employee retention credit. Over a third of the Guard members in Mississippi and Louisiana are currently serving in Iraq, and in Alabama, all major Guard units who have been activated for the disaster have already served in Iraq or are there currently. Around 500 of the 3,700 Louisiana National Guard members serving in Iraq lost their homes or their families were displaced due to Hurricane Katrina. If their loyal employers, who despite being hit by Hurricane Katrina, were continuing to help out these military families, why shouldn't Congress at a minimum extend this \$2,400 employee retention credit? I am disappointed, but resolved to keep fighting on this matter.

In the coming weeks, I plan to work with my colleagues to draft a long-term tax relief package. We will draft legislation that will help rebuild homes and businesses, pump money into local economies, and help distressed working families.

I thank all Senators for allowing this emergency legislation to move forward today. Today, we have taken real steps, concrete steps, that will make a difference in the lives of people who can use the help. This is what we came here to government service to do. And I am glad that we have been able to do it.

Mr. KERRY. Mr. President, today, we are passing legislation which will provide immediate tax relief to those directly affected by this incredible disaster. This tax relief will help put cash in the hands of victims and encourage charitable giving. This legislation is needed, but I am deeply disappointed that this legislation is missing an extremely important component—relief for military reservists.

We have rightfully focused on rescuing, reuniting and rebuilding, but we must also make sure to take care of our strained military families. The first and best definition of patriotism is keeping faith with those who wear our uniform. That means giving our troops the resources they need to keep safe while they are keeping us safe. And it means supporting our troops at home as well as abroad.

The Senate passed Hurricane Katrina tax relief legislation which looked out for our military reservists. More than 40 percent of military reservists and National Guard members suffer a pay cut when they are called to defend our nation, including those serving in the gulf coast today. These citizens serve nobly. They are much more than weekend warriors. Currently, there are over 140,000 reservists called up for active duty in the war against terrorism and over ten thousand of these reservists and guardsman are from Louisiana, Alabama, and Mississippi. Over 50,000 National Guard members have been called up to assist with Hurricane Katrina.

Many of these reservists are being hit with a double-whammy. After recent service in Iraq or Afghanistan, they are coming home to an area that has been devastated. The all-volunteer army depends on these reservists. They have been serving our country with distinction and pride for many years, and should not be penalized financially for their honorable service.

The Senate passed bill included an employee retention credit which provides a 40 percent tax credit for wages paid up to \$6,000 after August 28, 2005 and before December 31, 2005. This credit would help employers in the gulf coast who pay employees that are not able to work because the business was either damaged or destroyed and pay reservists and guardsmen that worked for them right up to the time before they were deployed.

Giving employers' incentives to pay reservist employees is the right thing to do. We have read about the Louisiana reservists who have come home from Iraq and found that they have lost everything. According to the Washington Post, nearly 550 of the Louisiana brigade's troops lost homes or loved ones or were otherwise affected by Katrina. The brigade is coming to the end of its rotation in Baghdad. This is exactly why we must provide a tax incentive that helps employers pay wages to these reservists. Businesses on the gulf coast want to do the right thing for their employees. But in the wake of this disaster, most just cannot afford it.

During negotiations between the House and the Senate on a final Hurricane Katrina tax package, the employee retention credit was scaled back. Wages paid to reservists are no longer eligible for the credit. This is the wrong message to be sending to our reservists who put their lives on the line defending our country.

Due to Operations Iraqi Freedom and Enduring Freedom in Afghanistan, the military has placed greater training and participation demands on reservists, taking them away from their families and jobs. We should be doing all we can to help these reservists, and this includes providing tax incentives to their employers who provide extended pay coverage.

Providing tax incentives to help employers in the gulf coast impacted by Hurricane Katrina was a step in the right direction in helping reservists. For the last couple of years, Senator LANDRIEU and I have worked on legislation to provide assistance to businesses that employ reservists who have been called up to active duty. That legislation would provide tax credits to employers who pay reservists wages that are above their military pay and to help with the costs of hiring replacement workers. This provision passed the Senate twice last year, unfortunately, it was not enacted into law.

This past Monday, I chaired a field hearing of the Committee on Small Business and Entrepreneurship entitled "Military Reservists and Small Business: Supporting our Military Families and their Patriotic Small Business Employers." The hearing focused on the financial difficulties reservists who work for small businesses and their families face when they are called up to active duty.

Lieutenant Colonel Sam Poulten told his compelling story. He was a partner in a real estate firm and he received a three-day notice that he was being called-up to serve as a medical Army reservist in Iraq. Lieutenant Colonel Poulten spent 13 months away from his business, which saw a loss in sales due to his absence. His wife had to resort to using credit cards to pay for basic necessities. Lieutenant Colonel Poulten is one of the many examples of a reservist whose family and business faced financial struggles due to long mobilization.

Captain Marshall Hanson, USNR (Ret), Legislative Director of the Reserve Officers Association, discussed the consequences of mobilization and demobilization on military families and employers. He stated:

Families and employers play a large role in a citizen-warrior's decision on whether or not to enlist and to remain in the military. Employer pressure is cited as one of the top reasons why reservists quit military service.

We left military reservists who were personally impacted by Katrina out of this tax bill and this is wrong. After Monday's field hearing, I am convinced more than ever that we need to provide tax credits to small employers who pay reservists above their military wages and to help with the cost of a temporary replacement employee.

I thank Chairman GRASSLEY and Ranking Member BAUCUS for working with me to include wages paid to eligible reservists and guardsman as part of the employee retention tax credit. Unfortunately, we were not able to have

this provision included in the final package.

I will continue to work on providing tax incentives for small business employers who have military reservists as employees. We must pass these tax incentives. If we do not make it easier for small businesses to employ military reservists, we will see a substantial decline in our reserve forces. According to published reports, the Army National Guard has missed its recruiting targets every month this year and appears certain to miss its third straight annual recruiting goal. Our military depends on these civilian-warriors. We need to recognize that the needs of our reserve forces are different than the needs of the career military. Our reservists did not sign-up for active duty, and they have been faced with long-term call ups and multiple call ups.

I do not understand why we cannot pass legislation which provides tax incentive to help employer's of civilian-warriors when we continue to pass tax cuts that just benefit the wealthy.

We need to do all that we can to help our reservists and the businesses that employ them to ensure that our great tradition of citizen soldiers does not fade or end because of the effect service can have on work and family in this time of crisis.

Mr. BENNETT. I ask unanimous consent the Senate concur in the House amendment to the Senate amendment and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

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#### UNITED STATES COAST GUARD RESPONSE TO HURRICANE KATRINA

Mr. BENNETT. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 246, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 246) to express the sense of the Senate regarding the missions and performance of the United States Coast Guard in responding to Hurricane Katrina.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BENNETT. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 246) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 246

Whereas the United States Coast Guard has been charged by Congress with missions central to protecting the lives and well-being