

system for enhancing automobile fuel efficiency, and for other purposes.

S. 1691

At the request of Mr. CRAIG, the name of the Senator from Oklahoma (Mr. INHOFE) was added as a cosponsor of S. 1691, a bill to amend selected statutes to clarify existing Federal law as to the treatment of students privately educated at home under State law.

S. 1696

At the request of Mr. GRASSLEY, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 1696, a bill to provide tax relief for the victims of Hurricane Katrina, to provide incentives for charitable giving, and for other purposes.

S. 1700

At the request of Mr. COBURN, the names of the Senator from Arizona (Mr. MCCAIN), the Senator from Texas (Mr. CORNYN), the Senator from Iowa (Mr. GRASSLEY), the Senator from Kansas (Mr. BROWNBACK) and the Senator from South Carolina (Mr. GRAHAM) were added as cosponsors of S. 1700, a bill to establish an Office of the Hurricane Katrina Recovery Chief Financial Officer, and for other purposes.

S.J. RES. 23

At the request of Mrs. CLINTON, her name was added as a cosponsor of S.J. Res. 23, a joint resolution supporting the goals and ideals of Gold Star Mothers Day.

S. RES. 238

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. Res. 238, a resolution recognizing Hispanic Heritage Month and celebrating the vast contributions of Hispanic Americans to the strength and culture of our Nation.

At the request of Mr. FRIST, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Nevada (Mr. REID) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. Res. 238, supra.

AMENDMENT NO. 762

At the request of Mr. NELSON of Florida, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of amendment No. 762 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 1678

At the request of Mr. KENNEDY, his name was added as a cosponsor of amendment No. 1678 proposed to H.R. 2862, an Act making appropriations for the Departments of Commerce and Justice, Science, and related agencies, for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1695

At the request of Mr. KERRY, the name of the Senator from New Jersey

(Mr. CORZINE) was added as a cosponsor of amendment No. 1695 proposed to H.R. 2862, an Act making appropriations for the Departments of Commerce and Justice, Science, and related agencies, for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1706

At the request of Mr. BINGAMAN, the names of the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 1706 proposed to H.R. 2862, an Act making appropriations for the Departments of Commerce and Justice, Science, and related agencies, for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 1717

At the request of Ms. SNOWE, the names of the Senator from Missouri (Mr. TALENT), the Senator from Massachusetts (Mr. KERRY) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of amendment No. 1717 proposed to H.R. 2862, an Act making appropriations for the Departments of Commerce and Justice, Science, and related agencies, for the fiscal year ending September 30, 2006, and for other purposes.

At the request of Mr. OBAMA, his name was added as a cosponsor of amendment No. 1717 proposed to H.R. 2862, supra.

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 1717 proposed to H.R. 2862, supra.

At the request of Mr. PRYOR, his name was added as a cosponsor of amendment No. 1717 proposed to H.R. 2862, supra.

At the request of Mr. BINGAMAN, his name was added as a cosponsor of amendment No. 1717 proposed to H.R. 2862, supra.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ALLEN (for himself and Mr. MARTINEZ):

S. 1706. A bill to amend the Internal Revenue Code of 1986 to provide that distributions from a section 401(k) plan or a section 403(b) contract shall not be includible in gross income to the extent used to pay long-term care insurance premiums; to the Committee on Finance.

Mr. ALLEN. Mr. President, I rise to bring the Senate's attention to a bill I introduced today, the Long-Term Care Act of 2005.

Baby boomers will begin to turn 65 years old in 2010 and by 2030, all 77 million baby boomers will have reached retirement age and the over 65 population will have doubled. The practicality of these conditions will require the Federal Government and most State governments to spend more money on health care. Presently, Federal and State Governments are spending billions of dollars to ensure the

health and well-being of our fellow citizens.

In one sector of the health care arena where costs are dramatically rising is in the area of long-term care. In 2000, spending on long-term care was estimated at \$123.1 billion and it is expected to triple to \$346.1 billion by 2040. Currently, 70 percent of long-term care costs are spent on nursing home care. The average cost of nursing home care is \$178 per day or \$60,000 per year. That is a significant burden on Federal and State Governments as well as the thousands of individuals who pay for that care out of pocket.

In addition, almost 75 percent of nursing home care is publicly funded. Medicaid spends about 58.7 percent on long-term care while Medicare spends 14.7 percent. According to the Council for Affordable Health Insurance, by the year 2030, Medicaid's nursing home expenditures are expected to reach \$130 billion a year.

If more people purchased private long-term care insurance, we could reduce Medicaid's future institutional-care expenses by more than \$40 billion each year, while giving those who are insured alternatives to nursing homes, including home care, adult daycare, foster care and assisted living. Congress has taken steps to give individuals more power to pay for their health care services such as long-term care. One such outstanding measure was the creation of Health Savings Accounts, HSAs.

I was pleased to support the passage of the Medicare Modernization Act. This landmark legislation created health savings accounts, which are a new way that people can pay for unreimbursed medical expenses such as deductibles, copayments, and services not covered by insurance like long-term care. Eligible individuals can establish and fund these accounts when they have a qualifying high deductible health plan and no other health plan, with some exceptions. The beauty of these plans is that they have tax advantages such as deductible contributions; tax-exempt withdrawals if the individual uses the money for medical expenses; and tax-exempt account earnings.

I am confident that with the creation of health savings accounts, individuals and families will be encouraged to set money aside for their health care expenses and give individuals the means to pay for health care services of their own choosing, without being constrained by insurers or employers. Unfortunately, health savings accounts are relatively new and most individuals will not have the built up funds in their HSA to pay for a number of costly health care expenses such as long-term care insurance and that is why we need to provide other options to help pay for this important investment.

Currently, thousands of Virginians and millions of Americans are saving in their retirement plans to have a comfortable life once they become seniors, be it 401(k) and 403(b) accounts.

These savings plans help prepare individuals for their future retirement or any unforeseen circumstance that may arise. Indeed, over 47 million Americans have 401(k) accounts with \$1.8 trillion saved. In addition, 6.4 million Americans have 403(b) accounts, amounting to over \$590 billion saved.

These are untapped funds that individuals should be allowed to use to help pay for their future health care needs. Current tax law and some retirement plans allow individuals, in extreme circumstances, to withdraw funds from their retirement accounts, but more often than not, a 10 percent excise tax applies for early withdrawal. In my opinion, that tax precludes the ability or desirability of individuals to provide for their and their families well-being and that is why I have introduced legislation to provide a new health care option to help address this unfortunate circumstance.

My legislation, the Long-Term Care Act, will allow individuals to use their 401(k) and 403(b) plans to purchase long-term care insurance with pretax dollars at any age and without early withdrawal penalty. Under the Long-Term Care Act, the consumer has the option to purchase long-term care insurance at the most appropriate amounts for their own needs and their spouses.

Today, only 6 percent of Americans own a long-term care policy. One of the reasons behind this dismally low figure is that individuals wait too long to purchase long-term care insurance. In fact, purchasing long-term care insurance at age 65 is about twice as expensive as purchasing it age 55. That is why we must encourage individuals to plan for their future health care needs and purchase long-term care insurance at an early age. By purchasing long-term care insurance at a younger age, individuals will be saving money in the long run and not depleting their life savings.

Our country is heading towards a demographic meltdown on long-term care costs. It is simply unsustainable for individuals and the government to maintain the current rate of spending without further endangering the state of health care in the United States.

Preparing for future costs of health care is something that every American should be doing. Long-term care insurance is one way for Americans to plan for periods of extended disability without burdening their families, going bankrupt, or relying on government assistance.

Every American should be preparing for future health care costs and it is important that we encourage people to take responsibility today for those costs, be it with the purchase of long-term care insurance or investment in a health savings account. If Virginians and Americans fail to act, it will result in an increased and unsustainable financial burden on the Federal Government and taxpayers.

My legislation, the Long-Term Care Act, is a commonsense approach that

will encourage individuals to plan for their future health care needs and help make long-term care insurance more affordable. While this may not be the solution for some people, it is another option for the millions of Virginians and Americans to help provide for their health and well-being or the health and well-being of loved ones. I look forward to the Senate's action on this legislation because it not only encourages Americans to plan for their future health needs but will also help sustain the viability of our Nation's health care system. I thank you for your time and I yield the floor.

By Mr. SANTORUM (for himself and Mr. CRAPO):

S. 1710. A bill to amend section 255 of the National Housing Act to remove the limitation on the number of reverse mortgages that may be insured under the FHA mortgage insurance program for such mortgages; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SANTORUM. Mr. President, I rise today to introduce a bill to remove the current cap on the number of reverse mortgages that can be insured by the Federal Housing Administration (FHA). This legislation will ensure that eligible seniors have access to this important tool that allows them to continue to meet their expenses at a time when they have a reduced income. I am very pleased to be joined in this effort by Senator CRAPO, who is an original cosponsor of this legislation.

I represent a State with the second largest senior population in the United States. Many of these seniors have worked hard throughout their years and own their own homes. Many of them are also at a time in their lives when they are having trouble making ends meet. Reverse mortgages allow senior homeowners to convert part of their home equity into tax-free income. The homeowner receives payments from the lender rather than making monthly payments as with a regular mortgage. The homeowner may receive the money in one lump sum, fixed monthly payments, a line of credit, or a combination of these. These funds can be used by seniors to pay for expenses, while allowing them to stay in their own homes as long as possible. A reverse mortgage helps make services like home healthcare, adult daycare and assisted living a possibility for more American seniors. It can also be used to pay for needed home repairs and other living expenses.

Unfortunately, there is currently a statutory limitation on the number of FHA-insured reverse mortgages that can be issued. This cap has already been increased as the aggregate number of FHA-insured reverse mortgages came close to reaching the cap. Unless it is removed completely, many seniors may be denied the use of this program, which can help to make their later years more stable and comfortable. For this reason, I am pleased to introduce

this legislation to permanently remove the current cap.

I am also pleased to be working on this proposal with my colleague from Pennsylvania, Representative MICHAEL FITZPATRICK, who has introduced this legislation in the House. I am very hopeful that the 109th Congress will act to pass this important legislation.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1710

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Reverse Mortgages to Help America's Seniors Act".

**SEC. 2. ELIMINATION OF CAP ON NUMBER OF MORTGAGES INSURED.**

Section 255 of the National Housing Act (12 U.S.C. 1715z-20) is amended—

(1) in subsection (g), by striking the first sentence; and

(2) in subsection (i)(1)(C), by striking "limitations" and inserting "limitation".

By Mr. VOINOVICH (for himself and Mr. AKAKA):

S. 1712. A bill to establish a Deputy Secretary of Homeland Security for Management, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1712

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Homeland Security Management Restructuring Act of 2005".

**SEC. 2. DEPUTY SECRETARY OF HOMELAND SECURITY FOR MANAGEMENT.**

(a) ESTABLISHMENT AND SUCCESSION.—Section 103 of the Homeland Security Act of 2002 (6 U.S.C. 113) is amended—

(1) in subsection (a)—

(A) in the subsection heading, by striking "DEPUTY SECRETARY" and inserting "DEPUTY SECRETARIES";

(B) by striking paragraph (7);

(C) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively; and

(D) by striking paragraph (1) and inserting the following:

"(1) A Deputy Secretary of Homeland Security.

"(2) A Deputy Secretary of Homeland Security for Management."; and

(2) by adding at the end the following:

"(g) VACANCIES.—

"(1) VACANCY IN OFFICE OF SECRETARY.—

"(A) DEPUTY SECRETARY.—In case of a vacancy in the office of the Secretary, or of the absence or disability of the Secretary, the Deputy Secretary of Homeland Security may exercise all the duties of that office, and for the purpose of section 3345 of title 5, United States Code, the Deputy Secretary of Homeland Security is the first assistant to the Secretary.

“(B) DEPUTY SECRETARY FOR MANAGEMENT.—When by reason of absence, disability, or vacancy in office, neither the Secretary nor the Deputy Secretary of Homeland Security is available to exercise the duties of the office of the Secretary, the Deputy Secretary of Homeland Security for Management shall act as Secretary.

“(2) VACANCY IN OFFICE OF DEPUTY SECRETARY.—In the case of a vacancy in the office of the Deputy Secretary of Homeland Security, or of the absence or disability of the Deputy Secretary of Homeland Security, the Deputy Secretary of Homeland Security for Management may exercise all the duties of that office.

“(3) FURTHER ORDER OF SUCCESSION.—The Secretary may designate such other officers of the Department in further order of succession to act as Secretary.”.

(b) RESPONSIBILITIES.—Section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341) is amended—

(1) in the section heading, by striking “UNDER SECRETARY” and inserting “DEPUTY SECRETARY OF HOMELAND SECURITY”;

(2) in subsection (a)—

(A) by inserting “The Deputy Secretary of Homeland Security for Management shall serve as the Chief Management Officer and principal advisor to the Secretary on matters related to the management of the Department, including management integration and transformation in support of homeland security operations and programs.” before “The Secretary”;

(B) by striking “Under Secretary for Management” and inserting “Deputy Secretary of Homeland Security for Management”;

(C) by striking paragraph (7) and inserting the following:

“(7) Strategic planning and annual performance planning and identification and tracking of performance measures relating to the responsibilities of the Department.”; and

(D) by striking paragraph (9), and inserting the following:

“(9) The integration and transformation process, to ensure an efficient and orderly consolidation of functions and personnel to the Department, including the development of a management integration strategy for the Department.”; and

(3) in subsection (b)—

(A) in paragraph (1), by striking “Under Secretary for Management” and inserting “Deputy Secretary of Homeland Security for Management”;

(B) in paragraph (2), by striking “Under Secretary for Management” and inserting “Deputy Secretary of Homeland Security for Management”.

(c) APPOINTMENT, EVALUATION, AND REAPPOINTMENT.—Section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341), as amended by this Act, is further amended by adding at the end the following:

“(C) APPOINTMENT, EVALUATION, AND REAPPOINTMENT.—The Deputy Secretary of Homeland Security for Management—

“(1) shall be appointed by the President, by and with the advice and consent of the Senate, from among persons who have—

“(A) extensive executive level leadership and management experience in the public or private sector;

“(B) strong leadership skills;

“(C) a demonstrated ability to manage large and complex organizations; and

“(D) a proven record in achieving positive operational results;

“(2) shall serve for a term of 5 years, but may be removed by the Secretary of Homeland Security based upon an unsatisfactory annual determination under paragraph (5);

“(3) may be reappointed in accordance with paragraph (1), if the Secretary has made a

satisfactory determination under paragraph (5) for the 3 most recent performance years;

“(4) shall enter into a publicly available annual performance agreement with the Secretary that shall set forth measurable individual and organizational goals; and

“(5) shall be subject to an annual performance evaluation by the Secretary, who shall determine as part of each such evaluation whether the Deputy Secretary of Homeland Security for Management has made satisfactory progress toward achieving the goals set out in the performance agreement required under paragraph (4).”.

(d) INCUMBENT.—The individual who serves in the position of Under Secretary for Management of the Department of Homeland Security on the date of enactment of this Act—

(1) may perform all the duties of the Deputy Secretary of Homeland Security for Management at the pleasure of the President, until a Deputy Secretary of Homeland Security for Management is appointed in accordance with subsection (c) of section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341), as added by this Act; and

(2) may be appointed Deputy Secretary of Homeland Security for Management, if such appointment is otherwise in accordance with sections 103 and 701 of the Homeland Security Act of 2002 (6 U.S.C. 113 and 341), as amended by this Act.

(e) REFERENCES.—References in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or relating to the Under Secretary for Management of the Department of Homeland Security shall be deemed to refer to the Deputy Secretary of Homeland Security for Management.

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) OTHER REFERENCE.—Section 702(a) of the Homeland Security Act of 2002 (6 U.S.C. 342(a)) is amended by striking “Under Secretary for Management” and inserting “Deputy Secretary of Homeland Security for Management”.

(2) TABLE OF CONTENTS.—The table of contents in section 1(b) of the Homeland Security Act of 2002 (6 U.S.C. 101(b)) is amended by striking the item relating to section 701 and inserting the following:

“Sec. 701. Deputy Secretary of Homeland Security for Management.”.

(3) EXECUTIVE SCHEDULE.—Section 5313 of title 5, United States Code, is amended by inserting after the item relating to the Deputy Secretary of Homeland Security the following:

“Deputy Secretary of Homeland Security for Management.”.

By Mr. ENZI (for himself and Mr. KENNEDY):

S. 1715. A bill to provide relief for students and institutions affected by Hurricane Katrina, and for other purposes; read the first time.

Mr. ENZI. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1715

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.  
Sec. 2. Sunset provision.

#### TITLE I—ELEMENTARY AND SECONDARY EDUCATION ASSISTANCE

Sec. 101. Waivers and other actions.

Sec. 102. Providing additional support for students affected by Hurricane Katrina.

Sec. 103. Immediate aid to restart school operations.

Sec. 104. Use of 2004–2005 child count for ESEA and IDEA funding for sending local educational agencies.

Sec. 105. Payments for receiving local educational agencies.

Sec. 106. Teacher and paraprofessional reciprocity; delay.

Sec. 107. Assistance for homeless youth.

#### TITLE II—HIGHER EDUCATION

Sec. 201. Definitions.

Sec. 202. Waiver authority and modifications to certain provisions of the Higher Education Act of 1965.

Sec. 203. General waiver authority and required consultation.

Sec. 204. Notice of waivers, modifications, or extensions.

#### TITLE III—EMERGENCY AND DISASTER ASSISTANCE TO INDIVIDUALS WITH DISABILITIES

##### Subtitle A—Assistance for Children With Disabilities

Sec. 311. Definitions.

Sec. 312. Use of 2004–2005 numbers of children for IDEA funding for sending states.

Sec. 313. Support for local educational agencies receiving children affected by Hurricane Katrina.

##### Subtitle B—Assistance for Individuals With Disabilities

Sec. 321. Rehabilitation Act of 1973.

Sec. 322. Assistive Technology Act of 1998.

#### TITLE IV—CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990

Sec. 401. Short title.

Sec. 402. Waiver authority to expand the availability of services under Child Care and Development Block Grant Act of 1990.

Sec. 403. Technical assistance and guidance.

Sec. 404. Authorization of appropriations.

#### TITLE V—HEAD START PROGRAMS

Sec. 501. Definitions.

Sec. 502. Income eligibility and documentation waivers.

Sec. 503. Technical assistance, guidance, and resources.

Sec. 504. Authorization of appropriations.

#### TITLE VI—DEPARTMENT OF EDUCATION INSPECTOR GENERAL AUDIT AND REPORT

Sec. 601. Department of Education Inspector General audit and report.

#### SEC. 2. SUNSET PROVISION.

The provisions of this Act (other than section 202(b)) shall be effective for the period beginning on the date of enactment of this Act and ending on September 30, 2006.

#### TITLE I—ELEMENTARY AND SECONDARY EDUCATION ASSISTANCE

##### SEC. 101. WAIVERS AND OTHER ACTIONS.

(a) CURRENT WAIVER AND OTHER AUTHORITY.—The Secretary of Education is encouraged to exercise the maximum waiver authority available or exercise other actions for States, local educational agencies, and schools affected by Hurricane Katrina with respect to the waiver authority or authorization of actions provided under the following provisions of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.):

(1) Section 1111(b)(3)(C)(vii) of such Act (20 U.S.C. 6311(b)(3)(C)(vii)).

(2) Section 1111(b)(7) of such Act (20 U.S.C. 6311(b)(7)).

(3) Section 1111(c)(1) of such Act (20 U.S.C. 6311(c)(1)).

(4) Section 1111(h)(2)(A)(i) of such Act (20 U.S.C. 6311(h)(2)(A)(i)).

(5) Section 1116(b)(7)(D) of such Act (20 U.S.C. 6316(b)(7)(D)).

(6) Section 1116(c)(10)(F) of such Act (20 U.S.C. 6316(c)(10)(F)).

(7) Section 1125A(e)(3) of such Act (20 U.S.C. 6337(e)(3)).

(8) Section 3122(a)(3)(B) of such Act (20 U.S.C. 6842(a)(3)(B)).

(9) Section 5141(c) of such Act (20 U.S.C. 7217(c)).

(10) Section 7118(c)(3)(A) of such Act (20 U.S.C. 7428(c)(3)(A)).

(11) Section 9521(c) of such Act (20 U.S.C. 7901(c)).

(b) REPORT ON WAIVERS.—Not later than December 31, 2005, the Secretary of Education shall prepare and submit a report on the States requesting a waiver of any provision under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) due to the impact of Hurricane Katrina to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

**SEC. 102. PROVIDING ADDITIONAL SUPPORT FOR STUDENTS AFFECTED BY HURRICANE KATRINA.**

(a) GRANTS AUTHORIZED.—From amounts appropriated under subsection (d), the Secretary of Education is authorized to make grants to eligible local educational agencies to enable such agencies to provide, to students displaced or affected by Hurricane Katrina—

(1) supplemental educational services consistent with the definitions, criteria, and amounts established under section 1116(e) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(e)); or

(2) additional programs and activities under part B of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7171 et seq.) relating to 21st century community learning centers.

(b) DEFINITION OF ELIGIBLE LOCAL EDUCATIONAL AGENCY.—In this section, the term “eligible local educational agency” means—

(1) a local educational agency in an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) related to Hurricane Katrina; or

(2) a local educational agency that enrolls a significant number of students displaced from an area where a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) related to Hurricane Katrina, as compared to the total student enrollment in the schools served by the agency.

(c) INTERACTION WITH THE ESEA.—

(1) SUPPLEMENTAL EDUCATIONAL SERVICES.—An eligible local educational agency providing services described in subsection (a)(1) may provide such services to a student displaced by Hurricane Katrina regardless of the status of the school such student attends under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)).

(2) SPECIAL RULE.—Section 9534(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7914(a)) shall apply to the services, programs, and activities funded under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$100,000,000 for fiscal year 2006.

**SEC. 103. IMMEDIATE AID TO RESTART SCHOOL OPERATIONS.**

(a) PURPOSE.—It is the purpose of this section—

(1) to provide immediate and direct assistance to local educational agencies in Louisiana, Mississippi, and Alabama that serve an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina;

(2) to assist school district administrators and personnel of such agencies who are working to restart operations in elementary schools and secondary schools served by such agencies; and

(3) to facilitate the re-opening of elementary schools and secondary schools served by such agencies and the re-enrollment of students in such schools as soon as possible.

(b) PAYMENTS AUTHORIZED.—From amounts appropriated to carry out this section, the Secretary of Education is authorized to make payments in accordance with subsection (c), in November of 2005, to local educational agencies in Louisiana, Mississippi, and Alabama that serve schools certified by the Secretary as being located in an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina.

(c) ELIGIBILITY AND CONSIDERATION.—In determining whether to award a payment under this section, or the amount of the payment, the Secretary of Education shall consider the following:

(1) The number of school-aged children served by the local educational agency in the academic year preceding the academic year for which the payment is awarded.

(2) The severity of the impact of Hurricane Katrina on the local educational agency and the extent of the needs in each local educational agency in Louisiana, Mississippi, and Alabama that is in an area in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina.

(d) APPLICATIONS.—Each local educational agency desiring a payment under this section shall submit an application to the Secretary of Education at such time, in such manner, and accompanied by such information as the Secretary of Education may require.

(e) USES OF FUNDS.—

(1) IN GENERAL.—A local educational agency receiving a payment under this section shall use the payment for—

(A) recovery of student and personnel data, and other electronic information;

(B) replacement of school district information systems, including hardware and software;

(C) financial operations;

(D) rental of mobile educational units and leasing of neutral sites or spaces;

(E) initial replacement of instructional materials and equipment, including textbooks;

(F) redeveloping instructional plans, including curriculum development;

(G) initiating and maintaining education and support services; and

(H) such other activities related to the purpose of this section that are approved by the Secretary.

(2) PROHIBITIONS.—Payments received under this section shall not be used for any of the following:

(A) Construction or renovation of schools.

(B) Payments to school administrators or teachers who are not actively engaged in re-starting or re-opening schools.

(f) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement, not supplant, any funds made available through the Federal Emergency Management Agency or through a State.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$900,000,000 for fiscal year 2006.

**SEC. 104. USE OF 2004-2005 CHILD COUNT FOR ESEA AND IDEA FUNDING FOR SENDING LOCAL EDUCATIONAL AGENCIES.**

In calculating funding under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) and part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) for the 2006-2007 school year for a local educational agency, the Secretary of Education shall use the child count applicable for such agency that was calculated for the 2004-2005 school year if—

(1) such agency serves an area in which the President has declared that a major disaster exists in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina; and

(2) such agency, for the 2006-2007 school year, has a net loss of students as compared with the 2004-2005 school year.

**SEC. 105. PAYMENTS FOR RECEIVING LOCAL EDUCATIONAL AGENCIES.**

(a) PAYMENTS AUTHORIZED.—

(1) IN GENERAL.—Not later than December of 2005 and not later than 5 months after the date of the first payment made under this paragraph, the Secretary of Education shall make payments to eligible local educational agencies in accordance with subsection (d) to enable the agencies to improve the instruction of the displaced students served by the agencies.

(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency is eligible to receive a payment under paragraph (1) if the agency serves an elementary school or secondary school (including a charter school) in which there is enrolled a displaced student who enrolled in such school.

(b) DEFINITION OF DISPLACED STUDENT.—In this section, the term “displaced student” means a student who enrolled in an elementary school or secondary school (including a charter school) served by a local educational agency because such student resides or resided on August 22, 2005, in an area for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina.

(c) NUMBER OF STUDENTS.—Not later than December 15, 2005, and April 15, 2006, each eligible local educational agency shall submit to the Secretary of Education documentation that indicates the number of displaced students enrolled in the elementary schools and secondary schools (including charter schools) served by such agency, including the number of displaced students who are assisted under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.).

(d) AMOUNT OF PAYMENTS.—The amount of a payment under subsection (a) for an eligible local educational agency shall equal the sum of—

(1) 50 percent of the product of the number of displaced students (not including displaced students who are assisted under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.)) served by such agency as described in subsection (c) times the average per-pupil expenditure for the most recent fiscal year for which the information is available (but not earlier than

fiscal year 2003) in the State in which such agency is located, and

(2) 50 percent of the product of the number of displaced students served by such agency who are assisted under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) as described in subsection (c) times 125 percent of the average per-pupil expenditure for the most recent fiscal year for which the information is available (but not earlier than fiscal year 2003) in the State in which such agency is located.

(e) **DISPLACED STUDENTS NOT TO COUNT FOR ESEA AND IDEA FUNDING.**—In calculating funding under part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.) and part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) for a local educational agency that receives a payment under this section, the Secretary of Education shall not count, for purposes of calculating such funding under such parts, displaced students served by such agency for whom a payment is received under this section.

(f) **USE OF FUNDS.**—A local educational agency receiving a payment under this section shall use such payment to enhance instructional opportunities for displaced students who enroll in elementary schools and secondary schools served by such agency, which uses may include—

(1) providing instructional services to such students;

(2) paying the compensation of personnel, including teacher aides, to provide instructional services to such students; and

(3) identifying and acquiring curricular material, including the costs of providing additional classroom supplies, and mobile educational units and leasing neutral sites or spaces.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$2,500,000,000 for fiscal year 2006.

**SEC. 106. TEACHER AND PARAPROFESSIONAL RECIPROCITY; DELAY.**

(a) **TEACHER AND PARAPROFESSIONAL RECIPROCITY.**—

(1) **TEACHERS.**—

(A) **AFFECTED TEACHER.**—In this subsection, the term “affected teacher” means a teacher who is displaced due to Hurricane Katrina to a State that is different from the State in which such teacher resided before Hurricane Katrina.

(B) **IN GENERAL.**—A local educational agency may consider an affected teacher hired by such agency who is not highly qualified in the State in which such agency is located to be highly qualified, for purposes of section 1119 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319), for a period not to exceed 1 year, if such teacher was highly qualified, consistent with section 9101(23) of the Higher Education Act of 1965 (20 U.S.C. 7801(23)), on or before August 22, 2005, in the State in which such teacher resided before Hurricane Katrina.

(2) **PARAPROFESSIONAL.**—

(A) **AFFECTED PARAPROFESSIONAL.**—In this subsection, the term “affected paraprofessional” means a paraprofessional who is displaced due to Hurricane Katrina to a State that is different from the State in which such paraprofessional resided before Hurricane Katrina.

(B) **IN GENERAL.**—A local educational agency may consider an affected paraprofessional hired by such agency who does not satisfy the requirements of section 1119(c) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319(c)) in the State in which such agency is located to satisfy such requirements, for purposes of such section, for a period not to exceed 1 year, if such paraprofessional satisfied such requirements on

or before August 22, 2005, in the State in which such paraprofessional resided before Hurricane Katrina.

(b) **DELAY.**—The Secretary of Education may delay, for a period not to exceed 1 year, applicability of the requirements of paragraphs (2) and (3) of section 1119(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6319(a)(2) and (3)) with respect to the States of Alabama, Louisiana, and Mississippi (and local educational agencies within the jurisdiction of such States), if any such State or local educational agency demonstrates that a failure to comply with such requirements is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of local educational agencies within the State.

**SEC. 107. ASSISTANCE FOR HOMELESS YOUTH.**

(a) **IN GENERAL.**—The Secretary of Education shall provide assistance to local educational agencies serving homeless children and youths displaced by Hurricane Katrina, consistent with section 723 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11433), including identification, enrollment assistance, assessment and school placement assistance, transportation, coordination of school services, supplies, referrals for health, mental health, and other needs.

(b) **EXCEPTION AND DISTRIBUTION OF FUNDS.**—

(1) **EXCEPTION.**—For purposes of providing assistance under subsection (a), subsections (c) and (e)(1) of section 722 and subsections (b) and (c) of section 723 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11432(c) and (e)(1), 11433(b) and (c)) shall not apply.

(2) **DISBURSEMENT.**—The Secretary of Education shall disburse funding provided under subsection (a) to State educational agencies based on need, as determined by the Secretary, and such State educational agencies shall distribute funds to local educational agencies based on demonstrated need, for the purposes of carrying out section 723 of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11433).

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$50,000,000.

**TITLE II—HIGHER EDUCATION**

**SEC. 201. DEFINITIONS.**

In this title:

(1) **AFFECTED BORROWER.**—The term “affected borrower” means an individual who—

(A) was in repayment on a loan made, insured, or guaranteed under part B, D, or E of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.; 1087a et seq.; 1087aa et seq.) on August 22, 2005, or enters or entered repayment after August 22, 2005 and before June 30, 2006; and

(B)(i) lives or lived in an area in which an emergency or major disaster was declared under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) due to the effects of Hurricane Katrina; or

(ii) worked, as of August 22, 2005, in such an area.

(2) **AFFECTED INSTITUTION.**—The term “affected institution” means an institution of higher education, as defined in section 101 or 102 of the Higher Education Act of 1965 (20 U.S.C. 1001, 1002) located in an area in which an emergency or major disaster was declared under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act due to the effects of Hurricane Katrina.

(3) **AFFECTED STUDENT.**—The term “affected student” means a student who was enrolled on August 29, 2005 in an affected institution.

(4) **DISTANCE EDUCATION.**—

(A) **IN GENERAL.**—The term “distance education” means a course or program that uses 1 or more of the technologies described in subparagraph (B) to—

(i) deliver instruction to students who are separated from the instructor; and

(ii) support regular and substantive interaction between the students and the instructor, either synchronously or asynchronously.

(B) **INCLUSIONS.**—For the purposes of subparagraph (A), the technologies used may include—

(i) the Internet;

(ii) one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices;

(iii) audio conferencing; or

(iv) video cassette, DVDs, and CD-ROMs, provided that they are used in a course in conjunction with the technologies listed in clauses (i) through (iii).

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Education.

**SEC. 202. WAIVER AUTHORITY AND MODIFICATIONS TO CERTAIN PROVISIONS OF THE HIGHER EDUCATION ACT OF 1965.**

(a) **WAIVER OF GRANT REPAYMENTS BY STUDENTS.**—Notwithstanding section 484B of the Higher Education Act of 1965 (20 U.S.C. 1091b), the Secretary shall waive the amounts that students would otherwise be required to return to the Department of Education with respect to any grant assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) for an affected student who was unable to attend, or whose attendance was interrupted, because of the impact of Hurricane Katrina on the student or an affected institution.

(b) **EXTENSION OF PERIOD FOR REPAYMENT OF STUDENT GRANT ASSISTANCE BY AFFECTED INSTITUTIONS.**—An affected institution shall calculate the amount of Federal Pell Grant funds and Federal Supplemental Educational Opportunity Grant funds that the affected institution is required to return in accordance with section 484B of the Higher Education Act of 1965, but the Secretary shall grant an extension until June 30, 2010, for the return of the funds to the Department of Education. If any affected institution does not return such grant funds in full by the July 1, 2010, the Secretary shall work out a repayment schedule with the affected institution that may include payment of interest. The Secretary may assess a penalty for failure to return such grant funds in full by July 1, 2010, or for failure to make a payment in accordance with a repayment schedule.

(c) **TEMPORARY LOAN DEFERMENT FOR AFFECTED STUDENTS WHO DO NOT ENROLL IN ANOTHER INSTITUTION.**—With respect to a loan made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965, an affected student who does not enroll in another institution of higher education at any time during the period beginning on August 22, 2005, and ending on and June 30, 2006, and is not eligible for an in-school deferment, shall be placed in deferment status for that period.

(d) **EXTENSION OF PERIOD FOR RETURN OF LOAN PROCEEDS TO THE LENDER OR THE PERKINS LOAN FUND BY AFFECTED INSTITUTIONS.**—An affected institution shall calculate the amount to be credited to outstanding balances on loans made, insured, or guaranteed under part B, D, or E of title IV of the Higher Education Act of 1965, but shall have until June 30, 2006 to remit the funds to the appropriate account or lender. If records related to such balances or loans were destroyed or are inaccessible as a result of Hurricane Katrina, affected institutions are encouraged to use additional sources of information regarding such balances or loans,

such as information from lenders and guaranty agencies. In the event an affected institution does not remit such amounts as required under the preceding sentence, the Secretary shall hold the affected student harmless, and shall make a payment on behalf of the affected student and take such action as the Secretary determines necessary to recover the amounts from the affected institution, including interest and penalties, as the Secretary determines appropriate.

(e) **AUTHORITY TO EXCEED ANNUAL LOAN LIMITS.**—Notwithstanding any provision of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), the Secretary shall permit an affected student to exceed the annual loan limits under part B, D, or E of title IV of the Higher Education Act of 1965 by an amount not greater than the applicable loan limit for such student under such part during the period beginning on July 1, 2005 and ending on June 30, 2006.

(f) **WAIVER AUTHORITY TO FACILITATE USE OF FEDERAL WORK-STUDY FUNDS.**—The Secretary is authorized—

(1) to make whatever arrangements the Secretary determines are necessary and feasible in order to transfer Federal work-study funds under part C of title IV of the Higher Education Act of 1965 (42 U.S.C. 2751 et seq.) from an affected institution to an institution of higher education that enrolls an affected student during the 2005–2006 award year; and

(2) with respect to the Federal work-study funds that are transferred to an institution of higher education in accordance with paragraph (1), to waive all of the non-Federal share requirements under such part for the institution of higher education that enrolls the affected student during the 2005–2006 award year.

(g) **FORBEARANCE.**—Notwithstanding the provisions of part B, D, or E of title IV of the Higher Education Act of 1965, a lender, the Secretary, or an institution of higher education is authorized to provide not more than 1 year of forbearance to an affected borrower without documentation.

(h) **PROFESSIONAL JUDGMENT.**—A financial aid administrator shall be considered to be making an adjustment in accordance with section 479A(a) of the Higher Education Act of 1965 (20 U.S.C. 1087tt(a)) if the financial aid administrator makes the adjustment with respect to the calculation of the expected student or parent contribution (or both) for an affected student, or for a student or a parent who resides or resided on August 22, 2005, or was employed on August 22, 2005, in an area in which an emergency or major disaster was declared under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act due to the effects of Hurricane Katrina. The financial aid administrator shall adequately document the need for the adjustment. The Secretary is authorized to simplify such documentation for institutions of higher education that receive a significant number of affected students as compared to the total student enrollment at the institution.

(i) **MODIFICATION OF PART A OF TITLE II GRANTS AUTHORIZED.**—The Secretary is authorized to approve modifications to the requirements for Teacher Quality Enhancement Grants for States and Partnerships under part A of title II of the Higher Education Act of 1965 (20 U.S.C. 1021 et seq.), at the request of the grantee—

(1) to assist States and local educational agencies to recruit and retain highly qualified teachers in a school district located in an area in which an emergency or major disaster was declared under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act due to the effects of Hurricane Katrina; and

(2) to assist institutions of higher education, as defined in section 101 of such Act

(20 U.S.C. 1001), located in such area to recruit and retain faculty necessary to prepare teachers and provide professional development.

(j) **WAIVER AUTHORITY TO MODIFY AUTHORIZED USES OF TRIO, GEAR-UP, PART A OR B OF TITLE III, AND OTHER GRANTS.**—The Secretary is authorized to modify the required and allowable uses of funds under chapters 1 and 2 of subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq., 1070a–21 et seq.), under part A or B of title III (20 U.S.C. 1057 et seq., 1060 et seq.), and under any other competitive grant program, at the request of an affected institution or other grantee, with respect to affected institutions and other grantees located in an area in which an emergency or major disaster was declared under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act due to the effects of Hurricane Katrina.

(k) **AUTHORITY TO EXTEND OR WAIVE REPORTING REQUIREMENTS UNDER SECTION 131(a).**—The Secretary is authorized to extend reporting deadlines or waive reporting requirements under section 131(a) of the Higher Education Act of 1965 (20 U.S.C. 1015(a)) for an affected institution.

(l) **DISTANCE EDUCATION STUDENT AND PROGRAM ELIGIBILITY.**—

(1) **PROGRAM ELIGIBILITY.**—Notwithstanding section 102(a)(3) of the Higher Education Act of 1965 (20 U.S.C. 1002(a)(3)), an institution of higher education, other than a foreign institution, that offers education or training programs principally through distance education shall be considered to meet the definition of an institution of higher education under section 101 or 102 of the Higher Education Act of 1965 (20 U.S.C. 1001, 1002) if such institution—

(A) has been evaluated and determined to have the capability to effectively deliver distance education programs by an accrediting agency or association that—

(i) is recognized by the Secretary under part H of title IV of the Higher Education Act of 1965 (20 U.S.C. 1099a et seq.); and

(ii) has evaluation of distance education programs within the scope of its recognition, as described in section 496(n)(3) of the Higher Education Act of 1965 (20 U.S.C. 1099b(n)(3));

(B) is otherwise eligible to participate in programs authorized under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.);

(C) has not had its participation in programs under title IV of the Higher Education Act of 1965 suspended or terminated within the previous 5 years; and

(D) has not had, or failed to resolve, an audit finding or program review finding under the Higher Education Act of 1965 during the 2 years preceding the year for which the determination is made that, following any appeal to the Secretary, resulted in the institution being required to repay an amount that is equal to or greater than 25 percent of the total funds the institution received under the programs authorized under title IV of the Higher Education Act of 1965 for the most recent award year.

(2) **STUDENT ELIGIBILITY.**—Notwithstanding any provision of the Higher Education Act of 1965, an affected student enrolled in a course of instruction at an institution of higher education that is offered principally through distance education and leads to a recognized certificate, or associate, baccalaureate, or graduate degree, conferred by such institution, shall not be considered to be enrolled in correspondence courses.

**SEC. 203. GENERAL WAIVER AUTHORITY AND REQUIRED CONSULTATION.**

(a) **WAIVER AUTHORITY.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, the Secretary may

waive or modify any statutory provision of the Higher Education Act of 1965 or any regulation implementing such Act as the Secretary determines necessary in connection with the emergency or major disaster that was declared under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act due to the effects of Hurricane Katrina.

(2) **ACTIONS AUTHORIZED.**—In carrying out paragraph (1), the Secretary is authorized to waive or modify any provision described in paragraph (1) as the Secretary determines necessary to ensure that—

(A) administrative requirements placed on affected students, affected borrowers, institutions of higher education, lenders, guaranty agencies and grantees are minimized to the extent possible without impairing the integrity of the higher education programs under the Higher Education Act of 1965, to ease the burden on such participants; or

(B) institutions of higher education, lenders, guaranty agencies, and other entities participating in the student financial assistance programs under title IV of the Higher Education Act of 1965, that serve an area in which an emergency or major disaster was declared under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act due to the effects of Hurricane Katrina, may be granted temporary relief from requirements that are rendered infeasible or unreasonable due to the effects of Hurricane Katrina, including due diligence requirements and reporting deadlines.

(b) **CONSTRUCTION.**—Nothing in this section shall be construed to allow the Secretary to waive or modify any applicable statutory or regulatory requirements prohibiting discrimination in a program or activity, or in employment or contracting, under existing law (in existence on the date of the Secretary's action).

(c) **CONSULTATION.**—Prior to granting any waiver or modification under this section, the Secretary shall consult with the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives with respect to waivers or modifications under this section.

**SEC. 204. NOTICE OF WAIVERS, MODIFICATIONS, OR EXTENSIONS.**

(a) **IN GENERAL.**—Notwithstanding section 437 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall publish in the Federal Register a notice of the waivers, modifications, or extensions granted under section 202 or 203.

(b) **TERMS AND CONDITIONS.**—The notice described in paragraph (1) shall include information on the waivers, modifications, and extensions granted under section 202 or 203, and shall include the terms and conditions to be applied in lieu of the statutory and regulatory provisions waived, modified, or extended under section 202 or 203, respectively.

**TITLE III—EMERGENCY AND DISASTER ASSISTANCE TO INDIVIDUALS WITH DISABILITIES**

**Subtitle A—Assistance for Children With Disabilities**

**SEC. 311. DEFINITIONS.**

In this subtitle:

(1) **IN GENERAL.**—The terms “child with a disability”, “local educational agency”, “related services”, and “special education” have the meaning given such terms in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

(2) **AFFECTED BY HURRICANE KATRINA.**—The term “affected by Hurricane Katrina”, when used with respect to an individual, means an individual who resides or resided on August 22, 2005 in, or is or was enrolled on August 22,

2005, in a school located in, an area in which the President has declared that a major disaster or emergency exists in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) related to Hurricane Katrina.

(3) INFANT OR TODDLER WITH A DISABILITY.—The term “infant or toddler with a disability” has the meaning given such term in section 632 of the Individuals with Disabilities Education Act (20 U.S.C. 1432).

**SEC. 312. USE OF 2004-2005 NUMBERS OF CHILDREN FOR IDEA FUNDING FOR SENDING STATES.**

(a) IN GENERAL.—In calculating funding under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) for the 2005-2006 school year and the 2006-2007 school year for a State that meets the requirements of subsection (b), the Secretary of Education shall use data from the 2004-2005 school year to determine the number of children in such State for the purposes of—

(1) subsections (a) and (d)(3) of section 611 of the Individuals with Disabilities Education Act (20 U.S.C. 1411(a) and (d)(3));

(2) section 619 of the Individuals with Disabilities Education Act (20 U.S.C. 1419), if such State is eligible to receive an allocation under such section; and

(3) section 643(c) of the Individuals with Disabilities Education Act (20 U.S.C. 1443(c)).

(b) SENDING STATES.—A State qualifies under this section if such State—

(1) includes an area in which the President has declared that a major disaster exists in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) related to Hurricane Katrina; and

(2) for the 2005-2006 school year or 2006-2007 school year, has a net loss of students attending the schools located in the State, as compared with the 2004-2005 school year.

**SEC. 313. SUPPORT FOR LOCAL EDUCATIONAL AGENCIES RECEIVING CHILDREN AFFECTED BY HURRICANE KATRINA.**

(a) FLEXIBILITY FOR LOCAL EDUCATIONAL AGENCIES.—Notwithstanding any other provision of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), for a fiscal year in which funds are appropriated under this section, the Secretary of Education shall provide a portion (as determined by the Secretary) of such funds to an eligible local educational agency for the purpose of providing early intervening services, as described in section 613(f) of such Act (20 U.S.C. 1413(f)), to a student who is affected by Hurricane Katrina—

(1) if the student has not been identified by such agency as needing special education and related services but has been identified as needing additional academic and behavioral support; or

(2) if the student's record of receiving special education and related services are not available but the parent or guardian of the student certifies that the student received special education and related services at the student's preceding school, until such time as an eligibility determination under section 614 of such Act (20 U.S.C. 1414) can be made, except that early intervening services under this paragraph shall not be provided for more than 90 days unless the school and parent or guardian agree that progress is being made toward obtaining the eligibility determination.

(b) RULE OF CONSTRUCTION.—In the case of a child with a disability who is affected by Hurricane Katrina and whose records are available to the local educational agency, nothing in this section shall be construed to supersede the transfer provisions of section 614(d)(2)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(2)(C)).

(c) LIMITATION.—An eligible local educational agency providing early intervening

services under this section shall ensure that such services do not interfere with the special education and related services provided under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) to a child with a disability who is not affected by Hurricane Katrina and is enrolled in a school served by the eligible local educational agency.

(d) DEFINITION OF ELIGIBLE LOCAL EDUCATIONAL AGENCY.—The term “eligible local educational agency” means a local educational agency that enrolls a student who is affected by Hurricane Katrina and who relocates to a school served by the local educational agency.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$10,000,000 for fiscal year 2006.

**Subtitle B—Assistance for Individuals With Disabilities**

**SEC. 321. REHABILITATION ACT OF 1973.**

(a) DEFINITIONS.—In this section:

(1) AFFECTED STATE.—The term “affected State” means a State that contains an area, or that received a significant number of individuals who resided in an area, in which the President has declared that a major disaster exists.

(2) EMERGENCY.—The term “emergency” means an emergency declared by the President in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina.

(3) INDIVIDUAL WITH A DISABILITY.—The term “individual with a disability” has the meaning given the term in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

(4) INDIVIDUAL WITH A DISABILITY AFFECTED BY HURRICANE KATRINA.—The term “individual with a disability affected by Hurricane Katrina” means an individual with a disability who—

(A) resided on August 22, 2005 in an area in which the President has declared that a major disaster exists; and

(B) resides in an area in which the President has declared that an emergency or major disaster exists.

(5) MAJOR DISASTER.—The term “major disaster” means a major disaster declared by the President in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina.

(b) REALLOTMENTS OF FUNDS.—

(1) IN GENERAL.—In reallocating funds to States under section 110(e)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 730(e)(2)) for fiscal year 2005 the Secretary shall give preference to affected States.

(2) WAIVERS.—If the Secretary reallocates funds under section 110(e)(2) of the Rehabilitation Act of 1973 to an affected State for a fiscal year, the State may submit an application to the Commissioner of the Rehabilitation Services Administration requesting a waiver of non-Federal share requirements applicable to programs under title I of such Act (29 U.S.C. 720 et seq.) for that fiscal year. The Commissioner shall develop criteria for granting or denying such applications.

(c) COMMUNITY DEVELOPMENT APPRENTICESHIPS.—An affected State that receives reallocated funds as described in subsection (b) may use the funds to pay for apprenticeship programs (which may include training, mentoring, or job shadowing opportunities) that contribute to the economic growth and development of communities, to enable individuals with disabilities affected by Hurricane Katrina to participate in reconstruction or other major disaster assistance activities in the areas in which the individuals resided on August 22, 2005.

**SEC. 322. ASSISTIVE TECHNOLOGY ACT OF 1998.**

(a) DEFINITIONS.—In this section:

(1) IN GENERAL.—The terms defined in section 321(c) have the meanings given the terms in that section.

(2) ASSISTIVE TECHNOLOGY DEVICE.—The term “assistive technology device” has the meaning given the term in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002).

(b) PROGRAMS.—An affected State that receives a grant under section 4 of the Assistive Technology Act of 1998 (29 U.S.C. 3003) may submit an application to the Commissioner of the Rehabilitation Services Administration requesting authority, for a 90-day period, to use the funds made available through the grant for device reutilization programs, device loan programs, and device demonstrations, described in that section and for programs that directly provide assistive technology devices purchased by or donated to the State, in order to enable individuals with disabilities affected by Hurricane Katrina to replace assistive technology devices that were damaged or lost in the emergency or major disaster involved. The Commissioner shall develop criteria for approving or denying such applications.

(c) USE OF FUNDS.—An affected State that, in accordance with authority received under subsection (b), uses funds made available through such a grant for activities described in subsection (b) during the 90-day period described in subsection (b) may treat such funds as having been used to carry out activities under section 4(e)(2) of the Assistive Technology Act of 1998 (29 U.S.C. 3003(e)(2)), for purposes of meeting the use of funds requirements of section 4(e) of such Act (29 U.S.C. 3003(e)).

(d) GRANTS.—

(1) IN GENERAL.—The Secretary may make grants to affected States with approved applications under subsection (b) to enable the States to carry out programs described in subsection (b) in order to enable individuals with disabilities affected by Hurricane Katrina to replace assistive technology devices as described in that subsection. In the case of a State that receives a grant under this paragraph, the State may obligate the funds made available through the grant during the 90-day period applicable to the State under subsection (b).

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$2,000,000 for fiscal year 2006, to remain available as necessary to permit obligations described in paragraph (1).

**TITLE IV—CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990**

**SEC. 401. SHORT TITLE.**

This title may be cited as the “Child Care Disaster Assistance Act of 2005”.

**SEC. 402. WAIVER AUTHORITY TO EXPAND THE AVAILABILITY OF SERVICES UNDER CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.**

(a) AUTHORITY.—For such period (ending not later than March 31, 2006), and to such extent as the Secretary of Health and Human Services considers to be appropriate, the Secretary may waive the provisions described in subsection (b) for any area with respect to which the President has determined that an emergency, or a major disaster, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122), exists, related to Hurricane Katrina, for the purpose of providing child care services to children orphaned, or of families displaced, as a result of Hurricane Katrina.

(b) PROVISIONS.—The provisions referred to in subsection (a) are provisions of the Child

Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.)—

(1) relating to income limitations on eligibility to receive child care services for which assistance is provided under such Act;

(2) relating to work requirements applicable to eligibility to receive child care services for which assistance is provided under such Act;

(3) requiring the application of section 658G to States in which an area described in subsection (a) is located;

(4) requiring a copayment or other cost sharing by the families that receive child care services for which assistance is provided under such Act; and

(5) preventing children designated as evacuees from receiving priority for child care services for which assistance is provided under such Act, except that children residing in an area and currently receiving services on August 22, 2005 shall not lose such services in order to accommodate evacuee children.

**SEC. 403. TECHNICAL ASSISTANCE AND GUIDANCE.**

The Secretary may assist States to provide technical assistance and guidance to child care providers who are licensed and regulated, as applicable, by the States, in order to enable the providers to provide child care services for children and families described in section 402(a).

**SEC. 404. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to provide for child care services for children and families described in section 402(a) as provided for in section 402, and to carry out section 403, \$112,000,000 for fiscal year 2006.

**TITLE V—HEAD START PROGRAMS**

**SEC. 501. DEFINITIONS.**

In this title:

(1) **CHILDREN AFFECTED BY HURRICANE KATRINA.**—The term “children affected by Hurricane Katrina” means a child who is not older than 5 and who resides or resided on August 22, 2005, in an area in which the President has declared that a major disaster exists.

(2) **IMPACTED HEAD START AGENCIES.**—The term “impacted Head Start agency” means a Head Start agency receiving a significant number of children from an area in which a major disaster has been declared.

(3) **MAJOR DISASTER.**—The term “major disaster” means a major disaster declared by the President in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170), related to Hurricane Katrina.

**SEC. 502. INCOME ELIGIBILITY AND DOCUMENTATION WAIVERS.**

The Secretary of Health and Human Services shall waive requirements of income eligibility and documentation for children affected by Hurricane Katrina who participate in Head Start programs and Early Head Start programs funded under the Head Start Act.

**SEC. 503. TECHNICAL ASSISTANCE, GUIDANCE, AND RESOURCES.**

The Secretary shall provide technical assistance, guidance, and resources through the Region 4 and Region 6 offices of the Administration for Children and Families (and may provide technical assistance, guidance, and resources through other regional offices of the Administration, at the request of such offices, that administer impacted Head Start agencies) to Head Start agencies in areas in which a major disaster has been declared, and to impacted Head Start agencies, to assist the agencies involved in providing Head Start services to children affected by Hurricane Katrina.

**SEC. 504. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to provide for Head Start services (including

Early Head Start services) to children affected by Hurricane Katrina as provided for in section 502, and to carry out section 503, \$45,000,000 for fiscal year 2006.

**TITLE VI—DEPARTMENT OF EDUCATION INSPECTOR GENERAL AUDIT AND REPORT**

**SEC. 601. DEPARTMENT OF EDUCATION INSPECTOR GENERAL AUDIT AND REPORT.**

(a) **IN GENERAL.**—The Inspector General of the Department of Education (referred to in this section as the “Inspector General”) shall conduct an audit and investigation of each program carried out by the Department of Education that includes response and recovery activities related to Hurricane Katrina.

(b) **WEEKLY REPORT.**—Not less frequently than once a week, the Inspector General shall provide a report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives listing the audits and investigations initiated pursuant to subsection (a).

(c) **STATUS REPORT.**—Not later than 6 months after the date of enactment of this section, and biannually thereafter until the audits and investigations described in subsection (a) are complete, the Inspector General shall report to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives on the full status of the activities of the Inspector General under this section.

(d) **COOPERATIVE VENTURES.**—In carrying out this section, the Inspector General is encouraged to enter into cooperative ventures with Inspectors General of other Federal agencies.

Mr. KENNEDY. Mr. President, it is an honor to join the chairman of the HELP Committee, Senator ENZI, in introducing a bill to bring much needed support and relief to students, educators, and schools affected by Hurricane Katrina. The assistance cannot come too soon.

I want to thank the chairman and his staff for all their hard work and for working together with us to deliver this relief as quickly as possible.

We are all familiar with the devastation that hurricanes can cause to communities. In the past, some of the most destructive storms temporarily closed schools in those communities. Yet those closures were fairly limited and brief. In the aftermath of Hurricane Andrew in 1992, the Army, Navy, and National Guard joined in helping to repair classrooms and reopen school doors in about 3 weeks. Last year, Florida schools damaged by Hurricane Charley reopened within a month, and students were quickly back on track in their classrooms.

But Hurricane Katrina became a different type of devastation, and the magnitude of its damage is vastly more extensive.

More than 700 schools and 30 colleges and universities have been damaged and destroyed. Almost all of them have been closed at least temporarily. Many of them will not open until January at the earliest. Some are in danger of not reopening at all.

The number of students affected is staggering. The estimated total popu-

lation of displaced elementary and secondary students is 373,000. Over 100,000 college students have been affected by the disaster, and 18,500 Head Start or Early Head Start children have been affected.

These are not just statistics. From this disaster we have been reminded that we are all part of the American family. And we have a responsibility to help members of that family when they are in need.

Fortunately, America has begun to respond.

School districts across the country have pledged to accommodate displaced students in their schools. Colleges and universities are graciously opening their doors to such students. The Nation is grateful to the school principals and superintendents, and the college presidents and deans who have pledged their help.

But they need help as they struggle to accommodate these students. Congress must do our part to respond, to help these devastated communities get back on their feet and enable students to return to school. We need a response that is as caring and as generous as the American spirit.

Congress has a responsibility to do all it can to support the needs of students, educators, and schools. We need to direct efforts to all stages of education—from early childhood through college. Let's make sure that these elementary and secondary children don't lose a year of education and that these college students can pursue their post-secondary degrees. We need to act quickly to provide the support needed to cope with and overcome this tragedy and rebuild the future.

This bill begins the process by strengthening support for educational institutions affected by Hurricane Katrina. It addresses the needs of early education, elementary and secondary education, higher education, and students with disabilities.

Thousands of young children affected by Katrina need temporary space in safe and healthy settings. We must provide them with quality early childhood programs and facilities, until the children and their families can return to their homes and communities.

The bill facilitates enrollment in Head Start and Early Head Start by waiving income eligibility and other requirements, so that families affected by Katrina will be able to enroll their children more easily. It authorizes funds for affected Head Start centers—providing additional guidance, technical assistance, and resources.

We must do more to provide for elementary and high schools struggling to cope with the harsh reality of the aftermath of Hurricane Katrina. Because of closures and the inability to obtain and maintain records, we need to temporarily postpone reporting requirements at affected schools. We must also provide them with financial support while they are closed to ensure they have the financial stability to reopen.



The bill authorizes the Secretary of Education to waive reporting requirements, assessments, and school improvement and corrective action for states, local educational agencies, and schools affected by Hurricane Katrina.

It directs schools in the declared disaster area to use child count numbers collected during the 2004–2005 academic year in seeking Federal funds for the 2006–2007 school year. The Secretary is authorized to award special school reopening grants to districts and communities significantly affected by Hurricane Katrina. These grants will aid in the effort to retain highly qualified teachers, recover data, establish temporary facilities, and take other related steps necessary to reopen the schools. It also provides funds for after-school services and supplemental educational services to states affected by Hurricane Katrina.

In addition, we need to acknowledge the efforts of school districts in Texas, Georgia, Florida, and other States that offer schooling to displaced students. School districts in those States deserve funds to help ease the transition of students into new schools, support basic instruction, and purchase books and materials. We need to help these schools temporarily expand their facilities to avoid overcrowding.

The bill authorizes the Secretary of Education to make payments to local educational agencies that enroll displaced students. To alleviate the demand for qualified teachers, the Secretary is authorized to encourage States to extend temporary reciprocity for certification of school personnel across State lines. Teachers certified as highly qualified in one State will be recognized as meeting this standard in other States as well. The bill also modifies title II of the Higher Education Act to target teacher recruitment and retention efforts to the changing needs of the area.

We must also help college students find temporary relief so they don't lose a semester or a year of college, and give them the financial assistance they need to continue.

Students unable to attend a college because of the disaster will be exempted from returning grant aid under title IV of the Higher Education Act. These students will be able to place outstanding loans in deferment for the remainder of the 2005–2006 academic year. Additionally, financial aid administrators will be encouraged to use greater flexibility in professional judgment in evaluating the needs of college students affected by Hurricane Katrina.

We must also consider the needs of borrowers. College graduates residing in the declared disaster area who lose their jobs deserve temporary relief on their loan repayments. The bill provides a deferment until June, 2006, during which borrowers will not need to pay down the principal on their student loans.

To ease the burdens faced by colleges and universities in the declared dis-

aster area, the Secretary is authorized to waive various Federal reporting requirements for colleges and universities. Schools will have up to 5 years to return unallocated Pell grants and supplemental educational opportunity grants. If needed, the Secretary will be able to work with schools after the deadline to arrange a repayment schedule. The bill offers colleges a flexible timeline for crediting undisbursed student loans. Schools have until the end of the academic year or June 30, 2006, to return such funds.

To assist colleges in enrolling displaced students, the Secretary is authorized to make arrangements to transfer Federal work-study funds from affected institutions to receiving institutions.

Finally, we must not neglect the needs of children with disabilities, teachers, and schools providing special education. Hurricane Katrina has thrown many children and families into a situation of having lost or having no records to document their child's special education experience. In addition, many children who were previously not students under IDEA may very well become students under IDEA. The bill requires schools to provide early intervening services to all children who need academic or mental health support to benefit from school. This will allow the time for children to sort out an individual needs to be identified. The bill also permits States and local education agencies to use data from either the 2005 or 2004 fiscal years for reporting and funding purposes to accommodate enrollment fluctuations and guarantee funding for teachers and schools to remain stable.

States will also be able to guarantee continuing special education services to students who do not relocate to another State. States, under the Development Disabilities Act, will have the flexibility to use funds to replace assistive technology and durable medical equipment for individuals with disabilities, and under the Vocational Rehabilitation Act will have the flexibility to develop apprenticeship programs to educate people with disabilities to be part of reconstruction efforts.

In the weeks and months ahead, we must also focus on rebuilding and reconstructing the schools devastated by the tragedy so that, as soon as possible, children can return to schools fully stocked with the resources they need. We must also consider strategies to encourage students and educators to return to their schools.

Last week, Senator ENZI and I heard moving testimony in the HELP Committee from Dr. Diane Roussel, superintendent of schools in Jefferson Parish in Louisiana. The parish lies south of New Orleans and was in the direct path of Katrina, and the district's schools, students, and teachers were all severely affected by the disaster.

In her closing remarks, Dr. Roussel emphasized the importance, necessity, and urgency of reopening the schools in

her district. When schools reopen, she said, people return. When schools reopen, business returns, and life begins to return to normal.

In the coming days and weeks, we must work to help life return to normal again for the hundreds of thousands of lives affected by Hurricane Katrina. This education bill is an impressive first step. I urge Congress to continue the work we begin today to meet the needs of the entire Gulf Coast community to reopen its schools.

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#### SUBMITTED RESOLUTIONS

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#### SENATE RESOLUTION 239—SUPPORTING THE GOALS AND IDEALS OF INFANT MORTALITY AWARENESS MONTH

Mr. MARTINEZ submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 239

Whereas infant mortality refers to the death of a baby before it reaches its first birthday;

Whereas the United States ranks 28th among industrialized nations in the rate of infant mortality;

Whereas in the United States, infant mortality increased in 2002, for the first time in more than 4 decades;

Whereas in 2002 the rate reached 7 deaths per 1,000 live births, which was the first increase since 1958;

Whereas the recent increase is a significant and troubling public health issue, especially for African American families, Native American families, and Hispanic families;

Whereas the infant mortality rate among African American women is more than double that of Caucasian women, according to a report produced by the National Healthy Start Association and by a related group supported by the health department of Allegheny County, in the State of Pennsylvania;

Whereas the Secretary of Health and Human Services has designated 2010, as the year by which certain objectives should be met with respect to the health status of the people of the United States;

Whereas such objectives, known as Healthy People 2010, include an objective regarding a decrease in the rate of infant mortality;

Whereas September 1, 2005, is the beginning of a period of several months during which there will be several national observances that relate to the issue of infant mortality, including the observance of October as Sudden Infant Death Awareness Month and November as Prematurity Awareness Month; and

Whereas it would be appropriate to observe September 2005, as Infant Mortality Awareness Month: Now, therefore, be it

*Resolved*, That the Senate supports the goals and ideals of Infant Mortality Awareness Month in order to—

(1) increase national awareness of infant mortality and its contributing factors; and

(2) facilitate activities that will assist local communities in their efforts to meet the objective, as established by the Secretary of Health and Human Service in Healthy People 2010, that the rate of infant mortality in the United States be reduced to a rate of not more than 4.5 infant deaths per 1,000 births.