

## HURRICANE KATRINA FOOD

Mr. HARKIN. Mr. President, for millions of people in the Gulf Coast, Hurricane Katrina has shredded the very fabric of everyday life. As my colleagues from Louisiana, Mississippi, and Alabama have already described, the needs are immeasurable. For many people, it will be years before their lives return to normal. And untold others have paid with their lives. We hold the citizens of Louisiana, Mississippi, and Alabama in our thoughts and in our prayers.

This storm calls on each of us to respond in the best way that we can. And people around the United States are opening their homes and their hearts to the victims of Hurricane Katrina.

Among the most immediate and pressing needs of many who have been hit by hurricane Katrina is a fundamental one—food. Displaced individuals with no ready source of income must, among all of their daily worries, still struggle with the basic task of feeding their families. This situation is exacerbated by the simple fact that retail food outlets have ceased to operate throughout the Gulf Coast. The Department of Agriculture has estimated that food stamp program caseloads alone are likely to increase by 1.4 million people because of Katrina. Furthermore, the Department says that this is a “very conservative” estimate and that the real need may be considerably greater than this.

In Louisiana alone, over 400,000 people are already receiving food stamps through the Emergency Food Stamp Program. In Texas, over 100,000 people have received emergency food stamps. These numbers are rising rapidly with every passing day and are certain to continue to do so.

No American should live in the shadow of hunger and food insecurity, least of all those displaced and devastated by natural disasters. Fortunately, the Federal Government has long provided food assistance to help individuals and families in need. The Department of Agriculture is already working hard to get commodities and emergency food stamps to the victims of Hurricane Katrina. And while there has been much criticism of the disaster efforts generally, I have yet to hear of complaints about the response from the Department of Agriculture. Even so, we can and must do more.

That is why today, with my colleague Senator LEAHY, I am introducing the Hurricane Katrina Food Assistance Relief Act of 2005. I am hopeful that my colleagues will join us in working to pass this legislation expeditiously to enhance our Federal response to the needs of hungry Americans devastated by Hurricane Katrina.

This proposal would provide USDA with additional funding and authorities to provide a strong and continuous response to the food needs of thousands of families adversely affected by Hurricane Katrina. The legislation builds upon the capacities of several Federal

programs to assist our citizens in need. The legislation targets three groups of households: Those living in areas hit by Katrina, those who have lost jobs in the disaster areas, and those who have relocated from the disaster area to other parts of the country.

This bill provides additional funds to allow for unanticipated caseload increases in the Special Supplemental Nutrition Program for Women, Infants, and Children.

It also gives the Department of Agriculture additional funds to purchase bulk commodities and to provide emergency food through food banks and local food pantries.

The legislation especially strengthens the ability of the Food Stamp Program to respond to this tremendous disaster by increasing benefit amounts, expanding eligibility, and streamlining the application process and the delivery of benefits. It also provides additional Federal funds to State food stamp agencies that are likely to be overwhelmed by the workload associated with helping all those who seek aid.

I ask that my colleagues on both sides of the aisle join with Senator LEAHY and me in continuing to shape an appropriate response to the food needs of the victims of Hurricane Katrina. The legislation that we are introducing today is a good faith effort and is, I believe, a generous and appropriate starting point. But I have no doubt that it may be improved. I welcome the advice and suggestions of my colleagues on both sides of the aisle and look forward to doing all that we can with all necessary haste to bring relief to the victims of Hurricane Katrina.

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. 1643

*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 “Hurricane Katrina Food Assistance Relief Act of 2005”.

**SEC. 2. DEFINITION OF SECRETARY.**

In this Act, the term “Secretary” means the Secretary of Agriculture.

**SEC. 3. FOOD STAMP PROGRAM DISASTER AUTHORITY.**

(a) IN GENERAL.—Section 5(h) of the Food Stamp Act of 1977 (7 U.S.C. 2014(h)) is amended by adding at the end the following:

“(4) RESPONSE TO HURRICANE KATRINA.—

“(A) DEFINITIONS.—In this paragraph:

“(i) AFFECTED AREA.—

“(I) IN GENERAL.—The term ‘affected area’ means an area of a State that the Secretary determines was affected by Hurricane Katrina or a related condition.

“(II) INCLUSION.—The term ‘affected area’ includes any area that, as a result of Hurricane Katrina or a related condition, was covered by—

“(aa) a natural disaster declaration under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)); or

“(bb) a major disaster or emergency designation under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(ii) AFFECTED HOUSEHOLD.—

“(I) IN GENERAL.—The term ‘affected household’ means a household—

“(aa) in an affected area;

“(bb) in which a member worked immediately prior to August 29, 2005, in an affected area;

“(cc) that was displaced as a result of Hurricane Katrina or a related condition to other areas of the same or another State; or

“(dd) that the Secretary determines should receive relief under this paragraph as a result of Hurricane Katrina or a related condition.

“(II) INCLUSION.—The term ‘affected household’ includes a household containing 1 or more individuals that were displaced as a result of Hurricane Katrina or a related condition, as determined by the Secretary.

“(iii) DISASTER RECOVERY PERIOD.—

“(I) IN GENERAL.—The term ‘disaster recovery period’ means the period of 180 days beginning on the date of enactment of this paragraph.

“(II) EXTENSION.—The disaster recovery period shall be extended for another 180 days unless the President determines that the extension is not necessary to fully meet the needs of affected households.

“(B) DISASTER RECOVERY PERIOD.—During the disaster recovery period—

“(i) clauses (iv) and (v) of subsection (g)(2)(B), subsections (d) and (o) of section 6, and section 8(c)(1) shall not apply to affected households;

“(ii) the application of an affected household shall be processed under the procedures established under section 11(e)(9);

“(iii) the State agency shall increase the value to the affected household of the thrifty food plan determined under section 3(o) by 10 percent when calculating the value of the allotment for an affected household under section 8(a);

“(iv) the Secretary shall pay each State agency an amount equal to 100 percent of administrative costs allowable under section 16(a) related to serving affected households in lieu of the payments section 16(a) would otherwise require for those costs;

“(v) an affected household shall be considered to meet the requirements of subsection (c)(2) if the income of the affected household, as calculated under subsection (c)(2), does not exceed the level permitted under subsection (c)(1) by more than 50 percent;

“(vi) any resource to which the household lost access because of Hurricane Katrina or a related condition shall not be considered a financial resource under subsection (g);

“(vii) any funds designated for rebuilding or relocation (including payments from Federal, State, or local governments, charitable organizations, employers, or insurance companies) shall be excluded from consideration under subsection (g) in determining the eligibility of an affected household; and

“(viii) an affected household may not be considered to customarily purchase food and prepare meals together with other individuals if the affected household did not customarily purchase food and prepare meals for home consumption with those individuals immediately prior to August 29, 2005.

“(C) DUPLICATE PARTICIPATION.—

“(i) IN GENERAL.—The Secretary shall take such actions as are prudent and reasonable under the circumstances to identify affected households that are participating in more than 1 State and to terminate the duplicate participation of those households.

“(ii) NO ACTION TAKEN.—Except in the case of deliberate falsehoods, no action may be

taken against any affected household relating to any duplicate participation during the disaster recovery period that takes place prior to termination under clause (i).

“(D) CLAIMS RELATING TO BENEFITS.—Except in the case of intentional program violations as determined under section 6(b), no claim may be established under section 13(b) relating to benefits issued under this subsection.

“(E) PAYMENT ERROR RATE.—For purposes of determining the payment error rate of a State agency under section 16(c), the Secretary shall disregard any errors resulting from the application of this paragraph to an affected household during the disaster recovery period.

“(F) EFFECT OF MORE GENEROUS DISASTER PLANS.—This paragraph shall not supersede any provision of a plan approved under paragraph (1) that—

“(i) provides more complete or expeditious relief to affected households; or

“(ii) provides assistance to more individuals.”.

(b) PROGRAM INFORMATION ACTIVITIES.—

(1) IN GENERAL.—From funds otherwise appropriated for the food stamp program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), the Secretary may use not more than \$5,000,000 for the period of fiscal year 2005 through 2006 to enter into contracts with nonprofit organizations to support household and community efforts to address the food assistance and related needs resulting from Hurricane Katrina or a related condition.

(2) EXPEDITING PROVISIONS.—Notwithstanding any other provision of law, the Secretary shall not be required—

(A) to provide public notice of the availability of funds described in paragraph (1); or

(B) to accept competitive bids for contracts under this subsection.

**SEC. 4. EMERGENCY FOOD ASSISTANCE PROGRAM AND SECTION 32 ASSISTANCE.**

(a) DEFINITION OF ELIGIBLE RECIPIENT.—In this section, the term “eligible recipient” means an individual or household that, as determined by the Secretary in consultation with the Secretary of Homeland Security—

(1) is a victim of Hurricane Katrina or a related condition;

(2) has been displaced by Hurricane Katrina or a related condition; or

(3) is temporarily housing 1 or more individuals displaced by Hurricane Katrina or a related condition.

(b) ASSISTANCE.—

(1) IN GENERAL.—In addition to funds otherwise made available for fiscal year 2005 or 2006 to carry out the emergency food assistance program established under the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.), out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Agriculture \$200,000,000 to remain available until expended to provide a variety of food to eligible recipient agencies for providing food assistance to eligible recipients, including—

(A) special supplemental foods for pregnant women and infants or for other individuals with special needs;

(B) infant formula;

(C) bottled water; and

(D) fruit juices.

(2) USE OF FUNDS.—Funds made available under paragraph (1) may be used to provide commodities in accordance with—

(A) section 27 of the Food Stamp Act of 1977 (7 U.S.C. 2036);

(B) section 203A of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7504); and

(C) section 204 of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508).

(3) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

(c) SECTION 32 FUNDING.—In addition to funds otherwise made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), the Secretary shall use not less than \$200,000,000 of funds made available under that section to provide food assistance to eligible recipients, including food described in subparagraphs (A) through (D) of subsection (b)(1).

**SEC. 5. WIC FUNDING.**

(a) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, in addition to other funds otherwise made available to the Secretary for fiscal year 2005 or 2006 to carry out the special supplemental nutrition program for women, infants, and children established by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), the Secretary of the Treasury shall transfer to the Secretary of Agriculture to carry out that program \$200,000,000, to remain available until September 30, 2007.

(b) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subsection (a), without further appropriation.

(c) EMERGENCY DESIGNATION.—The amounts made available by the transfer of funds in or pursuant to subsection (a) are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

(d) ALLOCATION OF FUNDS.—Notwithstanding section 17(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)), the Secretary may allocate funds made available under subsection (a) as the Secretary determines to be necessary to provide assistance to women, infants, and children who, as determined by the Secretary in consultation with the Secretary of Homeland Security—

(1) are victims of Hurricane Katrina or a related condition; or

(2) have been displaced by Hurricane Katrina or a related condition.

**SEC. 6. COMMODITY SUPPLEMENTAL FOOD PROGRAM FUNDING.**

(a) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, in addition to other funds otherwise made available to the Secretary for fiscal year 2005 or 2006 to carry out the commodity supplemental food program established under section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93-86), the Secretary of the Treasury shall transfer to the Secretary of Agriculture \$20,000,000 to carry out that program.

(b) RECEIPT AND ACCEPTANCE.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subsection (a), without further appropriation.

(c) EMERGENCY DESIGNATION.—The amounts made available by the transfer of funds in or pursuant to subsection (a) are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

(d) ALLOCATION OF FUNDS.—The Secretary shall use funds made available under subsection (a) as the Secretary determines to be necessary to provide assistance to individuals who, as determined by the Secretary in consultation with the Secretary of Homeland Security—

(1) are victims of Hurricane Katrina or a related condition; or

(2) have been displaced by Hurricane Katrina or a related condition.

**SEC. 7. REPORT.**

Not later than 180 days after the date of enactment of this Act, the Secretary, in con-

sultation with the Secretary of Homeland Security, shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(1) describes whether additional funding or authority is needed to continue to address the food needs of eligible recipients; and

(2) includes any determination by the President under section 5(h)(4)(A)(iii)(II) of the Food Stamp Act of 1977 (as added by section 3(a)) that an extension of the disaster recovery period is not necessary to fully meet the needs of affected households.

**SEC. 8. REGULATIONS.**

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this Act.

(b) PROCEDURE.—The promulgation of the regulations and administration of this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

By Mrs. BOXER:

S. 1644. A bill to promote the employment of workers displaced by Hurricane Katrina in connection with Hurricane Katrina reconstruction efforts; to the Committee on Homeland Security and Governmental Affairs.

Mrs. BOXER. Mr. President, we have all watched in horror as the Gulf Coast has been struck by what could be the worst natural disaster in U.S. history, leaving unimaginable suffering in its wake. It is difficult to put into words how heartbroken we are for the Americans affected by Hurricane Katrina.

Brave souls everywhere are still searching for some family members, while trying to keep others alive and hopeful. We have seen the inspiring courage of the survivors and dedicated men and women working around the clock to help them.

Thousands of people have lost their lives. Far more have lost life as they know it—their families, their homes, their communities, and their jobs.

There has already been an increase in people filing for unemployment benefits due to Hurricane Katrina. And, the jobs that have been lost will be gone for a long time.

To help people who have lost their jobs because of this crisis, I am introducing the “Hurricane Katrina Reconstruction and Displaced Worker Assistance Act of 2005.”

This legislation would give priority in awarding Federal contracts for the rebuilding efforts to those companies where workers displaced by Hurricane Katrina comprise at least 25 percent of the workforce fulfilling the contract. This will help provide jobs to those who have been severely affected by the hurricane.

We must show those who have suffered so much that their government will help them rebuild their lives. I urge my colleagues to support the bill.

By Mrs. BOXER:

S. 1645. A bill to establish a first responder interoperable communications grant program; to the Committee on Homeland Security and Governmental Affairs.

Mrs. BOXER. Mr. President, today I am reintroducing a bill to provide help to State and local first responders in purchasing interoperable communications systems—so that everyone can talk to one another during an emergency.

This need has been glaringly apparent for over a decade now, but especially since the 2001 terrorist attacks. It was all the more evident in the aftermath of Hurricane Katrina.

The 9/11 Commission described the inability to communicate as “a critical element” at the World Trade Center and at the crash sites, where multiple agencies and multiple jurisdictions responded in September 2001. And yet four years after that attack, our first responders still cannot talk to each other.

Let me mention just one example from the areas affected by Hurricane Katrina.

National Guard members have compared communications capabilities in New Orleans unfavorably with those in Iraq. Ground commanders for New Orleans have been functioning without the ability to track the location of some units reporting to them. This is unacceptable.

Almost every community I visit in California—from big to small—mentions the need for interoperable communications for first responders and the need for assistance from the federal government. California suffered from a lack of interoperable communications in the fall of 2003, when communities could not communicate with each other to convey what was happening with fires that were sweeping through the State, greatly complicating the response.

We need to provide funding so that State and local first responders can purchase the technology that makes interoperability possible. We need to do our job at the national level and provide our first responders with the resources to protect our communities in the case of a terrorist attack, natural disaster, or other emergency.

I have tried to get funds for interoperable communication systems as part of the Intelligence Bill, the Rail Security Bill, and the Homeland Security Appropriations Bill. The time to act is past. We need to get this done before the next disaster strikes, which is why I am reintroducing this bill.

My bill would authorize \$300 million for each of the next 5 years to help State and local agencies improve existing communications systems or purchase new systems. This funding would

help local agencies purchase equipment for real-time interoperable communication between first responders.

Guaranteeing that first responders will have the communications equipment necessary to respond to a future attack is exactly the kind of preemptive action we should have taken after 9/11 and should be taking now.

A report on the needs of first responders by Warren Rudman and Richard Clarke found that fixing this problem would cost \$6.8 billion. My bill does not fund this all, but we need to do something.

This bill is an important step in fulfilling our federal responsibility to protect our citizens during emergencies. I urge my colleagues to support it.

By Mr. AKAKA (for himself, Mr. REID, and Mrs. MURRAY):

S. 1646. A bill to provide for the care of veterans affected by Hurricane Katrina; to the Committee on Veterans' Affairs.

Mr. AKAKA. Mr. President, I rise today to introduce legislation that would provide continuous care to those veterans that have been affected by Hurricane Katrina, one of the worst natural disasters that our country has ever experienced. The Department of Veterans Affairs, VA has played an integral role in the disaster relief efforts of Hurricane Katrina, beginning with the successful evacuation of patients, staff and family members, and now in the recovery stage of the aftermath.

Earlier today, I attended a briefing given by VA Secretary Nicholson and other VA officials on VA's response to the hurricane. VA truly stepped up in the midst of this crisis, and successfully evacuated all of their patients and staff without any loss of life. I commend VA for their coordination and execution of their relief effort. The Department should serve as a model for other government agencies in dealing with disasters.

There is one area, however, where I believe even more can be done to help veterans in Louisiana and Mississippi who have been affected by this tragedy. The legislation I'm introducing will extend a humanitarian hand to those middle-income veterans in the region who do not have access to VA health care because of a decision made by this administration in 2003. The bill extends hospital care and medical services to the Priority 8 veterans affected by Hurricane Katrina, who have previously been denied access to the system.

Veterans residing in areas of New Orleans, LA; Biloxi, MS, or Gulfport, MS, during the hurricane—who have most likely lost everything in this disaster—will be able to find solace in knowing that VA will continue to be there for them even after the media attention fades. It would simply be wrong to exclude these men and women who have served our country from VA services, especially now in their time of need. This bill also serves to relieve some of the financial burden placed on the vet-

erans by waiving copayments for care and medications.

VA's mission is to take care of veterans and also to provide support to other Federal agencies during times of disaster. VA has upheld that mission by establishing a legacy of first rate health care for veterans and now through the response efforts to Hurricane Katrina. We can do more for these veterans by allowing VA to serve as a beacon of hope in their time of recovery.

I would like to thank the countless VA volunteers that have answered the call of duty to our Nation, just as our veterans once did. These volunteers have left their duty stations to support efforts at the surrounding VA hospitals that have taken on the evacuated patients, as well as manning the mobile clinics currently touring the affected areas to provide care. These men and women are true heroes.

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. 1646

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

**SECTION 1. HEALTH CARE AND SERVICES FOR VETERANS AFFECTED BY HURRICANE KATRINA.**

(a) REQUIREMENT FOR HOSPITAL CARE AND MEDICAL SERVICES FOR PRIORITY 8 VETERANS AFFECTED BY HURRICANE KATRINA.—

(1) REQUIREMENT.—The Secretary of Veterans Affairs shall furnish hospital care and medical services which the Secretary determines to be needed to each priority 8 veteran affected by Hurricane Katrina as if such veteran were a veteran described by section 1710(a)(2) of title 38, United States Code.

(2) ENHANCED ENROLLMENT PRIORITY.—For purposes of furnishing hospital care and medical services under paragraph (1), the Secretary shall deem each priority 8 veteran affected by Hurricane Katrina, upon the date of presentation of such veteran to the Department of Veterans Affairs for such care and services, to have enrolled in the system of annual patient enrollment of the Department under section 1705(a) of title 38, United States Code, on the first day of the current year of such system in which such date falls.

(b) PROHIBITION ON COLLECTION OF COPAYMENTS FOR VETERANS AFFECTED BY HURRICANE KATRINA.—In furnishing hospital care and medical services to any veteran affected by Hurricane Katrina, the Secretary shall not collect from or with respect to such veteran any payment for such care and services otherwise required under any provision of law, including any copayment for medications otherwise required under section 1722A of title 38, United States Code.

(c) DEFINITIONS.—In this section:

(1) The term “veteran affected by Hurricane Katrina” means any veteran who, as of August 29, 2005, resided in the catchment region of the Department of Veterans Affairs medical center in New Orleans, Louisiana, Biloxi, Mississippi, or Gulfport, Mississippi.

(2) The term “priority 8 veteran affected by Hurricane Katrina” means any veteran affected by Hurricane Katrina who, as of August 29, 2005, would have been treated as a veteran covered by paragraph (8) of section 1705(a) of title 38, United States Code, for

purposes of enrollment in the system of annual patient enrollment of the Department of Veterans Affairs under such section.

By Mr. FEINGOLD (for himself, Ms. LANDRIEU, Mr. LEAHY, Mr. DURBIN, Mr. LIEBERMAN, Mr. BAYH, Mrs. CLINTON, Ms. CANTWELL, Mr. AKAKA, Mr. OBAMA, Mr. KENNEDY, Mr. HARKIN, Mrs. BOXER, Mr. SALAZAR, Mr. CORZINE, and Mrs. FEINSTEIN):

S. 1647. A bill to amend title 11, United States Code, to provide relief to victims of Hurricane Katrina and other natural disasters; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, in the wake of Hurricane Katrina, the Senate is faced with a daunting but absolutely crucial task. How can Congress best respond to the horrific damage caused by this disaster? I want to express my full support to the people from all of the affected regions in Louisiana, Mississippi, and Alabama and their congressional delegations. In this time of desperate need, we all must pull together and do everything we can to help.

We can see the devastating effects of the hurricane and flooding on our television screens every night. It will take years to rebuild the affected areas. In the meantime, the residents and small businesses in those areas have suffered catastrophic losses. Some will undoubtedly, through no fault of their own, have to file for bankruptcy sometime in the future. The bankruptcy system is an important safety net for people who suffer this kind of devastation. In this country, we do not sentence people who have been through a disaster of this type to a lifetime of financial servitude. Bankruptcy lets them get a fresh start. And a fresh start is what so many of the relief efforts going on are all about.

As my colleagues are aware, Congress earlier this year enacted major changes to the Bankruptcy Code. The Bankruptcy Abuse Prevention and Consumer Protection Act ("BAPCPA") was the first major overhaul of the bankruptcy system in more than 25 years. Most provisions of the new law will become effective on October 17, 2005, six months after enactment. Any bankruptcy case filed before that date is still subject to current law.

We do not yet know how many families affected by this disaster will end up filing for bankruptcy. A study just released a few days ago by Professor Bob Lawless, a law professor at the University of Nevada, indicates that bankruptcy filings increase significantly in areas where natural disasters occur. Professor Lawless looked at 18 hurricanes and tropical storms since 1980 and the rate of bankruptcy filings in the States where the storms made landfall compared to the surrounding States and the rest of the country. He looked at the effects in the first, second and third year after the event.

According to this study, bankruptcy filings climbed in landfall States at

more than 1½ times the pace of unaffected States and remained stuck at that rate even three years later. Given the enormous impact of this storm, we can expect a similar if not greater, increase in filings. And this new influx of filings will occur just as the new law is going into effect. Katrina victims will in essence be guinea pigs, testing the new provisions with the most desperate of circumstances.

The new bankruptcy law makes it significantly more difficult and complicated to file for bankruptcy. No one disputes that. It was intended to weed out abusers of the system. It contains new documentation requirements and the so-called "means test" which is a fairly rigid formula designed to identify debtors who really can continue to pay their debts and shouldn't get a discharge.

Everyone in the Senate knows that I strongly opposed the BAPCPA and tried very hard to amend it to make it less onerous for good faith debtors. But my goal now is not to try to undermine or reopen the new law, but simply to make sure that it doesn't compound the hardship faced by victims of Hurricane Katrina and other natural disasters. That is what the bill I will introduce today, the Hurricane Katrina Bankruptcy Relief and Community Protection Act of 2005, aims to do.

This bill first deals directly with the fact that the new law is scheduled to take effect only a month and a half from now, when the victims of Katrina will still be in the initial stages of putting their lives back together. I believe the best way to handle this extraordinary situation is to give Katrina victims a grace period during which the old bankruptcy law, which has essentially been in effect for 27 years, will still apply to their cases. The bill provides that cases filed within one year of the effective date of the new law by people who lived in the natural disaster area declared by the President will be handled under the law in effect on August 29, 2005, the date of the hurricane. This provision will mean that all the complicated work to apply and interpret the new law that will take place in the first year after it becomes effective will not affect the cases of the victims of Hurricane Katrina.

I understand that some may argue that the new law contains adequate safeguards and judicial discretion to deal with the concerns I have raised. But we can't know that for sure at this point. At the very least, there will be litigation and disagreement over how some provisions will be interpreted. Those issues will be settled by the courts all across the country, and that process will not be affected by this bill. But Katrina's victims should not be the test cases. Giving them a year to proceed under the old law seems entirely reasonable.

Providing this added grace period also addresses the fact that some of the hurricane victims might have filed their petitions before October 17 were

it not for the hurricane. These people have been deprived of that right, which Congress provided in the new law itself, by a natural disaster. Given all they are now going through, we should give them adequate time to take care of their most immediate needs before closing the door on their ability to file for bankruptcy under the old law. A one year grace period should be sufficient, and seems fair.

Professor Lawless's study indicates that the financial effects of a disaster like Katrina last for more than a year. And of course, there will be future disasters, perhaps some as grave as this one. I believe we need to take a close look at the new bankruptcy law and make sure that disaster victims are treated fairly. There is simply no justification for applying provisions designed to stop abuse of the system to people who have been through this kind of disaster. Therefore, the bill makes a number of other amendments to the new law that will apply not only to Katrina victims who file for bankruptcy after the one year grace period is over but to victims of other natural disasters. Let me describe some of those provisions.

First, the bill builds on an exemption to the means test that applies to disabled veterans and simply adds victims of natural disasters to that exemption. No person driven to bankruptcy by a natural disaster should have a case dismissed or converted to a Chapter 13 filing under the means test.

The bill also exempts from the definition of income any payments from FEMA, the Red Cross, or other disaster relief funds. Whatever money people receive to help them survive the aftermath of a disaster should not be included in the calculation of how much they have available to satisfy their creditors. Generous citizens around the country are making contributions to make sure disaster victims are fed and clothed and their homes rebuilt, not to give more money to the credit card companies.

The bill contains a provision to make clear that expenses incurred as a result of a disaster are considered reasonable expenses for purposes of the means test. The rigid IRS standards obviously don't include money to replace things that were lost in a hurricane, or pay for a hotel stay while a home is rebuilt.

Another provision of the new law that seems unfair to apply to victims of natural disasters requires that debtors seek credit counseling before they file for bankruptcy. The new law already includes a provision to exempt debtors who are on active duty military service overseas or who are incompetent or disabled if that status makes them unable to complete the requirement. Victims of natural disasters deserve a similar exemption. If they can't complete credit counseling because they live in a shelter with no access to the Internet or because they have no records for the credit counselor to evaluate, they shouldn't be prevented from filing for bankruptcy.

One of the most tragic effects of a natural disaster is homelessness. Millions of homes were destroyed by Katrina. People who lived in these homes will be in temporary shelters for months, but may eventually find apartments to live in in a new location. If they end up having to file for bankruptcy, that filing puts in place an automatic stay of any legal proceedings against them, including eviction proceedings for nonpayment of rent. The automatic stay allows debtors to get their affairs in order and catch up on their rent payments, but the new law makes it much easier for landlords to have the stay lifted. The prospect of a natural disaster victim being put out on the street during a bankruptcy proceeding should be chilling to all Americans. This bill will simply require landlords of natural disaster victims to seek a lifting of the stay without the expedited procedures and special treatment that the new law provides.

Another provision of the bill gives some extra relief to natural disaster victims from the fairly rigid deadlines that are established for filing certain paperwork in connection with a bankruptcy filing. This is a very reasonable step that simply recognizes that obtaining or filing the necessary tax returns, identity documents, documentation of income and other items may be significantly more difficult, or even impossible for a period of time, for natural disaster victims than it is for other debtors.

Finally, the bill also provides relief for small businesses that are put in dire financial condition by a natural disaster. The new law includes some very tight and unmovable deadlines for small businesses seeking to reorganize under Chapter 11. If we want to help as many businesses hit by disasters to survive as possible, we need to give the courts flexibility to extend those deadlines.

I know that many people in this body worked very hard over a period of many years to pass the BAPCPA. As much as we disagreed about the merits of that bill, I respect their hard work. But I truly hope that my colleagues will not let pride of authorship or the fact that they supported that bill stand in the way of providing desperately needed help to the victims of Hurricane Katrina and other natural disasters. The changes in this bill are modest and will apply to a relatively small number of people. I suppose some may argue that they are not absolutely necessary, but I believe, at the least, that a very good argument can be made that they are. Shouldn't we err on the side of helping people whose lives have been ripped apart? Shouldn't we take every precaution to make sure that the horror of a natural disaster is not compounded by a bankruptcy law that is too rigid or too harsh? I believe that is the least we can do in these circumstances.

I hope my colleagues will join me in supporting these modest but important

changes to the law. I ask 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. 1647

*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 "Hurricane Katrina Bankruptcy Relief and Community Protection Act of 2005".

**SEC. 2. BANKRUPTCY RELIEF FOR VICTIMS OF HURRICANE KATRINA.**

(a) IN GENERAL.—Notwithstanding any other provision of law, the provisions of title 11, United States Code, as in effect on August 29, 2005, shall apply to any case described in subsection (b).

(b) ELIGIBILITY.—A case described in this subsection is a case commenced during the 12-month period beginning on the effective date of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, under title 11, United States Code (other than under chapter 12 of that title 11), by or on behalf of a debtor—

(1) who resides, or who resided on August 29, 2005, in any area that is subject to a declaration by the President of a major disaster, as defined under section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) in connection with Hurricane Katrina; and

(2) whose financial condition is materially adversely affected by the major disaster.

**SEC. 3. DEFINITIONS; WHO MAY BE A DEBTOR.**

(a) CURRENT MONTHLY INCOME.—Section 101(10A)(B) of title 11, United States Code, is amended—

(1) by striking "and payments" and inserting "payments"; and

(2) by inserting before the period at the end "and payments to victims of a natural disaster, on account of their status as victims of a natural disaster".

(b) NATURAL DISASTER; NATURAL DISASTER ZONE.—Section 101 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (40A) and (40B) as paragraphs (40C) and (40D), respectively; and

(2) by inserting after paragraph (40) the following:

"(40A) The term 'natural disaster' means—

"(A) a major disaster, as defined in section 102 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122); or

"(B) a situation similar to such a major disaster (as so defined), with respect to which a determination is made in accordance with State law that such situation exists.

"(40B) The term 'natural disaster zone' means the geographical area included in the determination of a natural disaster.".

(c) VICTIM OF NATURAL DISASTER.—Section 101 of title 11, United States Code, is amended by adding at the end the following:

"(56) The term 'victim of a natural disaster' means a person—

"(A) whose financial condition is materially adversely affected by a natural disaster; and

"(B) whose domicile, residence, or principal place of business in the United States, or whose principal assets in the United States, were located in a natural disaster zone immediately preceding the event that caused the natural disaster.".

(d) WHO MAY BE A DEBTOR.—Section 109(h)(4) of title 11, United States Code, is amended by inserting "natural disaster," after "disability".

**SEC. 4. AMENDMENTS TO CHAPTER 3.**

Section 362(b)(22) of title 11, United States Code, is amended by inserting "(excluding a

debtor who is a victim of a natural disaster)" after "debtor" the first place that term appears.

**SEC. 5. AMENDMENTS TO CHAPTER 5.**

Section 521 of title 11, United States Code, is amended by adding at the end the following:

"(k) The Court may extend any time period specified in this section as may be necessary if—

"(1) the debtor is a victim of a natural disaster; and

"(2) the debtor's status as a victim of a natural disaster necessitates such extension of time.".

**SEC. 6. AMENDMENTS TO CHAPTER 7.**

(a) DEBTOR'S MONTHLY EXPENSES.—Section 707(b)(2)(A)(ii) of title 11, United States Code, is amended by adding at the end the following:

"(IV) In addition, the debtor's monthly expenses may include the actual reasonably necessary expenses incurred as a result of being a victim of a natural disaster.".

(b) LIMITATION ON CONVERSION OF CASE.—Section 707(b)(2) of title 11, United States Code, is amended by adding at the end the following:

"(E) Subparagraphs (A), (B), and (C) shall not apply, and the court may not dismiss or convert a case under this subsection, if the debtor is a victim of a natural disaster.".

**SEC. 7. AMENDMENTS TO CHAPTER 11.**

(a) CONVERSION OF CASE.—Section 1112(b) of title 11, United States Code, is amended—

(1) in paragraph (2)(B)(i), by inserting "including a natural disaster" before the semicolon; and

(2) in paragraph (3), by inserting "(including a natural disaster)" after "circumstances".

(b) WHO MAY FILE A PLAN.—Section 1121(e)(3) of title 11, United States Code, is amended—

(1) in subparagraph (A), by inserting "(i)" after "(A)";

(2) in subparagraph (C), by striking the period at the end and inserting "or";

(3) by redesignating subparagraphs (B) and (C) as clauses (ii) and (iii), respectively; and

(4) by adding at the end the following:

"(B) the debtor is unable to meet the deadline because of a natural disaster.".

(c) EXTENSION OF TIME FOR SMALL BUSINESSES.—Chapter 11 of title 11, United States Code, is amended—

(1) in the table of sections, by adding at the end the following:

"§1117 Extension of time for small businesses"; and

(2) in subchapter I, by adding at the end the following:

"§1117. Extension of time for small businesses

"Notwithstanding any other provision of this title, in a small business case, the court may extend any deadline specified in this chapter if the court finds that such extension is—

"(1) necessary to protect the best interests of the creditors and the estate; or

"(2) warranted by a natural disaster.".

**SEC. 8. AMENDMENTS TO CHAPTER 13.**

(a) CONVERSION OR DISMISSAL.—Section 1307(e) of title 11, United States Code, is amended by adding at the end the following: "The Court may extend any time period specified in this subsection as may be necessary if—

"(1) the debtor is a victim of a natural disaster; and

"(2) the debtor's status as a victim of a natural disaster necessitates such extension of time.".

(b) FILING OF PREPETITION TAX RETURNS.—Section 1308 of title 11, United States Code,

is amended by adding at the end the following:

“(d) The Court may extend any time period specified in this subsection as may be necessary if—

“(1) the debtor is a victim of a natural disaster; and

“(2) the debtor’s status as a victim of a natural disaster necessitates such extension of time.”.

#### SEC. 9. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

Section 1408 of title 28, United States Code, is amended—

(1) by inserting “(a)” before “Except”, and

(2) by adding at the end the following:

“(b) If a case under title 11 cannot be commenced in a district court described in subsection (a) because a person is the victim of a natural disaster (as defined in section 101 of title 11), then a case under title 11 may be commenced by such person in the district court for the district in which such person resides.”.

#### SEC. 10. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect on October 18, 2005.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code on and after October 17, 2005.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 1648. Mr. COBURN (for himself and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2862, making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table.

SA 1649. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2862, supra; which was ordered to lie on the table.

SA 1650. Mr. VOINOVICH (for himself, Mr. DEWINE, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 2862, supra; which was ordered to lie on the table.

SA 1651. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2862, supra; which was ordered to lie on the table.

SA 1652. Mrs. LINCOLN (for herself, Mr. REID, Mr. BINGAMAN, Mr. LAUTENBERG, and Mr. CORZINE) proposed an amendment to the bill H.R. 2862, supra.

SA 1653. Mr. ENSIGN submitted an amendment intended to be proposed by him to the bill H.R. 2862, supra; which was ordered to lie on the table.

SA 1654. Mr. DAYTON (for himself, Mr. CHAMBLISS, Mr. OBAMA, Mr. KERRY, Mr. HARKIN, Mr. HAGEL, Mrs. CLINTON, Ms. CANTWELL, Mr. SALAZAR, Mr. DURBIN, Mr. BAUCUS, Mr. BIDEN, and Mr. NELSON, of Nebraska) submitted an amendment intended to be proposed by him to the bill H.R. 2862, supra.

SA 1655. Mr. SHELBY proposed an amendment to the bill H.R. 2862, supra.

SA 1656. Mr. SHELBY proposed an amendment to the bill H.R. 2862, supra.

SA 1657. Mr. SHELBY proposed an amendment to the bill H.R. 2862, supra.

SA 1658. Mr. SHELBY (for Mr. DORGAN) proposed an amendment to the bill H.R. 2862, supra.

SA 1659. Mr. HARKIN (for himself, Mr. SMITH, Mr. BINGAMAN, Mr. WYDEN, Mr. FEINGOLD, Mr. KENNEDY, Mr. OBAMA, Mr. CORZINE, and Mr. DURBIN) proposed an amendment to the bill H.R. 2862, supra.

SA 1660. Mrs. CLINTON (for herself, Ms. STABENOW, Mr. CORZINE, Mr. REED, Mr. SALAZAR, Mr. LAUTENBERG, Mr. JEFFORDS, Mr. SCHUMER, and Ms. MIKULSKI) submitted an amendment intended to be proposed by her to the bill H.R. 2862, supra; which was ordered to lie on the table.

SA 1661. Mr. BIDEN (for himself, Mr. DURBIN, Mrs. CLINTON, Mr. KERRY, and Mr. REED) proposed an amendment to the bill H.R. 2862, supra.

SA 1662. Mr. SARBANES proposed an amendment to the bill H.R. 2862, supra.

SA 1663. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 2862, supra; which was ordered to lie on the table.

SA 1664. Mr. LOTT submitted an amendment intended to be proposed by him to the bill H.R. 2862, supra; which was ordered to lie on the table.

SA 1665. Mr. DORGAN (for himself, Mr. GRAHAM, and Ms. STABENOW) proposed an amendment to the bill H.R. 2862, supra.

SA 1666. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill H.R. 2862, supra; which was ordered to lie on the table.

SA 1667. Ms. CANTWELL submitted an amendment intended to be proposed by her to the bill H.R. 2862, supra; which was ordered to lie on the table.

SA 1668. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill H.R. 2862, supra; which was ordered to lie on the table.

SA 1669. Mr. SUNUNU proposed an amendment to the bill H.R. 2862, supra.

SA 1670. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill H.R. 2862, supra; which was ordered to lie on the table.

SA 1671. Mr. DEWINE (for himself, Mr. VOINOVICH, Mr. ALLEN, Mr. WARNER, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill H.R. 2862, supra; which was ordered to lie on the table.

#### TEXT OF AMENDMENTS

SA 1648. Mr. COBURN (for himself and Mr. COLEMAN) submitted an amendment intended to be proposed by him to the bill H.R. 2862, making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 170, between lines 9 and 10, insert the following:

SEC. 304.(a) Notwithstanding the provisions in title III under the heading “NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY” and under the subheading “INDUSTRIAL TECHNOLOGY SERVICES”, none of the funds appropriated in this Act may be made available for the Advanced Technology Program of the National Institute of Standards and Technology.

(b) Notwithstanding any other provision of this Act, the amount made available in title III under the heading “NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION” and under the subheading “OPERATIONS, RESEARCH, AND FACILITIES” for the National Weather Service is increased by \$4,900,000 and, of the total amount made available for such purpose under such subheading, \$3,950,000 shall be made available for the Coastal and Inland Hurricane Monitoring and Prediction Program and \$3,950,000 shall be made available for the Hurricane and Tornado Broadcast Campaign.

(c) Notwithstanding any other provision of this Act, the amount made appropriated in

title I under the heading “OFFICE OF JUSTICE PROGRAMS” and under the subheading “COMMUNITY ORIENTED POLICING SERVICES” is increased by \$72,000,000 and, of the total amount made available under such subheading, not less than \$132,100,000 shall be made available for the Methamphetamine Hot Spots program.

(d) Notwithstanding any other provisions of this Act, the amount made appropriated in title I under the heading “OFFICE OF JUSTICE PROGRAMS” and under the subheading “STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE” is increased by \$48,000,000 and, of the total amount made available under such subheading, not less than \$578,000,000 shall be made available for the Justice Assistance Grants program.

SA 1649. Mr. SALAZAR submitted an amendment intended to be proposed by him to the bill H.R. 2862, making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 142, after line 3, insert the following:

SEC. \_\_\_\_\_. Within the funds provided for the Drug Enforcement Agency, the Attorney General shall establish a Methamphetamine Task Force within the Drug Enforcement Agency which shall be responsible for improving and targeting the Federal Government’s policies with respect to the production and trafficking of methamphetamine: *Provided*, That within 90 days of enactment of this Act, the Drug Enforcement Agency shall submit a plan that outlines the governance structure and membership of the task force: *Provided further*, That within 120 days the Drug Enforcement Agency shall establish the task force and submit to the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives the membership of the task force and powers established for the task force.

SA 1650. Mr. VOINOVICH (for himself, Mr. DEWINE, and Mr. LEVIN) submitted an amendment intended to be proposed by him to the bill H.R. 2862, making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows:

On page 170, between lines 9 and 10, insert the following:

SEC. 304. Of the funds made available under this title for the National Oceanic and Atmospheric Administration, \$5,000,000 shall be made available to the Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia for the development of the scientific assessment of hypoxia in United States coastal waters, including the Great Lakes, required by section 603(g) of the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 (16 U.S.C. 1451 note).

SA 1651. Mr. COBURN submitted an amendment intended to be proposed by him to the bill H.R. 2862, making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes; which was ordered to lie on the table; as follows: