

DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. MCCAIN, Mr. McCONNELL, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of FLORIDA, Mr. NELSON of NEBRASKA, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN) submitted the following resolution; which was considered and agreed to:

S. RES. 300

Whereas Henry Ku'ualoha Giugni was born on January 11, 1925, in Honolulu, Hawai'i;

Whereas Henry Giugni served with distinction in the United States Army, after enlisting at the age of 16 after the attacks on Pearl Harbor, and served in combat at the Battle of Guadalcanal during World War II;

Whereas Henry Giugni began his service in the Senate in 1963 as Senior Executive Assistant and Chief of Staff to Senator Daniel K. Inouye;

Whereas Henry Giugni served as Sergeant-at-Arms from 1987 until 1990;

Whereas Henry Giugni was the first person of color and first Polynesian to be appointed to be the Sergeant-at-Arms;

Whereas Henry Giugni promoted minorities and women by appointing the first minority, an African American, to lead the Sergeant-at-Arms' Service Department, and was the first to assign women to the Capitol Police plainclothes unit;

Whereas Henry Giugni's special interest in people with disabilities resulted in a major expansion of the Special Services Office, which now conducts tours of the U.S. Capitol for the blind, deaf, and wheelchair-bound, and publishes Senate maps and documents in Braille;

Whereas in 2003, Henry Giugni received an Honorary Doctorate of Humane Letters from the University of Hawaii at Hilo in recognition of his extraordinary contributions to Hawaii and the nation;

Whereas Henry Giugni carried Hawai'i's flag while marching with Dr. Martin Luther King for civil rights in Selma, Alabama;

Whereas Henry Giugni presided over the inauguration of President George H.W. Bush, and escorted numerous foreign dignitaries, including Nelson Mandela, Margaret Thatcher, and Vaclav Havel when they visited the United States Capitol; and

Whereas on November 3, 2005, Henry Giugni passed away at the age of 80; Now therefore be it

Resolved, That the Senate has heard with profound sorrow and deep regret the announcement of the death of Henry Giugni.

Resolved, That the Secretary of the Senate communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate adjourns today, it stand adjourned as a further mark of respect to the memory of Henry Giugni.

AMENDMENTS SUBMITTED & PROPOSED

SA 2402. Ms. SNOWE (for herself, Ms. COLLINS, Mr. ROCKEFELLER, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table.

SA 2403. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2404. Mr. ENSIGN (for himself, Mr. SANTORUM, and Mr. KYL) proposed an amendment to amendment SA 2352 proposed by Mr. ENZI (for himself, Mr. KENNEDY, Mr. AXELANDER, Mr. DODD, Ms. LANDRIEU, Mr. COCHRAN, Mr. LOTT, and Mrs. HUTCHISON) to the bill S. 1932, supra.

SA 2405. Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. JEFFORDS, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr. CORZINE, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2406. Mr. DURBIN (for himself, Mr. DORGAN, Mr. LAUTENBERG, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2407. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2408. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1932, supra.

SA 2409. Mr. REED (for himself, Mr. BAUCUS, Mrs. MURRAY, Mr. KENNEDY, Mr. BINGAMAN, Mr. CORZINE, Mrs. CLINTON, and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 1932, supra.

SA 2410. Mr. BAUCUS (for himself, Mr. OBAMA, Ms. MIKULSKI, Mrs. MURRAY, Ms. STABENOW, Mr. FEINGOLD, Mr. REED, and Mr. SCHUMER) submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2411. Mrs. FEINSTEIN (for herself, Mrs. HUTCHISON, Mrs. BOXER, Mrs. MURRAY, Mr. LAUTENBERG, Mr. SCHUMER, Mr. CORZINE, Ms. CANTWELL, and Ms. MIKULSKI) proposed an amendment to the bill S. 1932, supra.

SA 2412. Mr. VITTER (for Mr. STEVENS (for himself, Mr. VITTER, Ms. LANDRIEU, Mr. DOMENICI, Mr. CRAIG, Mr. LOTT, Mr. INOUYE, and Mr. BINGAMAN)) proposed an amendment to the bill S. 1932, supra.

SA 2413. Mr. WARNER (for himself, Mr. LIEBERMAN, Mr. ROBERTS, Mr. DURBIN, Mr. ALLEN, and Mr. OBAMA) proposed an amendment to the bill S. 1932, supra.

SA 2414. Mr. BYRD (for himself and Mr. HARKIN) proposed an amendment to the bill S. 1932, supra.

SA 2415. Mr. DURBIN (for himself, Mr. DORGAN, Mr. LAUTENBERG, Mr. JOHNSON, and Mr. LIEBERMAN) submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2416. Mr. SUNUNU (for himself and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2417. Mr. GREGG (for Mr. LEVIN) proposed an amendment to the bill S. 1932, supra.

SA 2418. Mr. GREGG (for Mr. SUNUNU (for himself, Mr. DURBIN, Mr. CRAIG, Mr. PRYOR,

Mr. ISAKSON, Mr. NELSON of Nebraska, Mr. THUNE, Mr. KERRY, and Mr. CHAMBLISS) proposed an amendment to the bill S. 1932, supra.

SA 2419. Mr. SANTORUM (for himself, Mr. BUNNING, Mr. THOMAS, Mr. VOINOVICH, Mr. LIEBERMAN, Mr. DODD, Mr. ROCKEFELLER, Ms. LANDRIEU, and Mr. CONRAD) proposed an amendment to the bill S. 1932, supra.

SA 2420. Mr. GREGG (for Mr. SUNUNU) proposed an amendment to the bill S. 1932, supra.

SA 2421. Mr. BURNS (for himself and Mr. BROWNBACK) submitted an amendment intended to be proposed by him to the bill S. 1932, supra; which was ordered to lie on the table.

SA 2422. Mr. CONRAD (for himself and Mr. SALAZAR) proposed an amendment to the bill S. 1932, supra.

TEXT OF AMENDMENTS

SA 2402. Ms. SNOWE (for herself, Ms. COLLINS, Mr. ROCKEFELLER, and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 368, between lines 5 and 6, insert the following:

SEC. 6116. CLARIFICATION OF CONGRESSIONAL INTENT REGARDING THE COUNTING OF RESIDENTS IN A NONHOSPITAL SETTING.

(a) **D-GME.**—Section 1886(h)(4)(E) (42 U.S.C. 1395ww(h)(4)(E)) is amended by adding at the end the following new sentences: “For purposes of the preceding sentence, the term ‘all, or substantially all, of the costs for the training program’ means the stipends and benefits provided to the resident and other amounts, if any, as determined by the hospital and the entity operating the nonhospital setting. The hospital is not required to pay the entity any amounts other than those determined by the hospital and the entity in order for the hospital to be considered to have incurred all, or substantially all, of the costs for the training program in that setting.”

(b) **IME.**—Section 1886(d)(5)(B)(iv) (42 U.S.C. 1395ww(d)(5)(B)(iv)) is amended by adding at the end the following new sentences: “For purposes of the preceding sentence, the term ‘all, or substantially all, of the costs for the training program’ means the stipends and benefits provided to the resident and other amounts, if any, as determined by the hospital and the entity operating the nonhospital setting. The hospital is not required to pay the entity any amounts other than those determined by the hospital and the entity in order for the hospital to be considered to have incurred all, or substantially all, of the costs for the training program in that setting.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on January 1, 2005.

SA 2403. Mr. COBURN submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 130, after line 25, insert the following:

SEC. 6005. IMPROVED REGULATION OF DRUGS SOLD UNDER A NEW DRUG APPLICATION APPROVED UNDER SECTION 505C OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT.

Section 1927 (42 U.S.C. 1396r-8) is amended—

(1) in subsection (c)(1)(C), by adding at the end the following:

“(iv) Notwithstanding any other provision of this section, in the case of a manufacturer that approves, allows, or otherwise permits any other drug of the manufacturer to be sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act that has, as of January 1, 2006, been marketed for at least 6 months and where the product of the average manufacturer price of the manufacturer’s authorized drugs and the total units of such authorized drugs, if any, during the second quarter of 2005 for which a rebate was paid under any State plan approved under this title (and which was reported as required under subsection (b)(2)(A)), does not exceed \$10,000,000, the term ‘best price’ shall not include any price for such authorized drug available for the innovator multiple source drug of such manufacturer.”; and

(2) in subsection (k)(1)(C), as amended by section 6003(b)(2)(A), by adding at the end the following:

“(G) Notwithstanding subparagraph (C) or any other provision of this section, in the case of a manufacturer that approves, allows, or otherwise permits any other drug of the manufacturer to be sold under a new drug application approved under section 505(c) of the Federal Food, Drug, and Cosmetic Act that has, as of January 1, 2006, been marketed for at least 6 months and where the product of the average manufacturer price of the manufacturer’s authorized drugs and the total units of such authorized drugs, if any, during the second quarter of 2005 for which a rebate was paid under any State plan approved under this title (and which was reported as required under subsection (b)(2)(A)), does not exceed \$10,000,000, the term ‘average manufacturer price’ shall not include any price paid for such authorized drug by wholesalers for drugs distributed to the retail pharmacy class of trade for the innovator multiple source drugs of such manufacturer.”.

SA 2404. Mr. ENSIGN (for himself, Mr. SANTORUM, and Mr. KYL) proposed an amendment to amendment SA 2352 proposed by Mr. ENZI (for himself, Mr. KENNEDY, Mr. ALEXANDER, Mr. DODD, Ms. LANDRIEU, Mr. COCHRAN, Mr. LOTT, and Mrs. HUTCHISON) to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

Strike all after the first word of the amendment and insert the following:

D—Hurricane Katrina Education Relief

SEC. 7951. SHORT TITLE.

This subtitle may be cited as the “Hurricane Katrina Education Relief Act”.

SEC. 7952. FINDINGS.

Congress finds the following:

(1) Hurricane Katrina has had a devastating and unprecedented impact on students who attended schools in the disaster areas.

(2) Due to the devastating effects of Hurricane Katrina, a significant number of students have enrolled in schools outside of the area in which they resided on August 22, 2005, including a significant number of students who enrolled in nonpublic schools because their parents chose to enroll them in such schools.

(3) 372,000 students were displaced by Hurricane Katrina. Approximately 700 schools have been damaged or destroyed. Nine States each have more than 1,000 of such displaced students enrolled in their schools. In Texas alone, over 45,000 displaced students have enrolled in schools.

(4) In response to these extraordinary conditions, this subtitle creates a one-time only emergency grant for the 2005–2006 school year tailored to the needs and particular circumstances of students displaced by Hurricane Katrina.

SEC. 7953. WAIVERS AND OTHER ACTIONS.

(a) IN GENERAL.—If the Secretary of Education determines that it is necessary, in order to provide assistance as efficiently and expeditiously as possible to students, local educational agencies, institutions of higher education, States, or other individuals or entities affected directly or indirectly by Hurricane Katrina, the Secretary may waive or modify, on a case-by-case basis, any requirement of Federal law or regulation that the Secretary administers or enforces (other than a law or regulation of Government-wide applicability or regarding civil rights or safety). The waivers or modifications that the Secretary of Education may issue include extending program reporting deadlines or allowing States, local educational agencies, and institutions of higher education to use funds more broadly to help displaced students.

(b) EFFECTIVE PERIOD.—No waiver or modification issued pursuant to subsection (a) shall be in effect after September 30, 2006.

(c) REPORT ON WAIVERS.—

(1) INITIAL REPORT.—Not later than 1 month after the date of enactment of this Act, the Secretary of Education shall prepare and submit a report on the States and local educational agencies requesting a waiver of any provision under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) due to the impact of Hurricane Katrina to the Committee on Education and the Workforce and the Committee on Appropriations of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate.

(2) FOLLOW-UP REPORT.—Not later than 3 months after September 30, 2006, the Secretary of Education shall prepare and submit a report describing the waivers that were granted under this subtitle, and the impact of such waivers, to the Committee on Education and the Workforce and the Committee on Appropriations of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate.

SEC. 7954. IMMEDIATE AID TO RESTART SCHOOL OPERATIONS.

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

(1) to provide immediate and direct assistance to institutions of higher education and 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 administrators and personnel of such institutions and agencies who are working to restart operations;

(3) to facilitate the reopening of, and the re-enrollment of students in, institutions of higher education and elementary schools and secondary schools served by local educational agencies; and

(4) to assist institutions of higher education, elementary schools, and secondary

schools in restoring operations disrupted by Hurricane Katrina.

(b) GRANTS AUTHORIZED.—From amounts appropriated to carry out this section, the Secretary of Education is authorized to make competitive grants—

(1) to institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)), 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; and

(2) to State educational agencies (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801 et seq.)) in Louisiana, Mississippi, and Alabama to enable those agencies to award subgrants, pursuant to subsection (d), to local educational agencies serving 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) AMOUNT OF GRANTS.—In determining the amount of a grant under this section, the Secretary of Education shall take into consideration—

(1) the number of schools and institutions of higher education in the State affected by Hurricane Katrina;

(2) the number of students in the State affected by Hurricane Katrina;

(3) the severity of the damage inflicted upon the affected schools and affected institutions; and

(4) the estimated length of time to restore operations at the affected schools and affected institutions.

(d) SUBGRANTS.—

(1) APPLICATIONS.—Each local educational agency desiring a subgrant under this section shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require to ensure expedited and timely payment to the local educational agency.

(2) ELIGIBILITY AND CONSIDERATION.—In determining whether to award a subgrant under this section, or the amount of the subgrant, the State educational agency shall consider the following:

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

(B) 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 the State 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.

(e) USES OF FUNDS.—

(1) IN GENERAL.—An institution of higher education receiving a grant, or a local educational agency receiving a subgrant, under this section shall use the subgrant funds for—

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

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

(C) financial operations;

(D) reasonable transportation costs for students;

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

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

(G) redeveloping instructional plans, including curriculum development;

(H) initiating and maintaining education and support services; or

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

(2) USE WITH OTHER AVAILABLE FUNDS.—An institution of higher education receiving a grant, or a local educational agency receiving a subgrant, under this section may use such funds in coordination with other Federal, State, or local funds available for the activities described in paragraph (1).

(3) PROHIBITIONS.—Grant funds or subgrant funds received under this section shall not be used for either of the following:

(A) Construction or major renovation of schools or institutions of higher education.

(B) Payments to administrators, faculty, or teachers who are not actively engaged in—

(i) restarting or re-opening schools or institutions of higher education; or

(ii) restoring operations of schools or institutions of higher education.

(f) SUPPLEMENT NOT SUPPLANT.—

(1) IN GENERAL.—Except as provided in paragraph (2), 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.

(2) EXCEPTION.—Paragraph (1) shall not prohibit the provision of Federal assistance under this section to an eligible educational agency or institution of higher education that is or may be entitled to receive, from another source, benefits for the same purposes as under this section if such agency or institution—

(A) has not received such other benefits by the time of application for Federal assistance under this section; and

(B) agrees to repay all duplicative Federal assistance received to carry out the purposes of this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, and there is appropriated, out of any money in the Treasury not otherwise appropriated, \$450,000,000 to carry out this section.

SEC. 7955. HOLD HARMLESS FOR AGENCIES SERVING MAJOR DISASTER AREAS.

(a) LOCAL EDUCATIONAL AGENCIES AND TITLE I OF ESEA FUNDS.—In the case of a local educational agency that 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, the amount made available for such local educational agency under each of sections 1124, 1124A, 1125, and 1125A of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333, 6334, 6335, and 6337) for fiscal year 2006 shall be not less than the amount made available for such local educational agency under each of such sections for fiscal year 2005.

(b) STATE EDUCATIONAL AGENCIES AND IDEA FUNDS.—In the case of a State educational agency that 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, the amount made available for such State educational agency under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) for fiscal year 2006 shall be not less than the amount made available for such State educational agency under such Act for fiscal year 2005.

SEC. 7956. 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 and relocates to a State that is different from the State in which such teacher resided on August 22, 2005.

(B) IN GENERAL.—A local educational agency may consider an affected teacher hired by that agency who is not highly qualified in the State in which the 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) and section 612(a)(14) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(14)), through the last day of the 2005–2006 school year if such teacher was highly qualified, consistent with section 9101(23) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(23)) and section 602(10) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(10)), on or before August 22, 2005, in the State in which such teacher resided on August 22, 2005.

(2) PARAPROFESSIONALS.—

(A) AFFECTED PARAPROFESSIONAL.—In this subsection, the term “affected paraprofessional” means a paraprofessional who is displaced due to Hurricane Katrina and relocates to a State that is different from the State in which such paraprofessional resided on August 22, 2005.

(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, through the last day of the 2005–2006 school year if such paraprofessional satisfied such requirements on or before August 22, 2005, in the State in which such paraprofessional resided on August 22, 2005.

(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)) and section 612(a)(14)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(14)(C)) 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. 7957. 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), (d)(2), 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), (d)(2), and (e)(1), 11433(b) and (c)) shall not apply.

(2) DISBURSEMENT.—The Secretary of Education shall disburse funds under subsection (a) to State educational agencies based on demonstrated need, as determined by the Secretary, and those State educational agencies shall distribute funds available under subsection (c) 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).

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, and there is appropriated, out of any money in the Treasury not otherwise appropriated, to carry out this section \$10,000,000.

SEC. 7958. GENERAL PROVISION.

Nothing in sections 7951 through 7957 of this subtitle shall be construed to permit discrimination on the basis of race, color, religion, sex (except as otherwise permitted under title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.)), national origin, or disability in any program funded under sections 7951 through 7957 of this subtitle.

SEC. 7959. TEMPORARY EMERGENCY IMPACT AID FOR DISPLACED STUDENTS.

(a) TEMPORARY EMERGENCY IMPACT AID AUTHORIZED.—

(1) AID TO STATE EDUCATIONAL AGENCIES.—From amounts appropriated under subsection (o), the Secretary of Education shall provide emergency impact aid to State educational agencies to enable the State educational agencies—

(A) to make emergency impact aid payments to eligible local educational agencies and eligible BIA-funded schools to enable those eligible local educational agencies and schools to provide for the instruction of displaced students served by the agencies and schools; and

(B) to make immediate impact aid payments to individual accounts established on behalf of displaced students who are attending eligible nonpublic schools located within the State.

(2) AID TO LOCAL EDUCATIONAL AGENCIES AND BIA-FUNDED SCHOOLS.—A State educational agency shall make emergency impact aid payments to eligible local educational agencies and eligible BIA-funded schools in accordance with subsection (d).

(3) STATE EDUCATIONAL AGENCIES IN CERTAIN STATES.—In the case of the States of Louisiana and Mississippi, the State educational agency shall carry out the activities of eligible local educational agencies that are unable to carry out this section, including eligible local educational agencies in those States for which the State exercises the authorities normally exercised by the local educational agencies.

(b) DEFINITIONS.—In this section:

(1) CHILD WITH A DISABILITY.—The term “child with a disability” has the meaning given the term in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

(2) DISPLACED STUDENT.—The term “displaced student” means a student who enrolls in a school (other than the school that the student was enrolled in, or was eligible to be enrolled in, on August 22, 2005), and who 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.

(3) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—The term “eligible local educational agency” means a local educational agency

that serves an elementary school or secondary school (including a charter school) in which there is enrolled a displaced student.

(4) **ELIGIBLE NONPUBLIC SCHOOL.**—The term “eligible nonpublic school” means a nonpublic school that—

(A) operates in accordance with State law or is accredited or licensed;

(B) was in existence on August 22, 2005; and

(C) serves a displaced student.

(5) **ELIGIBLE BIA-FUNDED SCHOOL.**—In this section, the term “eligible BIA-funded school” means a school funded by the Bureau of Indian Affairs in which there is enrolled a displaced student.

(c) **APPLICATION.**—

(1) **STATE EDUCATIONAL AGENCY.**—A State educational agency that desires to receive emergency impact aid 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 reasonably require, which shall include—

(A) information on the displaced student child count of the State provided by eligible local educational agencies in the State and eligible BIA-funded schools in the State under paragraph (2);

(B) information on the child count of the State of displaced students enrolled in eligible nonpublic schools;

(C) a description of how parents and guardians will be notified of their options for enrolling their children in public or nonpublic schools in the State;

(D) a description of the process by which parents and guardians may apply for payment through individual accounts, including the information such parents and guardians will be required to provide such State educational agency;

(E) a description of the procedure to be used by such State educational agency to provide payments to parents and guardians through individual accounts;

(F) a description of the process to be used by such State educational agency to obtain attestations of attendance of displaced students from eligible nonpublic schools, in order for such agency to provide payments to parents and guardians through individual accounts; and

(G) a description of how such State educational agency will prioritize funding for displaced students attending eligible nonpublic schools, if necessary, including any criteria such as household income.

(2) **LOCAL EDUCATIONAL AGENCIES AND BIA-FUNDED SCHOOLS.**—An eligible local educational agency or eligible BIA-funded school that desires an emergency impact aid payment under this section shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require, including documentation submitted for each quarter of the 2005–2006 school year that indicates the following:

(A) In the case of an eligible local educational agency, the number of displaced students enrolled in the elementary schools and secondary schools (including charter schools), including the number of displaced students who are identified as children with disabilities and are served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), served by such agency.

(B) In the case of an eligible BIA-funded school, the number of displaced students, including the number of displaced students who are identified as children with disabilities and are served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), enrolled in such school.

(3) **DETERMINATION OF NUMBER OF DISPLACED STUDENTS.**—In determining the number of displaced students for a quarter under paragraph (2), an eligible local educational agency or eligible BIA-funded school shall include in such number the number of displaced students served during such quarter prior to the date of enactment of this Act.

(d) **AMOUNT OF EMERGENCY IMPACT AID.**—

(1) **AID TO STATE EDUCATIONAL AGENCIES.**—

(A) **IN GENERAL.**—The amount of emergency impact aid received by a State educational agency for the 2005–2006 school year shall equal the sum of—

(i) the number of displaced students (who are not identified as children with disabilities and are not served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.)), as determined by the eligible local educational agencies and eligible BIA-funded schools in the State under subsection (c)(2), and the number of such displaced students enrolled in eligible nonpublic schools in the State whose parents or guardians request payments pursuant to this section, times \$6,000; and

(ii) the number of displaced students who are identified as children with disabilities and are served under part B of the Individuals with Disabilities Education Act, as determined by the eligible local educational agencies and eligible BIA-funded schools in the State under subsection (c)(2), and the number of such displaced students enrolled in eligible nonpublic schools in the State whose parents or guardians request payments pursuant to this section, times \$7,500.

(B) **INSUFFICIENT FUNDS.**—If the amount available under this section to provide emergency impact aid under this subsection is insufficient to pay the full amount that a State educational agency is eligible to receive under this section, the Secretary of Education shall ratably reduce the amount of such emergency impact aid.

(2) **AID TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES AND ELIGIBLE BIA-FUNDED SCHOOLS; PAYMENTS TO INDIVIDUAL ACCOUNTS.**—

(A) **IN GENERAL.**—A State educational agency that receives emergency impact aid under this subtitle shall provide payments under this section to eligible local educational agencies and eligible BIA-funded schools (as provided under subparagraph (B)), and to the individual accounts on behalf of displaced students enrolled in eligible nonpublic schools (as provided under subparagraph (C)) whose parents or guardians have requested such funds in accordance with subsection (e)(2), for the 2005–2006 school year by such dates as determined by the Secretary of Education. The Secretary of Education shall establish a timeline for reporting on the number of displaced students for each quarter in order to make the appropriate disbursements in a timely manner.

(B) **PAYMENTS TO ELIGIBLE LOCAL EDUCATIONAL AGENCIES AND ELIGIBLE BIA-FUNDED SCHOOLS.**—

(i) **IN GENERAL.**—Payments to eligible local educational agencies and eligible BIA-funded schools shall be based on the number of displaced students reported for each quarter under subsection (c)(2) and in the amount determined under clause (ii).

(ii) **PAYMENT AMOUNT.**—Each payment under clause (i) shall equal 25 percent of the sum of—

(I) the number of displaced students (who are not identified as children with disabilities and are not served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.)) reported by the eligible local educational agency or eligible BIA-funded school for each quarter (as determined under subsection (c)(2)) times \$6,000; and

(II) the number of displaced students who are identified as children with disabilities and are served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.) reported by the eligible local educational agency or eligible BIA-funded school for each quarter (as determined under subsection (c)(2)) times \$7,500.

(iii) **INSUFFICIENT FUNDS.**—If the amount available under this section to make payments under this subsection is insufficient to pay the full amount that an eligible local educational agency or eligible BIA-funded school is eligible to receive for any quarter under this section, the State educational agency shall ratably reduce the amount of the payments.

(C) **PAYMENTS TO INDIVIDUAL ACCOUNTS.**—

(i) **IN GENERAL.**—A State educational agency shall make payments to an individual account on behalf of a displaced student for each quarter for which the displaced student is enrolled in an eligible nonpublic school in the amount determined under clause (ii).

(ii) **PAYMENT AMOUNT.**—Each payment under clause (i) shall equal 25 percent of the lesser of—

(I) \$6,000; or

(II) the total amount of tuition, fees, and transportation costs, if any, of the displaced student for the 2005–2006 school year.

(iii) **MAXIMUM AMOUNT.**—In providing payments to an individual account for the 2005–2006 school year on behalf of a displaced student, a State educational agency may provide not more than 4 quarterly payments to such account.

(e) **USE OF FUNDS.**—

(1) **DISPLACED STUDENTS IN PUBLIC SCHOOLS.**—An eligible local educational agency or eligible BIA-funded school receiving emergency impact aid payments under this section shall use the payments to provide instructional opportunities for displaced students who enroll in elementary schools and secondary schools (including charter schools) served by such agency or in such a school, and for other expenses incurred as a result of the agency or school serving displaced students, which uses may include—

(A) paying the compensation of personnel, including teacher aides, in schools enrolling displaced students;

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

(C) basic instructional services for such students, including tutoring, mentoring, academic counseling, supplemental educational services, or after-school programs;

(D) reasonable transportation costs for students;

(E) health services (including counseling); and

(F) alternative education services.

(2) **DISPLACED STUDENTS IN NONPUBLIC SCHOOLS.**—

(A) **IN GENERAL.**—A State educational agency that receives emergency impact aid under this section shall, at the request of the parent or guardian of a displaced student who enrolls in an eligible nonpublic school in the State, use such emergency impact aid to provide payment on a quarterly basis, in accordance with subsection (d)(2)(C), to an individual account on behalf of such displaced student. Payment shall be by individual check made payable to the displaced student's parent or guardian and mailed by the State educational agency to the eligible nonpublic school of the parent or guardian's direction and the parent or guardian shall restrictively endorse the check to such eligible nonpublic school.

(B) USE OF FUNDS.—An eligible nonpublic school that receives a check pursuant to subparagraph (A) may use the funds for—

- (i) paying the compensation of personnel, including teacher aides;
- (ii) identifying and acquiring curricular material, including the costs of providing additional classroom supplies, and mobile educational units and leasing sites or spaces;
- (iii) basic instructional services for the displaced students, including tutoring, mentoring, academic counseling, or after-school programs;
- (iv) reasonable transportation costs for the displaced students;
- (v) health services (including counseling);
- (vi) education and support services; and
- (vii) alternative education services.

(3) PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES.—

(A) IN GENERAL.—In the case of a displaced student who is identified as a child with a disability and is served under part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.), any payment made on behalf of such student to an eligible local educational agency or any payment available in an account for such student, shall be used to pay the cost of providing the student with special education and related services consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(B) SPECIAL RULE.—Notwithstanding any other provision of this section, a State educational agency may provide payment to an eligible local educational agency that provides services to a displaced student attending an eligible nonpublic school under section 612(a)(10) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(10)) in an amount that is not more than \$1,500 per displaced student served.

(C) SPECIAL EDUCATION; RELATED SERVICES.—In this paragraph, the terms “special education” and “related services” have the meaning given such terms in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401).

(f) RETURN OF AID.—

(1) ELIGIBLE LOCAL EDUCATIONAL AGENCY OR ELIGIBLE BIA-FUNDED SCHOOL.—An eligible local educational agency or eligible BIA-funded school that receives an emergency impact aid payment under this section shall return to the State educational agency any payment provided to the eligible local educational agency or school under this section that the eligible local educational agency or school has not obligated by the end of the 2005–2006 school year in accordance with this section.

(2) STATE EDUCATIONAL AGENCY.—A State educational agency that receives emergency impact aid under this section, shall return to the Secretary of Education—

(A) any aid provided to the agency under this section that the agency has not obligated by the end of the 2005–2006 school year in accordance with this section; and

(B) any payment funds returned to the State educational agency under paragraph (1).

(g) LIMITATION ON USE OF AID AND PAYMENTS.—Aid and payments provided under this section shall be used only for expenses incurred during the 2005–2006 school year.

(h) ADMINISTRATIVE EXPENSES.—A State educational agency that receives emergency impact aid under this section may use not more than 1 percent of such aid for administrative expenses.

(i) SPECIAL FUNDING RULE.—In calculating funding under section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703) for an eligible local educational agency that receives an emergency impact aid payment under this section, the Secretary of Education shall not count displaced

students served by such agency for whom an emergency impact aid payment is received under this section, nor shall such students be counted for the purpose of calculating the total number of children in average daily attendance at the schools served by such agency as provided in section 8003(b)(3)(B)(i) of such Act (20 U.S.C. 7703(b)(3)(B)(i)).

(j) TERMINATION OF AUTHORITY.—The authority provided by this section shall terminate on August 1, 2006.

(k) BY-PASS.—If a State educational agency is unable or unwilling to carry out this section, the Secretary of Education may make such arrangements with the State as the Secretary determines appropriate to carry out this section on behalf of displaced students attending an eligible nonpublic school in the State. For a State in which State law prohibits the State from using Federal funds to directly provide services on behalf of students attending nonpublic schools and provides that another entity shall provide such services, the Secretary of Education shall make such arrangements with that entity.

(1) NONDISCRIMINATION.—

(1) IN GENERAL.—A State educational agency may provide payment under this section to the parent or guardian of a displaced student who enrolls in an eligible nonpublic school in the State only if the eligible nonpublic school selected by the student provides assurances that it does not discriminate against participating displaced students on the basis of race, color, national origin, religion, or sex.

(2) APPLICABILITY AND SINGLE-SEX SCHOOLS, CLASSES, OR ACTIVITIES.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the prohibition of sex discrimination in paragraph (1) shall not apply to a nonpublic school that is operated by, controlled by, or connected to a religious organization to the extent that the application of paragraph (1) is inconsistent with the religious tenets or beliefs of the school.

(B) SINGLE-SEX SCHOOLS, CLASSES, OR ACTIVITIES.—Notwithstanding paragraph (1) or any other provision of law, a parent or guardian may choose, and a nonpublic school may offer, a single-sex school, class, or activity.

(3) GENERAL PROVISION.—Nothing in this section may be construed to alter or modify the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(4) RULE OF CONSTRUCTION.—Payments made to an individual account (or any other form of support provided to students under this section) under this section shall be considered assistance to the student and shall not be considered assistance to the school that enrolls the student. The amount of any payment (or other form of support provided on behalf of a displaced student) under this section shall not be treated as income of a parent or guardian of the student for purposes of Federal tax laws or for determining eligibility for any other Federal program.

(5) RELIGIOUSLY AFFILIATED SCHOOLS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, an eligible nonpublic school participating in any program under this subtitle that is operated by, supervised by, controlled by, or connected to, a religious organization may exercise its rights in matters of employment consistent with title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), including the exemptions provided under such title.

(B) MAINTENANCE OF PURPOSE.—Notwithstanding any other provision of law, funds made available under this section to displaced students that are received by an eligible nonpublic school, as a result of the student's parent or guardian's choice, shall not, consistent with the first amendment of the

United States Constitution, necessitate any change in the eligible nonpublic school's teaching mission, require any eligible nonpublic school to remove religious art, icons, scriptures, or other symbols, or preclude any eligible nonpublic school from retaining religious terms in its name, selecting its board members on a religious basis, or including religious references in its mission statements and other chartering or governing documents.

(C) RULE OF CONSTRUCTION.—For purposes of this section, the provisions of section 909 of the Education Amendments of 1972 (20 U.S.C. 1688) shall apply to this section as if section 909 of the Education Amendments of 1972 (20 U.S.C. 1688) were part of this section.

(m) TREATMENT OF STATE AID.—A State shall not take into consideration emergency impact aid payments received under this section by a local educational agency in the State in determining the eligibility of such local educational agency for State aid, or the amount of State aid, with respect to free public education of children.

(n) RETURN OF UNEXPENDED FUNDS.—The Secretary of Education shall return to the Treasury any funds appropriated under this section that are unexpended or unobligated by September 30, 2006.

(o) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, and there is appropriated, out of any money in the Treasury not otherwise appropriated, \$1,200,000,000 to carry out this section.

SEC. 7960. LIMITATION ON USE OF FUNDS.

Aid, payments, assistance, or other funding provided under this subtitle shall be used only for expenses incurred during the 2005–2006 school year.

SEC. 7961. SUNSET PROVISION.

Except as otherwise provided in this subtitle, the provisions of this subtitle shall be effective for the period beginning on the date of enactment of this Act and ending on August 30, 2006.

SA 2405. Mrs. CLINTON (for herself, Ms. MIKULSKI, Mr. HARKIN, Mr. LAUTENBERG, Mr. JEFFORDS, Mr. REED, Mr. SALAZAR, Mr. OBAMA, Mrs. BOXER, Ms. STABENOW, Mr. CORZINE, Mr. SCHUMER, Mr. DURBIN, Mrs. FEINSTEIN, Mr. FEINGOLD, Mr. CARPER, Mr. JOHNSON, and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. con. Res. 95); which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ____ KATRINA COMMISSION

SEC. ____ 01. ESTABLISHMENT OF COMMISSION.

There is established in the legislative branch the Katrina Commission (in this title referred to as the “Commission”).

SEC. ____ 02. COMPOSITION OF COMMISSION.

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the leader of the Senate (majority or minority leader, as the case may be) of the Democratic Party, in consultation with the leader of the House of Representatives (majority or minority leader, as the case may be) of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party;

(5) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) **QUALIFICATIONS; INITIAL MEETING.**—

(1) **POLITICAL PARTY AFFILIATION.**—Not more than 5 members of the Commission shall be from the same political party.

(2) **NONGOVERNMENTAL APPOINTEES.**—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) **OTHER QUALIFICATIONS.**—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens who represent a diverse range of citizens and enjoy national recognition and significant depth of experience in such professions as governmental service, emergency preparedness, mitigation planning, cataclysmic planning and response, intergovernmental management, resource planning, recovery operations and planning, Federal coordination, military coordination, and other extensive natural disaster and emergency response experience.

(4) **DEADLINE FOR APPOINTMENT.**—All members of the Commission shall be appointed on or before October 1, 2005.

(5) **INITIAL MEETING.**—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(c) **QUORUM; VACANCIES.**—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 03. DUTIES.

The duties of the Commission are to—

(1) examine and report upon the Federal, State, and local response to the devastation wrought by Hurricane Katrina in the Gulf Region of the United States of America especially in the States of Louisiana, Mississippi, Alabama, and other areas impacted in the aftermath;

(2) ascertain, evaluate, and report on the information developed by all relevant governmental agencies regarding the facts and circumstances related to Hurricane Katrina prior to striking the United States and in the days and weeks following;

(3) build upon concurrent and prior investigations of other entities, and avoid unnecessary duplication concerning information related to existing vulnerabilities;

(4) make a full and complete accounting of the circumstances surrounding the approach of Hurricane Katrina to the Gulf States, and the extent of the United States government's preparedness for, and response to, the hurricane;

(5) planning necessary for future cataclysmic events requiring a significant marshaling of Federal resources, mitigation, response, and recovery to avoid significant loss of life;

(6) an analysis as to whether any decisions differed with respect to response and recovery for different communities, neighborhoods, parishes, and locations and what problems occurred as a result of a lack of a common plan, communication structure, and centralized command structure; and

(7) investigate and report to the President and Congress on its findings, conclusions, and recommendations for immediate corrective measures that can be taken to prevent

problems with Federal response that occurred in the preparation for, and in the aftermath of, Hurricane Katrina so that future cataclysmic events are responded to adequately.

SEC. 04. FUNCTIONS OF COMMISSION.

(a) **IN GENERAL.**—The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the catastrophic impacts that Hurricane Katrina exacted upon the Gulf Region of the United States especially in New Orleans and surrounding parishes, and impacted areas of Mississippi and Alabama; and

(B) shall include relevant facts and circumstances relating to—

(i) Federal emergency response planning and execution at the Federal Emergency Management Agency, the Department of Homeland Security, the White House, and all other Federal entities with responsibility for assisting during, and responding to, natural disasters;

(ii) military and law enforcement response planning and execution;

(iii) Federal mitigation plans, programs, and policies including prior assessments of existing vulnerabilities and exercises designed to test those vulnerabilities;

(iv) Federal, State, and local communication interoperability successes and failures;

(v) past, present, and future Federal budgetary provisions for preparedness, mitigation, response, and recovery;

(vi) the Federal Emergency Management Agency's response capabilities as an independent agency and as part of the Department of Homeland Security;

(vii) the role of congressional oversight and resource allocation;

(viii) other areas of the public and private sectors determined relevant by the Commission for its inquiry; and

(ix) long-term needs for people impacted by Hurricane Katrina and other forms of Federal assistance necessary for large-scale recovery;

(2) identify, review, and evaluate the lessons learned from Hurricane Katrina including coordination, management policies, and procedures of the Federal Government, State and local governments, and nongovernmental entities, relative to detection, planning, mitigation, asset prepositioning, and responding to cataclysmic natural disasters such as Hurricane Katrina; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

SEC. 05. POWERS OF COMMISSION.

(a) **IN GENERAL.**—

(1) **HEARINGS AND EVIDENCE.**—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this Act—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) **SUBPOENAS.**—

(A) **ISSUANCE.**—

(i) **IN GENERAL.**—A subpoena may be issued under this subsection only—

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) **SIGNATURE.**—Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) **ENFORCEMENT.**—

(i) **IN GENERAL.**—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) **ADDITIONAL ENFORCEMENT.**—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) **CONTRACTING.**—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) **INFORMATION FROM FEDERAL AGENCIES.**—

(1) **IN GENERAL.**—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) **RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.**—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) **ASSISTANCE FROM FEDERAL AGENCIES.**—

(1) **GENERAL SERVICES ADMINISTRATION.**—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) **OTHER DEPARTMENTS AND AGENCIES.**—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) **GIFTS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

SEC. 06. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section 10.

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

SEC. 07. STAFF OF COMMISSION.

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in consultation with the vice chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

SEC. 08. COMPENSATION AND TRAVEL EXPENSES.

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 09. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. 10. REPORTS OF COMMISSION; TERMINATION.

(a) INTERIM REPORTS.—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) FINAL REPORT.—Not later than 6 months after the date of the enactment of this title, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(c) TERMINATION.—

(1) IN GENERAL.—The Commission, and all the authorities of this Act, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

SEC. 11. FUNDING.

(a) EMERGENCY APPROPRIATION OF FUNDS.—There are authorized to be appropriated \$3,000,000 for purposes of the activities of the Commission under this title and such funding is designated as emergency spending under section 402 of H. Con. Res. 95 (109th Congress).

(b) DURATION OF AVAILABILITY.—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

SA 2406. Mr. DURBIN (for himself, Mr. DORGAN, Mr. LAUTENBERG, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ACCOUNTABILITY IN FEDERAL CONTRACTING.

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds appropriated or otherwise made available by the Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109-61), by the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109-62), or through the Iraq Relief and Reconstruction Fund may be obligated or expended in connection with a contract with a contractor that, during the previous 5 years—

(1) has been found by an executive agency, the Special Inspector General for Iraq Reconstruction, or any Inspector General having oversight authority with respect to Hurricane

Katrina and Hurricane Rita reconstruction contracts to have overcharged or improperly billed the Federal Government by a total of at least \$10,000,000 through one or more overcharges;

(2) has been found by an executive agency, the Special Inspector General for Iraq Reconstruction, or any Inspector General having oversight authority with respect to Hurricane Katrina and Hurricane Rita reconstruction contracts to have committed one or more fraudulent acts resulting in total costs or losses to the Federal Government of at least \$10,000,000; or

(3) has had rendered against it a judgment or conviction for an offense constituting a cause for suspension or debarment under the Federal suspension and debarment regulations.

(b) NATIONAL SECURITY WAIVER.—The President may waive the restrictions under subsection (a) on a case-by-case basis if the President determines that such waiver is in the national security interest of the United States and submits to the appropriate congressional authorities a report describing the reasons for such determination.

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL AUTHORITIES.—The term “appropriate congressional authorities” means—

(A) the Majority Leader and the Minority Leader of the Senate;

(B) the Speaker of the House of Representatives and the Minority Leader of the House of Representatives; and

(C) the Committees on Appropriations of the Senate and the House of Representatives.

(2) EXECUTIVE AGENCIES.—The term “executive agency” has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SA 2407. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 95, after line 21, insert the following:

SEC. 3005A. COMMUNICATION SYSTEM GRANTS.

(a) DEFINITIONS.—In this section—

(1) the term “demonstration project” means the demonstration project established under subsection (b)(1);

(2) the term “Department” means the Department of Homeland Security;

(3) the term “emergency response provider” has the meaning given that term in section 2(6) the Homeland Security Act of 2002 (6 U.S.C. 101(6)); and

(4) the term “Secretary” means the Secretary of Homeland Security.

(b) IN GENERAL.—

(1) ESTABLISHMENT.—There is established in the Department an “International Border Community Interoperable Communications Demonstration Project”.

(2) MINIMUM NUMBER OF COMMUNITIES.—The Secretary shall select not fewer than 2 communities to participate in a demonstration project.

(3) LOCATION OF COMMUNITIES.—Not fewer than 1 of the communities selected under paragraph (2) shall be located on the northern border of the United States and not fewer than 1 of the communities selected under paragraph (2) shall be located on the southern border of the United States.

(c) PROJECT REQUIREMENTS.—The demonstration projects shall—

(1) address the interoperable communications needs of police officers, firefighters,

emergency medical technicians, National Guard, and other emergency response providers;

(2) foster interoperable communications—

(A) among Federal, State, local, and tribal government agencies in the United States involved in preventing or responding to terrorist attacks or other catastrophic events; and

(B) with similar agencies in Canada and Mexico;

(3) identify common international cross-border frequencies for communications equipment, including radio or computer messaging equipment;

(4) foster the standardization of interoperable communications equipment;

(5) identify solutions that will facilitate communications interoperability across national borders expeditiously;

(6) ensure that emergency response providers can communicate with each other and the public at disaster sites or in the event of a terrorist attack or other catastrophic event;

(7) provide training and equipment to enable emergency response providers to deal with threats and contingencies in a variety of environments; and

(8) identify and secure appropriate joint-use equipment to ensure communications access.

(d) DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall distribute funds under this section to each community participating in a demonstration project through the State, or States, in which each community is located.

(2) OTHER PARTICIPANTS.—Not later than 60 days after receiving funds under paragraph (1), a State receiving funds under this section shall make the funds available to the local governments and emergency response providers participating in a demonstration project selected by the Secretary.

(e) FUNDING.—Amounts made available from the interoperability fund under section 3005(c)(3) shall be available to carry out this section without appropriation.

(f) REPORTING.—Not later than December 31, 2005, and each year thereafter in which funds are appropriated for a demonstration project, the Secretary shall provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the demonstration projects under this section.

SA 2408. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 94, strike line 7 through 12.

SA 2409. Mr. REED (for himself, Mr. BAUCUS, Mrs. MURRAY, Mr. KENNEDY, Mr. BINGAMAN, Mr. CORZINE, Mrs. CLINTON, and Mr. OBAMA) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

Strike section 6031 of the bill.

SA 2410. Mr. BAUCUS (for himself, Mr. OBAMA, Ms. MIKULSKI, Mrs. MURRAY, Ms. STABENOW, Mr. FEINGOLD, Mr. REED, and Mr. SCHUMER) submitted an amendment intended to be proposed by

him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 256, between lines 5 and 6, insert the following:

Subchapter D—Sense of the Senate

SEC. 6065. TO EXPRESS THE SENSE OF THE SENATE REGARDING MEDICAID RECONCILIATION LEGISLATION TO BE REPORTED BY A CONFERENCE COMMITTEE.

(a) FINDINGS.—The Senate makes the following findings:

(1) The Medicaid program provides essential health care and long-term care services to more than 50,000,000 low-income children, pregnant women, parents, individuals with disabilities, and senior citizens. It is a Federal guarantee that ensures that the most vulnerable will have access to needed medical services.

(2) The Medicaid program provides critical access to long-term care and other services for the elderly and individuals living with disabilities, and is the single largest provider of long-term care services. The Medicaid program also pays for personal care and other supportive services that are typically not provided by private health insurance or under the Medicare program, but are necessary to enable individuals with spinal cord injuries, developmental disabilities, neurological degenerative diseases, serious and persistent mental illnesses, HIV/AIDS, and other chronic conditions to remain in the community, to work, and to maintain independence.

(3) The Medicaid program supplements the Medicare program for more than 6,000,000 low-income elderly or disabled Medicare beneficiaries, assisting those beneficiaries with their Medicare premiums and co-insurance, wrap-around benefits, and the costs of nursing home care that the Medicare program does not cover. The Medicaid program spent nearly \$40,000,000,000 in 2002 on services not covered under the Medicare program.

(4) The Medicaid program provides health insurance for more than $\frac{1}{4}$ of America's children and is the largest purchaser of maternity care, paying for more than $\frac{1}{3}$ of all the births in the United States each year. The Medicaid program also provides vital access to care for children with disabilities, covering more than 70 percent of the poor children with disabilities in the United States.

(5) Medicaid's benefits for children are comprehensive, including mandatory coverage for Early and Periodic Screening Diagnosis and Treatment benefits covering all medically necessary care. Medicaid ensures that children have the benefits, health services and health care support they need to be fully immunized and that children can secure eyeglasses, dental care, and hearing aids when necessary, and that children have access to comprehensive, regularly scheduled, and as-needed health examinations, as well as preventive interventions, to correct physical and mental conditions that threaten to delay proper growth and development.

(6) More than 16,000,000 American women depend on the Medicaid program for their health care. Women comprise the majority of seniors (71 percent) on Medicaid. Half of nonelderly women with permanent mental or physical disabilities have health care coverage under the Medicaid program. The Medicaid program also provides critical access to treatment for low-income women diagnosed with breast or cervical cancer.

(7) The Medicaid program is the Nation's largest source of payment for mental health services, HIV/AIDS care, and care for chil-

dren with special needs. Much of this care is either not covered by private insurance or is limited in scope or duration. The Medicaid program is also a critical source of funding for health care for children in foster care and for health care services provided in schools.

(8) Funds under the Medicaid program help to ensure access to care for all Americans. The Medicaid program is the single largest source of revenue for the Nation's safety net hospitals, health centers, and nursing homes, and is critical to the ability of these providers to adequately serve all Americans.

(9) The Medicaid program serves a major role in ensuring that the number of Americans without health insurance, approximately 45,000,000 in 2003, is not substantially higher. The system of Federal matching for State Medicaid expenditures ensures that Federal funds will grow as State spending increases in response to unmet needs, enabling the Medicaid program to help buffer the drop in private coverage during recessions. More than 4,800,000 Americans lost employer-sponsored health care coverage between 2000 and 2003, during which time the Medicaid program enrolled an additional 8,400,000 Americans.

(10) Many individuals living below the Federal poverty level are ineligible for Medicaid because of stringent income eligibility rules. For parents, eligibility levels are often very far below the Federal poverty level. On average, a working parent in a family of three would have to make less than \$224 per week and a non-working parent in a family of three would have to make less than \$150 per week to qualify. Single individuals with disabilities would be ineligible if they have more than \$147 per week in income.

(11) Eligibility levels for pregnant women and children are generally at or just above the Federal poverty level, but a family with income just over minimum wage can be disqualified for Medicaid. At the minimum eligibility levels for pregnant women, earning as little as \$8.80 per hour at a full-time job could disqualify a pregnant woman from Medicaid eligibility. A working parent in a family of three earning less than \$8.40 per hour at a full-time job could make their child 6 years-old or older ineligible for Medicaid.

(12) Title III of the budget reconciliation bill of the House of Representatives, as reported out by the Committee on Energy and Commerce, would adversely affect these low-income beneficiaries, many of whom are children or have special health care needs, by increasing beneficiary cost-sharing, limiting access to benefits, and restricting eligibility for long-term care services that the Medicaid program covers. These new limits make up $\frac{2}{3}$ of the House of Representative's projected Medicaid spending reductions, accounting for \$30,100,000,000 of the total \$45,300,000,000 in Medicaid reductions over 10 years.

(13) Making beneficiaries pay more for more limited benefits under Medicaid may put a significant financial burden on these very low-income individuals. Research also demonstrates that increasing beneficiary cost-sharing can make prescription drugs and other essential health services unaffordable for beneficiaries, can cause the health of children and adults to deteriorate, and can lead to higher emergency room and hospital costs.

(14) By contrast, while this title includes substantial cuts to the Medicaid program, it does not include direct limits on beneficiary access to Medicaid services. Even so, enactment of this title would result in a net Medicaid cut of \$14,200,000,000 over 10 years, less than $\frac{1}{3}$ of the projected Medicaid reductions contained in the House of Representative's budget reconciliation bill.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the conferees for any budget reconciliation bill of the 109th Congress shall not report a reconciliation bill that would—

(1) with respect to low-income children, pregnant women, disabled individuals, elderly individuals, individuals with chronic illnesses like HIV/AIDS, cancer, and diabetes, individuals with mental illnesses, and other Medicaid beneficiaries—

(A) impair access to Medicaid services;
(B) undermine eligibility for such Medicaid beneficiaries;

(C) make Medicaid services unavailable by making them unaffordable to such Medicaid beneficiaries; or

(D) cut health care services for such Medicaid beneficiaries; or

(2) undermine the Federal guarantee of health insurance coverage that the Medicaid program provides, which would threaten not only the health care safety net of the United States, but the entire health care system of the United States.

SA 2411. Mrs. FEINSTEIN (for herself, Mrs. HUTCHISON, Mrs. BOXER, Mrs. MURRAY, Mr. LAUTENBERG, Mr. SCHUMER, Mr. CORZINE, Ms. CANTWELL, and Ms. MIKULSKI) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 188, after line 24, add the following:

SEC. 6037. AUTHORITY TO CONTINUE PROVIDING CERTAIN ADULT DAY HEALTH CARE SERVICES OR MEDICAL ADULT DAY CARE SERVICES.

The Secretary shall not—

(1) withhold, suspend, disallow, or otherwise deny Federal financial participation under section 1903(a) of the Social Security Act (42 U.S.C. 1396b(a)) for adult day health care services or medical adult day care services, as defined under a State Medicaid plan approved on or before 1982, if such services are provided consistent with such definition and the requirements of such plan; or

(2) withdraw Federal approval of any such State plan or part thereof regarding the provision of such services.

SA 2412. Mr. VITTER (for Mr. STEVENS (for himself, Mr. VITTER, Ms. LANDRIEU, Mr. DOMENICI, Mr. CRAIG, Mr. LOTT, Mr. INOUYE, and Mr. BINGAMAN)) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 95, strike lines 13 through 21, and insert the following:

(f) USE OF EXCESS PROCEEDS.—Any proceeds of the auction authorized by section 309(j)(15)(C)(v) of the Communications Act of 1934, as added by section 3003 of this Act, that exceed the sum of the payments made from the Fund under subsection (c), the transfer from the Fund under subsection (d), and any amount made available under section 3006 (referred to in this subsection as “excess proceeds”), shall be distributed as follows:

(1) The first \$1,000,000,000 of excess proceeds shall be transferred to and deposited in the general fund of the Treasury as miscellaneous receipts.

(2) After the transfer under paragraph (1), the next \$500,000,000 of excess proceeds shall

be transferred to the interoperability fund described in subsection (c)(3).

(3) After the transfers under paragraphs (1) and (2), the next \$1,200,000,000 of excess proceeds shall be transferred to the assistance program described in subsection (c)(5).

(4) After the transfers under paragraphs (1) through (3), any remaining excess proceeds shall be transferred to and deposited in the general fund of the Treasury as miscellaneous receipts.

SA 2413. Mr. WARNER (for himself, Mr. LIEBERMAN, Mr. ROBERTS, Mr. DURBIN, Mr. ALLEN, and Mr. OBAMA) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 369, between lines 11 and 12, insert the following:

“(D) the Secretary—

“(i) shall determine if an increase in the amount of a grant under this section is needed to help encourage students to pursue courses of study that are important to the current and future national, homeland, and economic security needs of the United States; and

“(ii) after making the determination described in clause (i), may increase the maximum and minimum award level established under subparagraph (A) by not more than 25 percent, for students eligible for a grant under this section who are pursuing a degree with a major in mathematics, science, technology, engineering, or a foreign language that is critical to the national security of the United States; and

“(E) not later than September 30 of each fiscal year, the Secretary shall notify Congress, in writing, of the Secretary’s determination with respect to subparagraph (D)(i) and of any increase in award levels under subparagraph (D)(ii).

SA 2414. Mr. BYRD (for himself and Mr. HARKIN) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

At the appropriate place, insert the following:

SEC. _____. SUSPENSION OF DEBATE LIMITATION ON RECONCILIATION LEGISLATION THAT CAUSES A DEFICIT OR INCREASES THE DEFICIT.

(a) IN GENERAL.—For purposes of consideration in the Senate of any reconciliation bill or resolution, or amendments thereto or debatable motions and appeals in connection therewith, under section 310(e) of the Congressional Budget Act of 1974, section 305(b)(1), (2), and (5), section 305(c), and the limitation on debate in section 310(e)(2) of that Act, shall not apply to any reconciliation bill or resolution, amendment thereto, or motion thereon that includes reductions in revenue or increases in spending that would cause an on-budget deficit to occur or increase the deficit for any fiscal year covered by such bill or resolution.

(b) GERMANENESS REQUIRED.—Notwithstanding subsection (a), no amendment that is not germane to the provisions of such reconciliation bill or resolution shall be received.

SA 2415 Mr. DURBIN (for himself, Mr. DORGAN, Mr. LAUTENBERG, Mr. JOHNSON, and Mr. LIEBERMAN) sub-

mitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. ACCOUNTABILITY IN FEDERAL CONTRACTING.

(a) IN GENERAL.—Except as provided in subsection (b), none of the funds appropriated or otherwise made available by the Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109-61), by the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109-62), or through the Iraq Relief and Reconstruction Fund may be obligated or expended in connection with a contract entered into after the date of the enactment of this Act with a contractor that, during the previous 5 years—

(1) has been found by an executive agency, the Special Inspector General for Iraq Reconstruction, or any Inspector General having oversight authority with respect to Hurricane Katrina and Hurricane Rita reconstruction contracts to have overcharged or improperly billed the Federal Government by a total of at least \$10,000,000 through one or more overcharges;

(2) has been found by an executive agency, the Special Inspector General for Iraq Reconstruction, or any Inspector General having oversight authority with respect to Hurricane Katrina and Hurricane Rita reconstruction contracts to have committed one or more fraudulent acts resulting in total costs or losses to the Federal Government of at least \$10,000,000; or

(3) has been suspended or debarred under the Federal suspension and debarment regulations.

(b) NATIONAL SECURITY WAIVER.—The President may waive the restrictions under subsection (a) on a case-by-case basis if the President determines that such waiver is in the national security interest of the United States and submits to the appropriate congressional authorities a report describing the reasons for such determination.

(c) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL AUTHORITIES.—The term “appropriate congressional authorities” means—

(A) the Majority Leader and the Minority Leader of the Senate;

(B) the Speaker of the House of Representatives and the Minority Leader of the House of Representatives; and

(C) the Committees on Appropriations of the Senate and the House of Representatives.

(2) EXECUTIVE AGENCIES.—The term “executive agency” has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SA 2416. Mr. SUNUNU (for himself and Mr. SANTORUM) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 130, after line 25, add the following:

SEC. 6005. ELECTRONIC PRESCRIPTION INCENTIVES FOR MEDICAID MANAGED CARE ORGANIZATIONS.

(a) IN GENERAL.—Section 1903(m)(2)(A) (42 U.S.C. 1396b(m)(2)(A)) is amended—

(1) in clause (xi), by striking “and” at the end;

(2) in clause (xii), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(xiii) notwithstanding clause (x), such contract provides that—

“(I) for each electronic prescription written by a physician during the period beginning on January 1, 2006, and ending on December 31, 2009, the entity shall make a payment of an amount equal to—

“(aa) \$1.00, minus

“(bb) an amount equal to the percentage of total claims that consist of electronic prescription drug claims under this title by medicaid managed care organizations (as determined under section 6005(b) of the Deficit Reduction Omnibus Reconciliation Act of 2005, expressed in cents);

“(II) for each non-electronic prescription written by a physician during the period described in subclause (I), the entity shall reduce the dispensing fee otherwise applicable by an amount equal to—

“(aa) \$1.00, minus

“(bb) an amount equal to the percentage of total claims under this title by medicaid managed care organizations that consist of non-electronic claims (as so determined and expressed in cents).”.

(b) DATA FOR DETERMINING ELECTRONIC CLAIMS.—

(1) IN GENERAL.—For purposes of section 1903(m)(2)(A)(xiii) of the Social Security Act (as added by subsection (a)), subject to the update required under paragraph (2), in determining the percentage of total claims that consist of electronic prescription drug claims by medicaid managed care organizations under title XIX of the Social Security Act and the percentage of total claims that consist of non-electronic prescription drug claims, the Secretary shall use an estimate of the number of electronic claims and non-electronic claims that will be submitted as of January 1, 2006.

(2) UPDATE.—For each 6 month period beginning after January 1, 2006, the Secretary shall update the estimate of the number of electronic prescription drug claims and non-electronic prescription drug claims used to determine the percentage of total claims that consist of such electronic claims and the percentage of total claims that consist of such non-electronic claims.

(3) MOST RECENT DATA.—To the extent feasible, the Secretary shall use the most recent data available, including real-time data on drug claims submitted under title XIX of the Social Security Act with respect to medicaid managed care organizations, to determine the percentage of total claims that consist of electronic claims and the percentage of total claims that consist of non-electronic claims.

(c) STUDY AND REPORT.—The Comptroller General of the United States shall conduct a study regarding the feasibility of applying electronic prescription incentives similar to the incentives required under section 1903(m)(2)(A)(xiii) of the Social Security Act (as added by subsection (a)) to fee-for-service Medicaid. Not later than January 1, 2007, the Comptroller General shall submit a report to Congress on the results of the study conducted under this subsection.

SA 2417. Mr. GREGG (for Mr. LEVIN) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent

resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 95, after line 21, insert the following:

SEC. 3005A. COMMUNICATION SYSTEM GRANTS.

(a) DEFINITIONS.—In this section—

(1) the term “demonstration project” means the demonstration project established under subsection (b)(1);

(2) the term “Department” means the Department of Homeland Security;

(3) the term “emergency response provider” has the meaning given that term in section 2(6) the Homeland Security Act of 2002 (6 U.S.C. 101(6)); and

(4) the term “Secretary” means the Secretary of Homeland Security.

(b) IN GENERAL.—

(1) ESTABLISHMENT.—There is established in the Department an “International Border Community Interoperable Communications Demonstration Project”.

(2) MINIMUM NUMBER OF COMMUNITIES.—The Secretary shall select not fewer than 2 communities to participate in a demonstration project.

(3) LOCATION OF COMMUNITIES.—Not fewer than 1 of the communities selected under paragraph (2) shall be located on the northern border of the United States and not fewer than 1 of the communities selected under paragraph (2) shall be located on the southern border of the United States.

(c) PROJECT REQUIREMENTS.—The demonstration projects shall—

(1) address the interoperable communications needs of police officers, firefighters, emergency medical technicians, National Guard, and other emergency response providers;

(2) foster interoperable communications—

(A) among Federal, State, local, and tribal government agencies in the United States involved in preventing or responding to terrorist attacks or other catastrophic events; and

(B) with similar agencies in Canada and Mexico;

(3) identify common international cross-border frequencies for communications equipment, including radio or computer messaging equipment;

(4) foster the standardization of interoperable communications equipment;

(5) identify solutions that will facilitate communications interoperability across national borders expeditiously;

(6) ensure that emergency response providers can communicate with each other and the public at disaster sites or in the event of a terrorist attack or other catastrophic event;

(7) provide training and equipment to enable emergency response providers to deal with threats and contingencies in a variety of environments; and

(8) identify and secure appropriate joint-use equipment to ensure communications access.

(d) DISTRIBUTION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall distribute funds under this section to each community participating in a demonstration project through the State, or States, in which each community is located.

(2) OTHER PARTICIPANTS.—Not later than 60 days after receiving funds under paragraph (1), a State receiving funds under this section shall make the funds available to the local governments and emergency response providers participating in a demonstration project selected by the Secretary.

(e) FUNDING.—Amounts made available from the interoperability fund under section 3005(c)(3) shall be available to carry out this section without appropriation.

(f) REPORTING.—Not later than December 31, 2005, and each year thereafter in which

funds are appropriated for a demonstration project, the Secretary shall provide to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives a report on the demonstration projects under this section.

SA 2418. Mr. GREGG (for Mr. SUNUNU (for himself, Mr. DURBIN, Mr. CRAIG, Mr. PRYOR, Mr. ISAKSON, Mr. NELSON of Nebraska, Mr. THUNE, Mr. KERRY, and Mr. CHAMBLISS)) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 90, between lines 19 and 20, insert the following:

Subtitle D—Adaptive Housing Assistance**SEC. 2031. SHORT TITLE.**

This subtitle may be cited as the “Specially Adapted Housing Grants Improvements Act of 2005”.

SEC. 2032. ADAPTIVE HOUSING ASSISTANCE FOR DISABLED VETERANS RESIDING TEMPORARILY IN HOUSING OWNED BY A FAMILY MEMBER.

(a) ASSISTANCE AUTHORIZED.—Chapter 21 of title 38, United States Code, is amended by inserting after section 2102 the following new section:

“§ 2102A. Assistance for veterans residing temporarily in housing owned by a family member

“(a) ASSISTANCE AUTHORIZED.—If a disabled veteran described in subsection (a)(2) or (b)(2) of section 2101 of this title resides, but does not intend to permanently reside, in a residence owned by a member of such veteran’s family, the Secretary may assist the veteran in acquiring such adaptations to such residence as are determined by the Secretary to be reasonably necessary because of the veteran’s disability.

“(b) LIMITATION ON AMOUNT OF ASSISTANCE.—Subject to section 2102(d) of this title, the assistance authorized under subsection (a) may not exceed—

“(1) \$10,000, in the case of a veteran described in section 2101(a)(2) of this title; or

“(2) \$2,000, in the case of a veteran described in section 2101(b)(2) of this title.

“(c) LIMITATION ON NUMBER OF RESIDENCES SUBJECT TO ASSISTANCE.—A veteran eligible for assistance authorized under subsection (a) may only be provided such assistance with respect to 1 residence.

“(d) REGULATIONS.—Assistance under this section shall be provided in accordance with such regulations as the Secretary may prescribe.

“(e) TERMINATION OF AUTHORITY.—The authority to provide assistance under subsection (a) shall expire at the end of the 5-year period beginning on the date of enactment of the Specially Adapted Housing Grants Improvements Act of 2005.”.

(b) LIMITATIONS ON ADAPTIVE HOUSING ASSISTANCE.—Section 2102 of such title is amended—

(1) in subsection (a), by striking “The assistance authorized by section 2101(a)” and all that follows through “any one case—” and inserting “Subject to subsection (d), the assistance authorized under section 2101(a) of this title shall be afforded under 1 of the following plans, at the election of the veteran—”;

(2) by amending subsection (b) to read as follows:

“(b) Subject to subsection (d), and except as provided in section 2104(b) of this title, the assistance authorized by section 2101(b)

of this title may not exceed the actual cost, or in the case of a veteran acquiring a residence already adapted with special features, the fair market value, of the adaptations determined by the Secretary under such section 2101(b) to be reasonably necessary.”; and
 (3) by adding at the end the following new subsection:

“(d)(1) The aggregate amount of assistance available to a veteran under sections 2101(a) and 2102A of this title shall be limited to \$50,000.

“(2) The aggregate amount of assistance available to a veteran under sections 2101(b) and 2102A of this title shall be limited to the lesser of—

“(A) the sum of the cost or fair market value described in section 2102(b) of this title and the actual cost of acquiring the adaptations described in subsection (a); and

“(B) \$10,000.

“(3) No veteran may receive more than 3 grants of assistance under this chapter.”.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter of such title is amended by inserting after the item relating to section 2102 the following:

“2102A. Assistance for veterans residing temporarily in housing owned by family member.”.

SEC. 2033. GAO REPORTS.

(a) INTERIM REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress an interim report on the implementation of section 2102A of title 38, United States Code (as added by section 2(a)), by the Department of Veterans Affairs.

(b) FINAL REPORT.—Not later than 5 years after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a final report on the implementation of such section 2102A by the Department of Veterans Affairs.

On page 166, strike lines 12 through 15 and insert the following:

“(A) for fiscal year 2006, \$50,000,000;

“(B) for each of fiscal years 2007 and 2008, \$49,000,000;

“(C) for each of fiscal years 2009 and 2010, \$74,000,000; and

“(D) for fiscal year 2011 and each fiscal year thereafter, \$75,000,000.

SA 2419. Mr. SANTORUM (for himself, Mr. BUNNING, Mr. THOMAS, Mr. VOINOVICH, Mr. LIEBERMAN, Mr. DODD, Mr. ROCKEFELLER, Ms. LANDRIEU, and Mr. CONRAD) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 368, between lines 5 and 6, insert the following:

SEC. 6116. TECHNICAL CORRECTION REGARDING PURCHASE AGREEMENTS FOR POWER-DRIVEN WHEELCHAIRS.

(a) IN GENERAL.—Section 1834(a)(7)(A) (42 U.S.C. 1395m(a)(7)(A)), as amended by section 6109 of this Act, is amended—

(1) in clause (i)(I), by striking “Payment” and inserting “Except as provided in clause (iii), payment”; and

(2) by adding at the end the following new clause:

“(iii) PURCHASE AGREEMENT OPTION FOR POWER-DRIVEN WHEELCHAIRS.—

“(I) IN GENERAL.—In the case of a power-driven wheelchair, at the time the supplier furnishes the item, the supplier shall offer the individual the option to purchase the item, and payment for such item shall be made on a lump-sum basis if the individual exercises such option.

“(II) MAINTENANCE AND SERVICING.—In the case of a power-driven wheelchair for which a purchase agreement has been entered into under subclause (I), maintenance and servicing payments shall, if the Secretary determines such payments are reasonable and necessary, be made (for parts and labor not covered by the supplier’s or manufacturer’s warranty, as determined by the Secretary to be appropriate), and such payments shall be in an amount determined to be appropriate by the Secretary.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to items furnished on or after October 1, 2006.

SEC. 6117. MEDICARE COVERAGE OF ULTRASOUND SCREENING FOR ABDOMINAL AORTIC ANEURYSMS; NATIONAL EDUCATIONAL AND INFORMATION CAMPAIGN.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)(2)—

(A) by striking “and” at the end of subparagraph (Y);

(B) by adding “and” at the end of subparagraph (Z); and

(C) by adding at the end the following new subparagraph:

“(AA) ultrasound screening for abdominal aortic aneurysm (as defined in subsection (bbb)) for an individual—

“(i) who receives a referral for such an ultrasound screening as a result of an initial preventive physical examination (as defined in section 1861(ww)(1));

“(ii) who has not been previously furnished such an ultrasound screening under this title; and

“(iii) who—

“(I) has a family history of abdominal aortic aneurysm; or

“(II) manifests risk factors included in a beneficiary category (not including categories related to age) recommended for screening by the United States Preventive Services Task Force regarding abdominal aortic aneurysms;” and

(2) by adding at the end the following new subsection:

“Ultrasound Screening for Abdominal Aortic Aneurysm

“(bbb) The term ‘ultrasound screening for abdominal aortic aneurysm’ means—

“(1) a procedure using sound waves (or such other procedures using alternative technologies, of commensurate accuracy and cost, that the Secretary may specify) provided for the early detection of abdominal aortic aneurysm; and

“(2) includes a physician’s interpretation of the results of the procedure.”.

(b) INCLUSION OF ULTRASOUND SCREENING FOR ABDOMINAL AORTIC ANEURYSM IN SCREENING SERVICES FOR WHICH EDUCATION, COUNSELING, AND REFERRAL IS PROVIDED FOR UNDER BENEFITS FOR INITIAL PREVENTIVE PHYSICAL EXAMINATION.—Section 1861(ww)(2) (42 U.S.C. 1395x(ww)(2)) is amended by adding at the end the following new subparagraph:

“(L) Ultrasound screening for abdominal aortic aneurysm as defined in section 1861(bbb).”.

(c) PAYMENT FOR ULTRASOUND SCREENING FOR ABDOMINAL AORTIC ANEURYSM.—Section 1848(j)(3) (42 U.S.C. 1395w-4(j)(3)) is amended by inserting “(2)(AA),” after “(2)(W),”.

(d) FREQUENCY AND QUALITY STANDARDS.—Section 1862(a)(1) (42 U.S.C. 1395y(a)(1)) is amended—

(1) by striking “and” at the end of subparagraph (L);

(2) by striking the semicolon at the end of subparagraph (M) and inserting “, and”; and

(3) by adding at the end the following new subparagraph:

“(N) in the case of ultrasound screening for abdominal aortic aneurysm—

“(i) which is performed more frequently than is provided for under section 1861(s)(2)(AA); or

“(ii) which is performed by an individual or diagnostic laboratory that does not meet quality assurance standards that the Secretary, in consultation with national medical, vascular technologist and sonographer societies, shall establish, including with respect to individuals performing ultrasound screening for abdominal aortic aneurysm (other than physicians) and diagnostic laboratories, that the individual or laboratory is certified by the appropriate State licensing or certification agency or, in the case of a service performed in a State that does not license or certify such individuals or laboratories, by a national certification or accreditation organization recognized by the Secretary.”.

(e) NON-APPLICATION OF PART B DEDUCTIBLE.—Section 1833(b) (42 U.S.C. 1395l(b)) is amended in the first sentence—

(1) by striking “and (6)” and inserting “(6)”; and

(2) by inserting “, and (7) such deductible shall not apply with respect to ultrasound screening for abdominal aortic aneurysm (as defined in section 1861(bbb))” before the period at the end.

(f) NATIONAL EDUCATIONAL AND INFORMATION CAMPAIGN.—

(1) IN GENERAL.—After consultation with national medical, vascular technologist, and sonographer societies, the Secretary of Health and Human Services shall carry out a national education and information campaign to promote awareness among health care practitioners and the general public with respect to the importance of early detection and treatment of abdominal aortic aneurysms.

(2) USE OF FUNDS.—The Secretary may use amounts appropriated pursuant to this subsection to make grants to national medical, vascular technologist, and sonographer societies (in accordance with procedures and criteria specified by the Secretary) to enable them to educate practitioners and providers about matters relating to such aneurysms.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 2006 and each fiscal year thereafter such sums as may be necessary to carry out this subsection.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to ultrasound screenings for abdominal aortic aneurysm performed on or after January 1, 2007.

SEC. 6118. IMPROVING PATIENT ACCESS TO, AND UTILIZATION OF, COLORECTAL CANCER SCREENING UNDER MEDICARE.

(a) INCREASE IN PART B REIMBURSEMENT FOR COLORECTAL CANCER SCREENING AND DIAGNOSTIC TESTS.—

(1) IN GENERAL.—Section 1834(d) (42 U.S.C. 1395m(d)) is amended by adding at the end the following new paragraph:

“(4) ENHANCED PART B PAYMENT FOR COLORECTAL CANCER SCREENING AND DIAGNOSTIC TESTS.—

“(A) NONFACILITY RATES.—Notwithstanding paragraphs (2)(A) and (3)(A), the Secretary shall establish national minimum payment amounts for CPT codes 45378, 45380, and 45385, and HCPCS codes G0105 and G0121 for items and services furnished on or after January 1, 2007, which reflect a 5-percent increase above the relative value units in effect as the non-facility rates for such codes on December 31, 2006, with such revised payment level to apply to items and services performed in a nonfacility setting.

“(B) FACILITY RATES.—Notwithstanding paragraphs (2)(A) and (3)(A), the Secretary shall establish national minimum payment amounts for CPT codes 45378, 45380, and 45385,

and HCPCS codes G0105 and GO121 for items and services furnished on or after January 1, 2007, which reflect a 5-percent increase above the relative value units in effect as the facility rates for such codes on December 31, 2006, with such revised payment level to apply to items and services performed in a facility setting.

“(C) ANNUAL ADJUSTMENTS.—In the case of items and services furnished on or after January 1, 2007, the payment rates described in subparagraphs (A) and (B) shall, subject to the minimum payment amounts established in such subparagraphs, be adjusted annually as provided in section 1848.”.

(2) NO EFFECT ON HOPD PAYMENTS.—The Secretary shall not take into account the provisions of section 1834(d)(4) of the Social Security Act, as added by subsection (a), in determining the amount of payment for any covered OPD service under the prospective payment system for hospitals outpatient department services under section 1833(t) of such Act (42 U.S.C. 13951(t)).

(b) MEDICARE COVERAGE OF OFFICE VISIT OR CONSULTATION PRIOR TO A SCREENING COLONOSCOPY OR IN CONJUNCTION WITH A BENEFICIARY’S DECISION TO OBTAIN SUCH A SCREENING.—

(1) COVERAGE.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by section 6117, is amended—

(A) in subparagraph (Z), by striking “and” at the end;

(B) in subparagraph (AA), by inserting “and” at the end; and

(C) by adding at the end the following new subparagraph:

“(BB) an outpatient office visit or consultation for the purpose of beneficiary education, assuring selection of the proper screening test, and securing information relating to the procedure and sedation of the beneficiary, prior to a colorectal cancer screening test consisting of a screening colonoscopy or in conjunction with the beneficiary’s decision to obtain such a screening, regardless of whether such screening is medically indicated with respect to the beneficiary.”.

(2) PAYMENT.—

(A) IN GENERAL.—Section 1833(a)(1) (42 U.S.C. 13951(a)(1)) is amended—

(i) by striking “and” before “(V)”; and

(ii) by inserting before the semicolon at the end the following: “, and (W) with respect to an outpatient office visit or consultation under section 1861(s)(2)(BB), the amounts paid shall be 80 percent of the lesser of the actual charge or the amount established under section 1848”.

(B) PAYMENT UNDER PHYSICIAN FEE SCHEDULE.—Section 1848(j)(3) (42 U.S.C. 1395w-4(j)(3)), as amended by section 6117, is amended by inserting “(2)(BB),” after “(2)(AA).”.

(C) REQUIREMENT FOR ESTABLISHMENT OF PAYMENT AMOUNT UNDER PHYSICIAN FEE SCHEDULE.—Section 1834(d) (42 U.S.C. 1395m(d)), as amended by subsection (a), is amended by adding at the end the following new paragraph:

“(5) PAYMENT FOR OUTPATIENT OFFICE VISIT OR CONSULTATION PRIOR TO SCREENING COLONOSCOPY.—With respect to an outpatient office visit or consultation under section 1861(s)(2)(BB), payment under section 1848 shall be consistent with the payment amounts for CPT codes 99203 and 99243.”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items and services provided on or after January 1, 2007.

(C) WAIVER OF DEDUCTIBLE FOR COLORECTAL CANCER SCREENING TESTS.—

(1) IN GENERAL.—Section 1833(b) (42 U.S.C. 13951(b)), as amended by section 6117, is amended in the first sentence—

(A) by striking “and” before “(7)”; and

(B) by inserting before the period at the end the following: “, and (8) such deductible shall not apply with respect to colorectal cancer screening tests (as described in section 1861(pp)(1))”.

(2) CONFORMING AMENDMENTS.—Paragraphs (2)(C)(ii) and (3)(C)(ii) of section 1834(d) (42 U.S.C. 1395m(d)) are each amended—

(A) by striking “DEDUCTIBLE AND” in the heading; and

(B) in subclause (I), by striking “deductible or” each place it appears.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to items and services furnished on or after January 1, 2007.

SEC. 6119. COVERAGE OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES UNDER PART B OF THE MEDICARE PROGRAM.

(a) COVERAGE OF SERVICES.—

(1) IN GENERAL.—Section 1861(s)(2) (42 U.S.C. 1395x(s)(2)), as amended by section 6118(b), is amended—

(A) in subparagraph (AA), by striking “and” after the semicolon at the end;

(B) in subparagraph (BB), by inserting “and” after the semicolon at the end; and

(C) by adding at the end the following new subparagraph:

“(CC) marriage and family therapist services (as defined in subsection (ccc)(1)) and mental health counselor services (as defined in subsection (ccc)(3));”.

(2) DEFINITIONS.—Section 1861 (42 U.S.C. 1395x), as amended by section 6117, is amended by adding at the end the following new subsection:

“Marriage and Family Therapist Services; Marriage and Family Therapist; Mental Health Counselor Services; Mental Health Counselor

“(ccc)(1) The term ‘marriage and family therapist services’ means services performed by a marriage and family therapist (as defined in paragraph (2)) for the diagnosis and treatment of mental illnesses, which the marriage and family therapist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as an incident to a physician’s professional service, but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services.

“(2) The term ‘marriage and family therapist’ means an individual who—

“(A) possesses a master’s or doctoral degree which qualifies for licensure or certification as a marriage and family therapist pursuant to State law;

“(B) after obtaining such degree has performed at least 2 years of clinical supervised experience in marriage and family therapy; and

“(C) in the case of an individual performing services in a State that provides for licensure or certification of marriage and family therapists, is licensed or certified as a marriage and family therapist in such State.

“(3) The term ‘mental health counselor services’ means services performed by a mental health counselor (as defined in paragraph (4)) for the diagnosis and treatment of mental illnesses which the mental health counselor is legally authorized to perform under State law (or the State regulatory mechanism provided by the State law) of the State in which such services are performed, as would otherwise be covered if furnished by a physician or as incident to a physician’s professional service, but only if no facility or other provider charges or is paid any

amounts with respect to the furnishing of such services.

“(4) The term ‘mental health counselor’ means an individual who—

“(A) possesses a master’s or doctor’s degree in mental health counseling or a related field;

“(B) after obtaining such a degree has performed at least 2 years of supervised mental health counselor practice; and

“(C) in the case of an individual performing services in a State that provides for licensure or certification of mental health counselors or professional counselors, is licensed or certified as a mental health counselor or professional counselor in such State.”.

(3) PROVISION FOR PAYMENT UNDER PART B.—Section 1832(a)(2)(B) (42 U.S.C. 1395k(a)(2)(B)) is amended by adding at the end the following new clause:

“(v) marriage and family therapist services and mental health counselor services;”.

(4) AMOUNT OF PAYMENT.—Section 1833(a)(1) (42 U.S.C. 1395(a)(1)), as amended by section 6118, is amended—

(A) by striking “and (W)” and inserting “(W)”; and

(B) by inserting before the semicolon at the end the following: “, and (X) with respect to marriage and family therapist services and mental health counselor services under section 1861(s)(2)(CC), the amounts paid shall be 80 percent of the lesser of the actual charge for the services or 75 percent of the amount determined for payment of a psychologist under subparagraph (L)”.

(5) EXCLUSION OF MARRIAGE AND FAMILY THERAPIST SERVICES AND MENTAL HEALTH COUNSELOR SERVICES FROM SKILLED NURSING FACILITY PROSPECTIVE PAYMENT SYSTEM.—Section 1888(e)(2)(A)(ii) (42 U.S.C. 1395yy(e)(2)(A)(ii)) is amended by inserting “marriage and family therapist services (as defined in section 1861(ccc)(1)), mental health counselor services (as defined in section 1861(ccc)(3)),” after “qualified psychologist services.”.

(6) INCLUSION OF MARRIAGE AND FAMILY THERAPISTS AND MENTAL HEALTH COUNSELORS AS PRACTITIONERS FOR ASSIGNMENT OF CLAIMS.—Section 1842(b)(18)(C) (42 U.S.C. 1395u(b)(18)(C)) is amended by adding at the end the following new clauses:

“(vii) A marriage and family therapist (as defined in section 1861(ccc)(2));

“(viii) A mental health counselor (as defined in section 1861(ccc)(4)).”.

(b) COVERAGE OF CERTAIN MENTAL HEALTH SERVICES PROVIDED IN CERTAIN SETTINGS.—

(1) RURAL HEALTH CLINICS AND FEDERALLY QUALIFIED HEALTH CENTERS.—Section 1861(aa)(1)(B) (42 U.S.C. 1395x(aa)(1)(B)) is amended by striking “or by a clinical social worker (as defined in subsection (hh)(1)),” and inserting “, by a clinical social worker (as defined in subsection (hh)(1)), by a marriage and family therapist (as defined in subsection (ccc)(2)), or by a mental health counselor (as defined in subsection (ccc)(4)).”.

(2) HOSPICE PROGRAMS.—Section 1861(dd)(2)(B)(i)(III) (42 U.S.C. 1395x(dd)(2)(B)(i)(III)) is amended by inserting “or one marriage and family therapist (as defined in subsection (bbb)(2))” after “social worker”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services furnished on or after January 1, 2007.

SA 2420. Mr. GREGG (for Mr. SUNUNU) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 94, line 7, after “(1)” insert “not to exceed”.

On page 94, line 13, after “(2)” insert “not to exceed”.

On page 94, line 19, after “(3)” insert “not to exceed”.

On page 95, line 1, after “(4)” insert “not to exceed”.

On page 95, line 4, after “(5)” insert “not to exceed”.

On page 95, beginning in line 10, strike “The amounts payable” and insert “Any amounts that are to be paid”.

On page 95, line 12, after the period insert “Any amount in the Fund that is not obligated under subsection (c) by that date shall be transferred to the general fund of the Treasury.”.

SA 2421. Mr. BURNS (for himself and Mr. BROWNEBACK) submitted an amendment intended to be proposed by him to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); which was ordered to lie on the table; as follows:

On page 122, strike line 23 and all that follows through page 124, line 10, and insert the following:

(3) **EFFECTIVE DATE.**—The amendments made by this subsection take effect with respect to a State on the date on which a positive certification is made by the Secretary under paragraph (4)(B)(ii).

(4) **PHARMACY REIMBURSEMENT STUDY.**—

(A) **STUDY AND REPORT.**—

(i) **STUDY.**—The Secretary shall conduct a pharmacy reimbursement study comparing weighted AMP (as determined under section 1927(k)(1)(C) of the Social Security Act, as added by subsection (a)) to actual retail pharmacy acquisition costs and the cost of dispensing a prescription. The study shall include an analysis of the range in variation that can occur related to acquisition and dispensing costs with respect to chain and independent rural and urban pharmacies.

(ii) **REPORT.**—Not later than October 1, 2006, the Secretary shall submit a report to Congress on the results of the study conducted under this subparagraph that includes recommendations on dispensing fee levels that would adequately reimburse pharmacies and encourage the use of cost-effective generic drugs when appropriate.

(B) **CERTIFICATION.**—

(i) **DETERMINATION.**—Upon review of the findings of the study conducted under subparagraph (A), the Secretary shall make a determination as to whether the amendments made by this subsection would have a negative impact on access to healthcare.

(ii) **POSITIVE CERTIFICATION.**—If the Secretary makes a determination under clause (i) that the amendments made by this subsection will not have such negative impact, the Secretary shall submit a positive certification to that effect.

(c) **INTERIM UPPER PAYMENT LIMIT.**—

(1) **IN GENERAL.**—With respect to a State program under title XIX of the Social Security Act, during the period that begins on January 1, 2006, and ends on the date on which a positive certification is made by the Secretary under subsection (b)(4)(B)(ii), the Secretary shall—

(A) apply the Federal upper payment limit established under section 447.332(b) of title 42, Code of Federal Regulations to the State by substituting “125 percent” for “150 percent”; and

(B) in the case of covered outpatient drugs under title XIX of such Act that are marketed as of July 1, 2005, and are subject to

Federal upper payment limits that apply under section 447.332 of title 42, Code of Federal Regulations, use average wholesale prices, direct prices, and wholesale acquisition costs for such drugs that do not exceed such prices and costs as of such date to determine the Federal upper payment limits that apply under section 447.332 of title 42, Code of Federal Regulations to such drugs during such period.

(2) **APPLICATION TO NEW DRUGS.**—Paragraph (1)(A) shall apply to a covered outpatient drug under title XIX of the Social Security Act that is first marketed after July 1, 2005, but before the date on which a positive certification is made by the Secretary under subsection (b)(4)(B)(ii), and is subject to the Federal upper payment limit established under section 447.332(b) of title 42, Code of Federal Regulations.

SA 2422. Mr. CONRAD (for himself and Mr. SALAZAR) proposed an amendment to the bill S. 1932, to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95); as follows:

On page 121, after line 25, add the following:

“(5) **RULES APPLICABLE TO CRITICAL ACCESS RETAIL PHARMACIES.**—

“(A) **REIMBURSEMENT LIMITS.**—Notwithstanding paragraph (2)(A), in the case of a critical access retail pharmacy (as defined in subparagraph (C)), the upper payment limit—

“(i) for the ingredient cost of a single source drug, is the lesser of—

“(I) 108 percent of the average manufacturer price for the drug; or

“(II) the wholesale acquisition cost for the drug; and

“(ii) for the ingredient cost of a multiple source drug, is the lesser of—

“(I) 140 percent of the weighted average manufacturer price for the drug; or

“(II) the wholesale acquisition cost for the drug.

“(B) **APPLICATION OF OTHER PROVISIONS.**—

The preceding provisions of this subsection shall apply with respect to reimbursement to a critical access retail pharmacy in the same manner as such provisions apply to reimbursement to other retail pharmacies except that, in establishing the dispensing fee for a critical access pharmacy the Secretary, in addition to the factors required under paragraph (4), shall include consideration of the costs associated with operating a critical access retail pharmacy.

“(C) **CRITICAL ACCESS RETAIL PHARMACY DEFINED.**—For purposes of subparagraph (A), the term ‘critical access retail pharmacy’ means an retail pharmacy that is not within a 20-mile radius of another retail pharmacy.”.

(2) **INCREASE IN BASIC REBATE FOR SINGLE SOURCE DRUGS AND INNOVATOR MULTIPLE SOURCE DRUGS.**—Section 1927(c)(1)(B)(i)(VI) (42 U.S.C. 1396r-8(c)(1)(B)(i)(VI)), as added by section 6002(a)(3), is amended by striking “17” and inserting “18.1.”.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on November 3, 2005, at a time to be determined, to conduct a vote on the nomination of Mr. Matthew Slaughter, of New Hampshire, to be a member of the Council of Economic Advisers; Ms. Katherine Baicker, of New Hampshire, to be a member of the Council of Economic Advisers; Mr. Orlando J. Cabrera, of Florida, to be an Assistant Secretary of Housing and Urban Development; Ms. Gigi Hyland, of Virginia, to be a member of the National Credit Union Administration Board; and Mr. Rodney E. Hood, of North Carolina, to be a member of the National Credit Union Administration Board.

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

COMMITTEE ON THE JUDICIARY

Mr. GREGG. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, November 3, 2005 at 12:15 p.m. in Senate Dirksen Office Building Room 226.

Agenda

I. **Nominations:** Wan Kim, to be an Assistant Attorney General, Civil Rights Division; Steven G. Bradbury, to be an Assistant Attorney General for the Office of Legal Counsel; Sue Ellen Wooldridge, to be an Assistant Attorney General, Environment and Natural Resources Division; Thomas O. Barnett, to be an Assistant Attorney General, Antitrust Division; James O’Gara, to be Deputy Director for Supply Reduction, Office of National Drug Control Policy; Emilio Gonzalez, to be Director of the Bureau of Citizenship and Immigration Services, Department of Homeland Security; Julie L. Myers, to be an Assistant Secretary of Homeland Security.

II. **Bills:** S. 1088, Streamline Procedures Act of 2005; Kyl, Cornyn, Grassley, Hatch; S. 1789, Personal Data Privacy and Security Act of 2005; Specter, Leahy, Feinstein, Feingold; S. 751, Notification of Risk to Personal Data Act, Feinstein, Kyl; S. 1699, Stop Counterfeiting in Manufactured Goods Act, Specter, Leahy, Hatch, DeWine, Cornyn, Brownback, Feingold, Durbin, Kyl; S. 1095, Protecting American Goods and Services Act of 2005, Cornyn, Leahy; H.R. 683, Trademark Dilution Revision Act of 2005, Smith—TX; S. 1787, Relief to Victims of Hurricane Katrina and Other Natural Disaster Act of 2005, Vitter, Grassley, Cornyn, DeWine; S. 1647, Hurricane Katrina Bankruptcy Relief and Community Protection Act of 2005, Feingold, Leahy, Durbin, Kennedy, Feinstein.

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

PRIVILEGES OF THE FLOOR

Mr. LEAHY. Mr. President, I ask unanimous consent that Molly Barrett of my staff be given the privilege of the floor throughout the day and the votes that occur today.

The PRESIDENT pro tempore. Without objection, it is so ordered.