To provide the Secretary of Agriculture with additional authority and funding to provide emergency relief, in coordination with the Secretary of Homeland Security, to victims of Hurricane Katrina and related conditions.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2005

Mr. HARKIN (for himself and Mr. LEAHY) introduced the following bill; which was read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

A BILL

To provide the Secretary of Agriculture with additional authority and funding to provide emergency relief, in coordination with the Secretary of Homeland Security, to victims of Hurricane Katrina and related conditions.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Hurricane Katrina

Food Assistance Relief Act of 2005”.

SEC. 2. DEFINITION OF SECRETARY.

In this Act, the term “Secretary” means the Sec-

retary of Agriculture.
SEC. 3. FOOD STAMP PROGRAM DISASTER AUTHORITY.

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

“(4) RESPONSE TO HURRICANE KATRINA.—

“(A) DEFINITIONS.—In this paragraph:

“(i) AFFECTED AREA.—

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

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

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

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

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

“(aa) in an affected area;

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

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

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

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

“(iii) DISASTER RECOVERY PERIOD.—

“(I) IN GENERAL.—The term ‘disaster recovery period’ means the period of 180 days beginning on the date of enactment of this paragraph.
“(II) EXTENSION.—The disaster recovery period shall be extended for another 180 days unless the President determines that the extension is not necessary to fully meet the needs of affected households.

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

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

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

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

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

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

“(vi) any resource to which the household
lost access because of Hurricane Katrina or a
related condition shall not be considered a fi-
nancial resource under subsection (g) at any
time during which this subsection applies;

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

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

“(ix) for purposes of determining the eligi-
bility of an affected household, any immigrant
lawfully present in the United States shall be
treated in the same manner as a refugee eligible
under section 402(a)(2)(A)(i) of the Personal
Responsibility and Work Opportunity Reconcili-

“(C) DUPLICATE PARTICIPATION.—

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

“(ii) No action taken.—Except in the
case of deliberate falsehoods, no action may be
taken against any affected household relating to
any duplicate participation during the disaster
recovery period that takes place prior to termi-
nation under clause (i).

“(D) Claims relating to benefits.—Except
in the case of intentional program violations as de-
termined under section 6(b), no claim may be estab-
lished under section 13(b) relating to benefits issued
under this subsection.

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

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

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

“(ii) provides assistance to more individ-
uals.”.

(b) PROGRAM INFORMATION ACTIVITIES.—

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

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

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

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

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

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

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

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

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

(b) Assistance.—

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

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

(B) infant formula;

(C) bottled water; and

(D) fruit juices.

(2) Use of Funds.—Funds made available
under paragraph (1) may be used to provide com-
modities in accordance with—

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

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

(C) section 204 of the Emergency Food
(3) Receipt and Acceptance.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under paragraph (1), without further appropriation.

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

SEC. 5. CHILD NUTRITION PROGRAMS.

(a) Definition of Disaster Recovery Period.—

   (1) In general.—In this section, the term “disaster recovery period” means the period of 180 days beginning on the date of enactment of this Act.

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

(b) Child Nutrition Programs Disaster Authority.—After consultation with the official empowered to exercise the authority provided for by sections 402 and
502 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170a, 5192), the Secretary may modify the conditions for assistance for programs authorized under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.) and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) during the disaster recovery period for households that are victims of a disaster or in areas affected by the disaster if the households are in need of temporary food assistance.

**SEC. 6. WIC FUNDING.**

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

(b) Receipt and Acceptance.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subsection (a), without further appropriation.
(c) Emergency Designation.—The amounts made available by the transfer of funds in or pursuant to subsection (a) are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

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

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

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

SEC. 7. Commodity Supplemental Food Program Funding.

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

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

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

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

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

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

SEC. 8. REPORT.

Not later than 180 days after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Homeland Security, shall submit to the Committee on Agriculture of the House of Representatives and
the Committee on Agriculture, Nutrition, and Forestry of
the Senate a report that—

(1) describes whether additional funding or au-

thority is needed to continue to address the food

needs of eligible recipients; and

(2) includes any determination by the President
under section 5(h)(4)(A)(iii)(II) of the Food Stamp
Act of 1977 (as added by section 3(a)) that an ex-
tension of the disaster recovery period is not nec-

essary to fully meet the needs of affected house-

holds.

SEC. 9. REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate

such regulations as are necessary to implement this Act.

(b) PROCEDURE.—The promulgation of the regula-
tions and administration of this Act shall be made without

regard to—

(1) the notice and comment provisions of sec-

tion 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of
13804), relating to notices of proposed rulemaking
and public participation in rulemaking; and
(3) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

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