

Calendar No. 253

109TH CONGRESS
1ST SESSION**S. 1904**

To provide elementary and secondary education assistance to students and schools impacted by Hurricane Katrina.

IN THE SENATE OF THE UNITED STATES

OCTOBER 20, 2005

Mr. ALEXANDER (for himself, Mr. KENNEDY, Mr. ENZI, and Mr. DODD)
introduced the following bill; which was read the first time

OCTOBER 21, 2005

Read the second time and placed on the calendar

A BILL

To provide elementary and secondary education assistance to students and schools impacted by Hurricane Katrina.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hurricane Katrina El-
5 ementary and Secondary Education Recovery Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

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

4 (2) Due to the devastating effects of Hurricane
5 Katrina, a significant number of students have en-
6 rolled in schools outside of the area in which they
7 resided on August 22, 2005, including a significant
8 number of students who enrolled in non-public
9 schools because their parents chose to enroll them in
10 such schools.

11 (3) 372,000 students were displaced by Hurri-
12 cane Katrina. Approximately 700 schools have been
13 damaged or destroyed. Nine States each have more
14 than 1,000 of such displaced students enrolled in
15 their schools. In Texas alone, over 45,000 displaced
16 students have enrolled in schools.

17 (4) In response to these extraordinary condi-
18 tions, this Act creates a one-time only emergency
19 grant for the 2005–2006 school year tailored to the
20 needs and particular circumstances of students dis-
21 placed by Hurricane Katrina.

22 (5) The level and type of assistance provided
23 under this Act, both for students attending public
24 schools and students attending non-public schools, is
25 being authorized solely because of the unprecedented

1 nature of the crisis, the massive dislocation of stu-
2 dents, and the short duration of assistance.

3 **SEC. 3. WAIVERS AND OTHER ACTIONS.**

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

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

14 (2) Section 1111(b)(7) of such Act (20 U.S.C.
15 6311(b)(7)).

16 (3) Section 1111(c)(1) of such Act (20 U.S.C.
17 6311(c)(1)).

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

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

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

24 (7) Section 1125A(e)(3) of such Act (20 U.S.C.
25 6337(e)(3)).

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

3 (9) Section 5141(c) of such Act (20 U.S.C.
4 7217(c)).

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

7 (11) Section 9521(c) of such Act (20 U.S.C.
8 7901(c)).

9 (b) REPORT ON WAIVERS.—Not later than December
10 31, 2005, the Secretary of Education shall prepare and
11 submit a report on the States and local educational agen-
12 cies requesting a waiver of any provision under the Ele-
13 mentary and Secondary Education Act of 1965 (20 U.S.C.
14 6301 et seq.) and the Individuals with Disabilities Edu-
15 cation Act (20 U.S.C. 1400 et seq.) due to the impact
16 of Hurricane Katrina to the Committee on Education and
17 the Workforce and the Committee on Appropriations of
18 the House of Representatives and the Committee on
19 Health, Education, Labor, and Pensions and the Com-
20 mittee on Appropriations of the Senate.

21 **SEC. 4. PROVIDING ADDITIONAL SUPPORT FOR STUDENTS**

22 **AFFECTED BY HURRICANE KATRINA.**

23 (a) GRANTS TO STATES AUTHORIZED.—From
24 amounts appropriated under subsection (g), the Secretary
25 of Education is authorized to make grants to States for

1 assistance to eligible local educational agencies to enable
2 the agencies to provide services, programs, and activities
3 as described in subsection (c).

4 (b) STATE APPLICATIONS.—A State that desires to
5 receive a grant under this section shall submit an applica-
6 tion to the Secretary of Education at such time, in such
7 manner, and accompanied by such information as the Sec-
8 retary may reasonably require.

9 (c) ASSISTANCE TO LOCAL EDUCATIONAL AGEN-
10 CIES.—A State that receives a grant under subsection (a)
11 shall use the funds made available through the grant to
12 provide assistance to eligible local educational agencies to
13 enable such agencies to provide, to students displaced by
14 Hurricane Katrina or students attending a school in an
15 area described in subsection (f)(1)—

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

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

1 (d) LOCAL APPLICATIONS.—An eligible local edu-
 2 cational agency that desires to receive assistance under
 3 this section from a State shall submit an application to
 4 the State at such time, in such manner, and accompanied
 5 by such information as the State may reasonably require.

6 (e) INTERACTION WITH THE ESEA.—An eligible
 7 local educational agency providing services described in
 8 subsection (c)(1) may provide such services to a student
 9 displaced by Hurricane Katrina regardless of the status
 10 of the school under section 1116(b) of the Elementary and
 11 Secondary Education Act of 1965 (20 U.S.C. 6316(b))
 12 that such student attends.

13 (f) DEFINITION OF ELIGIBLE LOCAL EDUCATIONAL
 14 AGENCY.—In this section, the term “eligible local edu-
 15 cational agency” means—

16 (1) a local educational agency in an area in
 17 which a major disaster has been declared in accord-
 18 ance with section 401 of the Robert T. Stafford Dis-
 19 aster Relief and Emergency Assistance Act (42
 20 U.S.C. 5170) related to Hurricane Katrina; or

21 (2) a local educational agency that enrolls a
 22 student displaced from an area where a major dis-
 23 aster has been declared in accordance with section
 24 401 of the Robert T. Stafford Disaster Relief and

1 Emergency Assistance Act (42 U.S.C. 5170) related
2 to Hurricane Katrina.

3 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated to carry out this section
5 \$100,000,000 for fiscal year 2006.

6 **SEC. 5. IMMEDIATE AID TO RESTART SCHOOL OPERATIONS.**

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

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

15 (2) to assist school district administrators and
16 personnel of such agencies who are working to re-
17 start operations in elementary schools and secondary
18 schools served by such agencies; and

19 (3) to facilitate the re-opening of elementary
20 schools and secondary schools served by such agen-
21 cies and the re-enrollment of students in such
22 schools as soon as possible.

23 (b) PAYMENTS AND GRANTS AUTHORIZED.—From
24 amounts appropriated to carry out this section, the Sec-
25 retary of Education is authorized to make payments, not

1 later than November 30, 2005, to State educational agen-
2 cies (as defined in section 9101 of the Elementary and
3 Secondary Education Act of 1965 (20 U.S.C. 7801 et
4 seq.)) in Louisiana, Mississippi, and Alabama to enable
5 such agencies to award grants to local educational agen-
6 cies serving an area in which a major disaster has been
7 declared in accordance with section 401 of the Robert T.
8 Stafford Disaster Relief and Emergency Assistance Act
9 (42 U.S.C. 5170), related to Hurricane Katrina.

10 (c) ELIGIBILITY AND CONSIDERATION.—In deter-
11 mining whether to award a grant under this section, or
12 the amount of the grant, the State educational agency
13 shall consider the following:

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

18 (2) The severity of the impact of Hurricane
19 Katrina on the local educational agency and the ex-
20 tent of the needs in each local educational agency in
21 Louisiana, Mississippi, and Alabama that is in an
22 area in which a major disaster has been declared in
23 accordance with section 401 of the Robert T. Staf-
24 ford Disaster Relief and Emergency Assistance Act
25 (42 U.S.C. 5170), related to Hurricane Katrina.

1 (d) APPLICATIONS.—Each local educational agency
 2 desiring a grant under this section shall submit an appli-
 3 cation to the State educational agency at such time, in
 4 such manner, and accompanied by such information as the
 5 State educational agency may reasonably require to ensure
 6 expedited and timely payment to the local educational
 7 agency.

8 (e) USES OF FUNDS.—

9 (1) IN GENERAL.—A local educational agency
 10 receiving a grant under this section shall use the
 11 grant funds for—

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

14 (B) replacement of school district informa-
 15 tion systems, including hardware and software;

16 (C) financial operations;

17 (D) reasonable transportation costs;

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

20 (F) initial replacement of instructional ma-
 21 terials and equipment, including textbooks;

22 (G) redeveloping instructional plans, in-
 23 cluding curriculum development;

24 (H) initiating and maintaining education
 25 and support services; and

1 (I) such other activities related to the pur-
2 pose of this section that are approved by the
3 Secretary.

4 (2) USE WITH OTHER AVAILABLE FUNDS.—A
5 local educational agency receiving a grant under this
6 section may use the grant funds in coordination with
7 other Federal, State, or local funds available for the
8 activities described in paragraph (1).

9 (3) PROHIBITIONS.—Grant funds received
10 under this section shall not be used for any of the
11 following:

12 (A) Construction or major renovation of
13 schools.

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

17 (f) SUPPLEMENT NOT SUPPLANT.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), funds made available under this section
20 shall be used to supplement, not supplant, any funds
21 made available through the Federal Emergency
22 Management Agency or through a State.

23 (2) EXCEPTION.—Paragraph (1) shall not pro-
24 hibit the provision of Federal assistance under this
25 section to an eligible educational agency that is or

1 may be entitled to receive, from another source, ben-
 2 efits for the same purposes as under this section
 3 if—

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

7 (B) such agency agrees to repay all dupli-
 8 cative Federal assistance received to carry out
 9 the purposes of this section.

10 (g) AUTHORIZATION OF APPROPRIATIONS.—There is
 11 authorized to be appropriated to carry out this section
 12 \$900,000,000 for fiscal year 2006.

13 **SEC. 6. HOLD HARMLESS FOR LOCAL EDUCATIONAL AGEN-**
 14 **CIES SERVING MAJOR DISASTER AREAS.**

15 In the case of a local educational agency that serves
 16 an area in which the President has declared that a major
 17 disaster exists in accordance with section 401 of the Rob-
 18 ert T. Stafford Disaster Relief and Emergency Assistance
 19 Act (42 U.S.C. 5170), related to Hurricane Katrina, the
 20 amount made available for such local educational agency
 21 under each of sections 1124, 1124A, 1125, and 1125A
 22 of the Elementary and Secondary Education Act of 1965
 23 (20 U.S.C. 6333, 6334, 6335, and 6337) for fiscal year
 24 2006 shall be not less than the amount made available

1 for such local educational agency under each of such sec-
 2 tions for fiscal year 2005.

3 **SEC. 7. TEACHER AND PARAPROFESSIONAL RECIPROCITY;**

4 **DELAY.**

5 (a) TEACHER AND PARAPROFESSIONAL RECI-
 6 PROCITY.—

7 (1) TEACHERS.—

8 (A) AFFECTED TEACHER.—In this sub-
 9 section, the term “affected teacher” means a
 10 teacher who is displaced due to Hurricane
 11 Katrina and relocates to a State that is dif-
 12 ferent from the State in which such teacher re-
 13 sided on August 22, 2005.

14 (B) IN GENERAL.—A local educational
 15 agency may consider an affected teacher hired
 16 by such agency who is not highly qualified in
 17 the State in which such agency is located to be
 18 highly qualified, for purposes of section 1119 of
 19 the Elementary and Secondary Education Act
 20 of 1965 (20 U.S.C. 6319) and section
 21 612(a)(14) of the Individuals with Disabilities
 22 Education Act (20 U.S.C. 1412(a)(14)), for a
 23 period not to exceed 1 year, if such teacher was
 24 highly qualified, consistent with section
 25 9101(23) of the Elementary and Secondary

1 Education Act of 1965 (20 U.S.C. 7801(23))
2 and section 602(10) of the Individuals with
3 Disabilities Education Act (20 U.S.C.
4 1401(10)), on or before August 22, 2005, in
5 the State in which such teacher resided on Au-
6 gust 22, 2005.

7 (2) PARAPROFESSIONAL.—

8 (A) AFFECTED PARAPROFESSIONAL.—In
9 this subsection, the term “affected paraprofes-
10 sional” means a paraprofessional who is dis-
11 placed due to Hurricane Katrina and relocates
12 to a State that is different from the State in
13 which such paraprofessional resided on August
14 22, 2005.

15 (B) IN GENERAL.—A local educational
16 agency may consider an affected paraprofes-
17 sional hired by such agency who does not sat-
18 isfy the requirements of section 1119(c) of the
19 Elementary and Secondary Education Act of
20 1965 (20 U.S.C. 6319(c)) in the State in which
21 such agency is located to satisfy such require-
22 ments, for purposes of such section, for a pe-
23 riod not to exceed 1 year, if such paraprofes-
24 sional satisfied such requirements on or before

1 August 22, 2005, in the State in which such
2 paraprofessional resided on August 22, 2005.

3 (b) DELAY.—The Secretary of Education may delay,
4 for a period not to exceed 1 year, applicability of the re-
5 quirements of paragraphs (2) and (3) of section 1119(a)
6 of the Elementary and Secondary Education Act of 1965
7 (20 U.S.C. 6319(a)(2) and (3)) and section 612(a)(14)(C)
8 of the Individuals with Disabilities Education Act (20
9 U.S.C. 1412(a)(14)(C)) with respect to the States of Ala-
10 bama, Louisiana, and Mississippi (and local educational
11 agencies within the jurisdiction of such States), if any
12 such State or local educational agency demonstrates that
13 a failure to comply with such requirements is due to excep-
14 tional or uncontrollable circumstances, such as a natural
15 disaster or a precipitous and unforeseen decline in the fi-
16 nancial resources of local educational agencies within the
17 State.

18 **SEC. 8. ASSISTANCE FOR HOMELESS YOUTH.**

19 (a) IN GENERAL.—The Secretary of Education shall
20 provide assistance to local educational agencies serving
21 homeless children and youths displaced by Hurricane
22 Katrina, consistent with section 723 of the McKinney-
23 Vento Homeless Assistance Act (42 U.S.C. 11433), in-
24 cluding identification, enrollment assistance, assessment
25 and school placement assistance, transportation, coordina-

1 tion of school services, supplies, referrals for health, men-
 2 tal health, and other needs.

3 (b) EXCEPTION AND DISTRIBUTION OF FUNDS.—

4 (1) EXCEPTION.—For purposes of providing as-
 5 sistance under subsection (a), subsections (c) and
 6 (e)(1) of section 722 and subsections (b) and (c) of
 7 section 723 of the McKinney-Vento Homeless Assist-
 8 ance Act (42 U.S.C. 11432(c) and (e)(1), 11433(b)
 9 and (c)) shall not apply.

10 (2) DISBURSEMENT.—The Secretary of Edu-
 11 cation shall disburse funding provided under sub-
 12 section (a) to State educational agencies based on
 13 demonstrated need, as determined by the Secretary,
 14 and such State educational agencies shall distribute
 15 funds available under subsection (c) to local edu-
 16 cational agencies based on demonstrated need, for
 17 the purposes of carrying out section 723 of the
 18 McKinney-Vento Homeless Assistance Act (42
 19 U.S.C. 11433).

20 (c) AUTHORIZATION OF APPROPRIATIONS.—There
 21 are authorized to be appropriated to carry out this section
 22 \$50,000,000.

23 **SEC. 9. ALTERNATIVE EDUCATION PROGRAMS FOR DIS-**
 24 **PLACED ADOLESCENT STUDENTS.**

25 (a) DEFINITIONS.—In this section:

1 (1) ALTERNATIVE EDUCATION PROGRAM.—The
2 term “alternative education program” means a tran-
3 sitional program that provides displaced adolescent
4 students with—

5 (A) instruction in reading, mathematics,
6 writing, study skills, and other relevant sub-
7 jects;

8 (B) counseling;

9 (C) tutoring;

10 (D) activities designed to familiarize the
11 displaced adolescent students with the range of
12 career options available to the students;

13 (E) mentoring;

14 (F) test preparation for college entrance
15 examinations, including the PSAT, SAT, and
16 ACT;

17 (G) counseling on the financial aid avail-
18 able for postsecondary education; or

19 (H) job readiness skills and career and
20 technical education.

21 (2) DISPLACED ADOLESCENT STUDENT.—The
22 term “displaced adolescent student” means a sec-
23 ondary school student who—

24 (A) resides or resided on August 22, 2005,
25 in an area for which a major disaster has been

1 declared in accordance with section 401 of the
2 Robert T. Stafford Disaster Relief and Emer-
3 gency Assistance Act (42 U.S.C. 5170), related
4 to Hurricane Katrina;

5 (B) cannot continue enrollment in a sec-
6 ondary school because of Hurricane Katrina;
7 and

8 (C) is expected to obtain a secondary
9 school diploma by the end of the 2006–2007
10 school year.

11 (3) ELIGIBLE ENTITY.—The term “eligible enti-
12 ty” means a State educational agency, local edu-
13 cational agency, or consortium of such agencies, lo-
14 cated in an area in which a major disaster has been
15 declared in accordance with section 401 of the Rob-
16 ert T. Stafford Disaster Relief and Emergency As-
17 sistance Act (42 U.S.C. 5170) related to Hurricane
18 Katrina, that—

19 (A) demonstrates a need for additional
20 funds in order to provide an alternative edu-
21 cation program to displaced adolescent stu-
22 dents; and

23 (B) has the ability to administer the alter-
24 native education program and to serve displaced
25 adolescent students.

1 (4) SECRETARY.—The term “Secretary” means
2 the Secretary of Education.

3 (b) PROGRAM AUTHORIZED.—From amounts appro-
4 priated under this section for fiscal year 2006, the Sec-
5 retary shall award grants to States for assistance to eligi-
6 ble entities to enable the entities to develop and carry out
7 alternative education programs for displaced adolescent
8 students.

9 (c) STATE APPLICATIONS.—A State desiring a grant
10 under this section shall submit an application to the Sec-
11 retary at such time, in such manner, and containing such
12 information as the Secretary may require.

13 (d) ASSISTANCE TO ELIGIBLE ENTITIES.—

14 (1) IN GENERAL.—A State that receives a
15 grant under this section may use the funds made
16 available through the grant to provide assistance to
17 eligible entities to enable the eligible entities to de-
18 velop and carry out alternative education programs
19 for displaced adolescent students.

20 (2) PARTNERSHIPS.—An eligible entity may
21 apply for assistance under this section in partner-
22 ship with 1 or more community-based organizations
23 or institutions of higher education (as such term is
24 defined in section 101 of the Higher Education Act
25 of 1965 (20 U.S.C. 1001)), or both.

1 (e) LOCAL APPLICATIONS.—An eligible entity desir-
 2 ing assistance under this section from a State shall submit
 3 an application to the Governor of the State at such time,
 4 in such manner, and containing such information as the
 5 Governor may require. At a minimum, the Governor shall
 6 require an entity that desires to carry out an alternative
 7 education program in an area in which another organiza-
 8 tion is carrying out an alternative education program to
 9 provide an assurance that the entity will coordinate activi-
 10 ties carried out under its program with the activities car-
 11 ried out by the organization under its program

12 (f) USES OF FUNDS.—An eligible entity that receives
 13 assistance under this section shall use the assistance to
 14 carry out an alternative education program that meets the
 15 needs of displaced adolescent students, including the staff-
 16 ing, curricular materials, and other programmatic costs
 17 needed to carry out the alternative education program.

18 (g) AUTHORIZATION OF APPROPRIATIONS.—There
 19 are authorized to be appropriated to carry out this section
 20 such sums as may be necessary for fiscal year 2006.

21 **SEC. 10. GENERAL PROVISION.**

22 Nothing in sections 1 through 9 of this Act shall be
 23 construed to permit discrimination on the basis of race,
 24 color, religion, sex (except as otherwise permitted under
 25 title IX of the Education Amendments of 1972 (20 U.S.C.

1 1681 et seq.)), national origin, or disability in any pro-
 2 gram funded under sections 1 through 9 of this Act.

3 **SEC. 11. TEMPORARY EMERGENCY IMPACT AID FOR DIS-**
 4 **PLACED STUDENTS.**

5 (a) TEMPORARY EMERGENCY IMPACT AID AUTHOR-
 6 IZED.—

7 (1) AID TO STATE EDUCATIONAL AGENCIES.—

8 From amounts appropriated under subsection (o),
 9 the Secretary of Education shall provide emergency
 10 impact aid to State educational agencies to enable
 11 the State educational agencies to make emergency
 12 impact aid payments to eligible local educational
 13 agencies and eligible BIA-funded schools to enable—

14 (A) such eligible local educational agencies
 15 and schools to provide for the instruction of dis-
 16 placed students served by such agencies and
 17 schools; and

18 (B) such eligible local educational agencies
 19 to make immediate impact aid payments to ac-
 20 counts established on behalf of displaced stu-
 21 dents (referred to in this section as “accounts”)
 22 who are attending eligible non-public schools lo-
 23 cated in the areas served by the eligible local
 24 educational agencies.

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

7 (3) STATE EDUCATIONAL AGENCIES IN CER-
 8 TAIN STATES.—In the case of the States of Lou-
 9 isiana and Mississippi, the State educational agency
 10 shall carry out the activities of eligible local edu-
 11 cational agencies that are unable to carry out this
 12 section, including eligible local educational agencies
 13 in such States for which the State exercises the au-
 14 thorities normally exercised by such local educational
 15 agencies.

16 (b) DEFINITIONS.—In this section:

17 (1) DISPLACED STUDENT.—The term “dis-
 18 placed student” means a student who enrolled in a
 19 school (other than the school that the student was
 20 enrolled in, or was eligible to be enrolled in, on Au-
 21 gust 22, 2005) because such student resides or re-
 22 sided on August 22, 2005, in an area for which a
 23 major disaster has been declared in accordance with
 24 section 401 of the Robert T. Stafford Disaster Relief

and Emergency Assistance Act (42 U.S.C. 5170),
related to Hurricane Katrina.

(2) ELIGIBLE LOCAL EDUCATIONAL AGEN-
CIES.—The term “eligible local educational agency”
means a local educational agency that serves—

(A) an elementary school or secondary
school (including a charter school) in which
there is enrolled a displaced student; or

(B) an area in which there is located an el-
igible non-public school.

(3) ELIGIBLE NON-PUBLIC SCHOOL.—The term
“eligible non-public school” means a non-public
school that—

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

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

(C) serves a displaced student on behalf of
whom an application for an account has been
made pursuant to subsection (c)(2)(A)(ii).

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

(c) APPLICATION.—

1 (1) STATE EDUCATIONAL AGENCY.—A State
2 educational agency that desires to receive emergency
3 impact aid under this section shall submit an appli-
4 cation to the Secretary of Education at such time,
5 in such manner, and accompanied by such informa-
6 tion as the Secretary of Education may reasonably
7 require, including—

8 (A) information on the total displaced stu-
9 dent child count of the State provided by eligi-
10 ble local educational agencies in the State and
11 eligible BIA-funded schools in the State under
12 paragraph (2);

13 (B) a description of the process for the
14 parent or guardian of a displaced student en-
15 rolled in a non-public school to indicate to the
16 eligible local educational agency serving the
17 area in which such school is located that the
18 student is enrolled in such school;

19 (C) a description of the procedure to be
20 used by an eligible local educational agency in
21 such State to provide payments to accounts;

22 (D) a description of the process to be used
23 by an eligible local educational agency in such
24 State to obtain—

1 (i) attestations of attendance of eligi-
 2 ble displaced students from eligible non-
 3 public schools, in order for the local edu-
 4 cational agency to provide payments to ac-
 5 counts on behalf of eligible displaced stu-
 6 dents; and

7 (ii) attestations from eligible non-pub-
 8 lic schools that accounts are used only for
 9 the purposes described in subsection
 10 (e)(2)(A); and

11 (E) the criteria, including family income,
 12 used to determine the eligibility for and the
 13 amount of assistance under this section pro-
 14 vided on behalf of a displaced student attending
 15 an eligible non-public school.

16 (2) LOCAL EDUCATIONAL AGENCIES AND BIA-
 17 FUNDED SCHOOLS.—An eligible local educational
 18 agency or eligible BIA-funded school that desires an
 19 emergency impact aid payment under this section
 20 shall submit an application to the State educational
 21 agency at such time, in such manner, and accom-
 22 panied by such information as the State educational
 23 agency may reasonably require, including docu-
 24 mentation submitted quarterly for the 2005–2006
 25 school year that indicates the following:

1 (A) In the case of an eligible local edu-
2 cational agency—

3 (i) the number of displaced students
4 enrolled in the elementary schools and sec-
5 ondary schools (including charter schools
6 and including the number of displaced stu-
7 dents who are served under part B of the
8 Individuals with Disabilities Education
9 Act) served by such agency for such quar-
10 ter; and

11 (ii) the number of displaced students
12 for whom the eligible local educational
13 agency expects to provide payments to ac-
14 counts under subsection (e)(2) (including
15 the number of displaced students who are
16 served under part B of the Individuals
17 with Disabilities Education Act) for such
18 quarter who meet the following criteria:

19 (I) The displaced student en-
20 rolled in an eligible non-public school
21 prior to the date of enactment of this
22 Act.

23 (II) The parent or guardian of
24 the displaced student chose to enroll
25 the student in the eligible non-public

1 school in which the student is en-
2 rolled.

3 (III) The parent or guardian of
4 the displaced student submitted an
5 application requesting that the agency
6 make a payment to an account on be-
7 half of the student.

8 (IV) The displaced student's tui-
9 tion and fees (and transportation ex-
10 penses, if any) for the 2005–2006
11 school year is waived or reimbursed
12 (by the eligible non-public school) in
13 an amount that is not less than the
14 amount of emergency impact aid pay-
15 ment provided on behalf of such stu-
16 dent under this section.

17 (B) In the case of an eligible BIA-funded
18 school, the number of displaced students, in-
19 cluding the number of displaced students who
20 are served under part B of the Individuals with
21 Disabilities Education Act (20 U.S.C. 1411 et
22 seq.), enrolled in such school for such quarter.

23 (3) DETERMINATION OF NUMBER OF DIS-
24 PLACED STUDENTS.—In determining the number of
25 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 product of the number of displaced students (who 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), times \$6,000; and

(ii) the product of the number of displaced students who 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), 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.—

(A) QUARTERLY INSTALLMENTS.—

(i) IN GENERAL.—A State educational agency shall provide emergency impact aid payments under this section on a quarterly basis for the 2005–2006 school year by such dates as determined by the Secretary of Education. Such quarterly installment payments shall be based on the number of displaced students reported under subsection (c)(2) and in the amount determined under clause (ii).

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

1 (I) the number of displaced stu-
2 dents (who are not served under part
3 B of the Individuals with Disabilities
4 Education Act (20 U.S.C. 1411 et
5 seq.)) reported by the eligible local
6 educational agency or eligible BIA-
7 funded school for such quarter (as de-
8 termined under subsection (c)(2))
9 times \$6,000; and

10 (II) the number of displaced stu-
11 dents who are served under part B of
12 the Individuals with Disabilities Edu-
13 cation Act (20 U.S.C. 1411 et seq.)
14 reported by the eligible local edu-
15 cational agency or eligible BIA-funded
16 school for such quarter (as deter-
17 mined under subsection (c)(2)) times
18 \$7,500.

19 (iii) **TIMELINE.**—The Secretary of
20 Education shall establish a timeline for
21 quarterly reporting on the number of dis-
22 placed students in order to make the ap-
23 propriate disbursements in a timely man-
24 ner.

1 (iv) INSUFFICIENT FUNDS.—If, for
 2 any quarter, the amount available under
 3 this section to make payments under this
 4 subsection is insufficient to pay the full
 5 amount that an eligible local educational
 6 agency or eligible BIA-funded school is eli-
 7 gible to receive under this section, the
 8 State educational agency shall ratably re-
 9 duce the amount of such payments.

10 (B) MAXIMUM PAYMENT TO ACCOUNT.—In
 11 providing quarterly payments to an account for
 12 the 2005–2006 school year on behalf of a dis-
 13 placed student for each quarter that such stu-
 14 dent is enrolled in a non-public school in the
 15 area served by the agency under subsection
 16 (e)(2), an eligible local educational agency may
 17 provide not more than 4 quarterly payments to
 18 such account, and the aggregate amount of
 19 such payments shall not exceed the lesser of—

20 (i)(I) in the case of a displaced stu-
 21 dent who is not served under part B of the
 22 Individuals with Disabilities Education Act
 23 (20 U.S.C. 1411 et seq.), \$6,000; or

24 (II) in the case of a displaced student
 25 who is served under part B of the Individ-

uals with Disabilities Education Act,
\$7,500; or

(ii) the cost of tuition and fees (and
transportation expenses, if any) at the
non-public school for the 2005–2006 school
year.

(e) USE OF FUNDS.—

(1) DISPLACED STUDENTS IN PUBLIC
SCHOOLS.—An eligible local educational agency or
eligible BIA-funded school receiving emergency im-
pact 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 dis-
placed students;

(B) identifying and acquiring curricular
material, including the costs of providing addi-
tional classroom supplies, and mobile edu-
cational units and leasing sites or spaces;

1 (C) basic instructional services for such
 2 students, including tutoring, mentoring, or aca-
 3 demic counseling;

4 (D) reasonable transportation costs;

5 (E) health services (including counseling
 6 and mental health services); and

7 (F) education and support services.

8 (2) DISPLACED STUDENTS IN NON-PUBLIC
 9 SCHOOLS.—

10 (A) IN GENERAL.—An eligible local edu-
 11 cational agency that receives emergency impact
 12 aid payments under this section and that serves
 13 an area in which there is located an eligible
 14 non-public school shall, at the request of the
 15 parent or guardian of a displaced student who
 16 meets the criteria described in subsection
 17 (c)(2)(A)(ii) and who enrolled in a non-public
 18 school in an area served by the agency, use
 19 such emergency impact aid payment to provide
 20 payment on a quarterly basis (but not to exceed
 21 the total amount specified in subsection
 22 (d)(2)(B) for the 2005–2006 school year) to an
 23 account on behalf of such displaced student,
 24 which payment shall be used to assist in paying
 25 for any of the following:

1 (i) Paying the compensation of per-
2 sonnel, including teacher aides, in the non-
3 public school, which funds shall not be
4 used for religious instruction, proselytiza-
5 tion, or worship.

6 (ii) Identifying and acquiring cur-
7 ricular material, including the costs of pro-
8 viding additional classroom supplies (which
9 shall be secular, neutral, and shall not
10 have a religious component), and mobile
11 educational units and leasing sites or
12 spaces, which shall not be used for reli-
13 gious instruction, proselytization, or wor-
14 ship.

15 (iii) Basic instructional services, in-
16 cluding tutoring, mentoring, or academic
17 counseling, which services shall be secular
18 and neutral and shall not be used for reli-
19 gious instruction, proselytization, or wor-
20 ship.

21 (iv) Reasonable transportation costs.

22 (v) Health services (including coun-
23 seling and mental health services), which
24 services shall be secular and neutral and

shall not be used for religious instruction,
 proselytization, or worship.

(vi) Education and support services,
 which services shall be secular and neutral
 and shall not be used for religious instruc-
 tion, proselytization, or worship.

(B) VERIFICATION OF ENROLLMENT.—Be-
 fore providing a quarterly payment to an ac-
 count under subparagraph (A), the eligible local
 educational agency shall verify with the parent
 or guardian of a displaced student that such
 displaced student is enrolled in the non-public
 school.

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

(A) IN GENERAL.—In the case of a dis-
 placed student who 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 edu-
 cational 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

1 the Individuals with Disabilities Education Act
2 (20 U.S.C. 1400 et seq.).

3 (B) SPECIAL RULE.—

4 (i) RETENTION.—Notwithstanding
5 any other provision of this section, if an el-
6 igible local educational agency provides
7 services to a displaced student attending
8 an eligible non-public school under section
9 612(a)(10) of the Individuals with Disabil-
10 ities Education Act (20 U.S.C.
11 1412(a)(10)), the eligible local educational
12 agency may retain a portion of the assist-
13 ance received under this section for such
14 student to pay the cost of providing such
15 services.

16 (ii) DETERMINATION OF PORTION.—

17 (I) GUIDELINES.—Each State
18 shall issue guidelines that specify the
19 portion of the assistance that an eligi-
20 ble local educational agency in the
21 State may retain under this subpara-
22 graph. Each State shall apply such
23 guidelines in a consistent manner
24 throughout the State.

1 (II) DETERMINATION OF POR-
 2 TION.—The portion specified in the
 3 guidelines shall be based on cus-
 4 tomary costs of providing services
 5 under such section 612(a)(10) for the
 6 local educational agency.

7 (C) DEFINITIONS.—In this paragraph:

8 (i) SPECIAL EDUCATION; RELATED
 9 SERVICES.—The terms “special education”
 10 and “related services” have the meaning
 11 given such terms in section 602 of the In-
 12 dividuals with Disabilities Education Act
 13 (20 U.S.C. 1401).

14 (ii) INDIVIDUALIZED EDUCATION PRO-
 15 GRAM.—The term “individualized edu-
 16 cation program” has the meaning given
 17 the term in section 614(d)(2) of the Indi-
 18 viduals with Disabilities Education Act (20
 19 U.S.C. 1414(d)(2)).

20 (f) RETURN OF AID.—

21 (1) ELIGIBLE LOCAL EDUCATIONAL AGENCY OR
 22 ELIGIBLE BIA-FUNDED SCHOOL.—An eligible local
 23 educational agency or eligible BIA-funded school
 24 that receives an emergency impact aid payment
 25 under this section shall return to the State edu-

1 cational agency any payment provided to the eligible
 2 local educational agency or school under this section
 3 that the eligible local educational agency or school
 4 has not obligated by the end of the 2005–2006
 5 school year in accordance with this section.

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

10 (A) any aid provided to the agency under
 11 this section that the agency has not obligated
 12 by the end of the 2005–2006 school year in ac-
 13 cordance with this section; and

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

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

20 (h) ADMINISTRATIVE EXPENSES.—A State edu-
 21 cational agency that receives emergency impact aid under
 22 this section may use not more than 1 percent of such aid
 23 for administrative expenses. An eligible local educational
 24 agency or eligible BIA-funded school that receives emer-
 25 gency impact aid payments under this section may use not

1 more than 2 percent of such payments for administrative
2 expenses.

3 (i) SPECIAL FUNDING RULE.—In calculating funding
4 under section 8003 of the Elementary and Secondary
5 Education Act of 1965 (20 U.S.C. 7703) for an eligible
6 local educational agency that receives an emergency im-
7 pact aid payment under this section, the Secretary of Edu-
8 cation shall not count displaced students served by such
9 agency for whom an emergency impact aid payment is re-
10 ceived under this section, nor shall such students be count-
11 ed for the purpose of calculating the total number of chil-
12 dren in average daily attendance at the schools served by
13 such agency as provided in section 8003(b)(3)(B)(i) of
14 such Act (20 U.S.C. 7703(b)(3)(B)(i)).

15 (j) TERMINATION OF AUTHORITY.—The authority
16 provided by this section shall terminate on August 1,
17 2006.

18 (k) NOTICE OF OPTION OF PUBLIC SCHOOL OR NON-
19 PUBLIC SCHOOL ENROLLMENT.—Each State receiving
20 emergency impact aid under this section shall provide, to
21 the parent or guardian of each displaced student for whom
22 a payment is made under this section to an account who
23 resides in such State, notification that such parent or
24 guardian has the option of enrolling such student in a pub-
25 lic school or a non-public school.

1 (l) BY-PASS.—If a State educational agency or eligi-
 2 ble local educational agency is unable to carry out this
 3 section, the Secretary of Education may make such ar-
 4 rangements with the State as the Secretary determines ap-
 5 propriate to carry out this section on behalf of displaced
 6 students attending an eligible non-public school in the area
 7 served by such agency. For a State in which State law
 8 prohibits the State from using Federal funds to directly
 9 provide services on behalf of students attending non-public
 10 schools and provides that another entity shall provide such
 11 services, the Secretary of Education shall make such ar-
 12 rangements with that entity.

13 (m) NONDISCRIMINATION.—

14 (1) IN GENERAL.—A school that enrolls a dis-
 15 placed student under this section shall not discrimi-
 16 nate against students on the basis of race, color, na-
 17 tional origin, religion, disability, or sex.

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

20 (A) IN GENERAL.—To the extent con-
 21 sistent with title IX of the Education Amend-
 22 ments of 1972 (20 U.S.C. 1681 et seq.), the
 23 prohibition of sex discrimination in paragraph
 24 (1) shall not apply to a non-public school that
 25 is controlled by a religious organization if the

1 application of paragraph (1) would not be con-
 2 sistent with the religious tenets of such organi-
 3 zation.

4 (B) SINGLE SEX SCHOOLS, CLASSES, OR
 5 ACTIVITIES.—Notwithstanding paragraph (1)
 6 and to the extent consistent with title IX of the
 7 Education Amendments of 1972, a parent or
 8 guardian may choose and a non-public school
 9 may offer a single sex school, class, or activity.

10 (C) ENROLLMENT.—The prohibition of re-
 11 ligious discrimination in paragraph (1) shall not
 12 apply with regard to enrollment for a non-pub-
 13 lic school that is controlled by a religious orga-
 14 nization, except in the case of the enrollment of
 15 displaced students assisted under this section.

16 (3) GENERAL PROVISION.—Nothing in this sec-
 17 tion may be construed to alter or modify the provi-
 18 sions of the Individuals with Disabilities Education
 19 Act (20 U.S.C. 1400 et seq.), title VI of the Civil
 20 Rights Act of 1964 (42 U.S.C. 2000d et seq.), title
 21 IX of the Education Amendments of 1972 (20
 22 U.S.C. 1681 et seq.), and the Rehabilitation Act of
 23 1973 (29 U.S.C. 701 et seq.).

24 (4) OPT-IN.—A displaced student assisted
 25 under this section who is enrolled in a non-public

1 school shall not participate in religious worship or
 2 religious classes at such school unless such student's
 3 parent or guardian chooses to opt-in such student
 4 for such religious worship or religious classes.

5 (5) RULE OF CONSTRUCTION.—The amount of
 6 any payment (or other form of support provided on
 7 behalf of a displaced student) under this section
 8 shall not be treated as income of a parent or guard-
 9 ian of the student for purposes of Federal tax laws
 10 or for determining eligibility for any other Federal
 11 program.

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

18 (o) AUTHORIZATION OF APPROPRIATIONS.—There is
 19 authorized to be appropriated to carry out this section
 20 \$2,400,000,000 for fiscal year 2006.

21 **SEC. 12. SUNSET PROVISION.**

22 Except as otherwise provided in this Act, the provi-
 23 sions of this Act shall be effective for the period beginning
 24 on the date of enactment of this Act and ending on August
 25 1, 2006.

Calendar No. 253

109TH CONGRESS
1ST Session

S. 1904

A BILL

To provide elementary and secondary education assistance to students and schools impacted by Hurricane Katrina.

OCTOBER 21, 2005

Read the second time and placed on the calendar