

109TH CONGRESS
1ST SESSION

S. 1925

To provide for workers and businesses during the response to Hurricane Katrina and Hurricane Rita, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 26, 2005

Mr. KENNEDY (for himself, Mr. REID, Mr. HARKIN, Mr. DODD, Ms. MIKULSKI, Mr. REED, Mrs. BOXER, Mr. KERRY, Mr. DORGAN, Mr. SCHUMER, Mr. DAYTON, and Mr. LAUTENBERG) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide for workers and businesses during the response to Hurricane Katrina and Hurricane Rita, and for other purposes.

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 “Rebuild With Respect
5 Act”.

1 **SEC. 2. REINSTATEMENT OF DAVIS-BACON WAGE REQUIRE-**
 2 **MENTS.**

3 Notwithstanding the proclamation by the President
 4 dated September 8, 2005, or any other provision of law,
 5 the provisions of subchapter IV of chapter 31 of title 40,
 6 United States Code (and the provisions of all other related
 7 Acts to the extent they depend upon a determination by
 8 the Secretary of Labor under section 3142 of such title,
 9 whether or not the President has the authority to suspend
 10 the operation of such provisions), shall apply to all con-
 11 tracts, to which the provisions described in this section
 12 would otherwise apply and that are entered into on or
 13 after the date of enactment of this Act, to be performed
 14 in the counties affected by Hurricane Katrina or Hurri-
 15 cane Rita and described in such proclamation.

16 **SEC. 3. REINSTATEMENT OF AFFIRMATIVE ACTION RE-**
 17 **QUIREMENTS.**

18 (a) DEFINITION.—In this section:

19 (1) AFFIRMATIVE ACTION PROVISIONS.—The
 20 term “affirmative action provisions” means the pro-
 21 visions of Executive Order 11246 (relating to equal
 22 employment opportunity), section 503 of the Reha-
 23 bilitation Act of 1973 (29 U.S.C. 793), and section
 24 4212 of title 38, United States Code (as added by
 25 the Vietnam Era Veterans’ Readjustment Assistance
 26 Act of 1972).

1 (2) EXECUTIVE AGENCY.—The term “executive
2 agency” has the meaning given the term in section
3 4 of the Office of Federal Procurement Policy Act
4 (41 U.S.C. 403).

5 (b) AFFIRMATIVE ACTION.—Notwithstanding the
6 memorandum entitled “Contracts for Hurricane Katrina
7 Relief Efforts” issued by the Deputy Assistant Secretary
8 for the Employment Standards Administration of the De-
9 partment of Labor, dated September 9, 2005, and any
10 other provision of law, the affirmative action provisions
11 shall apply to all contracts (including any subcontracts of
12 such contracts) between executive agencies and contrac-
13 tors, to which the affirmative action provisions would oth-
14 erwise apply and that are entered into on or after the date
15 of enactment of this Act, to provide Hurricane Katrina
16 or Hurricane Rita relief. The contractors (including any
17 subcontractors) for such contracts shall develop the writ-
18 ten affirmative action programs, prepare the reports, and
19 provide the notices usually required under the regulations
20 to implement the affirmative action provisions.

21 **SEC. 4. JOBS FOR WORKERS AFFECTED BY HURRICANE**
22 **KATRINA AND HURRICANE RITA.**

23 (a) EMPLOYMENT REQUIREMENT.—

24 (1) CONTRACTS.—Except as provided in sub-
25 section (b), the head of an executive agency may not

1 enter into a contract to procure disaster relief prop-
2 erty or services in connection with Hurricane
3 Katrina or Hurricane Rita reconstruction efforts un-
4 less workers affected by Hurricane Katrina or Hur-
5 ricane Rita—

6 (A) comprise not less than 50 percent of
7 the workforce employed by the contractor to
8 provide such property or perform such services;
9 and

10 (B) comprise not less than 50 percent of
11 the workforce employed by each subcontractor
12 at each tier in connection with such contract.

13 (2) GRANTS.—

14 (A) IN GENERAL.—Except as provided in
15 subsection (b), the head of an executive agency
16 may not award a grant of Federal funds to any
17 recipient, including any State or local govern-
18 ment entity, for the purpose of providing dis-
19 aster relief property or services in connection
20 with Hurricane Katrina or Hurricane Rita re-
21 construction efforts unless workers affected by
22 Hurricane Katrina or Hurricane Rita—

23 (i) comprise not less than 50 percent
24 of the workforce employed by that recipient

to provide such property or perform such services; and

(ii) comprise not less than 50 percent of the workforce employed by any indirect recipient of such grant funds to provide such property or perform such services.

(B) EMPLOYMENT REQUIREMENT AS CONDITION TO RECEIPT OF FUNDS.—The head of an executive agency shall require each grantee, as a condition to receiving Federal funds under a grant described in subparagraph (A)—

(i) to comply with the workforce requirement under subparagraph (A)(i); and

(ii) to require that any indirect recipient of such funds shall, as a condition to receiving the funds, comply with the workforce requirement under subparagraph (A)(ii).

(3) EXCEPTION FOR PROFESSIONAL SERVICES.—The requirements under paragraphs (1) and (2) do not apply to the procurement of professional services.

(b) EXEMPTIONS FOR EXCEPTIONAL CIRCUMSTANCES.—

1 (1) AUTHORITY.—The head of an executive
2 agency may enter into a contract or award a grant
3 that would otherwise be prohibited under subsection
4 (a) due to the employment by an employer of a
5 workforce that does not meet the workforce composi-
6 tion requirement under such subsection if the em-
7 ployer qualifies for and receives an exemption under
8 paragraph (2).

9 (2) PROCEDURE FOR GRANTING EXEMP-
10 TIONS.—

11 (A) IN GENERAL.—Each executive agency
12 entering into a contract or awarding a grant for
13 the purpose of procuring disaster relief property
14 or services in connection with Hurricane
15 Katrina or Hurricane Rita reconstruction ef-
16 forts shall establish procedures for providing ex-
17 emptions for employers who are unable to com-
18 ply with the workforce composition requirement
19 under subsection (a) due to an emergency, lack
20 of available workers who have been affected by
21 Hurricane Katrina or Hurricane Rita, or other
22 exceptional circumstances.

23 (B) MINIMUM WORKFORCE COMPOSITION
24 REQUIREMENT.—An exemption provided pursu-
25 ant to this paragraph shall provide that workers

1 affected by Hurricane Katrina or Hurricane
2 Rita comprise not less than 20 percent of the
3 workforce employed to provide disaster relief
4 property or services.

5 (C) ROLE OF STATE AND LOCAL GOVERN-
6 MENT ENTITIES.—The procedures established
7 under subparagraph (A) shall provide that, if a
8 State or local government is involved with a
9 contract, or is awarded a grant, for the purpose
10 of procuring disaster relief property or services
11 in connection with Hurricane Katrina or Hurri-
12 cane Rita reconstruction efforts, the State or
13 local government entity shall determine whether
14 an employer receives an exemption for the pur-
15 pose of providing such property or services.

16 (3) REFERRAL SERVICES.—An employer receiv-
17 ing an exemption with respect to its workforce pur-
18 suant to paragraph (2) may be required by the exec-
19 utive agency or State or local government entity
20 granting such exemption to increase the number of
21 workers who have been affected by Hurricane
22 Katrina or Hurricane Rita that are employed as
23 part of such workforce by using a program des-
24 ignated by the executive agency or State or local

government entity to facilitate the hiring of such workers.

(c) REPORTS ON EMPLOYMENT OF WORKERS.—

(1) REPORTS REQUIRED.—Each executive agency that enters into a contract or awards a grant to procure disaster relief property or services in connection with Hurricane Katrina or Hurricane Rita reconstruction efforts shall, not later than 30 days after the end of each fiscal quarter, make publicly available a report on the hiring of workers affected by Hurricane Katrina or Hurricane Rita in connection with such contract or grant.

(2) CONTENT.—Each report submitted under paragraph (1) shall include, with respect to the preceding fiscal quarter, information on—

(A) the total number of workers affected by Hurricane Katrina or Hurricane Rita hired by each contractor, subcontractor, or employer that provided disaster relief property or services in connection with Hurricane Katrina or Hurricane Rita reconstruction efforts;

(B) the total number of individuals hired by each contractor, subcontractor, or employer that provided disaster relief property or services

1 in connection with Hurricane Katrina or Hurri-
2 cane Rita reconstruction efforts; and

3 (C) whether the executive agency provided
4 any exemptions pursuant to subsection (b)(2).

5 (3) SOURCE OF INFORMATION.—For purposes
6 of preparing a report required under paragraph (1),
7 an executive agency shall require employers pro-
8 viding disaster relief property or services in connec-
9 tion with Hurricane Katrina or Hurricane Rita re-
10 construction efforts to provide to the agency, under
11 penalty of perjury, all information relevant to such
12 reports.

13 (d) REGULATIONS.—The Administrator for Federal
14 Procurement Policy shall, not later than 30 days after the
15 date of the enactment of this Act, issue a final rule for
16 compliance by executive agencies with the requirements
17 under this section.

18 (e) PREEMPTION.—This section and any require-
19 ments imposed by executive agencies under this section
20 preempt and supersede all State and local laws, regula-
21 tions, policies, and procedures to the extent that they are
22 inconsistent with this section and such requirements.

23 (f) DEFINITIONS.—In this section:

1 (1) DISASTER RELIEF PROPERTY AND SERV-
2 ICES.—The term “disaster relief property and serv-
3 ices” means—

4 (A) food, clothing, shelter, health care,
5 education, job training, building maintenance,
6 security services, humanitarian assistance, and
7 other goods and services provided to disaster
8 victims; and

9 (B) demolition, cleaning, repair, renova-
10 tion, construction, and reconstruction services.

11 (2) EXECUTIVE AGENCY.—The term “executive
12 agency” has the meaning given such term in section
13 4 of the Office of Federal Procurement Policy Act
14 (41 U.S.C. 403).

15 (3) WORKERS AFFECTED BY HURRICANE
16 KATRINA OR HURRICANE RITA.—The term “workers
17 affected by Hurricane Katrina or Hurricane Rita”
18 means—

19 (A) workers who were residing in the area
20 affected by Hurricane Katrina as of August 28,
21 2005, and were displaced or otherwise nega-
22 tively affected as a result of the hurricane; and

23 (B) workers who were residing in the area
24 affected by Hurricane Rita as of September 23,

1 2005, and were displaced or otherwise nega-
2 tively affected as a result of the hurricane.

3 **SEC. 5. CONTRACTS FOR BUSINESSES AFFECTED BY HUR-**
4 **RICANE KATRINA OR HURRICANE RITA.**

5 Notwithstanding section 307 of the Robert T. Staf-
6 ford Disaster Relief and Emergency Assistance Act (42
7 U.S.C. 5150), for any contract (including a subcontract)
8 described in section 4(a) that is offered on the lowest re-
9 sponsible bidder basis, an organization, firm, or individual
10 residing or doing business primarily in an area affected
11 by Hurricane Katrina or Hurricane Rita shall be awarded
12 the contract if the bid of the organization, firm, or indi-
13 vidual is less than or equal to 5 percent of the amount
14 of the lowest non-local bid.

15 **SEC. 6. PROTECTION FOR SMALL AND DISADVANTAGED**
16 **BUSINESSES.**

17 (a) DEFINITION.—In this section:

18 (1) DISASTER RELIEF PROPERTY OR SERVICES;
19 EXECUTIVE AGENCY.—The terms “disaster relief
20 property or services” and “executive agency” have
21 the meanings given such terms in section 4(f).

22 (2) SMALL BUSINESS.—The term “small busi-
23 ness” means a small business concern, as defined in
24 section 3 of the Small Business Act (15 U.S.C.
25 632).

1 (b) OPPORTUNITY TO PARTICIPATE.—Each executive
2 agency entering into a contract to procure disaster relief
3 property or services in connection with Hurricane Katrina
4 or Hurricane Rita reconstruction efforts shall afford the
5 maximum practicable opportunity for small businesses to
6 provide such property or services under such a contract.

7 (c) APPLICATION OF LAWS.—Each executive agency
8 entering into such a contract shall comply with the appli-
9 cable provisions of the Federal Acquisition Regulation and
10 the Small Business Act (15 U.S.C. 631 et seq.).

11 **SEC. 7. DISASTER UNEMPLOYMENT ASSISTANCE.**

12 (a) IN GENERAL.—Notwithstanding section 410 of
13 the Robert T. Stafford Disaster Relief and Emergency As-
14 sistance Act (42 U.S.C. 5177), in providing assistance
15 under that section to individuals unemployed as a result
16 of Hurricane Katrina or Hurricane Rita—

17 (1) the President shall provide assistance for as
18 long as the unemployment of the individual con-
19 tinues, but for not longer than 52 weeks after the
20 date on which the unemployed individual first re-
21 ceives assistance;

22 (2) the President shall accept applications for
23 assistance for—

1 (A) the 90-day period beginning on the
 2 date on which the applicable major disaster was
 3 declared; or

4 (B) such longer period as may be estab-
 5 lished by the President; and

6 (3) the amount of assistance provided to an un-
 7 employed individual for each week of unemployment
 8 shall be—

9 (A) at a minimum, an amount equal to the
 10 average amount of weekly State unemployment
 11 compensation (as modified under this Act) pro-
 12 vided to an individual as of the date of the
 13 major disaster for which unemployment assist-
 14 ance is provided; and

15 (B) at a maximum, an amount equal to
 16 the maximum amount of weekly State unem-
 17 ployment compensation (as modified under this
 18 Act) provided to an individual as of the date of
 19 the major disaster for which unemployment as-
 20 sistance is provided.

21 (b) UNEMPLOYMENT AS A RESULT OF MAJOR DIS-
 22 ASTER.—

23 (1) IN GENERAL.—For the purposes of this sec-
 24 tion, an individual who is unemployed because a loss
 25 of business resulting from a major disaster contrib-

1 uted importantly to the employer's decision to re-
2 duce or terminate employment shall be considered to
3 be an individual unemployed as a result of a major
4 disaster.

5 (2) DETERMINATION BY SECRETARY.—The
6 Secretary of Homeland Security, acting through the
7 Director of the Federal Emergency Management
8 Agency, in shall include among individuals described
9 in paragraph (1) an individual who was employed
10 with a firm or subdivision of a firm with respect to
11 which, as determined by the Secretary—

12 (A) a significant number or proportion of
13 the employees have become totally or partially
14 unemployed, or are threatened to become totally
15 or partially unemployed, as a result of a major
16 disaster; or

17 (B) sales or production, or both, have de-
18 creased absolutely as a result of a major dis-
19 aster.

20 (c) OFFSET REQUIREMENTS.—Notwithstanding any
21 other provision of law, an individual affected by Hurricane
22 Katrina or Hurricane Rita who receives or is eligible to
23 receive disaster unemployment assistance under section
24 410 of the Robert T. Stafford Disaster Relief and Emer-
25 gency Assistance Act (42 U.S.C. 5177) shall not be sub-

1 ject to any requirement to offset that disaster unemploy-
 2 ment assistance with any other source of income other
 3 than such offset requirements as are in effect under the
 4 unemployment compensation program of the State in
 5 which the individual resided as of August 22, 2005.

6 **SEC. 8. EMERGENCY UNEMPLOYMENT COMPENSATION.**

7 (a) **FEDERAL-STATE AGREEMENTS.—**

8 (1) **IN GENERAL.**—Any State that is a qualified
 9 State and that desires to do so may enter into and
 10 participate in an agreement under this section with
 11 the Secretary. Any State that is a party to an agree-
 12 ment under this section may, upon providing 30
 13 days' written notice to the Secretary, terminate such
 14 agreement.

15 (2) **PROVISIONS OF AGREEMENT.**—Any agree-
 16 ment under paragraph (1) shall provide that the
 17 State agency of the State—

18 (A) will make payments of regular com-
 19 pensation in conformance with the requirements
 20 of subsection (b); and

21 (B) will make payments of emergency ex-
 22 tended unemployment compensation in con-
 23 formance with the requirements of subsection
 24 (c).

1 (3) QUALIFIED STATE.—For purposes of this
 2 section, the term “qualified State” means Alabama,
 3 Florida, Louisiana, and Mississippi.

4 (b) REQUIREMENTS RELATING TO REGULAR COM-
 5 PENSATION.—

6 (1) IN GENERAL.—Any agreement under this
 7 section shall provide that the State agency of the
 8 State will make payments of regular compensation
 9 to individuals in amounts and to the extent that they
 10 would be determined if the State law of such State
 11 were applied with the modification described in para-
 12 graph (2).

13 (2) MODIFICATION DESCRIBED.—

14 (A) ADDITIONAL AMOUNT.—In the case of
 15 an eligible individual, the amount of regular
 16 compensation (including dependents’ allow-
 17 ances) payable for any week of unemployment
 18 to which such agreement applies shall be equal
 19 to the amount determined under the State law
 20 (before the application of this subparagraph),
 21 plus an additional—

22 (i) 25 percent, or

23 (ii) \$100,

24 whichever is greater.

1 (B) ELIGIBLE INDIVIDUAL.—For purposes
2 of this subsection, the term “eligible individual”
3 means an individual who—

4 (i) is receiving regular compensation
5 under the State law of the State that is a
6 party to the agreement; and

7 (ii) at any time during the week be-
8 fore the week that includes August 28,
9 2005, either held employment in or resided
10 in an area—

11 (I) that is within a qualified
12 State; and

13 (II) for which the President has
14 declared a major disaster under the
15 Robert T. Stafford Disaster Relief
16 and Emergency Assistance Act (42
17 U.S.C. 5121 et seq.) as a result of
18 Hurricane Katrina or Hurricane Rita.

19 (3) NONREDUCTION RULE.—Under the agree-
20 ment, paragraph (2) shall not apply (or shall cease
21 to apply) with respect to a State upon a determina-
22 tion by the Secretary that the method governing the
23 computation of regular compensation under the
24 State law of such State has been modified in a way
25 such that—

1 (A) the average weekly amount of regular
 2 compensation which will be payable during the
 3 period of the agreement (determined dis-
 4 regarding the modification described in para-
 5 graph (2)) will be less than

6 (B) the average weekly amount of regular
 7 compensation which would otherwise have been
 8 payable during such period under such State
 9 law, as in effect on August 28, 2005.

10 (4) COORDINATION RULE.—The modification
 11 described in paragraph (2) shall also apply in deter-
 12 mining the amount of benefits payable under any
 13 Federal law, to any eligible individual, to the extent
 14 that those benefits are determined by reference to
 15 regular compensation payable under the State law of
 16 the State involved.

17 (c) REQUIREMENTS RELATING TO EMERGENCY EX-
 18 TENDED UNEMPLOYMENT COMPENSATION.—

19 (1) IN GENERAL.—Any agreement under this
 20 section shall provide that the State agency of the
 21 State will, for any weeks of unemployment to which
 22 such agreement applies, make payments of emer-
 23 gency extended unemployment compensation under
 24 this section to individuals who—

1 (A) have exhausted all rights to regular
2 compensation under the State law or under
3 Federal law, but only if exhaustion occurs upon
4 or after the close of the week that includes Au-
5 gust 28, 2005;

6 (B) have no rights to regular compensation
7 or extended compensation with respect to a
8 week under such law or any other State unem-
9 ployment compensation law or to compensation
10 under any other Federal law;

11 (C) are not receiving compensation with
12 respect to such week under the unemployment
13 compensation law of any other country; and

14 (D) at any time during the week before the
15 week that includes August 28, 2005, either held
16 employment in or resided in an area—

17 (i) that is within a qualified State;

18 and

19 (ii) for which the President has de-
20 clared a major disaster under the Robert
21 T. Stafford Disaster Relief and Emergency
22 Assistance Act (42 U.S.C. 5121 et seq.) as
23 a result of Hurricane Katrina or Hurri-
24 cane Rita.

1 (2) EXHAUSTION OF BENEFITS.—For purposes
 2 of paragraph (1)(A), an individual shall be deemed
 3 to have exhausted such individual's rights to regular
 4 compensation under a State law when—

5 (A) no payments of regular compensation
 6 can be made under such law because such indi-
 7 vidual has received all regular compensation
 8 available to such individual based on employ-
 9 ment or wages during such individual's base pe-
 10 riod; or

11 (B) such individual's rights to such com-
 12 pensation have been terminated by reason of
 13 the expiration of the benefit year with respect
 14 to which such rights existed.

15 (3) WEEKLY BENEFIT AMOUNT, ETC.—For
 16 purposes of any agreement under this section—

17 (A) the amount of emergency extended un-
 18 employment compensation which shall be pay-
 19 able to any individual for any week of total un-
 20 employment shall be equal to the amount of the
 21 regular compensation (including dependents' al-
 22 lowances) payable to such individual during
 23 such individual's benefit year under the State
 24 law for a week of total unemployment;

(B) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for emergency extended unemployment compensation and to the payment thereof, except where otherwise inconsistent with the provisions of this section or with the regulations or operating instructions of the Secretary promulgated to carry out this section; and

(C) the maximum amount of emergency extended unemployment compensation payable to any individual for whom an emergency extended unemployment compensation account is established under paragraph (4) shall not exceed the amount established in such account for such individual.

(4) EMERGENCY EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNTS.—

(A) IN GENERAL.—Any agreement under this section shall provide that the State will establish, for each eligible individual who files an application for emergency extended unemployment compensation an emergency extended unemployment compensation account with respect to such individual's benefit year.

1 (B) AMOUNT IN ACCOUNT.—

2 (i) IN GENERAL.—The amount estab-
 3 lished in an account under subparagraph
 4 (A) shall be the amount equal to 26 times
 5 the individual's average weekly benefit
 6 amount for the benefit year.

7 (ii) WEEKLY BENEFIT AMOUNT.—For
 8 purposes of this subparagraph, an individ-
 9 ual's average weekly benefit amount for
 10 any week is the amount of regular com-
 11 pensation (including dependents' allow-
 12 ances) under the State law payable to such
 13 individual for such week for total unem-
 14 ployment.

15 (d) PAYMENTS TO STATES.—

16 (1) IN GENERAL.—There shall be paid to each
 17 State which has entered into an agreement under
 18 this section the following:

19 (A) An amount equal to 100 percent of
 20 any additional regular compensation made pay-
 21 able to individuals by such State by virtue of
 22 the modification described in subsection (b)(2)
 23 and deemed to be in effect with respect to such
 24 State pursuant to subsection (b)(1).

1 (B) An amount equal to 100 percent of
 2 any emergency extended unemployment com-
 3 pensation paid to individuals by such State pur-
 4 suant to such agreement.

5 (C) An amount equal to 100 percent of
 6 any regular compensation, not otherwise reim-
 7 bursable under this section, paid by such State
 8 under the State law of such State—

9 (i) to individuals whose unemployment
 10 was a result of Hurricane Katrina or Hur-
 11 ricane Rita (as determined under criteria
 12 established by the Secretary); and

13 (ii) for any weeks of unemployment to
 14 which such agreement applies.

15 (2) DETERMINATION OF AMOUNT.—Sums pay-
 16 able under this subsection to any State by reason of
 17 such State having an agreement under this section
 18 shall be payable, either in advance or by way of re-
 19 imbursement (as may be determined by the Sec-
 20 retary), in such amounts as the Secretary estimates
 21 the State will be entitled to receive under this sub-
 22 section for each calendar month, reduced or in-
 23 creased (as the case may be) by any amount by
 24 which the Secretary finds that the Secretary's esti-
 25 mates for any prior calendar month were greater or

1 less than the amounts which should have been paid
 2 to the State. Such estimates may be made on the
 3 basis of such statistical, sampling, or other method
 4 as may be agreed upon by the Secretary and the
 5 State agency of the State involved.

6 (e) FINANCING PROVISIONS.—

7 (1) IN GENERAL.—Funds in the extended un-
 8 employment compensation account and the Federal
 9 unemployment account of the Unemployment Trust
 10 Fund shall be used, in accordance with succeeding
 11 provisions of this subsection, for the making of pay-
 12 ments to States having agreements entered into
 13 under this section.

14 (2) CERTIFICATION.—The Secretary shall from
 15 time to time certify to the Secretary of the Treasury
 16 for payment to each State the sums payable to such
 17 State under this section. The Secretary of the Treas-
 18 ury, prior to audit or settlement by the Government
 19 Accountability Office, shall make payments to the
 20 State in accordance with such certification—

21 (A) by transfers from the extended unem-
 22 ployment compensation account of the Unem-
 23 ployment Trust Fund, to the extent that they
 24 relate to amounts described in subparagraph
 25 (A) or (B) of subsection (d)(1); and

1 (B) by transfers from the Federal unem-
 2 ployment account of the Unemployment Trust
 3 Fund, to the extent that they relate to amounts
 4 described in subparagraph (C) of subsection
 5 (d)(1).

6 (f) DEFINITIONS.—

7 (1) IN GENERAL.—For purposes of this sec-
 8 tion—

9 (A) the terms “Secretary”, “State”, “State
 10 agency”, “State law”, “regular compensation”,
 11 “week”, “benefit year”, and “base period” have
 12 the respective meanings given such terms under
 13 section 205 of the Federal-State Extended Un-
 14 employment Compensation Act of 1970;

15 (B) the terms “wages” and “employment”
 16 have the respective meanings given such terms
 17 under section 3306 of the Internal Revenue
 18 Code of 1986;

19 (C) the term “extended unemployment
 20 compensation account” means the account es-
 21 tablished by section 905(a) of the Social Secu-
 22 rity Act;

23 (D) the term “Federal unemployment ac-
 24 count” means the account established by sec-
 25 tion 904(g) of the Social Security Act; and

1 (E) the term “Unemployment Trust
2 Fund” means the fund established by section
3 904(a) of the Social Security Act.

4 (2) SPECIAL RULE.—Notwithstanding any pro-
5 vision of paragraph (1), in the case of a State enter-
6 ing into an agreement under this section—

7 (A) the term “State law” shall be consid-
8 ered to refer to the State law of such State, ap-
9 plied in conformance with the modification de-
10 scribed in subsection (b)(2), subject to sub-
11 section (b)(3); and

12 (B) the term “regular compensation” shall
13 be considered to refer to such compensation, de-
14 termined under its State law (applied in the
15 manner described in subparagraph (A)),
16 except as otherwise provided or where the context
17 clearly indicates otherwise.

18 (g) APPLICABILITY.—An agreement entered into
19 under this section shall apply to weeks of unemployment—

20 (1) beginning on or after the first day of the
21 week that includes August 28, 2005; and

22 (2) ending before December 1, 2006.

1 **SEC. 9. SAFETY AND HEALTH PROTECTIONS FOR INDIVID-**
 2 **UALS IN AREAS AFFECTED BY HURRICANE**
 3 **KATRINA OR HURRICANE RITA.**

4 (a) MEDICAL MONITORING.—

5 (1) DEFINITIONS.—In this subsection:

6 (A) INDIVIDUAL.—The term “individual”
 7 includes—

8 (i) a worker or volunteer who re-
 9 sponds to Hurricane Katrina or Hurricane
 10 Rita, including—

11 (I) a police officer;

12 (II) a firefighter;

13 (III) an emergency medical tech-
 14 nician;

15 (IV) another health care profes-
 16 sional;

17 (V) any participating member of
 18 an urban search and rescue team; and

19 (VI) any other emergency re-
 20 sponder, recovery, relief, or rescue
 21 worker, first responder, or volunteer
 22 that the Secretaries determine to be
 23 appropriate;

24 (ii) a worker who responds to Hurri-
 25 cane Katrina or Hurricane Rita by assist-
 26 ing in the reconstruction, cleanup, or res-

toration of critical infrastructure in and around a Hurricane Katrina disaster area or Hurricane Rita disaster area;

(iii) a person whose place of residence is located in a Hurricane Katrina disaster area or Hurricane Rita disaster area;

(iv) a person who is employed in or attends school, child care, or adult day care in a building located in a Hurricane Katrina disaster area or Hurricane Rita disaster area; and

(v) any other person that the Secretaries determine to be appropriate.

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

(C) HURRICANE RITA DISASTER AREA.—The term “Hurricane Rita disaster area” means the disaster area declared by the President in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency

1 Assistance Act (42 U.S.C. 5170), related to
2 Hurricane Rita.

3 (D) LOCAL PROGRAM.—The term “local
4 program” means a program described in para-
5 graph (2) that is carried out with respect to
6 Hurricane Katrina or Hurricane Rita.

7 (E) SECRETARIES.—The term “Secre-
8 taries” means the Secretary of Health and
9 Human Services, acting through the Director of
10 the Centers for Disease Control and Prevention,
11 and in conjunction with the Secretary of Labor
12 and the Administrator of the Environmental
13 Protection Agency.

14 (F) SUBSTANCE OF CONCERN.—The term
15 “substance of concern” means a chemical or
16 other substance that is associated with potential
17 acute or chronic human health effects, the risk
18 of exposure to which could potentially be in-
19 creased as the result of a disaster, as deter-
20 mined by the Secretaries.

21 (2) PROGRAM.—

22 (A) IN GENERAL.—The Secretaries shall
23 establish and carry out programs with respect
24 to Hurricane Katrina and Hurricane Rita for
25 the ongoing protection, assessment, monitoring,

1 and study of the safety and health of individ-
2 uals to ensure that—

3 (i) the individuals are adequately in-
4 formed about and protected against poten-
5 tial health impacts of any substance of
6 concern and potential mental health im-
7 pacts of any substance of concern in a
8 timely manner;

9 (ii) the individuals are monitored and
10 studied over time, including through base-
11 line and followup clinical health examina-
12 tions, for any health impacts of any sub-
13 stance of concern and any mental health
14 impacts of any substance of concern;

15 (iii) the individuals receive health care
16 referrals as needed and appropriate; and

17 (iv) information from any such moni-
18 toring and studies is used to prevent or
19 protect against similar health impacts and
20 mental health impacts from future disas-
21 ters.

22 (B) ACTIVITIES.—A local program shall in-
23 clude activities consisting of—

1 (i) collecting and analyzing environ-
2 mental exposure data and associated dis-
3 eases, illnesses, and injuries;

4 (ii) developing and disseminating in-
5 formation and educational materials, in-
6 cluding conducting outreach to individuals;

7 (iii) performing baseline and followup
8 clinical health and mental health examina-
9 tions and taking biological samples, includ-
10 ing clinical and environmental samples;

11 (iv) establishing and maintaining an
12 exposure tracking clearinghouse, including
13 data on degree of exposure;

14 (v) studying the human health im-
15 pacts of any exposures through epidemio-
16 logical and other health studies; and

17 (vi) providing assistance to individuals
18 in determining eligibility for health cov-
19 erage and identifying appropriate health
20 services.

21 (C) TIMING.—To the maximum extent
22 practicable, activities conducted under any local
23 program (including baseline health examina-
24 tions) shall be commenced in a timely manner

that will ensure the highest level of public health protection and effective monitoring.

(D) PARTICIPATION IN A LOCAL PROGRAM.—

(i) IN GENERAL.—Participation in a local program shall be voluntary.

(ii) PROTECTION OF PRIVACY.—The Secretaries shall take appropriate measures to protect the privacy and ensure informed consent of any participant for whom data is maintained in the tracking clearinghouse described in subparagraph (B)(iv).

(E) COOPERATIVE AGREEMENTS.—

(i) IN GENERAL.—The Secretary of Health and Human Services carry out a local program through a cooperative agreement with a medical institution, including a local health department, or a consortium of medical institutions.

(ii) SELECTION CRITERIA.—To the maximum extent practicable, the Secretary shall select to carry out a program under clause (i) a medical institution or a consortium of medical institutions that—

1 (I) is located near—

2 (aa) the disaster area with
3 respect to which the program is
4 carried out; and

5 (bb) any other area in which
6 there reside groups of individuals
7 that worked or volunteered in re-
8 sponse to the disaster; and

9 (II) has appropriate experience in
10 the areas of environmental or occupa-
11 tional health, toxicology, and safety,
12 including experience in—

13 (aa) developing clinical pro-
14 tocols and conducting clinical
15 health examinations, including
16 mental health assessments;

17 (bb) conducting long-term
18 health monitoring and epidemio-
19 logical studies;

20 (cc) conducting long-term
21 mental health studies; and

22 (dd) establishing and main-
23 taining medical surveillance pro-
24 grams and environmental expo-
25 sure or disease registries.

1 (F) ADDITIONAL EXPERTISE.—In carrying
2 out a local program, the Secretary of Health
3 and Human Services may enter into a grant,
4 cooperative agreement, or contract with a med-
5 ical institution (including a local health depart-
6 ment, a medical institution that is in a Hurri-
7 cane Katrina disaster area or Hurricane Rita
8 disaster area and in which groups of individuals
9 reside, or a consortium of medical institutions).
10 In selecting such institutions, the Secretary of
11 Health and Human Services shall ensure that
12 such institutions have appropriate expertise in
13 the areas of environmental or occupational
14 health, toxicology, and safety, including experi-
15 ence in—

16 (i) developing clinical protocols and
17 conducting clinical health examinations, in-
18 cluding mental health assessments;

19 (ii) conducting long-term health moni-
20 toring and epidemiological studies;

21 (iii) conducting long-term mental
22 health studies; and

23 (iv) establishing and maintaining
24 medical surveillance programs, environ-

1 mental exposure clearinghouses, or disease
2 tracking networks.

3 (G) INVOLVEMENT.—In establishing and
4 carrying out a local program, the Secretaries
5 shall involve interested and affected parties, as
6 appropriate, including representatives of—

7 (i) Federal, State, and local govern-
8 ment agencies;

9 (ii) groups of individuals that worked
10 or volunteered in response to Hurricane
11 Katrina or Hurricane Rita in the disaster
12 area;

13 (iii) organizations representing em-
14 ployees engaged in emergency response or
15 recovery work in the disaster area;

16 (iv) local residents, businesses, and
17 schools (including parents and teachers);

18 (v) health care providers; and

19 (vi) other organizations and persons.

20 (H) PRIVACY.—The Secretaries shall carry
21 out each program described in subparagraph
22 (A) in accordance with regulations relating to
23 privacy and informed consent, including regula-
24 tions under section 264(c) of the Health Insur-

1 ance Portability and Accountability Act of
2 1996.

3 (3) REPORT.—Not later than 90 days after the
4 date of enactment of this Act and annually there-
5 after, the Secretaries shall prepare and submit to
6 the appropriate committees of Congress a report on
7 the progress of the programs described in paragraph
8 (2)(A). Any medical institution that receives a grant
9 or enters into a cooperative agreement or contract
10 under paragraph (2)(E) shall provide such assist-
11 ance as the Secretary may require in preparing the
12 report.

13 (b) OCCUPATIONAL SAFETY AND HEALTH IN AREAS
14 AFFECTED BY HURRICANE KATRINA OR HURRICANE
15 RITA.—

16 (1) FINDINGS.—Congress finds the following:

17 (A) The Department of Homeland Security
18 has recently (as of the date of enactment of this
19 Act) adopted a National Response Plan that in-
20 cludes a Worker Health and Safety Annex to
21 protect first responders and the response, recov-
22 ery, and reconstruction workers who work in
23 areas affected by disasters, and such Annex has
24 been activated as part of the Federal Govern-
25 ment response to Hurricane Katrina.

1 (B) After Hurricane Katrina, the Environ-
2 mental Protection Agency has found heightened
3 levels of e. coli, lead, and other dangerous sub-
4 stances in the water in New Orleans and the
5 surrounding areas.

6 (C) First responders and other workers en-
7 gaged in the response, recovery, and reconstruc-
8 tion following Hurricane Katrina and Hurri-
9 cane Rita will be exposed to chemical, biologi-
10 cal, and physical hazards in their work.

11 (D) Surveillance programs conducted by
12 the National Institute for Occupational Safety
13 and Health and the Centers for Disease Control
14 and Prevention found that a large number of
15 response, recovery, and reconstruction workers
16 who worked at the World Trade Center fol-
17 lowing the September 11, 2001, attacks suf-
18 fered serious health effects, particularly res-
19 piratory problems, as a result of hazardous ex-
20 posures at the World Trade Center, and a re-
21 cent Government Accountability Office report
22 found that there has been essentially no moni-
23 toring of Federal employees who were exposed
24 to toxins in the clean-up activities at the World
25 Trade Center.

1 (2) OCCUPATIONAL HEALTH AND SAFETY IN
2 AFFECTED REGIONS.—The Secretary of Labor, in
3 coordination with the Director of the National Insti-
4 tute for Occupational Safety and Health, the Direc-
5 tor of the National Institute of Environmental
6 Health Sciences, and other heads of appropriate
7 Federal, State, and local agencies, shall carry out, in
8 each region located in an area in which a major dis-
9 aster has been declared in accordance with section
10 401 of the Robert T. Stafford Disaster Relief and
11 Emergency Assistance Act (42 U.S.C. 5170) related
12 to Hurricane Katrina or related to Hurricane Rita,
13 the following activities:

14 (A) Develop a site-specific occupational
15 safety and health plan for the region.

16 (B) Identify and assess health and safety
17 hazards in the region, including conducting con-
18 tinued monitoring of incident safety on a 24-
19 hours-a-day, 7-days-a-week basis until the Sec-
20 retary determines that the conditions no longer
21 pose a threat to the safety or health of workers
22 in the region.

23 (C) Provide personal exposure monitoring
24 for the response, recovery, and reconstruction
25 workers working in the region on a 24-hours-a-

1 day, 7-days-a-week basis, including monitoring
2 the workers for task-specific exposure to chem-
3 ical and biological contaminants and physical
4 stressors.

5 (D) Develop, implement, and monitor a
6 personal protective equipment program for the
7 response, recovery, and reconstruction workers
8 working in the region that shall include—

9 (i) guidance to response, recovery, and
10 reconstruction workers working in the re-
11 gion on the selection, use, and decon-
12 tamination of such equipment;

13 (ii) implementation of a respiratory
14 protection fit-test program for such work-
15 ers; and

16 (iii) distribution of personal protective
17 equipment to such workers.

18 (E) Collect and manage the sharing of
19 data regarding the safety and health hazards in
20 the region with response organizations in the
21 region.

22 (F) Identify the sites and operations within
23 the region to which section 1910.120 of title
24 29, Code of Federal Regulations (relating to
25 hazardous waste operations and emergency re-

1 sponse) shall presumptively apply, and actively
2 monitor and enforce compliance with such sec-
3 tion at such sites and operations.

4 (G) Communicate with labor organizations,
5 contractors, and other organizations in the re-
6 gion regarding safety and health issues for the
7 response, recovery, and reconstruction workers
8 working in the region.

9 (H) Provide guidance on the training that
10 should be provided to the response, recovery,
11 and reconstruction workers working in the re-
12 gion. At a minimum, such training shall include
13 the elements taught in the OSHA Training In-
14 stitute Disaster Site Worker Course.

15 (I) Provide psychological first aid to the
16 response, recovery, and reconstruction workers
17 working in the region.

18 (J) Identify and work with the Secretary
19 of Health and Human Services on appropriate
20 immunization and other prophylaxis for the re-
21 sponse, recovery, and reconstruction workers
22 working in the region.

23 (K) Fully apply and enforce in the region
24 all Federal laws relating to the safety and
25 health of workers, including applicable stand-

ards and regulations promulgated by the Secretary of Labor or by the Secretary of Labor, acting through the Assistant Secretary of Labor for Occupational Safety and Health.

(L) Provide the resources available to response, recovery, and reconstruction workers under this paragraph to State and local government response, recovery, and reconstruction workers working in the region for whom such resources are not otherwise available.

(3) TRAINING OF HAZARDOUS SUBSTANCE RESPONDERS.—

(A) IN GENERAL.—The Director of the National Institute of Environmental Health Sciences shall provide the safety and health training activities described in subparagraph (B) to hazardous substance responders working in highly contaminated locations, and uncontrolled waste sites, that are located in areas in which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) related to Hurricane Katrina or related to Hurricane Rita.

(B) TRAINING PRIORITIES.—Safety and health training activities provided under this paragraph shall focus on preparing response, recovery, and reconstruction workers for work in contaminated locations in the major disaster area, such as—

(i) submerged sites on the National Priorities List developed by the President in accordance with section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B));

(ii) locations with land-based oil spills; and

(iii) locations with leaking tanks, refineries, or chemical plants.

(C) COORDINATION ASSISTANCE.—The Secretary of Labor and the Assistant Secretary of Labor for Occupational Safety and Health shall assist the Director of the National Institute of Environmental Health Sciences in the coordination of training under this paragraph.

(4) APPLICATION OF OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 STANDARDS TO EMPLOY-

1 ERS AND EMPLOYEES ENGAGED IN RELIEF AND RE-
2 COVERY ACTIVITIES ON THE GULF COAST.—

3 (A) GENERAL APPLICABILITY.—Notwith-
4 standing any other provision of law, the health
5 and safety standards and regulations promul-
6 gated by the Secretary of Labor pursuant to
7 the Occupational Safety and Health Act of
8 1970 (29 U.S.C. 651 et seq.), shall be applica-
9 ble to States and political subdivisions and pub-
10 lic agencies thereof, in States that are receiving
11 Federal financial assistance for the purpose of
12 engaging in disaster relief and recovery activi-
13 ties in response to Hurricane Katrina or Hurri-
14 cane Rita. Such health and safety standards
15 and regulations shall apply to employment and
16 places of employment where employees of States
17 and political subdivisions and public agencies
18 thereof are engaged in disaster relief and recov-
19 ery activities in response to Hurricane Katrina
20 or Hurricane Rita.

21 (B) TECHNICAL AND FINANCIAL ASSIST-
22 ANCE.—The Secretary of Labor shall provide
23 technical and financial assistance to States and
24 political subdivisions and public agencies of

1 States to facilitate and aid compliance with the
2 requirements of this paragraph.

3 (C) ENFORCEMENT.—The enforcement
4 provisions of the Occupational Safety and
5 Health Act of 1970 (29 U.S.C. 651 et seq.),
6 shall apply to the places of employment and ac-
7 tivities described in subparagraph (A), and the
8 Secretary of Labor is authorized to bring en-
9 forcement actions under the applicable provi-
10 sions of the Occupational Safety and Health
11 Act of 1970.

12 (5) REPORT.—Not later than 60 days after the
13 date of enactment of this Act, the Secretary of
14 Labor shall prepare and submit a report to Congress
15 on the progress in carrying out the activities de-
16 scribed in paragraphs (2) and (3), including infor-
17 mation on the resources expended for such activities
18 and any additional resources needed to fully imple-
19 ment such activities.

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