

109TH CONGRESS
1ST SESSION

H. R. 3975

To ease the provision of services to individuals affected by Hurricanes Katrina and Rita, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 6, 2005

Mr. JINDAL (for himself, Mr. BOEHNER, Mr. McKEON, Mr. CASTLE, Mr. WILSON of South Carolina, Mr. PORTER, Mr. BOUSTANY, Mr. ALEXANDER, Mr. McCRERY, and Mr. PICKERING) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To ease the provision of services to individuals affected by Hurricanes Katrina and 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Hurricane Regulatory Relief Act of 2005”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EDUCATION

Subtitle A—Elementary and Secondary Educational Programs

Sec. 101. Charter schools.

Subtitle B—Teacher Flexibility

Sec. 111. Treatment of highly qualified teachers.

Subtitle C—Educational Programs for Children With Disabilities

Sec. 121. Agreements to extend certain deadlines of the Individuals with Disabilities Education Act to facilitate the provision of educational services to children with disabilities.

Sec. 122. Paperwork reduction pilot program participation for affected States.

Subtitle D—Higher Education Relief

Sec. 131. References.

Sec. 132. Waivers and modifications.

Sec. 133. Cancellation of institutional repayment by colleges and universities affected by a Gulf hurricane disaster.

Sec. 134. Cancellation of student loans for cancelled enrollment periods.

Sec. 135. Temporary deferment of student loan repayment.

Sec. 136. No affect on grant and loan limits.

Sec. 137. Teacher loan relief.

Sec. 138. Transfer of credit.

Sec. 139. Expanding information dissemination regarding eligibility for Pell Grants.

Sec. 140. Procedures.

Sec. 141. Termination of authority.

Subtitle E—Regulatory Relief

Sec. 151. Regulatory and financial relief.

TITLE II—HEALTH AND HUMAN SERVICES

Subtitle A—Community Services

Sec. 201. Secretary authority.

Sec. 202. State authority.

Subtitle B—Head Start

Sec. 211. Head start and early head start children affected by a Gulf hurricane disaster.

Subtitle C—Child Care Services

Sec. 221. Waiver authority to expand the availability of services under Child Care and Development Block Grant Act of 1990.

TITLE III—LABOR

Subtitle A—Pension Flexibility for Displaced Workers Act of 2005

Sec. 301. Short title.

Sec. 302. Authority to prescribe guidance by reason of the Presidentially declared disasters caused by Hurricane Katrina and Hurricane Rita.

Sec. 303. Authority in the event of Presidentially declared disaster or terroristic or military actions.

Subtitle B—Occupational Safety and Health

Sec. 311. Authorization for volunteers.

Sec. 312. Purchase and distribution of equipment.

Sec. 313. State assistance and matching fund restrictions.

Sec. 314. Expiration.

Subtitle C—Worker Adjustment and Retraining Notification

Sec. 321. Application of WARN notice requirement.

Subtitle D—Worker Investment

Sec. 331. Transferability of funds for WIA programs.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Definitions.

Sec. 402. Procedural waivers.

Sec. 403. Reporting requirements.

1 **TITLE I—EDUCATION**
 2 **Subtitle A—Elementary and**
 3 **Secondary Educational Programs**
 4 **SEC. 101. CHARTER SCHOOLS.**

5 The Secretary of Education shall encourage States—
 6 (1) to include charter schools in Gulf hurricane
 7 disaster relief efforts;
 8 (2) to provide support to charter schools that
 9 are serving individuals adversely affected by a Gulf
 10 hurricane disaster; and
 11 (3) to facilitate the enrollment of students dis-
 12 placed by a Gulf hurricane disaster in charter
 13 schools, including by—

1 (A) waiving any requirement relating to
 2 whether a student has resided in the geographic
 3 area of the charter school;

4 (B) increasing the number of students who
 5 may attend a charter school; and

6 (C) removing any other relevant restric-
 7 tions.

8 **Subtitle B—Teacher Flexibility**

9 **SEC. 111. TREATMENT OF HIGHLY QUALIFIED TEACHERS.**

10 For purposes of the Elementary and Secondary Edu-
 11 cation Act of 1965 (20 U.S.C. 6301 et. seq.), and the Indi-
 12 viduals with Disabilities Education Act (20 U.S.C. 1400
 13 et seq.), an individual who was employed as a teacher on
 14 August 29, 2005, by a local educational agency in a State,
 15 and who was highly qualified for such employment on such
 16 date, may be considered by another State, during the
 17 2005–2006 school year, to be highly qualified in the same
 18 core academic subjects for purposes of subsequent employ-
 19 ment as a teacher by a local educational agency in such
 20 other State, if—

21 (1) the local educational agency employing the
 22 teacher on August 29, 2005, serves an area affected
 23 by a Gulf hurricane disaster; and

1 (2) the local educational agency subsequently
2 employing the teacher hired the teacher due to needs
3 created by the enrollment of displaced students.

4 **Subtitle C—Educational Programs**
5 **for Children With Disabilities**

6 **SEC. 121. AGREEMENTS TO EXTEND CERTAIN DEADLINES**
7 **OF THE INDIVIDUALS WITH DISABILITIES**
8 **EDUCATION ACT TO FACILITATE THE PROVI-**
9 **SION OF EDUCATIONAL SERVICES TO CHIL-**
10 **DREN WITH DISABILITIES.**

11 (a) **AUTHORITY.**—The Secretary of Education may
12 enter into an agreement described in subsection (b) with
13 an eligible entity to extend certain deadlines under the In-
14 dividuals with Disabilities Education Act (20 U.S.C. 1400
15 et seq.) related to providing special education and related
16 services, including early intervention services, to individ-
17 uals adversely affected by a Gulf hurricane disaster.

18 (b) **TERMS OF AGREEMENTS.**—An agreement re-
19 ferred to in subsection (a) is an agreement with an eligible
20 entity made in accordance with subsection (e) that may
21 extend the applicable deadlines under one or more of the
22 following sections:

23 (1) Section 611(e)(3)(C)(ii) of such Act, by ex-
24 tending up to an additional 60 days the 90 day

1 deadline for developing a State plan for the high
2 cost fund.

3 (2) Section 612(a)(15)(C) of such Act, by ex-
4 tending up to an additional 60 days the deadline for
5 submission of the annual report to the Secretary of
6 Education and the public regarding the progress of
7 the State and of children with disabilities in the
8 State.

9 (3) Section 612(a)(16)(D) of such Act, by ex-
10 tending up to an additional 60 days the deadline for
11 making available reports regarding the participation
12 in assessments and the performance on such assess-
13 ments of children with disabilities.

14 (4) Section 614(a)(1)(C)(i)(I) of such Act, by
15 extending up to an additional 30 days the 60 day
16 deadline for the initial evaluation to determine
17 whether a child is a child with a disability for pur-
18 poses of the provision of special education and re-
19 lated services to such child.

20 (5) Section 616(b)(1)(A) of such Act, by ex-
21 tending up to an additional 60 days the deadline for
22 finalization of the State performance plan.

23 (6) Section 641(e)(1)(D) of such Act, by ex-
24 tending up to an additional 60 days the deadline for
25 submission to the Governor of a State and the Sec-

1 retary of Education of the report on the status of
2 early intervention programs for infants and toddlers
3 with disabilities and their families operated within
4 the State.

5 (c) RULE OF CONSTRUCTION.—Nothing in this Act
6 shall be construed—

7 (1) as permitting the waiver of—

8 (A) any applicable Federal civil rights law;

9 (B) any student or family privacy protec-
10 tions, including provisions requiring parental
11 consent for evaluations and services;

12 (C) any procedural safeguards required
13 under section 615 or section 639 of the Individ-
14 uals with Disabilities Education Act; or

15 (D) any requirements not specified in sub-
16 section (b)(1) of this section; or

17 (2) as removing the obligation of the eligible en-
18 tity to provide a child with a disability or an infant
19 or toddler with a disability and their families—

20 (A) a free appropriate public education
21 under part B of the Individuals with Disabil-
22 ities Education Act; or

23 (B) early intervention services under part
24 C of such Act.

1 (d) DURATION OF AGREEMENT.—An agreement
 2 under this section shall terminate at the conclusion of the
 3 2005–2006 academic year.

4 (e) REQUEST TO ENTER INTO AGREEMENT.—To
 5 enter into an agreement under this section, an eligible en-
 6 tity shall submit a request to the Secretary of Education
 7 at such time, in such manner, and containing such infor-
 8 mation as the Secretary may require.

9 **SEC. 122. PAPERWORK REDUCTION PILOT PROGRAM PAR-**
 10 **TICIPATION FOR AFFECTED STATES.**

11 (a) AUTHORITY.—To identify ways to reduce paper-
 12 work burdens and other administrative duties that are di-
 13 rectly associated with the requirements of the Individuals
 14 with Disabilities Education Act (20 U.S.C. 1400 et seq.)
 15 in order to increase the time and resources available for
 16 instruction and other activities aimed at improving edu-
 17 cational and functional results for children with disabil-
 18 ities, the Secretary of Education is authorized to permit
 19 an affected State to participate in the paperwork reduc-
 20 tion pilot program described in section 609(a) of such Act.

21 (b) PARTICIPATION BY AFFECTED STATES.—Partici-
 22 pation in the paperwork reduction pilot program by an af-
 23 fected State shall be in addition to the maximum number
 24 of States that may so participate in accordance with sec-
 25 tion 609(a)(2)(A) of such Act.

1 (c) PROPOSAL.—

2 (1) IN GENERAL.—An affected State desiring to
 3 participate in the paperwork reduction pilot program
 4 described in section 609(a) of such Act shall submit
 5 a proposal to the Secretary in accordance with sec-
 6 tion 609(a)(3) of such Act, subject to paragraph (2)
 7 of this subsection.

8 (2) SIMPLIFICATION.—The Secretary may sim-
 9 plify the proposal process for an affected State to
 10 participate in the program if the Secretary deter-
 11 mines that such simplification is appropriate.

12 (d) RULE OF CONSTRUCTION.—The requirements
 13 and authorities described in section 609(a) of such Act
 14 that are not modified by this section with respect to an
 15 affected State shall apply to such State.

16 **Subtitle D—Higher Education** 17 **Relief**

18 **SEC. 131. REFERENCES.**

19 References in this subtitle to “the Act” are references
 20 to the Higher Education Act of 1965 (20 U.S.C. 1001
 21 et seq.).

22 **SEC. 132. WAIVERS AND MODIFICATIONS.**

23 Notwithstanding any other provision of law, unless
 24 enacted with specific reference to this section, the Sec-
 25 retary of Education is authorized to waive or modify any

1 statutory or regulatory provision applicable to the student
2 financial assistance programs under title IV of the Act,
3 or any student or institutional eligibility provisions in the
4 Act, as the Secretary of Education deems necessary in
5 connection with a Gulf hurricane disaster to ensure that—

6 (1) the calculation of expected family contribu-
7 tion under section 474 of the Act used in the deter-
8 mination of need for student financial assistance
9 under title IV of the Act for any affected student
10 (and the determination of such need for his or her
11 family, if applicable), is modified to reflect any
12 changes in the financial condition of such affected
13 student and his or her family resulting from a Gulf
14 hurricane disaster; and

15 (2) institutions of higher education, systems of
16 institutions, or consortia of institutions that are lo-
17 cated in an area affected by a Gulf hurricane dis-
18 aster, or that are serving affected students, are eligi-
19 ble, notwithstanding section 486(d) of the Act, to
20 apply for participation in the distance education
21 demonstration program under section 486 of the
22 Act, except that the Secretary of Education shall in-
23 clude in reports under section 486(f) of the Act an
24 identification of those institutions, systems, and con-

1 sortia that were granted participation in the dem-
2 onstration program due to a Gulf hurricane disaster.

3 **SEC. 133. CANCELLATION OF INSTITUTIONAL REPAYMENT**
4 **BY COLLEGES AND UNIVERSITIES AFFECTED**
5 **BY A GULF HURRICANE DISASTER.**

6 Notwithstanding any provision of title IV of the Act
7 or any regulation issued thereunder, the Secretary of Edu-
8 cation shall cancel any obligation of an affected institution
9 to return or repay any funds the institution received be-
10 fore the date of enactment of this Act for, or on behalf
11 of, its students under subpart 1 or 3 of part A or parts
12 B, C, D, or E of title IV of the Act for any cancelled
13 enrollment period.

14 **SEC. 134. CANCELLATION OF STUDENT LOANS FOR CAN-**
15 **CELLED ENROLLMENT PERIODS.**

16 (a) LOAN FORGIVENESS AUTHORIZED.—Notwith-
17 standing any provision of title IV of the Act, the Secretary
18 shall discharge all loan amounts under parts B and D of
19 title IV of the Act, and cancel any loan made under part
20 E of such title, disbursed to, or on behalf of, an affected
21 student for a cancelled enrollment period.

22 (b) REIMBURSEMENT.—The Secretary of Education
23 shall—

24 (1) reimburse each affected institution for any
25 amounts discharged under subsection (a) with re-

1 spect to a loan under part E of title IV of the Act
2 in the same manner as is required by section 465(b)
3 of the Act with respect to a loan cancelled under sec-
4 tion 465(a) of the Act; and

5 (2) reimburse lenders for the purpose of dis-
6 charging any loan amounts disbursed to, or on be-
7 half of, an affected student under part B of title IV
8 of the Act for a cancelled enrollment period.

9 (c) LIMITATION ON CONSOLIDATION LOANS.—A loan
10 amount for a loan made under section 428C of the Act
11 or a Federal Direct Consolidation Loan may be eligible
12 for discharge under this section only to the extent that
13 such loan amount was used to repay a loan to an affected
14 student for a cancelled enrollment period.

15 (d) CONSTRUCTION.—Nothing in this section shall be
16 construed to authorize any refunding of any repayment
17 of a loan.

18 **SEC. 135. TEMPORARY DEFERMENT OF STUDENT LOAN RE-**
19 **PAYMENT.**

20 An affected individual who is a borrower of a quali-
21 fied student loan or a qualified parent loan shall be grant-
22 ed a deferment, not in excess of 6 months, during which
23 periodic installments of principal need not be paid, and
24 interest—

1 (1) shall accrue and be paid by the Secretary,
 2 in the case of a loan made under section 428, 428B,
 3 428C, or 428H of the Act;

4 (2) shall accrue and be paid by the Secretary
 5 to the Perkins loan fund held by the institution of
 6 higher education that made the loan, in the case of
 7 a loan made under part E of title IV of the Act; and

8 (3) shall not accrue, in the case of a Federal
 9 Direct Loan made under part D of such title.

10 **SEC. 136. NO AFFECT ON GRANT AND LOAN LIMITS.**

11 Notwithstanding any provision of title IV of the Act
 12 or any regulation issued thereunder, no grant or loan
 13 funds received by an affected student under title IV of
 14 the Act for a cancelled enrollment period shall be counted
 15 against such affected student's annual or aggregate grant
 16 or loan limits for the receipt of grants or loans under that
 17 title.

18 **SEC. 137. TEACHER LOAN RELIEF.**

19 The Secretary of Education may waive the require-
 20 ment of sections 428J(b)(1) and 460(b)(1)(A) of the
 21 Higher Education Act of 1965 that the 5 years of quali-
 22 fying service be consecutive academic years for any teach-
 23 er whose employment was interrupted if—

24 (1) the teacher was employed in qualifying serv-
 25 ice, at the time of a Gulf hurricane disaster, in a

1 school located in an area affected by a Gulf hurri-
2 cane disaster; and

3 (2) the teacher resumes qualifying service not
4 later than the beginning of academic year 2006–
5 2007 in that school or any other school in which em-
6 ployment is qualifying service under such section.

7 **SEC. 138. TRANSFER OF CREDIT.**

8 (a) **POLICY DISCLOSURE.**—For periods of enrollment
9 beginning in calendar year 2006, each institution of higher
10 education shall establish and publicize policies of the insti-
11 tution regarding the acceptance or denial of academic
12 credit earned at another institution of higher education,
13 which shall include a statement that such decisions will
14 not be based solely on the source of accreditation of a
15 sending institution, provided that the sending institution
16 is accredited by an agency or association that is recognized
17 by the Secretary of Education pursuant to section 496 of
18 the Act to be a reliable authority as to the quality of the
19 education or training offered.

20 (b) **RULE OF CONSTRUCTION.**—Nothing in this sec-
21 tion shall be construed to—

22 (1) authorize an officer or employee of the De-
23 partment of Education to exercise any direction, su-
24 pervision, or control over the curriculum, program of
25 instruction, administration, or personnel of any in-

1 stitution of higher education, or over any accrediting
2 agency or association;

3 (2) limit the application of the General Edu-
4 cation Provisions Act (20 U.S.C. 1221 et seq.); or

5 (3) create any legally enforceable right.

6 **SEC. 139. EXPANDING INFORMATION DISSEMINATION RE-**
7 **GARDING ELIGIBILITY FOR PELL GRANTS.**

8 (a) IN GENERAL.—The Secretary of Education shall
9 make special efforts, in conjunction with State efforts, to
10 notify affected students and if applicable, their parents,
11 who qualify for means-tested Federal benefit programs, of
12 their potential eligibility for a maximum Pell Grant, and
13 shall disseminate such informational materials as the Sec-
14 retary of Education deems appropriate.

15 (b) MEANS-TESTED FEDERAL BENEFIT PRO-
16 GRAM.—For the purpose of this section, the term “means-
17 tested Federal benefit program” means a mandatory
18 spending program of the Federal Government, other than
19 a program under the Act, in which eligibility for the pro-
20 gram’s benefits, or the amount of such benefits, or both,
21 are determined on the basis of income or resources of the
22 individual or family seeking the benefit, and may include
23 such programs as the supplemental security income pro-
24 gram under title XVI of the Social Security Act, the food
25 stamp program under the Food Stamp Act of 1977, the

1 free and reduced price school lunch program established
2 under the Richard B. Russell National School Lunch Act,
3 the temporary assistance to needy families program estab-
4 lished under part A of title IV of the Social Security Act,
5 and the women, infants, and children program established
6 under section 17 of the Child Nutrition Act of 1966, and
7 other programs identified by the Secretary of Education.

8 **SEC. 140. PROCEDURES.**

9 (a) DEADLINES AND PROCEDURES.—Sections 482(c)
10 and 492 of the Act (20 U.S.C. 1089(c), 1098(a)) shall
11 not apply to any waivers, modifications, or actions initi-
12 ated by the Secretary of Education under this subtitle.

13 (b) CASE-BY-CASE BASIS.—The Secretary of Edu-
14 cation is not required to exercise any waiver or modifica-
15 tion authority under this subtitle on a case-by-case basis.

16 **SEC. 141. TERMINATION OF AUTHORITY.**

17 The authority of the Secretary of Education to issue
18 waivers or modifications under this subtitle shall expire
19 at the conclusion of the 2005–2006 academic year, but
20 the expiration of such authority shall not affect the con-
21 tinuing validity of any such waivers or modifications after
22 such academic year.

1 **Subtitle E—Regulatory Relief**

2 **SEC. 151. REGULATORY AND FINANCIAL RELIEF.**

3 (a) **WAIVER AUTHORITY.**—Subject to subsections (b)
4 and (c), in providing any grant or other assistance, di-
5 rectly or indirectly, to an entity in an affected State, the
6 Secretary of Education may, as applicable, waive or mod-
7 ify in order to ease fiscal burdens any requirement relating
8 to the following:

9 (1) Maintenance of effort.

10 (2) The use of Federal funds to supplement,
11 not supplant, non-Federal funds.

12 (3) Any non-Federal share or capital contribu-
13 tion required to match Federal funds provided under
14 programs administered by the Secretary of Edu-
15 cation.

16 (b) **DURATION.**—A waiver under this section shall be
17 for the 2006 fiscal year.

18 (c) **LIMITATIONS.**—

19 (1) **RELATION TO IDEA.**—This section does not
20 authorize the waiver or modification of any provision
21 of the Individuals with Disabilities Education Act
22 (20 U.S.C. 1400 et seq.).

23 (2) **MAINTENANCE OF EFFORT.**—If the Sec-
24 retary grants a waiver or modification under this
25 section waiving a requirement relating to mainte-

1 nance of effort for a fiscal year, the level of effort
2 required for the following fiscal year shall not be re-
3 duced because of the waiver.

4 **TITLE II—HEALTH AND HUMAN** 5 **SERVICES**

6 **Subtitle A—Community Services**

7 **SEC. 201. SECRETARY AUTHORITY.**

8 The Secretary of Health and Human Services may
9 waive with respect to any affected State for up to 90 days
10 after the enactment of this Act the filing deadline under
11 section 676(b) of the Community Services Block Grant
12 Act.

13 **SEC. 202. STATE AUTHORITY.**

14 (a) **TRANSFER OF FUNDING.**—A State that receives
15 a payment or allotment under section 675A or 675B of
16 the Community Services Block Grant Act may transfer a
17 portion of the payment or allotment available for expendi-
18 ture under section 675C(b) (including sums available for
19 administrative expenses under paragraph (2) of such sec-
20 tion 675C(b)) to an affected State.

21 (b) **STAFF.**—A State lead agency designated under
22 section 676(a)(1) of the Community Services Block Grant
23 Act or an eligible entity (as defined in section 673 of such
24 Act) may send an employee of the State lead agency, or

1 of an eligible entity, to an area affected by a Gulf hurri-
 2 cane disaster to help in providing disaster assistance.

3 (c) ELIGIBLE ENTITY.—A State lead agency in an
 4 affected State may temporarily fund an eligible entity in
 5 a contiguous area, or if such entity is not available to pro-
 6 vide such services, may temporarily fund alternative serv-
 7 ice providers (notwithstanding the definition of an eligible
 8 entity as defined in section 673 of the Community Services
 9 Block Grant Act) when the currently funded eligible entity
 10 is no longer able to provide services due to a Gulf hurri-
 11 cane disaster in order to meet the immediate needs of indi-
 12 viduals adversely affected by a Gulf hurricane disaster
 13 (provided that in the meantime the State is assisting such
 14 current eligible entity in becoming operational).

15 (d) RECAPTURE AND REDISTRIBUTION OF UNOBLI-
 16 GATED FUNDS.—Notwithstanding any other provision of
 17 law, an affected State may apply the recapture and redis-
 18 tribution of unobligated funds provisions under section
 19 675C(a)(3) of the Community Services Block Grant Act.

20 **Subtitle B—Head Start**

21 **SEC. 211. HEAD START AND EARLY HEAD START CHILDREN**

22 **AFFECTED BY A GULF HURRICANE DISASTER.**

23 (a) TECHNICAL ASSISTANCE, GUIDANCE, AND RE-
 24 SOURCES.—The Secretary of Health and Human Services
 25 shall provide technical assistance, guidance, and resources

1 through the Region 4 and Region 6 offices of the Adminis-
2 tration for Children and Families (and may provide tech-
3 nical assistance, guidance, and resources, through other
4 regional offices of the Administration, at the request of
5 such offices, that administer affected Head Start agen-
6 cies) to Head Start agencies in areas in which a major
7 disaster has been declared, and to affected Head Start
8 agencies, to assist the agencies involved in providing Head
9 Start services and Early Head Start services to children
10 affected by a Gulf hurricane disaster.

11 (b) WAIVER.—For such period up to June 30, 2006,
12 and to such extent as the Secretary considers appropriate,
13 the Secretary of Health and Human Services—

14 (1) may waive section 640(b) of the Head Start
15 Act for Head Start agencies located in an area af-
16 fected by a Gulf Hurricane disaster and other af-
17 fected Head Start agencies; and

18 (2) shall waive requirements of documentation
19 for an individual adversely affected by a Gulf hurri-
20 cane disaster who participates in a Head Start pro-
21 gram or an Early Head Start program funded under
22 the Head Start Act.

1 **Subtitle C—Child Care Services**

2 **SEC. 221. WAIVER AUTHORITY TO EXPAND THE AVAIL-**
3 **ABILITY OF SERVICES UNDER CHILD CARE**
4 **AND DEVELOPMENT BLOCK GRANT ACT OF**
5 **1990.**

6 For such period up to June 30, 2006, and to such
7 extent as the Secretary considers to be appropriate, the
8 Secretary of Health and Human Service may waive or
9 modify, for any affected State, and any State serving sig-
10 nificant numbers of individuals adversely affected by a
11 Gulf hurricane disaster, provisions of the Child Care and
12 Development Block Grant Act of 1990 (42 U.S.C. 9858
13 et seq.)—

14 (1) relating to Federal income limitations on
15 eligibility to receive child care services for which as-
16 sistance is provided under such Act,

17 (2) relating to work requirements applicable to
18 eligibility to receive child care services for which as-
19 sistance is provided under such Act,

20 (3) relating to limitations on the use of funds
21 under section 658G of the Child Care and Develop-
22 ment Block Grant Act of 1990,

23 (4) preventing children designated as evacuees
24 from receiving priority for child care services pro-
25 vided under such Act, except that children residing

1 in a State and currently receiving services should
 2 not lose such services in order to accommodate evac-
 3 uee children, and

4 (5) relating to any non-Federal or capital con-
 5 tribution required to match Federal funds provided
 6 under programs administered by the Secretary of
 7 Health and Human Services,
 8 for purposes of easing State fiscal burdens and providing
 9 child care services to children orphaned, or of families dis-
 10 placed, as a result of a Gulf hurricane disaster.

11 **TITLE III—LABOR**
 12 **Subtitle A—Pension Flexibility for**
 13 **Displaced Workers Act of 2005**

14 **SEC. 301. SHORT TITLE.**

15 This subtitle may be cited as the “Pension Flexibility
 16 for Displaced Workers Act of 2005”.

17 **SEC. 302. AUTHORITY TO PRESCRIBE GUIDANCE BY REA-**
 18 **SON OF THE PRESIDENTIALLY DECLARED**
 19 **DISASTERS CAUSED BY HURRICANE KATRINA**
 20 **AND HURRICANE RITA.**

21 (a) WAIVERS, SUSPENSIONS, OR EXEMPTIONS.—In
 22 the case of any pension plan which is an individual account
 23 plan, or any participant or beneficiary, plan sponsor, ad-
 24 ministrator, fiduciary, service provider, or other person
 25 with respect to such plan, affected by Hurricane Katrina

1 or Hurricane Rita, or any service provider or other person
2 dealing with such plan, the Secretary of Labor may, not-
3 withstanding any provision of title I of the Employee Re-
4 tirement Income Security Act of 1974, prescribe, by notice
5 or otherwise, a waiver, suspension, or exemption from any
6 provision of such title which is under the regulatory au-
7 thority of such Secretary, or from regulations issued under
8 any such provision, that such Secretary determines appro-
9 priate to facilitate the distribution or loan of assets from
10 such plan to participants and beneficiaries of such plan.
11 At the time of the issuance of such waiver, suspension,
12 or exemption, such Secretary shall publish in the Federal
13 Register the terms of such waiver, suspension, or exemp-
14 tion.

15 (b) EXEMPTION FROM LIABILITY FOR ACTS OR
16 OMISSIONS COVERED BY WAIVER, SUSPENSION, OR EX-
17 EMPTION.—No person shall be liable for any violation of
18 title I of the Employee Retirement Income Security Act
19 of 1974, or of any regulations issued under such title,
20 based upon any act or omission covered by a waiver, sus-
21 pension, or exemption issued under subsection (a) if such
22 act or omission is in compliance with the terms of the
23 waiver, suspension, or exemption.

24 (c) PLAN TERMS SUBJECT TO WAIVER, SUSPENSION,
25 OR EXEMPTION.—Notwithstanding any provision of the

1 plan to the contrary and to the extent provided in any
2 waiver, suspension, or exemption issued by the Secretary
3 of Labor pursuant to subsection (a), no plan shall be
4 treated as failing to be operated in accordance with its
5 terms solely as a result of acts or omissions which are
6 in compliance with the terms of such waiver, suspension,
7 or exemption.

8 (d) EXPIRATION OF AUTHORITY.—This section shall
9 apply only with respect to waivers, suspensions, or exemp-
10 tions issued by the Secretary of Labor during the 1-year
11 period following the date of the enactment of this Act.

12 (e) DEFINITIONS.—Terms used in this section shall
13 have the meanings provided such terms in section 3 of
14 the Employee Retirement Income Security Act of 1974
15 (29 U.S.C. 1002).

16 **SEC. 303. AUTHORITY IN THE EVENT OF PRESIDENTIALLY**
17 **DECLARED DISASTER OR TERRORISTIC OR**
18 **MILITARY ACTIONS.**

19 Section 518 of the Employee Retirement Income Se-
20 curity Act of 1974 (29 U.S.C. 1148) is amended by insert-
21 ing “, under any regulation issued thereunder, or under
22 any plan provision” after “under this Act”.

1 **Subtitle B—Occupational Safety**
2 **and Health**

3 **SEC. 311. AUTHORIZATION FOR VOLUNTEERS.**

4 (a) AUTHORITY TO RECRUIT, TRAIN, AND UTI-
5 LIZE.—Notwithstanding any other provision of law, the
6 Secretary of Labor (hereafter “the Secretary”) may re-
7 cruit, train, accept, and utilize, without regard to the civil
8 service classification laws, rules, or regulations, the serv-
9 ices of volunteer individuals to aid in or facilitate the ac-
10 tivities administered by the Secretary through the Occupa-
11 tional Safety and Health Administration for projects re-
12 lated to worker safety and health in response to the effects
13 of Hurricane Katrina and Hurricane Rita.

14 (b) PROVISION OF SERVICES AND COSTS.—The Sec-
15 retary may provide for services and costs incidental to the
16 utilization of volunteers under subsection (a), including
17 transportation, supplies, equipment (including personal
18 protective equipment), uniforms, lodging, subsistence
19 (without regard to place of residence), recruiting, training,
20 supervision, and awards and recognition (including nomi-
21 nal cash awards).

22 (c) FEDERAL EMPLOYMENT STATUS OF VOLUN-
23 TEERS.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2), a volunteer under this section shall not

1 be considered a Federal employee and shall not be
2 subject to the provisions of law relating to Federal
3 employment, including those provisions relating to
4 hours of work, rates of compensation, leave, unem-
5 ployment compensation, and Federal employee bene-
6 fits.

7 (2) EXCEPTION.—A volunteer under this sec-
8 tion shall be considered a Federal employee for the
9 purposes of—

10 (A) required Federal agency safety and
11 health programs under section 19 of the Occu-
12 pational Safety and Health Act of 1970 (29
13 U.S.C. 668), Executive Order 12196 (45 Fed.
14 Reg. 12769) and part 1960 of title 29, Code of
15 Federal Regulations; and

16 (B) the standards of ethical conduct provi-
17 sions of part 2635 of title 5, Code of Federal
18 Regulations.

19 **SEC. 312. PURCHASE AND DISTRIBUTION OF EQUIPMENT.**

20 The Secretary is authorized to purchase and dis-
21 tribute equipment and supplies to public or private entities
22 and individuals for projects administered by the Occupa-
23 tional Safety and Health Administration related to worker
24 safety and health in response to the effects of Hurricane
25 Katrina and Hurricane Rita.

1 **SEC. 313. STATE ASSISTANCE AND MATCHING FUND RE-**
2 **STRICTIONS.**

3 (a) **USE OF FUNDS.**—Notwithstanding any other pro-
4 vision of law, States that administer State plans under
5 section 18 of the Occupational Safety and Health Act of
6 1970 (29 U.S.C. 667), or cooperative agreements under
7 section 21(d) of such Act (29 U.S.C. 670(d)) may use
8 grant funds awarded under section 21 or 23 of such Act
9 (29 U.S.C. 670; 672) to provide assistance to the Occupa-
10 tional Safety and Health Administration for projects re-
11 lated to worker safety and health in response to the effects
12 of Hurricane Katrina and Hurricane Rita.

13 (b) **MATCHING FUND REQUIREMENT.**—Notwith-
14 standing the matching share requirements of section 23
15 of such Act or any other provision of law, the Secretary
16 may increase the size of a grant to any State providing
17 assistance under subsection (a) by an amount of up to
18 100 percent of the cost of travel and subsistence, overtime,
19 and other administrative expenses incurred by the State
20 in providing such assistance.

21 **SEC. 314. EXPIRATION.**

22 This authorities granted in this title shall terminate
23 on the date that is 1 year after the date of enactment
24 of this title.

1 **Subtitle C—Worker Adjustment**
2 **and Retraining Notification**

3 **SEC. 321. APPLICATION OF WARN NOTICE REQUIREMENT.**

4 (a) NO NOTIFICATION REQUIRED.—Section 3(b) of
5 the Worker Adjustment and Retraining Notification Act
6 (29 U.S.C. 2102(b)) is amended by adding at the end the
7 following:

8 “(4) Notwithstanding any other provision of
9 law or regulation, no notice of any kind under this
10 Act shall be required either in advance of or subse-
11 quent to a plant closing or mass layoff, if such plant
12 closing or mass layoff is due to Hurricane Katrina
13 and occurs between August 29, 2005, and the date
14 that is 90 days after the date of enactment of this
15 paragraph, or is due to Hurricane Rita and occurs
16 between September 24, 2005, and the date that is
17 90 days after the date of enactment of this para-
18 graph.”.

19 (b) EFFECTIVE DATE.—This section shall take effect
20 as if enacted on August 29, 2005.

21 **Subtitle D—Worker Investment**

22 **SEC. 331. TRANSFERABILITY OF FUNDS FOR WIA PRO-**
23 **GRAMS.**

24 (a) IN GENERAL.—Notwithstanding any other provi-
25 sion of law and subject to subsection (d), in order to facili-

1 tate the provision of employment, training and related as-
2 sistance to individuals adversely affected by a Gulf hurri-
3 cane disaster, the Secretary of Labor may—

4 (1) permit a State described in subsection (c),
5 pursuant to a request submitted by the Governor of
6 such a State, to transfer funds reserved by the Gov-
7 ernor under any of the programs specified in sub-
8 section (b) to the program for the provision of em-
9 ployment services under the Wagner-Peyser Act (29
10 U.S.C. 49 et. seq.), and to transfer funds allotted to
11 the State to carry out the program for the provision
12 of employment services under the Wagner-Peyser
13 Act to any of the programs specified in subsection
14 (b); and

15 (2) permit a local workforce investment area
16 (established under section 116 of the Workforce In-
17 vestment Act of 1998) in a State described in sub-
18 section (c), pursuant to a request submitted by the
19 Governor of such State (in consultation with appro-
20 priate local elected officials) to transfer up to 100
21 percent of the funds allocated to such local areas
22 under each of the programs specified in subsection
23 (b) among such programs.

24 (b) SPECIFIED PROGRAMS.—The programs referred
25 to in subsection (a) consist of—

1 (1) the program of workforce investment activi-
 2 ties for youth authorized under chapter 4 of subtitle
 3 B of title I of the Workforce Investment Act of 1998
 4 (29 U.S.C. 2851 et seq.);

5 (2) the program of workforce investment activi-
 6 ties for adults authorized under chapter 5 of subtitle
 7 B of title I of the Workforce Investment Act of 1998
 8 (29 U.S.C. 2861 et seq.); and

9 (3) the program of workforce investment activi-
 10 ties for dislocated workers authorized under chapter
 11 5 of subtitle B of title I of the Workforce Investment
 12 Act of 1998 (29 U.S.C. 2861 et seq.).

13 (c) ELIGIBLE STATES.—Only States or local work-
 14 force investment areas in which a Gulf hurricane disaster
 15 occurred or to which significant numbers of individuals ad-
 16 versely affected by a Gulf hurricane disaster have relo-
 17 cated may apply to the Secretary under this section.

18 (d) LIMITATION.—This section applies only to pro-
 19 gram year 2005.

20 **TITLE IV—GENERAL** 21 **PROVISIONS**

22 **SEC. 401. DEFINITIONS.**

23 For purposes of this Act, except as otherwise specifi-
 24 cally provided in this Act, the following terms have the
 25 following meanings:

1 (1) AFFECTED HEAD START AGENCIES.—The
2 term “affected Head Start Agencies” means a Head
3 Start agency receiving a significant number of chil-
4 dren from an area in which a Gulf hurricane dis-
5 aster has been declared.

6 (2) AFFECTED INDIVIDUAL.—The term “af-
7 fected individual” means an individual who has ap-
8 plied for or received student financial assistance
9 under title IV of the Higher Education Act of 1965,
10 and—

11 (A) who is an affected student; or

12 (B) whose primary place of employment or
13 residency was, as of August 29, 2005, in an
14 area affected by a Gulf hurricane disaster.

15 (3) AFFECTED INSTITUTION.—The term “af-
16 fected institution” means an institution of higher
17 education that—

18 (A) is located in an area affected by a Gulf
19 hurricane disaster; and

20 (B) has temporarily ceased operations as a
21 consequence of a Gulf hurricane disaster, as de-
22 termined by the Secretary of Education.

23 (4) AFFECTED STATE.—The term “affected
24 State” means the State of Alabama, Florida, Lou-
25 isiana, Mississippi, or Texas.

1 (5) AFFECTED STUDENT.—The term “affected
2 student” means an individual who has applied for or
3 received student financial assistance under title IV
4 of the Higher Education Act of 1965, and who—

5 (A) was enrolled or accepted for enroll-
6 ment, as of August 29, 2005, at an institution
7 of higher education in an area affected by a
8 Gulf hurricane disaster;

9 (B) was a dependent student enrolled or
10 accepted for enrollment at an institution of
11 higher education that is not in an area affected
12 by a Gulf hurricane disaster, but whose parents
13 resided or were employed, as of August 29,
14 2005, in an area affected by a Gulf hurricane
15 disaster; or

16 (C) was enrolled or accepted for enrollment
17 at an institution of higher education, as of Au-
18 gust 29, 2005, and whose attendance was inter-
19 rupted because of a Gulf hurricane disaster.

20 (6) AREA AFFECTED BY A GULF HURRICANE
21 DISASTER.—The term “area affected by a Gulf hur-
22 ricane disaster” means a county or parish, in an af-
23 fected State, that has been designated by the Fed-
24 eral Emergency Management Agency for disaster as-

1 sistance for individuals and households as a result of
2 Hurricane Katrina or Hurricane Rita.

3 (7) CANCELLED ENROLLMENT PERIOD.—The
4 term “cancelled enrollment period” means any pe-
5 riod of enrollment at an affected institution during
6 the academic year 2005.

7 (8) CHARTER SCHOOL.—The term “charter
8 school” has the meaning given to that term in sec-
9 tion 5210 of the Elementary and Secondary Edu-
10 cation Act of 1965.

11 (9) CHILD WITH A DISABILITY.—The term
12 “child with a disability” has the meaning given such
13 term in section 602(3) of the Individuals with Dis-
14 abilities Education Act.

15 (10) DISPLACED STUDENT.—The term “dis-
16 placed student” means an individual who—

17 (A) but for a Gulf hurricane disaster,
18 would be enrolled during a school year in an el-
19 ementary or secondary school in an affected
20 State;

21 (B) is unable, due to such disaster, to ac-
22 cess the education and pupil services that the
23 child otherwise would be receiving at such
24 school; and

1 (C) due to such disaster, is enrolled at a
2 public elementary or secondary school in a dif-
3 ferent geographic location in a State.

4 (11) ELEMENTARY SCHOOL.—The term “ele-
5 mentary school” has the meaning given such term in
6 section 9101 of the Elementary and Secondary Edu-
7 cation Act of 1965.

8 (12) ELIGIBLE ENTITY.—The term “eligible en-
9 tity” means—

10 (A) a local educational agency (as defined
11 in section 602(19) of the Individuals with Dis-
12 abilities Education Act) if such agency is lo-
13 cated in a State or in an area of a State with
14 respect to which the President has declared
15 that a Gulf hurricane disaster exists;

16 (B) a State educational agency (as defined
17 in section 602(32) of such Act) if such agency
18 is located in a State with respect to which the
19 President has declared that a Gulf hurricane
20 disaster exists; or

21 (C) a State interagency coordinating coun-
22 cil established under section 641 of such Act if
23 such council is located in a State with respect
24 to which the President has declared that a Gulf
25 hurricane disaster exists.

1 (13) GULF HURRICANE DISASTER.—The term
2 “Gulf hurricane disaster” means a major disaster
3 that the President declared to exist, in accordance
4 with section 401 of the Robert T. Stafford Disaster
5 Relief and Emergency Assistance Act, and that was
6 caused by Hurricane Katrina or Hurricane Rita.

7 (14) HIGHLY QUALIFIED.—The term “highly
8 qualified”—

9 (A) in the case of a special education
10 teacher, has the meaning given such term in
11 section 602 of the Individuals with Disabilities
12 Education Act; and

13 (B) in the case of any other elementary,
14 middle, or secondary school teacher, has the
15 meaning given such term in section 9101 of the
16 Elementary and Secondary Education Act of
17 1965.

18 (15) INDIVIDUAL ADVERSELY AFFECTED BY A
19 GULF HURRICANE DISASTER.—The term “individual
20 adversely affected by a Gulf hurricane disaster”
21 means an individual who, on August 29, 2005, was
22 living, working, or attending school in an area in
23 which the President has declared to exist a Gulf hur-
24 ricane disaster.

1 (16) INFANT OR TODDLER WITH A DIS-
2 ABILITY.—The term “infant or toddler with a dis-
3 ability” has the meaning given such term in section
4 632(5) of the Individuals with Disabilities Education
5 Act.

6 (17) INSTITUTION OF HIGHER EDUCATION.—
7 The term “institution of higher education” has the
8 meaning given such term in section 102 of the High-
9 er Education Act of 1965, except that the term does
10 not include institutions under subsection (a)(1)(C)
11 of that section.

12 (18) LOCAL EDUCATIONAL AGENCY.—The term
13 “local educational agency” has the meaning given
14 such term in section 9101 of the Elementary and
15 Secondary Education Act of 1965.

16 (19) PUPIL SERVICES.—The term “pupil serv-
17 ices” has the meaning given such term in section
18 9101 of the Elementary and Secondary Education
19 Act of 1965.

20 (20) QUALIFIED STUDENT LOAN.—The term
21 “qualified student loan” means any loan made, in-
22 sured, or guaranteed under part B, D, or E of title
23 IV of the Higher Education Act of 1965, other than
24 a loan under section 428B of such title or a Federal
25 Direct Plus loan.

1 (21) QUALIFIED PARENT LOAN.—The term
 2 “qualified parent loan” means a loan made under
 3 section 428B of title IV of the Higher Education
 4 Act of 1965 or a Federal Direct Plus loan.

5 (22) SECONDARY SCHOOL.—The term “sec-
 6 ondary school” has the meaning given such term in
 7 section 9101 of the Elementary and Secondary Edu-
 8 cation Act of 1965.

9 (23) STATE.—The term “State” has the mean-
 10 ing given such term in section 9101 of the Elemen-
 11 tary and Secondary Education Act of 1965.

12 (24) STATE EDUCATIONAL AGENCY.—The term
 13 “State educational agency” has the meaning given
 14 such term in section 9101 of the Elementary and
 15 Secondary Education Act of 1965.

16 (25) STATE LEAD AGENCY.—The term “State
 17 lead agency” has the meaning given such term as
 18 designated under 676(a)(1) of the Community Serv-
 19 ices Block Grant Act.

20 **SEC. 402. PROCEDURAL WAIVERS.**

21 (a) PUBLICATION.—

22 (1) IN GENERAL.—Notwithstanding section 437
 23 of the General Education Provisions Act (20 U.S.C.
 24 1232) and section 553 of title 5, United States
 25 Code, the Secretary of Education shall make publicly

1 available the waivers or modifications of statutory
2 and regulatory provisions and other actions the Sec-
3 retary of Education issues pursuant to this title.

4 (2) TERMS AND CONDITIONS.—The notice
5 under paragraph (1) shall include the terms and
6 conditions to be applied in lieu of such statutory and
7 regulatory provisions.

8 **SEC. 403. REPORTING REQUIREMENTS.**

9 (a) CONTENTS OF REPORT.—Not later than Sep-
10 tember 30, 2006, each State that exercises any authority
11 provided in this Act shall submit to the Secretary of juris-
12 diction a report containing such information as the Sec-
13 retary may require, including information identifying—

14 (1) how flexibility provided under this Act is
15 used to provide assistance to individuals adversely
16 affected by a Gulf hurricane disaster, including the
17 number of such individuals assisted;

18 (2) how such individuals were assisted;

19 (3) if any staff was sent to an area adversely
20 affected by a Gulf hurricane disaster under title II,
21 subtitle A;

22 (4) specifying how an affected State exercised
23 its waiver authority under this Act to assist individ-
24 uals adversely affected by a Gulf hurricane disaster,
25 including waivers received under section 331;

1 (5) the amount of funding transferred among
2 programs specified in section 331;

3 (6) the amount of funding, if any, transferred
4 to an affected State under subtitle A of title II and
5 how such funds were distributed;

6 (7) how additional alternative service providers
7 were chosen by such State to provide immediate as-
8 sistance under subtitle A of title II; and

9 (8) the number and location of teachers consid-
10 ered to be highly qualified for purposes of subse-
11 quent employment as a teacher by a local edu-
12 cational agency that hired the teachers due to needs
13 created by the enrollment of displaced students
14 under section 111.

15 (b) REPORT TO CONGRESS.—Not later October 30,
16 2006, the Secretary shall submit to the Committee on
17 Education and the Workforce of the House of Representa-
18 tives, the Committee on Health, Education, Labor, and
19 Pensions of the Senate, and the respective Committees on
20 Appropriations the report described in subsection (a), and
21 any comments the Secretary may have with respect to
22 such report.

○