

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3975

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IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2005

Received; read twice and referred to the Committee on Health, Education,  
Labor, and Pensions

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## AN ACT

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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

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

4 (b) **TABLE OF CONTENTS.**—The table of contents for  
5 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 Dis-  
abilities 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. Waivers and modifications.

Sec. 132. Transfer of credit.

Sec. 133. Expanding information dissemination regarding eligibility for Pell  
Grants.

Sec. 134. Procedures; 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.

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—

14                   (A) waiving any requirement relating to  
 15                  whether a student has resided in the geographic  
 16                  area of the charter school;

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

3 (C) removing any other relevant restric-  
4 tions.

## 5 **Subtitle B—Teacher Flexibility**

### 6 **SEC. 111. TREATMENT OF HIGHLY QUALIFIED TEACHERS.**

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

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

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

1 **Subtitle C—Educational Programs**  
2 **for Children With Disabilities**

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

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

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

20 (1) Section 611(e)(3)(C)(ii) of such Act, by ex-  
21 tending up to an additional 60 days the 90 day  
22 deadline for developing a State plan for the high  
23 cost fund.

24 (2) Section 612(a)(15)(C) of such Act, by ex-  
25 tending up to an additional 60 days the deadline for

1 submission of the annual report to the Secretary of  
2 Education and the public regarding the progress of  
3 the State and of children with disabilities in the  
4 State.

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

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

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

19 (6) Section 641(e)(1)(D) of such Act, by ex-  
20 tending up to an additional 60 days the deadline for  
21 submission to the Governor of a State and the Sec-  
22 retary of Education of the report on the status of  
23 early intervention programs for infants and toddlers  
24 with disabilities and their families operated within  
25 the State.

1 (c) RULE OF CONSTRUCTION.—Nothing in this Act  
2 shall be construed—

3 (1) as permitting the waiver of—

4 (A) any applicable Federal civil rights law;

5 (B) any student or family privacy protec-  
6 tions, including provisions requiring parental  
7 consent for evaluations and services;

8 (C) any procedural safeguards required  
9 under section 615 or section 639 of the Individ-  
10 uals with Disabilities Education Act; or

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

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

16 (A) a free appropriate public education  
17 under part B of the Individuals with Disabil-  
18 ities Education Act; or

19 (B) early intervention services under part  
20 C of such Act.

21 (d) DURATION OF AGREEMENT.—An agreement  
22 under this section shall terminate at the conclusion of the  
23 2005–2006 academic year.

24 (e) REQUEST TO ENTER INTO AGREEMENT.—To  
25 enter into an agreement under this section, an eligible en-

1 tity shall submit a request to the Secretary of Education  
2 at such time, in such manner, and containing such infor-  
3 mation as the Secretary may require.

4 **SEC. 122. PAPERWORK REDUCTION PILOT PROGRAM PAR-**  
5 **TICIPATION FOR AFFECTED STATES.**

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

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

21 (c) **PROPOSAL.**—

22 (1) **IN GENERAL.**—An affected State desiring to  
23 participate in the paperwork reduction pilot program  
24 described in section 609(a) of such Act shall submit  
25 a proposal to the Secretary in accordance with sec-



1       tion 609(a)(3) of such Act, subject to paragraph (2)  
2       of this subsection.

3               (2) SIMPLIFICATION.—The Secretary may sim-  
4       plify the proposal process for an affected State to  
5       participate in the program if the Secretary deter-  
6       mines that such simplification is appropriate.

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

## 11               **Subtitle D—Higher Education** 12                               **Relief**

### 13      **SEC. 131. WAIVERS AND MODIFICATIONS.**

14           Notwithstanding any other provision of law unless en-  
15      acted with specific reference to this section, the Secretary  
16      of Education is authorized to waive or modify any statu-  
17      tory or regulatory provision applicable to the student fi-  
18      nancial assistance programs under title IV of the Higher  
19      Education Act of 1965, or any student or institutional eli-  
20      gibility provisions in such Act, as the Secretary of Edu-  
21      cation deems necessary to ensure that the calculation of  
22      expected family contribution (under section 474 of such  
23      Act) used in the determination of need for student finan-  
24      cial assistance under such title for any affected student  
25      (and the determination of such need for his or her family,

1 if applicable), is modified to reflect any changes in the  
2 financial condition of such affected student and his or her  
3 family resulting from a Gulf hurricane disaster.

4 **SEC. 132. TRANSFER OF CREDIT.**

5 (a) **POLICY DISCLOSURE.**—For periods of enrollment  
6 beginning in calendar year 2006, each institution of higher  
7 education shall establish and publicize policies of the insti-  
8 tution regarding the acceptance or denial of academic  
9 credit earned at another institution of higher education,  
10 which shall include a statement that such decisions will  
11 not be based solely on the source of accreditation of a  
12 sending institution, provided that the sending institution  
13 is accredited by an agency or association that is recognized  
14 by the Secretary of Education pursuant to section 496 of  
15 the Higher Education Act of 1965 to be a reliable author-  
16 ity as to the quality of the education or training offered.

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

19 (1) authorize an officer or employee of the De-  
20 partment of Education to exercise any direction, su-  
21 pervision, or control over the curriculum, program of  
22 instruction, administration, or personnel of any in-  
23 stitution of higher education, or over any accrediting  
24 agency or association;

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

3           (3) create any legally enforceable right.

4 **SEC. 133. EXPANDING INFORMATION DISSEMINATION RE-**  
5 **GARDING ELIGIBILITY FOR PELL GRANTS.**

6           (a) **IN GENERAL.**—The Secretary of Education  
7 shall—

8           (1) make special efforts, in conjunction with  
9           State efforts, to notify affected students and, if ap-  
10           plicable, their parents, who qualify for a means-test-  
11           ed Federal benefit program, of their potential eligi-  
12           bility for a maximum Pell Grant; and

13           (2) disseminate informational materials regard-  
14           ing such eligibility as the Secretary of Education  
15           deems appropriate.

16           (b) **MEANS-TESTED FEDERAL BENEFIT PRO-**  
17 **GRAM.**—For the purpose of this section, the term “means-  
18 tested Federal benefit program”—

19           (1) means a mandatory spending program of  
20           the Federal Government, other than a program  
21           under the Higher Education Act of 1965, in which  
22           eligibility for the program’s benefits, or the amount  
23           of such benefits, or both, are determined on the  
24           basis of income or resources of the individual or  
25           family seeking the benefit; and

1 (2) may include—

2 (A) the supplemental security income pro-  
3 gram under title XVI of the Social Security  
4 Act;

5 (B) the food stamp program under the  
6 Food Stamp Act of 1977;

7 (C) the free and reduced price school lunch  
8 program established under the Richard B. Rus-  
9 sell National School Lunch Act;

10 (D) the temporary assistance to needy  
11 families program established under part A of  
12 title IV of the Social Security Act;

13 (E) the women, infants, and children pro-  
14 gram established under section 17 of the Child  
15 Nutrition Act of 1966; and

16 (F) other programs identified by the Sec-  
17 retary of Education.

18 **SEC. 134. PROCEDURES; TERMINATION OF AUTHORITY.**

19 (a) DEADLINES AND PROCEDURES.—Sections 482(c)  
20 and 492 of the Higher Education Act of 1965 (20 U.S.C.  
21 1089(c), 1098(a)) shall not apply to any waivers, modi-  
22 fications, or actions initiated by the Secretary of Edu-  
23 cation under this subtitle.

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

4 (c) TERMINATION OF AUTHORITY.—The authority of  
5 the Secretary of Education to issue waivers or modifica-  
6 tions under this subtitle shall expire at the conclusion of  
7 the 2005–2006 academic year, but the expiration of such  
8 authority shall not affect the continuing validity of any  
9 such waivers or modifications after such academic year.

## 10 **Subtitle E—Regulatory Relief**

### 11 **SEC. 151. REGULATORY AND FINANCIAL RELIEF.**

12 (a) WAIVER AUTHORITY.—Subject to subsections (b)  
13 and (c), in providing any grant or other assistance, di-  
14 rectly or indirectly, to an entity in an affected State, the  
15 Secretary of Education may, as applicable, waive or mod-  
16 ify in order to ease fiscal burdens any requirement relating  
17 to the following:

18 (1) Maintenance of effort.

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

21 (3) Any non-Federal share or capital contribu-  
22 tion required to match Federal funds provided under  
23 programs administered by the Secretary of Edu-  
24 cation.

1 (b) DURATION.—A waiver under this section shall be  
2 for the 2006 fiscal year.

3 (c) LIMITATIONS.—

4 (1) RELATION TO IDEA.—This section does not  
5 authorize the waiver or modification of any provision  
6 of the Individuals with Disabilities Education Act  
7 (20 U.S.C. 1400 et seq.).

8 (2) MAINTENANCE OF EFFORT.—If the Sec-  
9 retary grants a waiver or modification under this  
10 section waiving a requirement relating to mainte-  
11 nance of effort for a fiscal year, the level of effort  
12 required for the following fiscal year shall not be re-  
13 duced because of the waiver.

## 14 **TITLE II—HEALTH AND HUMAN** 15 **SERVICES**

### 16 **Subtitle A—Community Services**

#### 17 **SEC. 201. SECRETARY AUTHORITY.**

18 The Secretary of Health and Human Services may  
19 waive with respect to any affected State for up to 90 days  
20 after the enactment of this Act the filing deadline under  
21 section 676(b) of the Community Services Block Grant  
22 Act.

#### 23 **SEC. 202. STATE AUTHORITY.**

24 (a) TRANSFER OF FUNDING.—A State that receives  
25 a payment or allotment under section 675A or 675B of

1 the Community Services Block Grant Act may transfer a  
2 portion of the payment or allotment available for expendi-  
3 ture under section 675C(b) (including sums available for  
4 administrative expenses under paragraph (2) of such sec-  
5 tion 675C(b)) to an affected State.

6 (b) STAFF.—A State lead agency designated under  
7 section 676(a)(1) of the Community Services Block Grant  
8 Act or an eligible entity (as defined in section 673 of such  
9 Act) may send an employee of the State lead agency, or  
10 of an eligible entity, to an area affected by a Gulf hurri-  
11 cane disaster to help in providing disaster assistance.

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

24 (d) RECAPTURE AND REDISTRIBUTION OF UNOBLI-  
25 GATED FUNDS.—Notwithstanding any other provision of

1 law, an affected State may apply the recapture and redis-  
2 tribution of unobligated funds provisions under section  
3 675C(a)(3) of the Community Services Block Grant Act  
4 provided that the State consults with the eligible entity  
5 involved.

## 6 **Subtitle B—Head Start**

### 7 **SEC. 211. HEAD START AND EARLY HEAD START CHILDREN**

#### 8 **AFFECTED BY A GULF HURRICANE DISASTER.**

9 (a) **TECHNICAL ASSISTANCE, GUIDANCE, AND RE-**  
10 **SOURCES.**—The Secretary of Health and Human Services  
11 shall provide technical assistance, guidance, and resources  
12 through the Region 4 and Region 6 offices of the Adminis-  
13 tration for Children and Families (and may provide tech-  
14 nical assistance, guidance, and resources, through other  
15 regional offices of the Administration, at the request of  
16 such offices, that administer affected Head Start agen-  
17 cies) to Head Start agencies in areas in which a major  
18 disaster has been declared, and to affected Head Start  
19 agencies, to assist the agencies involved in providing Head  
20 Start services and Early Head Start services to children  
21 affected by a Gulf hurricane disaster.

22 (b) **WAIVER.**—For such period up to June 30, 2006,  
23 and to such extent as the Secretary considers appropriate,  
24 the Secretary of Health and Human Services—



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

5           (2) shall waive requirements of documentation  
6 for an individual adversely affected by a Gulf hurri-  
7 cane disaster who participates in a Head Start pro-  
8 gram or an Early Head Start program funded under  
9 the Head Start Act.

## 10       **Subtitle C—Child Care Services**

### 11       **SEC. 221. WAIVER AUTHORITY TO EXPAND THE AVAIL-** 12                       **ABILITY OF SERVICES UNDER CHILD CARE** 13                       **AND DEVELOPMENT BLOCK GRANT ACT OF** 14                       **1990.**

15       For such period up to June 30, 2006, and to such  
16 extent as the Secretary considers to be appropriate, the  
17 Secretary of Health and Human Service may waive or  
18 modify, for any affected State, and any State serving sig-  
19 nificant numbers of individuals adversely affected by a  
20 Gulf hurricane disaster, provisions of the Child Care and  
21 Development Block Grant Act of 1990 (42 U.S.C. 9858  
22 et seq.)—

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

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

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

7 (4) preventing children designated as evacuees  
8 from receiving priority for child care services pro-  
9 vided under such Act, except that children residing  
10 in a State and currently receiving services should  
11 not lose such services in order to accommodate evac-  
12 uee children, and

13 (5) relating to any non-Federal or capital con-  
14 tribution required to match Federal funds provided  
15 under programs administered by the Secretary of  
16 Health and Human Services,

17 for purposes of easing State fiscal burdens and providing  
18 child care services to children orphaned, or of families dis-  
19 placed, as a result of a Gulf hurricane disaster.

20 **TITLE III—LABOR**  
21 **Subtitle A—Pension Flexibility for**  
22 **Displaced Workers Act of 2005**

23 **SEC. 301. SHORT TITLE.**

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

1 **SEC. 302. AUTHORITY TO PRESCRIBE GUIDANCE BY REA-**  
2 **SON OF THE PRESIDENTIALLY DECLARED**  
3 **DISASTERS CAUSED BY HURRICANE KATRINA**  
4 **AND HURRICANE RITA.**

5 (a) **WAIVERS, SUSPENSIONS, OR EXEMPTIONS.**—In  
6 the case of any pension plan which is an individual account  
7 plan, or any participant or beneficiary, plan sponsor, ad-  
8 ministrator, fiduciary, service provider, or other person  
9 with respect to such plan, affected by Hurricane Katrina  
10 or Hurricane Rita, or any service provider or other person  
11 dealing with such plan, the Secretary of Labor may, not-  
12 withstanding any provision of title I of the Employee Re-  
13 tirement Income Security Act of 1974, prescribe, by notice  
14 or otherwise, a waiver, suspension, or exemption from any  
15 provision of such title which is under the regulatory au-  
16 thority of such Secretary, or from regulations issued under  
17 any such provision, that such Secretary determines appro-  
18 priate to facilitate the distribution or loan of assets from  
19 such plan to participants and beneficiaries of such plan.  
20 At the time of the issuance of such waiver, suspension,  
21 or exemption, such Secretary shall publish in the Federal  
22 Register the terms of such waiver, suspension, or exemp-  
23 tion.

24 (b) **EXEMPTION FROM LIABILITY FOR ACTS OR**  
25 **OMISSIONS COVERED BY WAIVER, SUSPENSION, OR EX-**  
26 **EMPTION.**—No person shall be liable for any violation of

1 title I of the Employee Retirement Income Security Act  
2 of 1974, or of any regulations issued under such title,  
3 based upon any act or omission covered by a waiver, sus-  
4 pension, or exemption issued under subsection (a) if such  
5 act or omission is in compliance with the terms of the  
6 waiver, suspension, or exemption.

7 (c) PLAN TERMS SUBJECT TO WAIVER, SUSPENSION,  
8 OR EXEMPTION.—Notwithstanding any provision of the  
9 plan to the contrary and to the extent provided in any  
10 waiver, suspension, or exemption issued by the Secretary  
11 of Labor pursuant to subsection (a), no plan shall be  
12 treated as failing to be operated in accordance with its  
13 terms solely as a result of acts or omissions which are  
14 in compliance with the terms of such waiver, suspension,  
15 or exemption.

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

20 (e) DEFINITIONS.—Terms used in this section shall  
21 have the meanings provided such terms in section 3 of  
22 the Employee Retirement Income Security Act of 1974  
23 (29 U.S.C. 1002).

1 **SEC. 303. AUTHORITY IN THE EVENT OF PRESIDENTIALLY**  
2 **DECLARED DISASTER OR TERRORISTIC OR**  
3 **MILITARY ACTIONS.**

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

8 **Subtitle B—Occupational Safety**  
9 **and Health**

10 **SEC. 311. AUTHORIZATION FOR VOLUNTEERS.**

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

21 (b) **PROVISION OF SERVICES AND COSTS.**—The Sec-  
22 retary may provide for services and costs incidental to the  
23 utilization of volunteers under subsection (a), including  
24 transportation, supplies, equipment (including personal  
25 protective equipment), uniforms, lodging, subsistence  
26 (without regard to place of residence), recruiting, training,

1 supervision, and awards and recognition (including nomi-  
2 nal cash awards).

3 (c) FEDERAL EMPLOYMENT STATUS OF VOLUN-  
4 TEERS.—

5 (1) IN GENERAL.—Except as provided in para-  
6 graph (2), a volunteer under this section shall not  
7 be considered a Federal employee and shall not be  
8 subject to the provisions of law relating to Federal  
9 employment, including those provisions relating to  
10 hours of work, rates of compensation, leave, unem-  
11 ployment compensation, and Federal employee bene-  
12 fits.

13 (2) EXCEPTION.—A volunteer under this sec-  
14 tion shall be considered a Federal employee for the  
15 purposes of—

16 (A) required Federal agency safety and  
17 health programs under section 19 of the Occu-  
18 pational Safety and Health Act of 1970 (29  
19 U.S.C. 668), Executive Order 12196 (45 Fed.  
20 Reg. 12769) and part 1960 of title 29, Code of  
21 Federal Regulations; and

22 (B) the standards of ethical conduct provi-  
23 sions of part 2635 of title 5, Code of Federal  
24 Regulations.

1 (d) LIMITATION.—No volunteer authorized under  
2 this section may aid in or facilitate any inspection or in-  
3 vestigation relating to, or the enforcement of, the Occupa-  
4 tional Safety and Health Act of 1970 (29 U.S.C. 651 et  
5 seq.).

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

7 The Secretary is authorized to purchase and dis-  
8 tribute equipment and supplies to public or private entities  
9 and individuals for projects administered by the Occupa-  
10 tional Safety and Health Administration related to worker  
11 safety and health in response to the effects of Hurricane  
12 Katrina and Hurricane Rita.

13 **SEC. 313. STATE ASSISTANCE AND MATCHING FUND RE-**  
14 **STRICTIONS.**

15 (a) USE OF FUNDS.—Notwithstanding any other pro-  
16 vision of law, States that administer State plans under  
17 section 18 of the Occupational Safety and Health Act of  
18 1970 (29 U.S.C. 667), or cooperative agreements under  
19 section 21(d) of such Act (29 U.S.C. 670(d)) may use  
20 grant funds awarded under section 21 or 23 of such Act  
21 (29 U.S.C. 670; 672) to provide assistance to the Occupa-  
22 tional Safety and Health Administration for projects re-  
23 lated to worker safety and health in response to the effects  
24 of Hurricane Katrina and Hurricane Rita.

1 (b) MATCHING FUND REQUIREMENT.—Notwith-  
2 standing the matching share requirements of section 23  
3 of such Act or any other provision of law, the Secretary  
4 may increase the size of a grant to any State providing  
5 assistance under subsection (a) by an amount of up to  
6 100 percent of the cost of travel and subsistence, overtime,  
7 and other administrative expenses incurred by the State  
8 in providing such assistance.

9 **SEC. 314. EXPIRATION.**

10 This authorities granted in this title shall terminate  
11 on December 31, 2006.

12 **TITLE IV—GENERAL**  
13 **PROVISIONS**

14 **SEC. 401. DEFINITIONS.**

15 For purposes of this Act, except as otherwise specifi-  
16 cally provided in this Act, the following terms have the  
17 following meanings:

18 (1) **AFFECTED HEAD START AGENCIES.**—The  
19 term “affected Head Start Agencies” means a Head  
20 Start agency receiving a significant number of chil-  
21 dren from an area in which a Gulf hurricane dis-  
22 aster has been declared.

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



1           (3) 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           (4) 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               (5) CHARTER SCHOOL.—The term “charter  
4       school” has the meaning given to that term in sec-  
5       tion 5210 of the Elementary and Secondary Edu-  
6       cation Act of 1965.

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

11              (7) DISPLACED STUDENT.—The term “dis-  
12      placed student” means an individual who—

13                      (A) but for a Gulf hurricane disaster,  
14                      would be enrolled during a school year in an el-  
15                      ementary or secondary school in an affected  
16                      State;

17                      (B) is unable, due to such disaster, to ac-  
18                      cess the education and pupil services that the  
19                      child otherwise would be receiving at such  
20                      school; and

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

24              (8) ELEMENTARY SCHOOL.—The term “elemen-  
25      tary school” has the meaning given such term in

1 section 9101 of the Elementary and Secondary Edu-  
2 cation Act of 1965.

3 (9) ELIGIBLE ENTITY.—The term “eligible enti-  
4 ty” means—

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

11 (B) a State educational agency (as defined  
12 in section 602(32) of such Act) if such agency  
13 is located in a State with respect to which the  
14 President has declared that a Gulf hurricane  
15 disaster exists; or

16 (C) a State interagency coordinating coun-  
17 cil established under section 641 of such Act if  
18 such council is located in a State with respect  
19 to which the President has declared that a Gulf  
20 hurricane disaster exists.

21 (10) GULF HURRICANE DISASTER.—The term  
22 “Gulf hurricane disaster” means a major disaster  
23 that the President declared to exist, in accordance  
24 with section 401 of the Robert T. Stafford Disaster

1 Relief and Emergency Assistance Act, and that was  
2 caused by Hurricane Katrina or Hurricane Rita.

3 (11) HIGHLY QUALIFIED.—The term “highly  
4 qualified”—

5 (A) in the case of a special education  
6 teacher, has the meaning given such term in  
7 section 602 of the Individuals with Disabilities  
8 Education Act; and

9 (B) in the case of any other elementary,  
10 middle, or secondary school teacher, has the  
11 meaning given such term in section 9101 of the  
12 Elementary and Secondary Education Act of  
13 1965.

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

21 (13) INFANT OR TODDLER WITH A DIS-  
22 ABILITY.—The term “infant or toddler with a dis-  
23 ability” has the meaning given such term in section  
24 632(5) of the Individuals with Disabilities Education  
25 Act.

1           (14) INSTITUTION OF HIGHER EDUCATION.—  
2           The term “institution of higher education” has the  
3           meaning given such term in section 102 of the High-  
4           er Education Act of 1965, except that the term does  
5           not include institutions under subsection (a)(1)(C)  
6           of that section.

7           (15) LOCAL EDUCATIONAL AGENCY.—The term  
8           “local educational agency” has the meaning given  
9           such term in section 9101 of the Elementary and  
10          Secondary Education Act of 1965.

11          (16) PUPIL SERVICES.—The term “pupil serv-  
12          ices” has the meaning given such term in section  
13          9101 of the Elementary and Secondary Education  
14          Act of 1965.

15          (17) SECONDARY SCHOOL.—The term “sec-  
16          ondary school” has the meaning given such term in  
17          section 9101 of the Elementary and Secondary Edu-  
18          cation Act of 1965.

19          (18) STATE.—The term “State” has the mean-  
20          ing given such term in section 9101 of the Elemen-  
21          tary and Secondary Education Act of 1965.

22          (19) STATE EDUCATIONAL AGENCY.—The term  
23          “State educational agency” has the meaning given  
24          such term in section 9101 of the Elementary and  
25          Secondary Education Act of 1965.

1           (20) STATE LEAD AGENCY.—The term “State  
2           lead agency” has the meaning given such term as  
3           designated under 676(a)(1) of the Community Serv-  
4           ices Block Grant Act.

5 **SEC. 402. PROCEDURAL WAIVERS.**

6           (a) PUBLICATION.—

7           (1) IN GENERAL.—Notwithstanding section 437  
8           of the General Education Provisions Act (20 U.S.C.  
9           1232) and section 553 of title 5, United States  
10          Code, the Secretary of Education shall make publicly  
11          available the waivers or modifications of statutory  
12          and regulatory provisions and other actions the Sec-  
13          retary of Education issues pursuant to this title.

14          (2) TERMS AND CONDITIONS.—The notice  
15          under paragraph (1) shall include the terms and  
16          conditions to be applied in lieu of such statutory and  
17          regulatory provisions.

18 **SEC. 403. REPORTING REQUIREMENTS.**

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

24                (1) how flexibility provided under this Act is  
25                used to provide assistance to individuals adversely

1 affected by a Gulf hurricane disaster, including the  
2 number of such individuals assisted;

3 (2) how such individuals were assisted;

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

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

11 (5) the amount of funding transferred among  
12 programs specified in section 331;

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

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

19 (8) the number and location of teachers consid-  
20 ered to be highly qualified for purposes of subse-  
21 quent employment as a teacher by a local edu-  
22 cational agency that hired the teachers due to needs  
23 created by the enrollment of displaced students  
24 under section 111.

1 (b) REPORT TO CONGRESS.—Not later October 30,  
2 2006, the Secretary shall submit to the Committee on  
3 Education and the Workforce of the House of Representa-  
4 tives, the Committee on Health, Education, Labor, and  
5 Pensions of the Senate, and the respective Committees on  
6 Appropriations the report described in subsection (a), and  
7 any comments the Secretary may have with respect to  
8 such report.

Passed the House of Representatives November 16,  
2005.

Attest:

JEFF TRANDAHL,

*Clerk.*