

109TH CONGRESS
1ST SESSION

S. 1695

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

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 13, 2005

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

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Hurricane Katrina
5 Food Assistance Relief Act of 2005”.

6 **SEC. 2. DEFINITION OF SECRETARY.**

7 In this Act, the term “Secretary” means the Sec-
8 retary of Agriculture.

1 **SEC. 3. FOOD STAMP PROGRAM DISASTER AUTHORITY.**

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

5 “(4) RESPONSE TO HURRICANE KATRINA.—

6 “(A) DEFINITIONS.—In this paragraph:

7 “(i) AFFECTED AREA.—

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

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

16 “(aa) a natural disaster declara-
17 tion under section 321(a) of the Con-
18 solidated Farm and Rural Develop-
19 ment Act (7 U.S.C. 1961(a)); or

20 “(bb) a major disaster or emer-
21 gency designation under the Robert T.
22 Stafford Disaster Relief and Emer-
23 gency Assistance Act (42 U.S.C. 5121
24 et seq.).

25 “(ii) AFFECTED HOUSEHOLD.—

1 “(I) IN GENERAL.—The term ‘af-
2 fected household’ means a household—

3 “(aa) in an affected area;

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

7 “(cc) that was displaced as a re-
8 sult of Hurricane Katrina or a related
9 condition to other areas of the same
10 or another State; or

11 “(dd) that the Secretary deter-
12 mines should receive relief under this
13 paragraph as a result of Hurricane
14 Katrina or a related condition.

15 “(II) INCLUSION.—The term ‘affected
16 household’ includes a household containing
17 1 or more individuals that were displaced
18 as a result of Hurricane Katrina or a re-
19 lated condition, as determined by the Sec-
20 retary.

21 “(iii) DISASTER RECOVERY PERIOD.—

22 “(I) IN GENERAL.—The term ‘dis-
23 aster recovery period’ means the period of
24 180 days beginning on the date of enact-
25 ment of this paragraph.

1 “(II) EXTENSION.—The disaster re-
 2 covery period shall be extended for another
 3 180 days unless the President determines
 4 that the extension is not necessary to fully
 5 meet the needs of affected households.

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

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

12 “(ii) the application of an affected house-
 13 hold shall be processed under the procedures es-
 14 tablished under section 11(e)(9);

15 “(iii) the State agency shall increase the
 16 value to the affected household of the thrifty
 17 food plan determined under section 3(o) by 10
 18 percent when calculating the value of the allot-
 19 ment for an affected household under section
 20 8(a);

21 “(iv) the Secretary shall pay each State
 22 agency an amount equal to 100 percent of ad-
 23 ministrative costs allowable under section 16(a)
 24 related to serving affected households in lieu of

1 the payments section 16(a) would otherwise re-
2 quire for those costs;

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

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

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

21 “(viii) an affected household may not be
22 considered to customarily purchase food and
23 prepare meals together with other individuals if
24 the affected household did not customarily pur-
25 chase food and prepare meals for home con-

1 sumption with those individuals immediately
2 prior to August 29, 2005; and

3 “(ix) for purposes of determining the eligi-
4 bility of an affected household, any immigrant
5 lawfully present in the United States shall be
6 treated in the same manner as a refugee eligible
7 under section 402(a)(2)(A)(i) of the Personal
8 Responsibility and Work Opportunity Reconcili-
9 ation Act of 1996 (8 U.S.C. 1612(a)(2)(A)(i)).

10 “(C) DUPLICATE PARTICIPATION.—

11 “(i) IN GENERAL.—The Secretary shall
12 take such actions as are prudent and reasonable
13 under the circumstances to identify affected
14 households that are participating in more than
15 1 State and to terminate the duplicate partici-
16 pation of those households.

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

23 “(D) CLAIMS RELATING TO BENEFITS.—Except
24 in the case of intentional program violations as de-
25 termined under section 6(b), no claim may be estab-

lished under section 13(b) relating to benefits issued under this subsection.

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

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

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

“(ii) provides assistance to more individuals.”.

(b) PROGRAM INFORMATION ACTIVITIES.—

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

1 needs resulting from Hurricane Katrina or a related
2 condition.

3 (2) EXPEDITING PROVISIONS.—Notwith-
4 standing any other provision of law, the Secretary
5 shall not be required—

6 (A) to provide public notice of the avail-
7 ability of funds described in paragraph (1); or

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

10 **SEC. 4. EMERGENCY FOOD ASSISTANCE PROGRAM AND**
11 **SECTION 32 ASSISTANCE.**

12 (a) DEFINITION OF ELIGIBLE RECIPIENT.—In this
13 section, the term “eligible recipient” means an individual
14 or household that, as determined by the Secretary in con-
15 sultation with the Secretary of Homeland Security—

16 (1) is a victim of Hurricane Katrina or a re-
17 lated condition;

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

20 (3) is temporarily housing 1 or more individuals
21 displaced by Hurricane Katrina or a related condi-
22 tion.

23 (b) ASSISTANCE.—

24 (1) IN GENERAL.—Notwithstanding any other
25 provision of law, in addition to funds otherwise made

1 available for fiscal year 2005 or 2006 to carry out
2 the emergency food assistance program established
3 under the Emergency Food Assistance Act of 1983
4 (7 U.S.C. 7501 et seq.), out of any funds in the
5 Treasury not otherwise appropriated, the Secretary
6 of the Treasury shall transfer to the Secretary of
7 Agriculture \$200,000,000 to remain available until
8 expended to provide a variety of food to eligible re-
9 cipient agencies for providing food assistance to eli-
10 gible recipients, including—

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

14 (B) infant formula;

15 (C) bottled water; and

16 (D) fruit juices.

17 (2) USE OF FUNDS.—Funds made available
18 under paragraph (1) may be used to provide com-
19 modities in accordance with—

20 (A) section 27 of the Food Stamp Act of
21 1977 (7 U.S.C. 2036);

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

24 (C) section 204 of the Emergency Food
25 Assistance Act of 1983 (7 U.S.C. 7508).

1 (3) RECEIPT AND ACCEPTANCE.—The Sec-
2 retary shall be entitled to receive, shall accept, and
3 shall use to carry out this section the funds trans-
4 ferred under paragraph (1), without further appro-
5 priation.

6 (c) SECTION 32 FUNDING.—In addition to funds oth-
7 erwise made available under section 32 of the Act of Au-
8 gust 24, 1935 (7 U.S.C. 612c), the Secretary shall use
9 not less than \$200,000,000 of funds made available under
10 that section to provide food assistance to eligible recipi-
11 ents, including food described in subparagraphs (A)
12 through (D) of subsection (b)(1).

13 **SEC. 5. CHILD NUTRITION PROGRAMS.**

14 (a) DEFINITION OF DISASTER RECOVERY PERIOD.—

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

18 (2) EXTENSION.—The disaster recovery period
19 shall be extended for another 180 days unless the
20 President determines that the extension is not nec-
21 essary to fully meet the needs of affected house-
22 holds.

23 (b) CHILD NUTRITION PROGRAMS DISASTER AU-
24 THORITY.—After consultation with the official empowered
25 to exercise the authority provided for by sections 402 and

1 502 of the Robert. T. Stafford Disaster Relief and Emer-
2 gency Assistance Act (42 U.S.C. 5170a, 5192), the Sec-
3 retary may modify the conditions for assistance for pro-
4 grams authorized under the Richard B. Russell National
5 School Lunch Act (42 U.S.C. 1751 et seq.) and the Child
6 Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) during
7 the disaster recovery period for households that are vic-
8 tims of a disaster or in areas affected by the disaster if
9 the households are in need of temporary food assistance.

10 **SEC. 6. WIC FUNDING.**

11 (a) IN GENERAL.—Out of any funds in the Treasury
12 not otherwise appropriated, in addition to other funds oth-
13 erwise made available to the Secretary for fiscal year 2005
14 or 2006 to carry out the special supplemental nutrition
15 program for women, infants, and children established by
16 section 17 of the Child Nutrition Act of 1966 (42 U.S.C.
17 1786), the Secretary of the Treasury shall transfer to the
18 Secretary of Agriculture to carry out that program
19 \$200,000,000, to remain available until September 30,
20 2007.

21 (b) RECEIPT AND ACCEPTANCE.—The Secretary
22 shall be entitled to receive, shall accept, and shall use to
23 carry out this section the funds transferred under sub-
24 section (a), without further appropriation.

1 (c) EMERGENCY DESIGNATION.—The amounts made
 2 available by the transfer of funds in or pursuant to sub-
 3 section (a) are designated as an emergency requirement
 4 pursuant to section 402 of H. Con. Res. 95 (109th Con-
 5 gress).

6 (d) ALLOCATION OF FUNDS.—Notwithstanding sec-
 7 tion 17(i) of the Child Nutrition Act of 1966 (42 U.S.C.
 8 1786(i)), the Secretary may allocate funds made available
 9 under subsection (a) as the Secretary determines to be
 10 necessary to provide assistance to women, infants, and
 11 children who, as determined by the Secretary in consulta-
 12 tion with the Secretary of Homeland Security—

13 (1) are victims of Hurricane Katrina or a re-
 14 lated condition; or

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

17 **SEC. 7. COMMODITY SUPPLEMENTAL FOOD PROGRAM**
 18 **FUNDING.**

19 (a) IN GENERAL.—Out of any funds in the Treasury
 20 not otherwise appropriated, in addition to other funds oth-
 21 erwise made available to the Secretary for fiscal year 2005
 22 or 2006 to carry out the commodity supplemental food
 23 program established under section 5 of the Agriculture
 24 and Consumer Protection Act of 1973 (7 U.S.C. 612c
 25 note; Public Law 93–86), the Secretary of the Treasury

1 shall transfer to the Secretary of Agriculture \$20,000,000
2 to carry out that program.

3 (b) RECEIPT AND ACCEPTANCE.—The Secretary
4 shall be entitled to receive, shall accept, and shall use to
5 carry out this section the funds transferred under sub-
6 section (a), without further appropriation.

7 (c) EMERGENCY DESIGNATION.—The amounts made
8 available by the transfer of funds in or pursuant to sub-
9 section (a) are designated as an emergency requirement
10 pursuant to section 402 of H. Con. Res. 95 (109th Con-
11 gress).

12 (d) ALLOCATION OF FUNDS.—The Secretary shall
13 use funds made available under subsection (a) as the Sec-
14 retary determines to be necessary to provide assistance to
15 individuals who, as determined by the Secretary in con-
16 sultation with the Secretary of Homeland Security—

17 (1) are victims of Hurricane Katrina or a re-
18 lated condition; or

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

21 **SEC. 8. REPORT.**

22 Not later than 180 days after the date of enactment
23 of this Act, the Secretary, in consultation with the Sec-
24 retary of Homeland Security, shall submit to the Com-
25 mittee on Agriculture of the House of Representatives and

1 the Committee on Agriculture, Nutrition, and Forestry of
2 the Senate a report that—

3 (1) describes whether additional funding or au-
4 thority is needed to continue to address the food
5 needs of eligible recipients; and

6 (2) includes any determination by the President
7 under section 5(h)(4)(A)(iii)(II) of the Food Stamp
8 Act of 1977 (as added by section 3(a)) that an ex-
9 tension of the disaster recovery period is not nec-
10 essary to fully meet the needs of affected house-
11 holds.

12 **SEC. 9. REGULATIONS.**

13 (a) IN GENERAL.—The Secretary may promulgate
14 such regulations as are necessary to implement this Act.

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

18 (1) the notice and comment provisions of sec-
19 tion 553 of title 5, United States Code;

20 (2) the Statement of Policy of the Secretary of
21 Agriculture effective July 24, 1971 (36 Fed. Reg.
22 13804), relating to notices of proposed rulemaking
23 and public participation in rulemaking; and

1 (3) chapter 35 of title 44, United States Code
2 (commonly known as the “Paperwork Reduction
3 Act”).

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

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