

110TH CONGRESS
2^D SESSION

H. R. 6733

To provide assistance to local educational agencies in areas of the Midwest adversely affected by storms and severe flooding that occurred in May and June, 2008, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 31, 2008

Mr. HARE (for himself, Mr. LOEBSACK, Mr. DAVIS of Illinois, Mr. BRALEY of Iowa, Mr. BOSWELL, Mr. LATHAM, Mr. JACKSON of Illinois, Mr. SHIMKUS, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To provide assistance to local educational agencies in areas of the Midwest adversely affected by storms and severe flooding that occurred in May and June, 2008, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Midwest Schools Dis-
5 aster Recovery Act”.

1 **SEC. 2. DEFINITIONS.**

2 Unless otherwise specified in this Act, the terms used
3 in this Act have the meanings given the terms in section
4 9101 of the Elementary and Secondary Education Act of
5 1965 (20 U.S.C. 7801).

6 **SEC. 3. IMMEDIATE AID TO RESTART SCHOOL OPERATIONS.**

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

8 (1) to provide immediate services or assistance
9 to local educational agencies in Illinois, Indiana,
10 Iowa, Michigan, Minnesota, Missouri, and Wisconsin
11 that serve an area in which a major disaster has
12 been declared in accordance with section 401 of the
13 Robert T. Stafford Disaster Relief and Emergency
14 Assistance Act (42 U.S.C. 5170), related to storms
15 and severe flooding in the Midwest during the
16 months of May and June, 2008;

17 (2) to assist school administrators and per-
18 sonnel of such agencies with expenses related to the
19 restart of operations in, the re-opening of, and the
20 re-enrollment of students in, public elementary
21 schools and secondary schools in such areas; and

22 (3) to assist education service agencies with ex-
23 penses related to the continuation of services pro-
24 vided to public elementary and secondary schools in
25 such areas.

1 (b) PAYMENTS AUTHORIZED.—From amounts appro-
2 priated to carry out this Act, the Secretary of Education
3 is authorized to make payments, on such basis as the Sec-
4 retary determines appropriate, taking into consideration
5 the number of students who were enrolled, during the
6 2007–2008 school year, in elementary schools and sec-
7 ondary schools that were adversely impacted by the Mid-
8 west floods of May and June 2008 to State educational
9 agencies in Illinois, Indiana, Iowa, Michigan, Minnesota,
10 Missouri, and Wisconsin to enable such agencies to pro-
11 vide services or assistance to local educational agencies
12 serving an area in which a major disaster has been de-
13 clared in accordance with section 401 of the Robert T.
14 Stafford Disaster Relief and Emergency Assistance Act
15 (42 U.S.C. 5170), related to severe storms and flooding
16 in the Midwest during the months of May and June.

17 (c) ELIGIBILITY, CONSIDERATION, AND EQUITY.—
18 From the payment provided by the Secretary of Education
19 under subsection (b), the State educational agency shall
20 provide services and assistance to local educational agen-
21 cies consistent with the provisions of this section. In deter-
22 mining the amount to be provided for services or assist-
23 ance under this section, the State educational agency shall
24 consider the following:

1 (1) The number of school-aged children served
2 by the local educational agency in the academic year
3 preceding the academic year for which the services
4 or assistance are provided, or in the case of an edu-
5 cation service agency, the number of school-aged
6 children served by public elementary and secondary
7 schools within the education service agency area.

8 (2) The severity of the impact of the Midwest
9 floods of May and June 2008 on the local edu-
10 cational agency and the extent of the needs in each
11 local educational agency in Illinois, Indiana, Iowa,
12 Michigan, Minnesota, Missouri, and Wisconsin that
13 is in an area in which a major disaster has been de-
14 clared in accordance with section 401 of the Robert
15 T. Stafford Disaster Relief and Emergency Assist-
16 ance Act (42 U.S.C. 5170), related to severe storms
17 and flooding in the Midwest during the months of
18 May and June.

19 (3) The cost of operating schools in geographi-
20 cally isolated and rural areas to ensure propor-
21 tionate distribution of funds.

22 (4) After making allocations to eligible local
23 education agencies, any remaining funds shall be
24 distributed to education service agencies serving an
25 area in Illinois, Indiana, Iowa, Michigan, Minnesota,

1 Missouri, and Wisconsin that serve an area in which
2 a major disaster has been declared in accordance
3 with section 401 of the Stafford Act, related to
4 storms and severe flooding in the Midwest during
5 the months of May and June 2008.

6 (d) APPLICATIONS.—Each local educational agency
7 desiring services or assistance under this section shall sub-
8 mit an application to the State educational agency at such
9 time, in such manner, and accompanied by such informa-
10 tion as the State educational agency may reasonably re-
11 quire to ensure expedited and timely provision of services
12 or assistance to the local educational agency.

13 (e) USES OF FUNDS.—

14 (1) IN GENERAL.—A local educational agency
15 or education service agency receiving services or as-
16 sistance from the State educational agency under
17 this section shall use such services or assistance
18 for—

19 (A) recovery of student and personnel
20 data, and other electronic information;

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

23 (C) financial operations;

24 (D) reasonable transportation costs;

1 (E) rental of mobile educational units and
2 leasing of neutral sites or spaces;

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

5 (G) redeveloping instructional plans, in-
6 cluding curriculum development;

7 (H) initiating and maintaining education
8 and support services, including specialized in-
9 structional support services; and

10 (I) such other activities related to the pur-
11 pose of this section that are approved by the
12 Secretary.

13 (2) USE WITH OTHER AVAILABLE FUNDS.—A
14 local educational agency receiving services or assist-
15 ance under this section may use such services or as-
16 sistance in coordination with other Federal, State, or
17 local funds available for the activities described in
18 paragraph (1).

19 (3) SPECIAL RULES.—Services or assistance
20 provided under this section shall not be used for
21 construction or major renovation of schools or edu-
22 cation service agencies.

23 (f) SUPPLEMENT NOT SUPPLANT.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2), services or assistance made available

1 under this section shall be used to supplement, not
2 supplant, any funds made available through the Fed-
3 eral Emergency Management Agency or through a
4 State.

5 (2) EXCEPTION.—Paragraph (1) shall not pro-
6 hibit the provision of Federal assistance under this
7 section to an eligible State educational agency or
8 local educational agency that is or may be entitled
9 to receive, from another source, benefits for the
10 same purposes as under this section if—

11 (A) such State educational agency or local
12 educational agency has not received such other
13 benefits by the time of application for Federal
14 assistance under this section; and

15 (B) such State educational agency or local
16 educational agency, agrees to repay all duplica-
17 tive Federal assistance received to carry out the
18 purposes of this section.

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

22 **SEC. 4. HOLD HARMLESS FOR LOCAL EDUCATIONAL AGEN-**
23 **CIES SERVING MAJOR DISASTER AREAS.**

24 In the case of a local educational agency that serves
25 an area in which the President has declared that a major

1 disaster exists in accordance with section 401 of the Rob-
2 ert T. Stafford Disaster Relief and Emergency Assistance
3 Act (42 U.S.C. 5170), related to severe storms and flood-
4 ing in the Midwest during the months of May and June,
5 the amount made available for such local educational
6 agency under each of sections 1124, 1124A, 1125, and
7 1125A of the Elementary and Secondary Education Act
8 of 1965 (20 U.S.C. 6333, 6334, 6335, and 6337) for fiscal
9 year 2009 shall be not less than the amount made avail-
10 able for such local educational agency under each of such
11 sections for fiscal year 2008.

12 **SEC. 5. REGULATORY AND FINANCIAL RELIEF.**

13 (a) WAIVER AUTHORITY.—Subject to subsections (b)
14 and (c), in providing any grant or other assistance, di-
15 rectly or indirectly, to an entity in an affected State in
16 which a major disaster has been declared in accordance
17 with section 401 of the Robert T. Stafford Disaster Relief
18 and Emergency Assistance Act (42 U.S.C. 5170), related
19 to storms and severe flooding in the Midwest during the
20 months of May and June 2008, the Secretary of Edu-
21 cation may, as applicable, waive or modify, in order to ease
22 fiscal burdens, any requirement relating to the following:

- 23 (1) Maintenance of effort.
- 24 (2) The use of Federal funds to supplement,
25 not supplant, non-Federal funds.

1 (3) Any non-Federal share or capital contribu-
2 tion required to match Federal funds provided under
3 programs administered by the Secretary of Edu-
4 cation.

5 (b) DURATION.—A waiver under this section shall be
6 for the fiscal year 2009 and each subsequent fiscal year,
7 if necessary.

8 (c) LIMITATIONS.—

9 (1) RELATION TO IDEA.—Nothing in this sec-
10 tion shall be construed to waive or modify any provi-
11 sion of the Individuals with Disabilities Education
12 Act (20 U.S.C. 1400 et seq.).

13 (2) MAINTENANCE OF EFFORT.—If the Sec-
14 retary grants a waiver or modification under this
15 section waiving or modifying a requirement relating
16 to maintenance of effort for fiscal year 2009, the
17 level of effort required for fiscal year 2010 shall not
18 be reduced because of the waiver or modification.

19 **SEC. 6. TEMPORARY EMERGENCY IMPACT AID FOR DIS-**
20 **PLACED STUDENTS.**

21 (a) TEMPORARY EMERGENCY IMPACT AID AUTHOR-
22 IZED.—

23 (1) AID TO STATE EDUCATIONAL AGENCIES.—
24 From amounts appropriated to carry out this Act,
25 the Secretary of Education shall provide emergency

1 impact aid to State educational agencies to enable
2 the State educational agencies to make emergency
3 impact aid payments to eligible local educational
4 agencies and eligible BIA-funded schools to enable
5 such eligible local educational agencies and schools
6 to provide for the instruction of students served by
7 such agencies and schools.

8 (2) AID TO LOCAL EDUCATIONAL AGENCIES
9 AND BIA-FUNDED SCHOOLS.—A State educational
10 agency shall make emergency impact aid payments
11 to eligible local educational agencies and eligible
12 BIA-funded schools in accordance with subsection
13 (d).

14 (3) NOTICE OF FUNDS AVAILABILITY.—Not
15 later than 14 calendar days after the date of enact-
16 ment of this Act, the Secretary of Education shall
17 publish in the Federal Register a notice of the avail-
18 ability of funds under this section.

19 (b) DEFINITIONS.—In this section:

20 (1) DISPLACED STUDENT.—The term “dis-
21 placed student” means a student who enrolled in an
22 elementary school or secondary school (other than
23 the school that the student was enrolled in, or was
24 eligible to be enrolled in, the 2007–2008 school year)
25 because such student resides or resided on May 1,

1 2008, in an area for which a major disaster has
2 been declared in accordance with section 401 of the
3 Robert T. Stafford Disaster Relief and Emergency
4 Assistance Act (42 U.S.C. 5170), related to severe
5 storms and flooding in the Midwest during the
6 months of May and June.

7 (2) ELIGIBLE LOCAL EDUCATIONAL AGEN-
8 CIES.—The term “eligible local educational agency”
9 means a local educational agency that serves an ele-
10 mentary school or secondary school which there is
11 enrolled a displaced student.

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

16 (c) APPLICATION.—

17 (1) STATE EDUCATIONAL AGENCY.—A State
18 educational agency that desires to receive emergency
19 impact aid under this section shall submit an appli-
20 cation to the Secretary of Education, not later than
21 14 calendar days after the date by which an applica-
22 tion under paragraph (2) must be submitted, in such
23 manner, and accompanied by such information as
24 the Secretary of Education may reasonably require,
25 including information on the total displaced student

1 child count of the State provided by eligible local
2 educational agencies in the State and eligible BIA-
3 funded schools in the State under paragraph (2).

4 (2) LOCAL EDUCATIONAL AGENCIES AND BIA-
5 FUNDED SCHOOLS.—An eligible local educational
6 agency or eligible BIA-funded school that desires an
7 emergency impact aid payment under this section
8 shall submit an application to the State educational
9 agency, not later than 14 calendar days after the
10 date of the publication of the notice described in
11 subsection (a)(4), in such manner, and accompanied
12 by such information as the State educational agency
13 may reasonably require, including documentation
14 submitted quarterly for the 2007–2008 school year
15 that indicates the following:

16 (A) In the case of an eligible local edu-
17 cational agency, the number of displaced stu-
18 dents enrolled in the elementary schools and
19 secondary schools (and including the number of
20 displaced students who are children with dis-
21 abilities) served by such agency for such quar-
22 ter.

23 (B) In the case of an eligible BIA-funded
24 school, the number of displaced students, in-
25 cluding the number of displaced students who

1 are children with disabilities, enrolled in such
2 school for such quarter.

3 (3) DETERMINATION OF NUMBER OF DIS-
4 PLACED STUDENTS.—In determining the number of
5 displaced students for a quarter under paragraph
6 (2), an eligible local educational agency or eligible
7 BIA-funded school shall include the number of dis-
8 placed students served in the case of a determination
9 for each quarterly installment, during the quarter
10 immediately preceding the quarter for which the in-
11 stallment is provided.

12 (d) AMOUNT OF EMERGENCY IMPACT AID.—

13 (1) AID TO STATE EDUCATIONAL AGENCIES.—

14 (A) IN GENERAL.—The amount of emer-
15 gency impact aid received by a State edu-
16 cational agency for the 2008–2009 school year
17 shall equal the sum of—

18 (i) the product of the number of dis-
19 placed students (who are not children with
20 disabilities), as determined by the eligible
21 local educational agencies and eligible BIA-
22 funded schools in the State under sub-
23 section (c)(2), times \$7,000; and

24 (ii) the product of the number of dis-
25 placed students who are children with dis-

1 abilities, as determined by the eligible local
2 educational agencies and eligible BIA-fund-
3 ed schools in the State under subsection
4 (c)(2), times \$8,500.

5 (B) INSUFFICIENT FUNDS.—If the amount
6 available under this section to provide emer-
7 gency impact aid under this subsection is insuf-
8 ficient to pay the full amount that a State edu-
9 cational agency is eligible to receive under this
10 section, the Secretary of Education shall rat-
11 ably reduce the amount of such emergency im-
12 pact aid.

13 (2) AID TO ELIGIBLE LOCAL EDUCATIONAL
14 AGENCIES AND ELIGIBLE BIA-FUNDED SCHOOLS.—

15 (A) IN GENERAL.—A State educational
16 agency shall provide emergency impact aid pay-
17 ments under this section on a quarterly basis
18 for the 2008–2009 school year by such dates as
19 determined by the Secretary of Education. Such
20 quarterly installment payments shall be based
21 on the number of displaced students reported
22 under subsection (c)(2) and in the amount de-
23 termined under subparagraph (B).

1 (B) PAYMENT AMOUNT.—Each quarterly
2 installment payment under subparagraph (A)
3 shall equal 25 percent of the sum of—

4 (i) the number of displaced students
5 (who are not children with disabilities) re-
6 ported by the eligible local educational
7 agency or eligible BIA-funded school for
8 such quarter (as determined under sub-
9 section (c)(2)) times \$7,000; and

10 (ii) the number of displaced students
11 who are children with disabilities reported
12 by the eligible local educational agency or
13 eligible BIA-funded school for such quarter
14 (as determined under subsection (c)(2))
15 times \$8,500.

16 (C) TIMELINE.—The Secretary of Edu-
17 cation shall establish a timeline for quarterly
18 reporting on the number of displaced students
19 in order to make the appropriate disbursements
20 in a timely manner.

21 (D) INSUFFICIENT FUNDS.—If, for any
22 quarter, the amount available under this section
23 to make payments under this subsection is in-
24 sufficient to pay the full amount that an eligible
25 local educational agency or eligible BIA-funded

1 school is eligible to receive under this section,
2 the State educational agency shall ratably re-
3 duce the amount of such payments.

4 (3) DISPLACED STUDENTS.—Subject to the
5 succeeding sentence, an eligible local educational
6 agency or eligible BIA-funded school receiving emer-
7 gency impact aid payments under this section shall
8 use the payments to provide services and assistance
9 to elementary schools and secondary schools (includ-
10 ing charter schools) served by such agency, or to
11 such BIA-funded school, that enrolled a displaced
12 student.

13 (e) USE OF FUNDS.—

14 (1) AUTHORIZED USES.—The authorized uses
15 of funds are the following:

16 (A) Paying the compensation of personnel,
17 including teacher aides, in schools enrolling dis-
18 placed students.

19 (B) Identifying and acquiring curricular
20 material, including the costs of providing addi-
21 tional classroom supplies, and mobile edu-
22 cational units and leasing sites or spaces.

23 (C) Basic instructional services for such
24 students, including tutoring, mentoring, or aca-
25 demic counseling.

1 (D) Reasonable transportation costs.

2 (E) Health and counseling services.

3 (F) Education and support services.

4 (2) PROHIBITION.—Funds received under this
5 section shall not be used for construction or major
6 renovation of schools.

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

9 (A) IN GENERAL.—In the case of a dis-
10 placed student who is a child with a disability,
11 any payment made on behalf of such student to
12 an eligible local educational agency shall be
13 used to pay for special education and related
14 services consistent with the Individuals with
15 Disabilities Education Act (20 U.S.C. 1400 et
16 seq.).

17 (B) DEFINITIONS.—In this paragraph:

18 (i) SPECIAL EDUCATION; RELATED
19 SERVICES.—The terms “special education”
20 and “related services” have the meaning
21 given such terms in section 602 of the In-
22 dividuals with Disabilities Education Act
23 (20 U.S.C. 1401).

24 (ii) INDIVIDUALIZED EDUCATION PRO-
25 GRAM.—The term “individualized edu-

1 cation program” has the meaning given
2 the term in section 614(d)(2) of the Indi-
3 viduals with Disabilities Education Act (20
4 U.S.C. 1414(d)(2)).

5 (f) RETURN OF AID.—

6 (1) ELIGIBLE LOCAL EDUCATIONAL AGENCY OR
7 ELIGIBLE BIA-FUNDED SCHOOL.—An eligible local
8 educational agency or eligible BIA-funded school
9 that receives an emergency impact aid payment
10 under this section shall return to the State edu-
11 cational agency any payment provided to the eligible
12 local educational agency under this section that the
13 eligible local educational agency has not obligated by
14 the end of the 2008–2009 school year in accordance
15 with this section.

16 (2) STATE EDUCATIONAL AGENCY.—A State
17 educational agency that receives emergency impact
18 aid under this section, shall return to the Secretary
19 of Education—

20 (A) any aid provided to the agency under
21 this section that the agency has not obligated
22 by the end of the 2008–2009 school year in ac-
23 cordance with this section; and

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

1 (g) LIMITATION ON USE OF AID AND PAYMENTS.—
2 Aid and payments provided under this section shall only
3 be used for expenses incurred during the 2008–2009
4 school year.

5 (h) ADMINISTRATIVE EXPENSES.—A State edu-
6 cational agency that receives emergency impact aid under
7 this section may use not more than 1 percent of such aid
8 for administrative expenses. An eligible local educational
9 agency or eligible BIA-funded school that receives emer-
10 gency impact aid payments under this section may use not
11 more than 2 percent of such payments for administrative
12 expenses.

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

1 (j) GENERAL PROVISION.—Nothing in this Act may
2 be construed to alter or modify the provisions of the Indi-
3 viduals with Disabilities Education Act (20 U.S.C. 1400
4 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C.
5 2000d et seq.), title IX of the Education Amendments of
6 1972 (20 U.S.C. 1681 et seq.), and the Rehabilitation Act
7 of 1973 (29 U.S.C. 701 et seq.).

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

14 (l) AUTHORIZATION OF APPROPRIATIONS.—There
15 are authorized to be appropriated to carry out this section
16 such sums as may be necessary.

17 **SEC. 7. ASSISTANCE FOR HOMELESS YOUTH.**

18 (a) IN GENERAL.—The Secretary of Education shall
19 provide assistance to local educational agencies serving
20 children and youth who are homeless as a result of storms
21 and severe flooding in the Midwest during the months of
22 May and June, 2008, consistent with section 723 of the
23 McKinney-Vento Homeless Assistance Act (42 U.S.C.
24 11433), including identification, enrollment assistance, as-
25 sessment and school placement assistance, transportation,

1 coordination of school services, supplies, referrals for
2 health, mental health, and other needs.

3 (b) EXCEPTION AND DISTRIBUTION OF FUNDS.—

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

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

20 (c) COORDINATION.—Services provided under this
21 section shall be provided in coordination and collaboration
22 with the local educational agency liaison designated under
23 section 722(g)(1)(J)(ii) of the McKinney-Vento Homeless
24 Assistance Act (42 U.S.C. 11432(g)(1)(J)(ii)).

1 (d) ENSURING BENEFITS.—Children and youth who
2 are homeless, as such term is defined in section 725(2) of
3 the McKinney-Vento Homeless Assistance Act (42 U.S.C.
4 11434a(2)), as a result of storms and severe flooding in
5 the Midwest during the months of May and June, 2008,
6 shall be eligible for all the rights and services provided
7 to homeless children and youth under subtitle B of title
8 VIII of the McKinney-Vento Homeless Assistance Act (42
9 U.S.C. 11431 et seq.), the Head Start Act (42 U.S.C.
10 9801 et seq.), the Individuals with Disabilities Education
11 Act (20 U.S.C. 1400), and the Child Nutrition Act (42
12 U.S.C. 1751).

13 (e) CLARIFICATION.—Children and youth who have
14 obtained a permanent residence are no longer eligible for
15 services under this section.

16 (f) AUTHORIZATION OF APPROPRIATIONS.—There
17 are authorized to be appropriated to carry out this section
18 such sums as may be necessary.

19 **SEC. 8. SUNSET PROVISION.**

20 This Act shall be effective for the period beginning
21 on the date of enactment of this Act and ending on August
22 1, 2009.

○