

109TH CONGRESS
1ST SESSION

H. R. 4097

To direct the Secretary of Education to establish a Family Education Reimbursement Account Program to assist hurricane displaced students during the 2005–2006 school year, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 20, 2005

Mr. BOEHNER (for himself, Mr. BLUNT, Mr. JINDAL, Mr. SAM JOHNSON of Texas, Mr. WILSON of South Carolina, Mr. KLINE, Mrs. MUSGRAVE, Miss McMORRIS, Mr. MARCHANT, Mr. FORTUÑO, Mr. BOUSTANY, Ms. FOXX, Mrs. DRAKE, Mr. BARTLETT of Maryland, Mr. HOEKSTRA, Mr. WELDON of Florida, Mr. WICKER, Mr. BRADY of Texas, Mr. PITTS, Mr. SESSIONS, Mr. CULBERSON, Mr. BURGESS, Mr. COLE of Oklahoma, Mr. FRANKS of Arizona, Mr. GINGREY, Mr. MCHENRY, Mr. POE, and Mr. DELAY) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To direct the Secretary of Education to establish a Family Education Reimbursement Account Program to assist hurricane displaced students during the 2005–2006 school year, 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 “Family Education Re-
5 imbursement Act of 2005”.

1 **SEC. 2. FAMILY EDUCATION REIMBURSEMENT ACCOUNTS.**

2 (a) ESTABLISHMENT.—The Secretary of Education,
3 in consultation with the Secretary of Health and Human
4 Services, shall—

5 (1) establish a Family Education Reimburse-
6 ment Account Program under which, at the direction
7 of the parent of each displaced student who signs up
8 under subsection (d), the Secretary provides reim-
9 bursement to enable the student or preschool-age
10 child to attend the school or preschool program of
11 his or her parent’s choice during the 2005–2006
12 school year;

13 (2) of the amount available to carry out this
14 section for fiscal year 2006, use not more than one
15 third of one percent of such amount for administra-
16 tive expenses, including outreach, support services,
17 and dissemination of information; and

18 (3) contract with a nongovernmental entity to
19 administer and operate the program.

20 (b) REIMBURSEMENT.—

21 (1) IN GENERAL.—In carrying out this section,
22 the Secretary—

23 (A) shall allow the parent of the partici-
24 pating displaced student to select the school or
25 preschool program to be attended by the stu-
26 dent during the 2005–2006 school year;

1 (B) at the direction of the parent, shall
2 provide reimbursement to that school or pre-
3 school program on a quarterly basis; and

4 (C) in the case of a public school, may pro-
5 vide such reimbursement to the appropriate
6 local fiscal agent for the school.

7 (2) AMOUNT.—In providing reimbursement
8 under paragraph (1), the Secretary shall—

9 (A) determine the amount of reimburse-
10 ment to a school or preschool program based on
11 the number of weeks during which the partici-
12 pating displaced student attended the school or
13 preschool program during the preceding quar-
14 ter;

15 (B) subject to subparagraph (C), provide
16 the same amount of reimbursement to each
17 school and preschool program for each week of
18 attendance by one participating displaced stu-
19 dent;

20 (C) not provide reimbursement that ex-
21 ceeds the actual cost of the school for educating
22 students, or the actual cost of the preschool
23 program, for the same period for students who
24 are not displaced students;

1 (D) not provide reimbursement of more
2 than \$6,700 on behalf of any student for the
3 2005–2006 school year; and

4 (E) discontinue reimbursement once a dis-
5 placed student returns to the school he or she
6 attended prior to August 29, 2005.

7 (3) USE OF FUNDS.—The Secretary may pro-
8 vide reimbursement under paragraph (1) on behalf
9 of a displaced student only if the school or preschool
10 program involved agrees—

11 (A) to use the reimbursement for providing
12 educational and other services to the displaced
13 student; and

14 (B) not to use the reimbursement for the
15 construction or renovation of facilities.

16 (c) ACCOUNTING OF FUNDS.—The Secretary shall
17 provide an appropriate accounting of funds for each school
18 or program that receives a payment on behalf of one or
19 more participating displaced students under this section.

20 (d) REGISTRATION.—

21 (1) IN GENERAL.—To seek to participate in the
22 program under this section, the parent of a dis-
23 placed student shall sign up by means of the Inter-
24 net site, toll-free telephone number, or paper form
25 developed under subsection (e).

1 (2) ACCOUNT NUMBERS.—Upon completion of
2 registration for the program under this section—

3 (A) the displaced student shall be assigned
4 an account number; and

5 (B) the account number shall be made
6 available to the parent of the student.

7 (3) FAMILIES.—If a parent has more than one
8 child who is a displaced student—

9 (A) the parent shall be allowed to register
10 each child under this subsection at the same
11 time; and

12 (B) the same account number under para-
13 graph (2) shall be provided to each child.

14 (e) FERA SYSTEM DEVELOPMENT AND ESTABLISH-
15 MENT.—

16 (1) IN GENERAL.—The Secretary shall develop
17 and implement a web-based system—

18 (A) to support the registration in the pro-
19 gram under this section of displaced students
20 by means of an Internet site, toll-free telephone
21 number, or paper form; and

22 (B) to facilitate the timely payment of
23 funds from the accounts of families partici-
24 pating in the program under this section to the
25 school or preschool program authorized to be

1 reimbursed for educational and other services
2 rendered.

3 (2) SYSTEM REQUIREMENTS.—

4 (A) INTERNET SITE; TOLL-FREE TELE-
5 PHONE NUMBER; PAPER FORM.—The Internet
6 site and toll-free telephone number developed
7 pursuant to paragraph (1)—

8 (i) shall be integrated with each other;

9 (ii) shall, with respect to the toll-free
10 telephone number, not be fully automated;

11 (iii) shall be operational not later than
12 2 weeks after the date of the enactment of
13 this section;

14 (iv) shall include privacy controls, con-
15 sistent with section 444 of the General
16 Education Provisions Act (20 U.S.C.
17 1232g);

18 (v) shall be accessible to participating
19 displaced students and their parents for
20 the purpose of determining—

21 (I) the amount expended under
22 this section on the student's behalf to
23 date; and

1 (II) the amount remaining for
2 expenditure under this section on the
3 student's behalf;

4 (vi) shall be accessible to schools and
5 preschool programs for the purpose of fa-
6 cilitating reimbursement under subsection
7 (b);

8 (vii) shall support non-English speak-
9 ing parents by providing information and
10 registration in an understandable and uni-
11 form format and, to the extent practicable,
12 in a language the parents can understand;

13 (viii) may use existing Federal grant
14 management and electronic payment sys-
15 tems;

16 (ix) shall include information tech-
17 nology and other controls necessary to pre-
18 vent fraud and overpayment, including
19 mechanisms to validate family and school
20 information; and

21 (x) shall provide technical support
22 services (including support for registration
23 and processing of accounts) to the families
24 of participating displaced students and the

1 schools and preschool programs in which
2 the students are enrolled.

3 (B) PAYMENT SYSTEM.—The Secretary
4 shall ensure that—

5 (i) the payment system required to
6 carry out this section is operational not
7 later than 4 weeks after the date of the en-
8 actment of this section; and

9 (ii) the first disbursements under this
10 section are made not later than 5 weeks
11 after the date of the enactment of this sec-
12 tion.

13 (3) CONTRACTOR REQUIREMENTS.—The Sec-
14 retary shall award the contract required by sub-
15 section (a)(3) to a nongovernmental entity that—

16 (A) has experience meeting the require-
17 ments described in paragraph (2)(A);

18 (B) demonstrates expertise in the develop-
19 ment and operation of information technology
20 infrastructures, including the manufacture and
21 supply of hardware and software, information
22 management, electronic fund transfer payment
23 systems, and customer relations management
24 and outreach;

1 (C) demonstrates significant experience in
2 the development, implementation, and technical
3 support for payment management systems oper-
4 ated by agencies of the Federal Government, in-
5 cluding the Department of Education and the
6 Department of Health and Human Services;
7 and

8 (D) is based, and operates help desk serv-
9 ices, in the United States.

10 (f) TRANSFERRING STUDENTS.—

11 (1) IN GENERAL.—Subject to paragraph (2),
12 the Secretary shall continue to provide reimburse-
13 ment under this section on behalf of a participating
14 displaced student who transfers to one or more
15 schools or preschool programs during the 2005–
16 2006 school year.

17 (2) EXCEPTION.—The Secretary shall not pro-
18 vide reimbursement under this section on behalf of
19 a participating displaced student with respect to any
20 school or preschool program which the student at-
21 tends for less than 2 consecutive weeks during the
22 2005–2006 school year.

23 (g) ADDITIONAL AMOUNT FOR ADMINISTRATIVE EX-
24 PENSES.—In providing reimbursement to an entity under
25 this section—

1 (1) the Secretary shall include an additional
2 amount equal to 1 percent of the total amount of
3 such reimbursement to the entity for the purpose of
4 defraying administrative expenses;

5 (2) such additional amount shall not be counted
6 for purposes of the maximum reimbursement
7 amount specified in subsections (b)(2)(C) and
8 (b)(2)(D); and

9 (3) of the amount specified in subsections
10 (b)(2)(C) and (b)(2)(D), 100 percent of such
11 amount shall be made available to the school or pre-
12 school program.

13 (h) PROCUREMENT.—For purposes of the contract
14 required by subsection (a)(3), the following provisions of
15 Federal acquisition law shall not apply:

16 (1) Title III of the Federal Property and Ad-
17 ministrative Services Act of 1949 (41 U.S.C. 251 et
18 seq.).

19 (2) The Office of Federal Procurement Policy
20 Act (41 U.S.C. 403 et seq.).

21 (3) The Federal Acquisition Streamlining Act
22 of 1994 (Public Law 103–355).

23 (4) The Competition in Contracting Act.

24 (5) Subchapter V of chapter 35 of title 31, re-
25 lating to the procurement protest system.

1 (6) The Federal Acquisition Regulation and any
2 laws not listed in paragraphs (1) through (5) pro-
3 viding authority to promulgate regulations in the
4 Federal Acquisition Regulation.

5 (i) AUDIT.—The Secretary may provide reimburse-
6 ment under this section to a school or program on behalf
7 of a displaced student only if the school or program agrees
8 to allow the Secretary to conduct an audit to review and
9 verify that the school or program is using the reimburse-
10 ment in accordance with subsection (b)(3).

11 (j) NONDISCRIMINATION.—

12 (1) IN GENERAL.—The Secretary may provide
13 reimbursement under this section to a school or pre-
14 school program only if the school or program agrees
15 not to discriminate against participating displaced
16 students (including applicants) on the basis of race,
17 color, national origin, religion, or sex.

18 (2) APPLICABILITY AND SINGLE SEX SCHOOLS,
19 CLASSES, OR ACTIVITIES.—

20 (A) IN GENERAL.—Notwithstanding any
21 other provision of law, the prohibition of sex
22 discrimination in paragraph (1) shall not apply
23 to a school or preschool program that is oper-
24 ated by, supervised by, controlled by, or con-
25 nected to a religious organization to the extent

1 that the application of paragraph (1) is incon-
2 sistent with the religious tenets or beliefs of the
3 school or program.

4 (B) SINGLE SEX SCHOOLS, CLASSES, OR
5 ACTIVITIES.—Notwithstanding paragraph (1) or
6 any other provision of law, a parent may choose
7 and a school may offer a single sex school,
8 class, or activity.

9 (3) CHILDREN WITH DISABILITIES.—Nothing
10 in this section may be construed to alter or modify
11 the provisions of the Individuals with Disabilities
12 Education Act.

13 (4) RELIGIOUSLY AFFILIATED SCHOOLS.—

14 (A) IN GENERAL.—Notwithstanding any
15 other provision of law, a school or preschool
16 program receiving reimbursement under this
17 section that is operated by, supervised by, con-
18 trolled by, or connected to, a religious organiza-
19 tion may exercise its right in matters of em-
20 ployment consistent with title VII of the Civil
21 Rights Act of 1964 (42 U.S.C. 2000e–1 et
22 seq.), including the exemptions in such title.

23 (B) MAINTENANCE OF PURPOSE.—Not-
24 withstanding any other provision of law, funds
25 made available under this section on behalf of

1 participating displaced students that are re-
2 ceived by a school or preschool program, as a
3 result of their parents' choice, shall not, con-
4 sistent with the first amendment of the United
5 States Constitution, necessitate any change in
6 the school or program's teaching mission, re-
7 quire any school or program to remove religious
8 art, icons, scriptures, or other symbols, or pre-
9 clude any school or program from retaining reli-
10 gious terms in its name, selecting its board
11 members on a religious basis, or including reli-
12 gious references in its mission statements and
13 other chartering or governing documents.

14 (5) RULE OF CONSTRUCTION.—Reimbursement
15 (or any other form of support provided on behalf of
16 participating displaced students) under this section
17 shall be considered assistance to the student and
18 shall not be considered assistance to the school or
19 preschool program that enrolls the student.

20 (k) REPORTS.—At the end of each quarter described
21 in subsection (b)(2)(A), the Secretary shall submit a re-
22 port to the appropriate committees of the Congress de-
23 scribing the implementation and results of the program
24 under this section. Such report shall—

1 (1) specify the number of children served, the
2 percentage of funds used on instructional activities,
3 and the percentage of funds used for supplemental
4 educational services; and

5 (2) include information on the mobility of dis-
6 placed students.

7 (l) DEFINITIONS.—In this section:

8 (1) The term “displaced student” means a stu-
9 dent who is at least 4 years old, has not completed
10 12th grade, and would have attended another school
11 or preschool program during the 2005–2006 school
12 year, but for the fact that—

13 (A) the school, the program, or the sur-
14 rounding area was damaged by a Gulf hurri-
15 cane disaster; and

16 (B) the school or program could not re-
17 open shortly after the disaster.

18 (2) The term “Gulf hurricane disaster” means
19 a major disaster that was declared to exist by the
20 President, in accordance with section 401 of the
21 Robert T. Stafford Disaster Relief and Emergency
22 Assistance Act (42 U.S.C. 5170), and was caused by
23 Hurricane Katrina or Hurricane Rita.

1 (3) The term “parent” has the meaning given
2 to that term in section 9101 of the Elementary and
3 Secondary Education Act of 1965 (20 U.S.C. 7801).

4 (4) The term “participating displaced student”
5 means a displaced student participating in the pro-
6 gram under this section.

7 (5) The term “preschool program” means a
8 public or private program serving 4 or 5 year old
9 children, including any such Head Start program,
10 that is in compliance with applicable State health
11 and safety requirements.

12 (6) The term “school” means a public or pri-
13 vate elementary school or secondary school (as those
14 terms are defined in section 9101 of the Elementary
15 and Secondary Education Act of 1965 (20 U.S.C.
16 7801)), including a religious elementary school or
17 secondary school, that was legally operating in the
18 State involved before September 1, 2005.

19 (7) The term “Secretary” means the Secretary
20 of Education, in consultation with the Secretary of
21 Health and Human Services.

22 (m) FUNDING.—

23 (1) IN GENERAL.—Out of funds not otherwise
24 appropriated, there is hereby appropriated to the
25 Secretary of Education, to carry out this section,

1 \$2,500,000,000, to remain available through the pe-
2 riod ending on July 31, 2006. Any such funds that
3 are not obligated by the end of such period shall re-
4 vert to the Treasury.

5 (2) CONTRIBUTIONS.—Under such terms and
6 conditions as the Secretary may impose, the Sec-
7 retary may, for the purpose of carrying out this sec-
8 tion, accept and use such amounts as may be con-
9 tributed by individuals, business concerns, or other
10 entities for such purpose.

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