

116TH CONGRESS
1ST SESSION

H. R. 4316

To provide for temporary emergency impact aid for local educational agencies.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 12, 2019

Mr. KING of New York (for himself and Miss RICE of New York) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To provide for temporary emergency impact aid for local educational agencies.

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 “Public School Emer-
5 gency Relief Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) The United States continues to experience
9 an unprecedented influx in arrivals of unaccom-
10 panied children.

1 (2) In fiscal year 2018, the Department of
2 Health and Human Services Office of Refugee Re-
3 settlement released 49,100 unaccompanied alien chil-
4 dren to sponsors nationwide.

5 (3) Federal law, as upheld by the Supreme
6 Court decision in *Plyer v. Doe*, 457 U.S. 202
7 (1982), permits all children residing in the United
8 States access to a public elementary and secondary
9 education regardless of their immigration status.

10 (4) An unprecedented influx of unaccompanied
11 alien children has resulted in a strain on the Na-
12 tion’s public school system.

13 (5) In response to these conditions, this Act
14 creates an emergency grant for the 2019–2020
15 school year tailored to the needs of local educational
16 agencies affected by enrollment increases attrib-
17 utable to unaccompanied alien children.

18 **SEC. 3. TEMPORARY EMERGENCY IMPACT AID FOR IMMI-**
19 **GRANT STUDENTS.**

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

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

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

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

13 (3) NOTICE OF FUNDS AVAILABILITY.—Not
14 later than 14 calendar days after funds are made
15 available to carry out this Act, the Secretary of Edu-
16 cation shall publish in the Federal Register a notice
17 of the availability of funds under this section.

18 (b) APPLICATION.—

19 (1) STATE EDUCATIONAL AGENCY.—Not later
20 than 7 calendar days after the date by which appli-
21 cations under paragraph (2) shall be submitted, a
22 State educational agency that desires to receive
23 emergency impact aid under this section shall sub-
24 mit an application to the Secretary of Education, in
25 such manner and accompanied by such information

1 as the Secretary of Education may require, including
2 information on the total immigrant student child
3 count of the State provided in applications sub-
4 mitted under paragraph (2) by eligible local edu-
5 cational agencies and eligible BIA-funded schools in
6 the State.

7 (2) LOCAL EDUCATIONAL AGENCIES AND BIA-
8 FUNDED SCHOOLS.—Not later than 14 days after
9 the date of the publication of the notice described in
10 subsection (a)(3), an eligible local educational agen-
11 cy or eligible BIA-funded school that desires an
12 emergency impact aid payment under this section
13 shall submit an application to the State educational
14 agency, in such manner, and accompanied by such
15 information as the State educational agency may re-
16 quire, including documentation submitted for the
17 most recent quarter completed that indicates the fol-
18 lowing:

19 (A) In the case of an eligible local edu-
20 cational agency, the number of immigrant stu-
21 dents enrolled in the elementary schools and
22 secondary schools (including charter schools)
23 served by such agency for such quarter.

1 (B) In the case of an eligible BIA-funded
2 school, the number of immigrant students en-
3 rolled in such school for such quarter.

4 (3) DETERMINATION OF NUMBER OF IMMI-
5 GRANT STUDENTS.—In determining the number of
6 immigrant students for a quarter under paragraph
7 (2), an eligible local educational agency or eligible
8 BIA-funded school shall include the number of im-
9 migrant students served—

10 (A) in the case of a determination for the
11 first quarterly installment, during the most re-
12 cent quarter completed before the date of enact-
13 ment of this Act; and

14 (B) in the case of a determination for each
15 subsequent quarterly installment, during the
16 quarter immediately preceding the quarter for
17 which the installment is provided.

18 (c) AMOUNT OF EMERGENCY IMPACT AID.—

19 (1) AID TO STATE EDUCATIONAL AGENCIES.—

20 (A) IN GENERAL.—The amount of emer-
21 gency impact aid received by a State edu-
22 cational agency for the 2019–2020 school year
23 shall equal the product of—

24 (i) the increase (if any) in the total
25 number of immigrant students—

1 (I) as determined by the eligible
2 local educational agencies and eligible
3 BIA-funded schools in the State
4 under subsection (b)(2); over

5 (II) the number of such students
6 enrolled in such State during the cor-
7 responding quarter of the 2018–2019
8 school year; and

9 (ii) \$12,000.

10 (B) INSUFFICIENT FUNDS.—If the amount
11 available to provide emergency impact aid under
12 this section is insufficient to pay the full
13 amount that each State educational agency is
14 eligible to receive under this section, the Sec-
15 retary of Education shall ratably reduce the
16 amount of such emergency impact aid to each
17 such State educational agency.

18 (C) RETENTION OF STATE SHARE.—In the
19 case of a State educational agency that has
20 made a payment to a local educational agency
21 prior to the date of enactment of this Act for
22 the purpose of covering additional costs in-
23 curred as a result of enrolling an immigrant
24 student in a school served by the local edu-
25 cational agency for the 2017–2018 and 2018–

2019 school years, the State educational agency may retain a portion of the payment described in paragraph (2)(A)(ii) that bears the same relation to the total amount of the payment under such paragraph as the sum of such prior payments bears to the total cost of attendance for all students in that local educational agency for whom the State educational agency made such prior payments.

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

(A) QUARTERLY INSTALLMENTS.—

(i) IN GENERAL.—A State educational agency shall provide emergency impact aid payments under this section to eligible local educational agencies and eligible BIA-funded schools on a quarterly basis for the 2019–2020 school year by such dates as determined by the Secretary of Education. Such quarterly installment payments shall be based on the number of immigrant students reported under subsection (b)(2).

(ii) PAYMENT AMOUNT.—Subject to paragraph (1)(B), each quarterly installment payment under clause (i) shall equal

1 25 percent of the amount determined
2 under paragraph (1)(A).

3 (iii) TIMELINE.—The Secretary of
4 Education shall establish a timeline for
5 quarterly reporting on the number of im-
6 migrant students in order to make the ap-
7 propriate disbursements in a timely man-
8 ner.

9 (iv) INSUFFICIENT FUNDS.—If, for
10 any quarter, the amount available to a
11 State educational agency under this section
12 to make payments to eligible local edu-
13 cational agencies and eligible BIA-funded
14 schools under this subsection is insufficient
15 to pay the full amount that an eligible local
16 educational agency or eligible BIA-funded
17 school is eligible to receive under this sec-
18 tion, the State educational agency shall
19 ratably reduce the amount of such pay-
20 ments to each such agency and school.

21 (3) IMMIGRANT STUDENTS.—Subject to the
22 subsection (d), an eligible local educational agency
23 or eligible BIA-funded school receiving emergency
24 impact aid payments under this section shall use the
25 payments to provide services and assistance to ele-

mentary schools and secondary schools (including charter schools) served by such agency, or to such BIA-funded school, that enrolled an immigrant student.

(d) USE OF FUNDS.—

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

(A) Paying the compensation of personnel, including teacher aides, in schools enrolling immigrant students.

(B) Identifying and acquiring curricular material, including the costs of providing additional classroom supplies, and mobile educational units and leasing sites or spaces.

(C) Basic instructional services for such students, including tutoring, mentoring, or academic counseling.

(D) Reasonable transportation costs.

(E) Health and counseling services.

(F) Education and support services.

(G) Other uses as allowed under title III of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6801 et seq.).

(2) PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES.—

1 (A) IN GENERAL.—In the case of an immi-
2 grant student who is a child with a disability,
3 any payment made on behalf of such student to
4 an eligible local educational agency shall be
5 used to pay for special education and related
6 services consistent with the Individuals with
7 Disabilities Education Act (20 U.S.C. 1400 et
8 seq.).

9 (B) DEFINITIONS.—In subparagraph (A),
10 the terms “child with a disability”, “special
11 education”, and “related services” have the
12 meaning given such terms in section 602 of the
13 Individuals with Disabilities Education Act (20
14 U.S.C. 1401).

15 (e) RETURN OF AID.—

16 (1) ELIGIBLE LOCAL EDUCATIONAL AGENCY OR
17 ELIGIBLE BIA-FUNDED SCHOOL.—An eligible local
18 educational agency or eligible BIA-funded school
19 that receives an emergency impact aid payment
20 under this section shall return to the State edu-
21 cational agency any payment provided to the eligible
22 local educational agency or school under this section
23 that the eligible local educational agency or school
24 has not obligated by the end of the 2019–2020
25 school year in accordance with this section.

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

5 (A) any aid provided to the agency under
6 this section that the agency has not obligated
7 by the end of the 2019–2020 school year in ac-
8 cordance with this section; and

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

11 (f) LIMITATION ON USE OF AID AND PAYMENTS.—
12 Aid and payments provided under this section shall only
13 be used for expenses incurred during the 2019–2020
14 school year.

15 (g) ADMINISTRATIVE EXPENSES.—A State edu-
16 cational agency that receives emergency impact aid under
17 this section may use not more than 1 percent of such aid
18 for administrative expenses. An eligible local educational
19 agency or eligible BIA-funded school that receives emer-
20 gency impact aid payments under this section may use not
21 more than 2 percent of such payments for administrative
22 expenses.

23 (h) SPECIAL FUNDING RULE.—In calculating fund-
24 ing under section 8003 of the Elementary and Secondary
25 Education Act of 1965 (20 U.S.C. 7703) for an eligible

1 local educational agency that receives an emergency im-
2 pact aid payment under this section, the Secretary of Edu-
3 cation shall not count immigrant students served by such
4 agency for whom an emergency impact aid payment is re-
5 ceived under this section, nor shall such students be count-
6 ed for the purpose of calculating the total number of chil-
7 dren in average daily attendance at the schools served by
8 such agency as provided in section 8003(b)(3)(B)(i) of
9 such Act (20 U.S.C. 7703(b)(3)(B)(i)).

10 (i) NONDISCRIMINATION.—

11 (1) IN GENERAL.—Nothing in this Act may be
12 construed to alter or modify the provisions of the In-
13 dividuals with Disabilities Education Act (20 U.S.C.
14 1400 et seq.), title VI of the Civil Rights Act of
15 1964 (42 U.S.C. 2000d et seq.), title IX of the Edu-
16 cation Amendments of 1972 (20 U.S.C. 1681 et
17 seq.), and the Rehabilitation Act of 1973 (29 U.S.C.
18 701 et seq.).

19 (2) PROHIBITION.—A school that enrolls an im-
20 migrant student under this section shall not dis-
21 criminate against students on the basis of race,
22 color, national origin, religion, disability, or sex.

23 (3) RULE OF CONSTRUCTION.—The amount of
24 any payment (or other form of support provided on
25 behalf of an immigrant student) under this section

1 shall not be treated as income of a parent or guard-
 2 ian of the student for purposes of Federal tax laws
 3 or for determining eligibility for any other Federal
 4 program.

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

11 **SEC. 4. DEFINITIONS.**

12 (a) IN GENERAL.—Unless otherwise specified, the
 13 terms used in this Act have the meanings given the terms
 14 in section 8101 of the Elementary and Secondary Edu-
 15 cation Act of 1965 (20 U.S.C. 7801).

16 (b) SPECIFIC DEFINITIONS.—In this Act:

17 (1) ELIGIBLE LOCAL EDUCATIONAL AGENCY.—

18 The term “eligible local educational agency” means
 19 a local educational agency that serves an elementary
 20 school or secondary school (including a charter
 21 school) in which there is enrolled an immigrant stu-
 22 dent.

23 (2) ELIGIBLE BIA-FUNDED SCHOOL.—The term
 24 “eligible BIA-funded school” means a school funded

1 by the Bureau of Indian Affairs in which there is
2 enrolled an immigrant student.

3 (3) IMMIGRANT STUDENT.—The term “immi-
4 grant student” has the meaning given the term “im-
5 migrant children and youth” in section 3301 of the
6 Elementary and Secondary Education Act of 1965
7 (20 U.S.C. 7011) (as such section was in effect on
8 the day before the date of enactment of the Every
9 Student Succeeds Act (Public Law 114-95)).

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