

115TH CONGRESS  
1ST SESSION

# H. R. 4307

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

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 8, 2017

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 the Workforce

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## 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) In 2017, the United States experienced an  
9 unprecedented influx in arrivals of unaccompanied  
10 alien children.

1           (2) In fiscal year 2017, the Department of  
2 Health and Human Services Office of Refugee Re-  
3 settlement released 42,417 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 2017–2018  
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 2017–2018 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 2015–2016  
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 2016–2017 and 2017–

1           2018 school years, the State educational agency  
2           may retain a portion of the payment described  
3           in paragraph (2)(A)(ii) that bears the same re-  
4           lation to the total amount of the payment under  
5           such paragraph as the sum of such prior pay-  
6           ments bears to the total cost of attendance for  
7           all students in that local educational agency for  
8           whom the State educational agency made such  
9           prior payments.

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

12                   (A) QUARTERLY INSTALLMENTS.—

13                           (i) IN GENERAL.—A State educational  
14                           agency shall provide emergency impact aid  
15                           payments under this section to eligible  
16                           local educational agencies and eligible BIA-  
17                           funded schools on a quarterly basis for the  
18                           2017–2018 school year by such dates as  
19                           determined by the Secretary of Education.  
20                           Such quarterly installment payments shall  
21                           be based on the number of immigrant stu-  
22                           dents reported under subsection (b)(2).

23                           (ii) PAYMENT AMOUNT.—Subject to  
24                           paragraph (1)(B), each quarterly install-  
25                           ment 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-



1       mentary schools and secondary schools (including  
2       charter schools) served by such agency, or to such  
3       BIA-funded school, that enrolled an immigrant stu-  
4       dent.

5       (d) USE OF FUNDS.—

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

8           (A) Paying the compensation of personnel,  
9       including teacher aides, in schools enrolling im-  
10      migrant students.

11          (B) Identifying and acquiring curricular  
12      material, including the costs of providing addi-  
13      tional classroom supplies, and mobile edu-  
14      cational units and leasing sites or spaces.

15          (C) Basic instructional services for such  
16      students, including tutoring, mentoring, or aca-  
17      demic counseling.

18          (D) Reasonable transportation costs.

19          (E) Health and counseling services.

20          (F) Education and support services.

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

24          (2) PROVISION OF SPECIAL EDUCATION AND  
25      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 2017–2018  
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 2017–2018 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 2017–2018  
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 9101 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).

○