

107TH CONGRESS
1ST SESSION

H. R. 3086

To provide the Secretary of Education with specific waiver authority to respond to conditions in the national emergency declared by the President of the United States on September 14, 2001.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 11, 2001

Mr. MCKEON (for himself, Mr. BOEHNER, Mr. GEORGE MILLER of California, Mr. ARMEY, Mr. WATTS of Oklahoma, Mr. GEPHARDT, Mr. PETRI, Mr. KILDEE, Mr. HOEKSTRA, Mr. OWENS, Mr. CASTLE, Mr. PAYNE, Mr. GREENWOOD, Mrs. MINK of Hawaii, Mr. GRAHAM, Mr. ANDREWS, Mr. HILLEARY, Mr. SCOTT, Mr. EHLERS, Ms. WOOLSEY, Mr. FLETCHER, Ms. RIVERS, Mr. ISAKSON, Mr. HINOJOSA, Mr. GOODLATTE, Mrs. MCCARTHY of New York, Mrs. BIGGERT, Mr. TIERNEY, Mr. PLATTS, Mr. FORD, Mr. TIBERI, Mr. KUCINICH, Mr. KELLER, Mr. WU, Mr. OSBORNE, Mr. HOLT, Ms. SOLIS, Mrs. DAVIS of California, Ms. MCCOLLUM, Mr. BAKER, Mr. BERMAN, Mr. BILIRAKIS, Mr. BOEHLERT, Mr. BUYER, Mr. CALVERT, Mr. CRENSHAW, Mr. CUNNINGHAM, Mr. DREIER, Mr. EVANS, Mr. FILNER, Mr. FORBES, Mr. HALL of Texas, Ms. HARMAN, Mr. HERGER, Mr. HUNTER, Mr. JONES of North Carolina, Mr. KING, Mr. KIRK, Mr. QUINN, Mr. SABO, Mr. SHOWS, Mr. SIMPSON, Mr. SKELTON, Mr. SMITH of New Jersey, Mr. SNYDER, Mr. STUMP, Mr. TAYLOR of Mississippi, Mr. TURNER, Mr. UNDERWOOD, Mr. WALSH, Ms. WATERS, and Mr. WAXMAN) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To provide the Secretary of Education with specific waiver authority to respond to conditions in the national emergency declared by the President of the United States on September 14, 2001.

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 “Higher Education Re-
5 lief Opportunities for Students Act of 2001”.

6 **SEC. 2. WAIVER AUTHORITY FOR RESPONSE TO NATIONAL**
7 **EMERGENCY.**

8 (a) **WAIVERS AND MODIFICATIONS.**—

9 (1) **IN GENERAL.**—Notwithstanding any other
10 provision of law, unless enacted with specific ref-
11 erence to this section, the Secretary of Education
12 may waive or modify any statutory or regulatory
13 provision applicable to the student financial aid pro-
14 grams under title IV of the Higher Education Act
15 of 1965 as the Secretary deems necessary in connec-
16 tion with the national emergency to provide the
17 waivers or modifications authorized by paragraph
18 (2).

19 (2) **ACTIONS AUTHORIZED.**—The Secretary is
20 authorized to waive or modify such provisions as
21 may be necessary to ensure that—

22 (A) borrowers of Federal student loans
23 who are affected individuals are not placed in a
24 worse position financially in relation to those

1 loans because of their status as affected individ-
2 uals;

3 (B) administrative requirements placed on
4 affected individuals who are borrowers of Fed-
5 eral student loans are minimized, to the extent
6 possible without impairing the integrity of the
7 student loan programs, in order to ease the
8 burden on such borrowers, and to avoid inad-
9 vertent, technical violations or defaults;

10 (C) the terms “annual adjusted family in-
11 come” and “available income”, as used in the
12 determination of need for student financial as-
13 sistance under title IV of the Act for any such
14 affected individual (and the determination of
15 such need for his or her spouse and dependents,
16 if applicable), are modified to mean the sums
17 received in the first calendar year of the award
18 year for which such determination is made, in
19 order to reflect more accurately the financial
20 condition of such affected individual and his or
21 her family; and

22 (D) institutions of higher education, eligi-
23 ble lenders, guaranty agencies, and other enti-
24 ties participating in the student assistance pro-
25 grams under title IV of the Act that are located

1 in areas that are declared disaster areas by any
2 Federal, State, or local official in connection
3 with the national emergency may be granted
4 temporary relief from requirements that are
5 rendered infeasible or unreasonable by the na-
6 tional emergency, including due diligence re-
7 quirements and reporting deadlines.

8 (b) NOTICE OF WAIVERS OR MODIFICATIONS.—Not-
9 withstanding section 437 of the General Education Provi-
10 sions Act (20 U.S.C. 1232) and section 553 of title 5,
11 United States Code, the Secretary shall, by notice in the
12 Federal Register, publish the waivers or modifications of
13 statutory and regulatory provisions the Secretary deems
14 necessary to achieve the purposes of this section. Such no-
15 tice shall include the terms and conditions to be applied
16 in lieu of such statutory and regulatory provisions. The
17 Secretary is not required to exercise the waiver or modi-
18 fication authority under this section on a case-by-case
19 basis.

20 (c) IMPACT REPORT.—The Secretary shall, not later
21 than 15 months after first exercising any authority to
22 issue a waiver or modification under subsection (a), report
23 to the Committee on Education and the Workforce of the
24 House of Representatives and the Committee on Health,
25 Education, Labor and Pensions of the Senate on the im-

1 pact of such waiver or modification on affected individuals
2 and the programs under Title IV, and the basis for such
3 determination, and include in such report the Secretary's
4 recommendations for changes to the statutory or regu-
5 latory provisions that were the subject of such waiver or
6 modification.

7 (d) NO DELAY IN WAIVERS AND MODIFICATIONS.—
8 Sections 482(c) and 492 of the Higher Education Act of
9 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the
10 waivers and modifications authorized or required by this
11 Act.

12 **SEC. 3. TUITION REFUNDS OR CREDITS.**

13 (a) SENSE OF CONGRESS.—It is the sense of the Con-
14 gress that—

15 (1) all institutions offering postsecondary edu-
16 cation should provide a full refund to students who
17 are members of the Armed Forces serving on active
18 duty during the national emergency, for that portion
19 of a period of instruction such student was unable
20 to complete, or for which such individual did not re-
21 ceive academic credit, because he or she was called
22 up for such service; and

23 (2) if affected individuals withdraw from a
24 course of study as a result of such service, such in-
25 stitutions should make every effort to minimize de-

1 ferral of enrollment or reapplication requirements
2 and should provide the greatest flexibility possible
3 with administrative deadlines related to those appli-
4 cations.

5 (b) DEFINITION.—For purposes of this section, a full
6 refund includes a refund of required tuition and fees, or
7 a credit in a comparable amount against future tuition
8 and fees.

9 **SEC. 4. GUIDANCE ON USE OF PROFESSIONAL JUDGMENT.**

10 At the time of publishing any waivers or modifica-
11 tions pursuant to section 2(b), the Secretary shall publish
12 guidance on which institutions may rely in the appropriate
13 exercise of discretion under section 479A of the Higher
14 Education Act of 1965 (20 U.S.C. 1087tt) to adjust finan-
15 cial need and aid eligibility determinations for affected in-
16 dividuals.

17 **SEC. 5. DEFINITIONS.**

18 For purposes of this Act:

19 (1) The term “Federal student loan” means a
20 loan made, insured, or guaranteed under part B, D,
21 or E of title IV of the Higher Education Act of
22 1965.

23 (2) The term “national emergency” means the
24 national emergency by reason of certain terrorist at-
25 tacks declared by the President on September 14,

1 2001, or subsequent national emergencies declared
2 by the President by reason of terrorist attacks.

3 (3) The term “affected individual” means an
4 individual who—

5 (A) is serving on active duty during the
6 national emergency;

7 (B) resides or is employed in an area that
8 is declared a disaster area by any Federal,
9 State, or local official in connection with the
10 national emergency; or

11 (C) suffered direct economic hardship as a
12 direct result of the national emergency, as de-
13 termined under a waiver or modification issued
14 under this Act.

15 (4) Individuals serving on active duty during
16 the national emergency shall include—

17 (A) any Reserve of an Armed Force or-
18 dered to active duty under section 12301(a),
19 12301(g), 12302, 12304, or 12306 of title 10,
20 United States Code, or any retired member of
21 an Armed Force ordered to active duty under
22 section 688 of such title, for service in connec-
23 tion with such emergency or subsequent actions
24 or conditions, regardless of the location at

1 which such active duty service is performed;
2 and

3 (B) any other member of an Armed Force
4 on active duty in connection with such emer-
5 gency or subsequent actions or conditions who
6 has been assigned to a duty station at a loca-
7 tion other than the location at which such mem-
8 ber is normally assigned.

9 (5) The term “active duty” has the meaning
10 given such term in section 101(d)(1) of title 10,
11 United States Code, except that such term does not
12 include active duty for training or attendance at a
13 service school.

14 (6) The term “the Act” means the Higher Edu-
15 cation Act of 1965 (20 U.S.C. 1001 et seq.).

16 **SEC. 6. TERMINATION OF AUTHORITY.**

17 The provisions of this Act shall cease to be effective
18 on September 30, 2003.

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