

107TH CONGRESS
1ST SESSION

S. 1793

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

IN THE SENATE OF THE UNITED STATES

DECEMBER 10, 2001

Ms. COLLINS (for herself, Mr. REED, Mr. GREGG, Mr. DEWINE, Mr. CONRAD, Mr. WARNER, Mr. SESSIONS, Mr. JEFFORDS, Mr. LIEBERMAN, Mr. HUTCHINSON, Mr. ENZI, Mr. WELLSTONE, and Mr. DAYTON) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To provide the Secretary of Education with specific waiver authority to respond to conditions in the national emergency declared by the President 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.**—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of law, unless enacted with specific ref-
3 erence to this section, the Secretary of Education
4 (referred to in this Act as the “Secretary”) may
5 waive or modify any statutory or regulatory provi-
6 sion applicable to the student financial aid programs
7 under title IV of the Higher Education Act of 1965
8 (20 U.S.C. 1070 et seq.) as the Secretary deems
9 necessary in connection with the national emergency
10 to provide the waivers or modifications authorized by
11 paragraph (2).

12 (2) ACTIONS AUTHORIZED.—The Secretary is
13 authorized to waive or modify any provision de-
14 scribed in paragraph (1) as may be necessary to en-
15 sure that—

16 (A) borrowers of Federal student loans
17 who are affected individuals are not placed in a
18 worse position financially in relation to those
19 loans because of their status as affected individ-
20 uals;

21 (B) administrative requirements placed on
22 affected individuals who are borrowers of Fed-
23 eral student loans are minimized, to the extent
24 possible without impairing the integrity of the
25 student loan programs, to ease the burden on

1 such borrowers and avoid inadvertent, technical
2 violations or defaults;

3 (C) the calculation of “annual adjusted
4 family income” and “available income”, as used
5 in the determination of need for student finan-
6 cial assistance under title IV of the Higher
7 Education Act of 1965 (20 U.S.C. 1070 et
8 seq.) for any such affected individual (and the
9 determination of such need for his or her
10 spouse and dependents, if applicable), may be
11 modified to mean the sums received in the first
12 calendar year of the award year for which such
13 determination is made, in order to reflect more
14 accurately the financial condition of such af-
15 fected individual and his or her family; and

16 (D) institutions of higher education, eligi-
17 ble lenders, guaranty agencies, and other enti-
18 ties participating in the student assistance pro-
19 grams under title IV of the Higher Education
20 Act of 1965 (20 U.S.C. 1070 et seq.) that are
21 located in, or whose operations are directly af-
22 fected by, areas that are declared disaster areas
23 by any Federal, State, or local official in con-
24 nection with the national emergency may be
25 granted temporary relief from requirements

1 that are rendered infeasible or unreasonable by
2 the national emergency, including due diligence
3 requirements and reporting deadlines.

4 (b) NOTICE OF WAIVERS OR MODIFICATIONS.—

5 (1) IN GENERAL.—Notwithstanding section 437
6 of the General Education Provisions Act (20 U.S.C.
7 1232) and section 553 of title 5, United States
8 Code, the Secretary shall, by notice in the Federal
9 Register, publish the waivers or modifications of
10 statutory and regulatory provisions the Secretary
11 deems necessary to achieve the purposes of this sec-
12 tion.

13 (2) TERMS AND CONDITIONS.—The notice
14 under paragraph (1) shall include the terms and
15 conditions to be applied in lieu of such statutory and
16 regulatory provisions.

17 (3) CASE-BY-CASE BASIS.—The Secretary is not
18 required to exercise the waiver or modification au-
19 thority under this section on a case-by-case 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 any waivers or modifications issued pursuant to
2 subsection (a) on affected individuals and the programs
3 under title IV of the Higher Education Act of 1965 (20
4 U.S.C. 1070 et seq.), and the basis for such determina-
5 tion, and include in such report the Secretary's rec-
6 ommendations for changes to the statutory or regulatory
7 provisions that were the subject of such waiver or modi-
8 fication.

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

14 **SEC. 3. TUITION REFUNDS OR CREDITS FOR MEMBERS OF**
15 **ARMED FORCES.**

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

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

1 (2) if affected individuals withdraw from a
2 course of study as a result of such service, such in-
3 stitutions should make every effort to minimize de-
4 ferral of enrollment or reapplication requirements
5 and should provide the greatest flexibility possible
6 with administrative deadlines related to those appli-
7 cations.

8 (b) DEFINITION OF FULL REFUND.—For purposes
9 of this section, a full refund includes a refund of required
10 tuition and fees, or a credit in a comparable amount
11 against future tuition and fees.

12 **SEC. 4. USE OF PROFESSIONAL JUDGMENT.**

13 At the time of publishing any waivers or modifica-
14 tions pursuant to section 2(b), the Secretary shall publish
15 examples of measures that institutions may take in the
16 appropriate exercise of discretion under section 479A of
17 the Higher Education Act of 1965 (20 U.S.C. 1087tt) to
18 adjust financial need and aid eligibility determinations for
19 affected individuals.

20 **SEC. 5. DEFINITIONS.**

21 In this Act:

22 (1) ACTIVE DUTY.—The term “active duty” has
23 the meaning given such term in section 101(d)(1) of
24 title 10, United States Code, except that such term

1 does not include active duty for training or attend-
2 ance at a service school.

3 (2) AFFECTED INDIVIDUAL.—The term “af-
4 fected individual” means an individual who—

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

7 (B) is serving on National Guard duty dur-
8 ing the national emergency;

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

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

17 (3) FEDERAL STUDENT LOAN.—The term
18 “Federal student loan” means a loan made, insured,
19 or guaranteed under part B, D, or E of title IV of
20 the Higher Education Act of 1965 (20 U.S.C. 1071
21 et seq., 20 U.S.C. 1087a et seq., and 20 U.S.C.
22 1087aa et seq.).

23 (4) NATIONAL EMERGENCY.—The term “na-
24 tional emergency” means the national emergency by
25 reason of certain terrorist attacks declared by the

1 President on September 14, 2001, or subsequent na-
2 tional emergencies declared by the President by rea-
3 son of terrorist attacks.

4 (5) SERVING ON ACTIVE DUTY DURING THE NA-
5 TIONAL EMERGENCY.—The term “serving on active
6 duty during the national emergency” shall include
7 service by an individual who is—

8 (A) a Reserve of an Armed Force ordered
9 to active duty under section 12301(a),
10 12301(g), 12302, 12304, or 12306 of title 10,
11 United States Code, or any retired member of
12 an Armed Force ordered to active duty under
13 section 688 of such title, for service in connec-
14 tion with such emergency or subsequent actions
15 or conditions, regardless of the location at
16 which such active duty service is performed;
17 and

18 (B) any other member of an Armed Force
19 on active duty in connection with such emer-
20 gency or subsequent actions or conditions who
21 has been assigned to a duty station at a loca-
22 tion other than the location at which such mem-
23 ber is normally assigned.

24 (6) SERVING ON NATIONAL GUARD DUTY DUR-
25 ING THE NATIONAL EMERGENCY.—The term “serv-

1 ing on National Guard duty during the national
2 emergency” shall include performing training or
3 other duty authorized by section 502(f) of title 32,
4 United States Code, as a member of the National
5 Guard, at the request of the President, for or in
6 support of an operation during the national emer-
7 gency.

8 **SEC. 6. TERMINATION OF AUTHORITY.**

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

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