

Calendar No. 278107TH 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, Mr. DAYTON, Mr. ENSIGN, Mr. ROBERTS, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

DECEMBER 12, 2001

Reported by Mr. KENNEDY, without amendment

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Higher Education Re-
3 lief Opportunities for Students Act of 2001”.

4 **SEC. 2. WAIVER AUTHORITY FOR RESPONSE TO NATIONAL**
5 **EMERGENCY.**

6 (a) **WAIVERS AND MODIFICATIONS.**—

7 (1) **IN GENERAL.**—Notwithstanding any other
8 provision of law, unless enacted with specific ref-
9 erence to this section, the Secretary of Education
10 (referred to in this Act as the “Secretary”) may
11 waive or modify any statutory or regulatory provi-
12 sion applicable to the student financial aid programs
13 under title IV of the Higher Education Act of 1965
14 (20 U.S.C. 1070 et seq.) as the Secretary deems
15 necessary in connection with the national emergency
16 to provide the waivers or modifications authorized by
17 paragraph (2).

18 (2) **ACTIONS AUTHORIZED.**—The Secretary is
19 authorized to waive or modify any provision de-
20 scribed in paragraph (1) as may be necessary to en-
21 sure 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
25 loans because of their status as affected individ-
26 uals;

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

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

21 (D) institutions of higher education, eligi-
22 ble lenders, guaranty agencies, and other enti-
23 ties participating in the student assistance pro-
24 grams under title IV of the Higher Education
25 Act of 1965 (20 U.S.C. 1070 et seq.) that are

1 located in, or whose operations are directly af-
2 fected by, areas that are declared disaster areas
3 by any Federal, State, or local official in con-
4 nection with the national emergency may be
5 granted temporary relief from requirements
6 that are rendered infeasible or unreasonable by
7 the national emergency, including due diligence
8 requirements and reporting deadlines.

9 (b) NOTICE OF WAIVERS OR MODIFICATIONS.—

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

18 (2) TERMS AND CONDITIONS.—The notice
19 under paragraph (1) shall include the terms and
20 conditions to be applied in lieu of such statutory and
21 regulatory provisions.

22 (3) CASE-BY-CASE BASIS.—The Secretary is not
23 required to exercise the waiver or modification au-
24 thority under this section on a case-by-case basis.

1 (c) **IMPACT REPORT.**—The Secretary shall, not later
2 than 15 months after first exercising any authority to
3 issue a waiver or modification under subsection (a), report
4 to the Committee on Education and the Workforce of the
5 House of Representatives and the Committee on Health,
6 Education, Labor and Pensions of the Senate on the im-
7 pact of any waivers or modifications issued pursuant to
8 subsection (a) on affected individuals and the programs
9 under title IV of the Higher Education Act of 1965 (20
10 U.S.C. 1070 et seq.), and the basis for such determina-
11 tion, and include in such report the Secretary’s rec-
12 ommendations for changes to the statutory or regulatory
13 provisions that were the subject of such waiver or modi-
14 fication.

15 (d) **NO DELAY IN WAIVERS AND MODIFICATIONS.**—
16 Sections 482(c) and 492 of the Higher Education Act of
17 1965 (20 U.S.C. 1089(c), 1098a) shall not apply to the
18 waivers and modifications authorized or required by this
19 Act.

20 **SEC. 3. TUITION REFUNDS OR CREDITS FOR MEMBERS OF**
21 **ARMED FORCES.**

22 (a) **SENSE OF CONGRESS.**—It is the sense of Con-
23 gress that—

24 (1) all institutions offering postsecondary edu-
25 cation should provide a full refund to students who

1 are members of the Armed Forces serving on active
2 duty during the national emergency, for that portion
3 of a period of instruction such student was unable
4 to complete, or for which such individual did not re-
5 ceive academic credit, because he or she was called
6 up for such service; and

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

14 (b) DEFINITION OF FULL REFUND.—For purposes
15 of this section, a full refund includes a refund of required
16 tuition and fees, or a credit in a comparable amount
17 against future tuition and fees.

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

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

1 **SEC. 5. DEFINITIONS.**

2 In this Act:

3 (1) **ACTIVE DUTY.**—The term “active duty” has
4 the meaning given such term in section 101(d)(1) of
5 title 10, United States Code, except that such term
6 does not include active duty for training or attend-
7 ance at a service school.

8 (2) **AFFECTED INDIVIDUAL.**—The term “af-
9 fected individual” means an individual who—

10 (A) is serving on active duty during the
11 national emergency;

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

14 (C) resides or is employed in an area that
15 is declared a disaster area by any Federal,
16 State, or local official in connection with the
17 national emergency; or

18 (D) suffered direct economic hardship as a
19 direct result of the national emergency, as de-
20 termined under a waiver or modification issued
21 under this Act.

22 (3) **FEDERAL STUDENT LOAN.**—The term
23 “Federal student loan” means a loan made, insured,
24 or guaranteed under part B, D, or E of title IV of
25 the Higher Education Act of 1965 (20 U.S.C. 1071

1 et seq., 20 U.S.C. 1087a et seq., and 20 U.S.C.
2 1087aa et seq.).

3 (4) NATIONAL EMERGENCY.—The term “na-
4 tional emergency” means the national emergency by
5 reason of certain terrorist attacks declared by the
6 President on September 14, 2001, or subsequent na-
7 tional emergencies declared by the President by rea-
8 son of terrorist attacks.

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

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

23 (B) any other member of an Armed Force
24 on active duty in connection with such emer-
25 gency or subsequent actions or conditions who

1 has been assigned to a duty station at a loca-
2 tion other than the location at which such mem-
3 ber is normally assigned.

4 (6) SERVING ON NATIONAL GUARD DUTY DUR-
5 ING THE NATIONAL EMERGENCY.—The term “serv-
6 ing on National Guard duty during the national
7 emergency” shall include performing training or
8 other duty authorized by section 502(f) of title 32,
9 United States Code, as a member of the National
10 Guard, at the request of the President, for or in
11 support of an operation during the national emer-
12 gency.

13 **SEC. 6. TERMINATION OF AUTHORITY.**

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

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