

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.

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## 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

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## 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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