

Mr. Speaker, I yield back the balance of my time.

Mr. BOEHNER. Mr. Speaker, before I yield back the balance of my time, let me just say that I hope we will get this issue resolved sometime tomorrow before we take up the votes on this suspension.

Mr. GEORGE MILLER of California. Mr. Speaker, if the gentleman will yield, I would say to the gentleman, that is today.

Mr. BOEHNER. Well, reclaiming my time, it will be tomorrow's legislative day. The gentleman might think it is today, but it really is tomorrow.

But be that as it may, the underlying bill really will fix a very serious problem that will impact the ability of private lenders to offer student loans. The concern is that once we get into the spring and early summer, it will have a devastating impact on the ability of these private lenders to offer student loans across the Nation.

While I understand the concerns of the gentleman from California (Mr. GEORGE MILLER) and the gentlewoman from New York (Mrs. MCCARTHY), we have to make sure that we do not do anything here that would inhibit the ability of any young person or, for that matter, someone who would like to continue their education from getting the financing necessary in order to do so.

Mr. Speaker, I urge my colleagues to vote for the bill.

Mr. HINOJOSA. Mr. Speaker, I rise today in support of S. 1762, a bill to amend the Higher Education Act of 1965 to establish fixed interest rates for student and parent borrowers, to extend current law with respect to special allowances for lenders, and for other purposes.

This legislation proposes to settle the annual issue of student loan interest rate. The issue was temporarily resolved in 1998. S. 1762 incorporates a permanent compromise agreed to by postsecondary student financial aid associations, student groups and lender organizations. Under the bill's provisions, the current variable interest rate formulas for Federal Family Education Loan Program education loans will remain in place until 2006, when the formula for borrowers will revert permanently to fixed rates of 6.8 percent for student borrowers and 7.9 percent for parent borrowers. The only way many Hispanic students can enter postsecondary education and complete their degrees is through the availability to grants and loans. This bill is very important to all Hispanic students nationwide and especially for my state of Texas. I appreciate the support of the Texas Guaranteed Student Loan Corporation, the Texas Association of Student Financial Aid Administrators, and the Association of Texas Lenders for Education for their support.

Finally, Mr. Speaker, I want to thank Ranking Member MILLER and Chairman MCKEON of the 21st Century Competitiveness Subcommittee, for helping to bring the legislation before the House. I also want to fully recognize our Senate colleagues for all their work on this critical issue. I urge all my colleagues in the House to support this bill.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise in support of S. 1762, a bill that will ensure the long-term availability of higher education loans for students and their families. Our nation's higher education loan system under the Federal Family Education Loan Program (FFELP) is an example of government at its best. By working in partnership with students, parents, colleges and universities and private sector loan providers, the federal government has made the dream of college a reality for more than 50 million Americans through the education loan program since 1965.

As families come together during this holiday season, those with children heading off to college next fall will be talking about not only where to attend college, but how to pay for it. For high school students and their families gathered around their kitchen tables, today's action means that the only question they have to ask is "where is their high school senior going to attend college," not whether they can afford it.

For the past 35 years, education loans have been critical to the ability of America's families to be able to afford the rising cost of college tuition. By passing this legislation today, we will maintain our national investment in well-educated, well-trained young people who can compete with workers anywhere in the world. In short, this legislation is good for students, families, schools, taxpayers and the economy.

Finally, Mr. Speaker, I want to commend Chairman BOEHNER, Ranking Member MILLER and Chairman MCKEON for their leadership in assuring the continued availability of education loans for future generations of students. This is important legislation for our nation and I urge my colleagues to support it.

Mr. BOEHNER. I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Ohio (Mr. BOEHNER) that the House suspend the rules and pass Senate bill, S. 1762.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GEORGE MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

HIGHER EDUCATION RELIEF OPPORTUNITIES FOR STUDENTS ACT OF 2001

Mr. MCKEON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1793) to provide the Secretary of Education with specific waiver authority to respond to conditions in the na-

tional emergency declared by the President on September 14, 2001.

The Clerk read as follows:

S. 1793

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Higher Education Relief Opportunities for Students Act of 2001".

SEC. 2. WAIVER AUTHORITY FOR RESPONSE TO NATIONAL EMERGENCY.

(a) WAIVERS AND MODIFICATIONS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, unless enacted with specific reference to this section, the Secretary of Education (referred to in this Act as the "Secretary") may waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) as the Secretary deems necessary in connection with the national emergency to provide the waivers or modifications authorized by paragraph (2).

(2) ACTIONS AUTHORIZED.—The Secretary is authorized to waive or modify any provision described in paragraph (1) as may be necessary to ensure that—

(A) borrowers of Federal student loans who are affected individuals are not placed in a worse position financially in relation to those loans because of their status as affected individuals;

(B) administrative requirements placed on affected individuals who are borrowers of Federal student loans are minimized, to the extent possible without impairing the integrity of the student loan programs, to ease the burden on such borrowers and avoid inadvertent, technical violations or defaults;

(C) the calculation of "annual adjusted family income" and "available income", as used in the determination of need for student financial assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) for any such affected individual (and the determination of such need for his or her spouse and dependents, if applicable), may be modified to mean the sums received in the first calendar year of the award year for which such determination is made, in order to reflect more accurately the financial condition of such affected individual and his or her family; and

(D) institutions of higher education, eligible lenders, guaranty agencies, and other entities participating in the student assistance programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) that are located in, or whose operations are directly affected by, areas that are declared disaster areas by any Federal, State, or local official in connection with the national emergency may be granted temporary relief from requirements that are rendered infeasible or unreasonable by the national emergency, including due diligence requirements and reporting deadlines.

(b) NOTICE OF WAIVERS OR MODIFICATIONS.—

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

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

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

(c) **IMPACT REPORT.**—The Secretary shall, not later than 15 months after first exercising any authority to issue a waiver or modification under subsection (a), report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate on the impact of any waivers or modifications issued pursuant to subsection (a) on affected individuals and the programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), and the basis for such determination, and include in such report the Secretary's recommendations for changes to the statutory or regulatory provisions that were the subject of such waiver or modification.

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

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

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(1) all institutions offering postsecondary education should provide a full refund to students who are members of the Armed Forces serving on active duty during the national emergency, for that portion of a period of instruction such student was unable to complete, or for which such individual did not receive academic credit, because he or she was called up for such service; and

(2) if affected individuals withdraw from a course of study as a result of such service, such institutions should make every effort to minimize deferral of enrollment or re-application requirements and should provide the greatest flexibility possible with administrative deadlines related to those applications.

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

SEC. 4. USE OF PROFESSIONAL JUDGMENT.

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

SEC. 5. DEFINITIONS.

In this Act:

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

(2) **AFFECTED INDIVIDUAL.**—The term “affected individual” means an individual who—

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

(B) is serving on National Guard duty during the national emergency;

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

(D) suffered direct economic hardship as a direct result of the national emergency, as determined under a waiver or modification issued under this Act.

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

(4) **NATIONAL EMERGENCY.**—The term “national emergency” means the national emergency by reason of certain terrorist attacks declared by the President on September 14, 2001, or subsequent national emergencies declared by the President by reason of terrorist attacks.

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

(A) a Reserve of an Armed Force ordered to active duty under section 12301(a), 12301(g), 12302, 12304, or 12306 of title 10, United States Code, or any retired member of an Armed Force ordered to active duty under section 688 of such title, for service in connection with such emergency or subsequent actions or conditions, regardless of the location at which such active duty service is performed; and

(B) any other member of an Armed Force on active duty in connection with such emergency or subsequent actions or conditions who has been assigned to a duty station at a location other than the location at which such member is normally assigned.

(6) **SERVING ON NATIONAL GUARD DUTY DURING THE NATIONAL EMERGENCY.**—The term “serving on National Guard duty during the national emergency” shall include performing training or other duty authorized by section 502(f) of title 32, United States Code, as a member of the National Guard, at the request of the President, for or in support of an operation during the national emergency.

SEC. 6. TERMINATION OF AUTHORITY.

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

The **SPEAKER** pro tempore. Pursuant to the rule, the gentleman from California (Mr. **McKEON**) and the gentleman from California (Mr. **GEORGE MILLER**) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. **McKEON**).

GENERAL LEAVE

Mr. **McKEON**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the Senate bill, S. 1793.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. **McKEON**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 1793, the Higher Education Relief Opportunities for Students Act. This legislation is extremely important and will serve students in a number of ways. First, as my colleagues know, the House overwhelmingly passed H.R. 3086, its version of the bill, on October 23 by a vote of 415 to zero. We showed our commitment to those directly affected by the attacks of September 11, and now our colleagues in the Senate have shown that same commitment.

It is important to ensure that the Secretary of Education has the ability

to address the needs of students, their families, institutions of higher education, and loan providers as they relate to the events of September 11.

The legislation before us is almost identical to the bill that this body passed previously, with one exception. This version of the HEROES legislation, as passed by our colleagues in the other body, makes clear that those individuals called to active duty in the National Guard in response to the national emergency called by the President would be included in those individuals eligible to participate in the regulatory relief provided by the Secretary of Education.

As my colleagues know, under the bipartisan HEROES bill, the Education Secretary can grant waivers so that reservists leaving their jobs and families may be relieved from making student loan payments for a time. Victims' families may be relieved from receiving collection calls from lenders, and consecutive requirements for loan forgiveness programs may be considered uninterrupted.

This legislation will provide relief for the men and women of our military who are defending the freedoms of this great Nation. As families send loved ones into harm's way, the Higher Education Relief Opportunities for Students Act will allow the Secretary of Education to reduce some of the effects of that disruption here at home.

This bill is an indication of the Congress's commitment to our military and to our students and families, as well as to those on the front lines who make higher education accessible.

I urge my colleagues to vote “yes” on this bill, renew the commitment they put forward just 2 short months ago, and let us move forward with the goal of assisting those affected by the tragedy of September 11.

Mr. Speaker, I reserve the balance of my time.

Mr. **GEORGE MILLER** of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support the Higher Education Relief Opportunities Student Act of 2001, and I thank the gentleman from California (Mr. **McKEON**) for his hard work and the bipartisan spirit which he brought to this important bill.

This act will give the Secretary of Education the authority to adjust the laws governing student aid programs, if necessary, in response to the September 11 attacks. It will allow the Secretary to ensure that members of the armed services and students are not punished financially by the attacks.

We obviously support this legislation. I find it ironic that we are doing this piece of legislation, but we are not going to do the previous legislation under discussion to help these families who have been devastated by these attacks.

Mr. Speaker, I yield back the balance of my time.

Mr. MCKEON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. MCKEON) that the House suspend the rules and pass the Senate bill, S. 1793.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GEORGE MILLER of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

AUTHORIZING SPEAKER TO ENTERTAIN MOTION TO SUSPEND THE RULES ON H.R. 2869

Mr. GILLMOR. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to entertain a motion to suspend the rules relating to H.R. 2869, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. GEORGE MILLER of California. Mr. Speaker, reserving the right to object. I would also like to ask unanimous consent to add H.R. 3163 to the Suspension Calendar to provide student loan relief to surviving spouses of victims to the September 11 tragedies. I do not believe anybody would oppose this.

The SPEAKER pro tempore. Under the additional request by the gentleman from California (Mr. GEORGE MILLER) and under the guidelines consistently issued by successive speaker, as recorded in section 956 of the House Rules Manual, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leadership.

Is there objection to the original request of the gentleman from Ohio?

There was no objection.

SMALL BUSINESS LIABILITY PROTECTION ACT

Mr. GILLMOR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2869) to provide certain relief for small businesses from liability under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and to amend such Act to promote the cleanup and reuse of brownfields, to provide financial assist-

ance for brownfields revitalization, to enhance State response programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2869

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Liability Relief and Brownfields Revitalization Act".

TITLE I—SMALL BUSINESS LIABILITY PROTECTION

SEC. 101. SHORT TITLE.

This title may be cited as the "Small Business Liability Protection Act".

SEC. 102. SMALL BUSINESS LIABILITY RELIEF.

(a) EXEMPTIONS.—Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) is amended by adding at the end the following new subsections:

“(o) DE MICROMIS EXEMPTION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a person shall not be liable, with respect to response costs at a facility on the National Priorities List, under this Act if liability is based solely on paragraph (3) or (4) of subsection (a), and the person, except as provided in paragraph (4) of this subsection, can demonstrate that—

“(A) the total amount of the material containing hazardous substances that the person arranged for disposal or treatment of, arranged with a transporter for transport for disposal or treatment of, or accepted for transport for disposal or treatment, at the facility was less than 110 gallons of liquid materials or less than 200 pounds of solid materials (or such greater or lesser amounts as the Administrator may determine by regulation); and

“(B) all or part of the disposal, treatment, or transport concerned occurred before April 1, 2001.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply in a case in which—

“(A) the President determines that—

“(i) the materials containing hazardous substances referred to in paragraph (1) have contributed significantly or could contribute significantly, either individually or in the aggregate, to the cost of the response action or natural resource restoration with respect to the facility; or

“(ii) the person has failed to comply with an information request or administrative subpoena issued by the President under this Act or has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the facility; or

“(B) a person has been convicted of a criminal violation for the conduct to which the exemption would apply, and that conviction has not been vitiated on appeal or otherwise.

“(3) NO JUDICIAL REVIEW.—A determination by the President under paragraph (2)(A) shall not be subject to judicial review.

“(4) NONGOVERNMENTAL THIRD-PARTY CONTRIBUTION ACTIONS.—In the case of a contribution action, with respect to response costs at a facility on the National Priorities List, brought by a party, other than a Federal, State, or local government, under this Act, the burden of proof shall be on the party bringing the action to demonstrate that the conditions described in paragraph (1)(A) and (B) of this subsection are not met.

“(p) MUNICIPAL SOLID WASTE EXEMPTION.—

“(1) IN GENERAL.—Except as provided in paragraph (2) of this subsection, a person shall not be liable, with respect to response costs at a facility on the National Priorities List, under paragraph (3) of subsection (a) for municipal solid waste disposed of at a facility if the person, except as provided in paragraph (5) of this subsection, can demonstrate that the person is—

“(A) an owner, operator, or lessee of residential property from which all of the person's municipal solid waste was generated with respect to the facility;

“(B) a business entity (including a parent, subsidiary, or affiliate of the entity) that, during its 3 taxable years preceding the date of transmittal of written notification from the President of its potential liability under this section, employed on average not more than 100 full-time individuals, or the equivalent thereof, and that is a small business concern (within the meaning of the Small Business Act (15 U.S.C. 631 et seq.)) from which was generated all of the municipal solid waste attributable to the entity with respect to the facility; or

“(C) an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code that, during its taxable year preceding the date of transmittal of written notification from the President of its potential liability under this section, employed not more than 100 paid individuals at the location from which was generated all of the municipal solid waste attributable to the organization with respect to the facility.

For purposes of this subsection, the term 'affiliate' has the meaning of that term provided in the definition of 'small business concern' in regulations promulgated by the Small Business Administration in accordance with the Small Business Act (15 U.S.C. 631 et seq.).

“(2) EXCEPTION.—Paragraph (1) shall not apply in a case in which the President determines that—

“(A) the municipal solid waste referred to in paragraph (1) has contributed significantly or could contribute significantly, either individually or in the aggregate, to the cost of the response action or natural resource restoration with respect to the facility;

“(B) the person has failed to comply with an information request or administrative subpoena issued by the President under this Act; or

“(C) the person has impeded or is impeding, through action or inaction, the performance of a response action or natural resource restoration with respect to the facility.

“(3) NO JUDICIAL REVIEW.—A determination by the President under paragraph (2) shall not be subject to judicial review.

“(4) DEFINITION OF MUNICIPAL SOLID WASTE.—

“(A) IN GENERAL.—For purposes of this subsection, the term 'municipal solid waste' means waste material—

“(i) generated by a household (including a single or multifamily residence); and

“(ii) generated by a commercial, industrial, or institutional entity, to the extent that the waste material—

“(I) is essentially the same as waste normally generated by a household;

“(II) is collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services; and