

109TH CONGRESS
1ST SESSION

H. R. 3863

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2005

Received

AN ACT

To provide the Secretary of Education with waiver authority for the reallocation rules in the Campus-Based Aid programs, and to extend the deadline by which funds have to be reallocated to institutions of higher education due to a natural disaster.

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; REFERENCES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Natural Disaster Student Aid Fairness Act”.

6 (b) REFERENCES.—References in this Act to “the
7 Act” are references to the Higher Education Act of 1965
8 (20 U.S.C. 1001 et seq.).

9 **SEC. 2. ALLOCATION AND USE OF CAMPUS-BASED HIGHER**
10 **EDUCATION ASSISTANCE.**

11 (a) WAIVER OF MATCHING REQUIREMENTS.—Not-
12 withstanding sections 413C(a)(2), 443(b)(5), and
13 463(a)(2) of the Act (20 U.S.C. 1070b–2(a)(2); 42 U.S.C.
14 2753(b)(5); 20 U.S.C. 1087cc(a)(2)), with respect to
15 funds made available for academic years 2004–2005 and
16 2005–2006—

17 (1) in the case of an institution of higher edu-
18 cation located in an area affected by a Gulf hurri-
19 cane disaster, the Secretary shall waive the require-
20 ment that a participating institution of higher edu-
21 cation provide a non-Federal share or a capital con-
22 tribution, as the case may be, to match Federal
23 funds provided to the institution for the programs
24 authorized pursuant to subpart 3 of part A, part C,
25 and part E of title IV of the Act; and

(2) in the case of an institution of higher education that has accepted for enrollment any affected students, the Secretary may waive that matching requirement after considering the institution's student population and existing resources, using consistent and objective criteria.

(b) WAIVER OF REALLOCATION RULES.—

(1) AUTHORITY TO REALLOCATE.—Notwithstanding sections 413D(d), 442(d), and 462(I) of the Act (20 U.S.C. 1070b–3(d); 42 U.S.C. 2752(d); 20 U.S.C. 1087bb(I)), the Secretary shall—

(A) reallocate any funds returned under any of those sections that were allocated to institutions of higher education for award year 2004–2005 to an institution of higher education that is eligible under paragraph (2) of this subsection; and

(B) waive the allocation reduction for award year 2006–2007 for an institution returning more than 10 percent of its allocation under any of those sections.

(2) ELIGIBLE INSTITUTIONS FOR REALLOCATION.—An institution of higher education may receive a reallocation of excess allocations under this subsection if the institution—

1 (A) participates in the program for which
2 excess allocations are being reallocated; and

3 (B)(I) is located in an area affected by a
4 Gulf hurricane disaster; or

5 (ii) has accepted for enrollment any af-
6 fected students in academic year 2005–2006.

7 (3) BASIS OF REALLOCATION.—The Secretary
8 shall determine the manner in which excess alloca-
9 tions shall be reallocated to institutions under para-
10 graph (1), and shall give additional consideration to
11 the needs of institutions located in an area affected
12 by a Gulf hurricane disaster.

13 (4) ADDITIONAL WAIVER AUTHORITY.—Not-
14 withstanding any other provision of law, in order to
15 carry out this subsection, the Secretary may waive
16 or modify any statutory or regulatory provision re-
17 lating to the reallocation of excess allocations under
18 subpart 3 of part A, part C, or part E of title IV
19 of the Act in order to ensure that assistance is re-
20 ceived by affected institutions for affected students.

21 (c) AVAILABILITY OF FUNDS DATE EXTENSION.—
22 Notwithstanding any other provision of law—

23 (1) any funds available to the Secretary under
24 sections 413A, 441, and 461 of the Act (20 U.S.C.
25 1070b; 42 U.S.C. 2751; 20 U.S.C. 1087aa) for

1 which the period of availability would otherwise ex-
2 pire on September 30, 2005, shall be available for
3 obligation by the Secretary until September 30,
4 2006 for the purposes of the programs authorized
5 pursuant to subpart 3 of part A, part C, and part
6 E of title IV of the Act, respectively; and

7 (2) the Secretary may recall any funds allocated
8 to an institution of higher education for award year
9 2004–2005 under section 413D, 442, or 462 of the
10 Act that, if not returned to the Secretary as excess
11 allocations pursuant to any of those sections, would
12 otherwise lapse on September 30, 2005, and reallo-
13 cate those funds in accordance with subsection
14 (b)(1).

15 **SEC. 3. EMERGENCY DESIGNATION.**

16 Section 2 of this Act is designated as an emergency
17 requirement pursuant to section 402 of H. Con. Res. 95
18 (109th Congress).

19 **SEC. 4. TERMINATION OF AUTHORITY.**

20 The provisions of this Act shall cease to be effective
21 one year after the date of the enactment of this Act.

22 **SEC. 5. DEFINITIONS.**

23 In this Act:

24 (1) SECRETARY.—The term “Secretary” means
25 the Secretary of Education.

1 (2) AFFECTED STUDENT.—The term “affected
2 student” means an individual who has applied for or
3 received student financial assistance under title IV
4 of the Act, and who—

5 (A) was enrolled or accepted for enroll-
6 ment, as of August 29, 2005, at an institution
7 of higher education in an area affected by a
8 Gulf hurricane disaster;

9 (B) was a dependent student enrolled or
10 accepted for enrollment at an institution of
11 higher education that is not in an area affected
12 by a Gulf hurricane disaster, but whose parents
13 resided or were employed, as of August 29,
14 2005, in an area affected by a Gulf hurricane
15 disaster; or

16 (C) suffered direct economic hardship as a
17 direct result of a Gulf hurricane disaster, as de-
18 termined by the Secretary using consistent and
19 objective criteria.

20 (3) GULF HURRICANE DISASTER.—The term
21 “Gulf hurricane disaster” means a major disaster
22 that the President declared to exist, in accordance
23 with section 401 of the Robert T. Stafford Disaster
24 Relief and Emergency Assistance Act (42 U.S.C.

1 5170), and that was caused by Hurricane Katrina or
2 Hurricane Rita.

3 (4) AREA AFFECTED BY A GULF HURRICANE
4 DISASTER.—The term “area affected by a Gulf hur-
5 ricane disaster” means a county or parish, in an af-
6 fected State, that has been designated by the Fed-
7 eral Emergency Management Agency for disaster as-
8 sistance for individuals and households as a result of
9 Hurricane Katrina or Hurricane Rita.

10 (5) AFFECTED STATE.—The term “affected
11 State” means the State of Alabama, Louisiana, Mis-
12 sissippi, or Texas.

13 (6) INSTITUTION OF HIGHER EDUCATION.—The
14 term “institution of higher education” has the
15 meaning given that term in section 102 of the High-
16 er Education Act of 1965 (20 U.S.C. 1002).

Passed the House of Representatives September 27,
2005.

Attest:

JEFF TRANDAHL,

Clerk.