

H.R. 2638

Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (Enrolled as Agreed to or Passed by Both House and Senate)

(Note: Public Law 110-329 was enacted September 30, 2008. See Status of Appropriations Bills Web site <http://thomas.loc.gov/home/approp/app09.html>.)

Higher Education Disaster Relief

For an additional amount under part B of title VII of the Higher Education Act of 1965 ('HEA') for institutions of higher education (as defined in section 101 or section 102(c) of that Act) that are located in an area affected by hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974, \$15,000,000, to remain available through September 30, 2009: *Provided*, That such funds shall be available to the Secretary of Education only for payments to help defray the expenses (which may include lost revenue, reimbursement for expenses already incurred, and construction) incurred by such institutions of higher education that were forced to close, relocate, or whose operations were impaired as a result of damage directly caused by such hurricanes, floods, and other natural disasters occurring during 2008, and for payments to enable such institutions to provide grants to students who attend such institutions for academic years beginning on or after July 1, 2008: *Provided further*, That such payments shall be made in accordance with criteria established by the Secretary and made publicly available without regard to section 437 of the General Education Provisions Act, section 553 of title 5, United States Code, or part B of title VII of the HEA: *Provided further*, That the Secretary shall award funds available under this paragraph not later than 60 days after the date of the enactment of this Act.

GENERAL PROVISIONS, THIS CHAPTER

Sec. 10701.

(a) Extension of Waiver Authority- Section 105 of subtitle A of title IV of division B of Public Law 109-148 (119 Stat. 2797) is amended --

(1) in subsection (b)--

(A) in the first sentence, by striking 'for fiscal year 2007.' and inserting 'for any of fiscal years 2007 through 2009.'; and

(B) by striking the second sentence; and

(2) in subsection (c)(2), by striking 'for fiscal year 2006 or 2007' and inserting 'for any fiscal year'.

(b) Application of Waiver Authority to Areas Affected in 2008- The authority of the Secretary of Education under section 105 of subtitle A of title IV of division B of Public Law 109-148 (119 Stat. 2797), as amended by subsection

(a), may be exercised with respect to an entity in an area affected by hurricanes, floods, and other natural disasters occurring during 2008 for which the President declared a major disaster under title IV of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974.

Sec. 10702.

(a) Allocation and Use of Campus-Based Higher Education Assistance-

(1) WAIVER OF MATCHING REQUIREMENTS- Notwithstanding sections 413C(a)(2) and 443(b)(5) of the Higher Education Act of 1965 (20 U.S.C. 1070b-2(a)(2); 42 U.S.C. 2753(b)(5)), with respect to funds made available for academic year 2009-2010 to an institution of higher education located in an area affected by a 2008 natural disaster, the Secretary shall waive the requirement that a participating institution of higher education provide a non-Federal share or a capital contribution, as the case may be, to match Federal funds provided to the institution for the programs authorized pursuant to subpart 3 of part A and part C of title IV of such Act.

(2) WAIVER OF REALLOCATION RULES-

(A) AUTHORITY TO REALLOCATE- Notwithstanding sections 413D(d) and 442(d) of the Higher Education Act of 1965 (20 U.S.C. 1070b-3(d); 42 U.S.C. 2752(d)), the Secretary shall--
(i) reallocate any funds returned under any of those sections that were allocated to institutions of higher education for award year 2008-2009 to an institution of higher education that is eligible under this paragraph; and
(ii) waive the allocation reduction for award year 2009-2010 for an institution returning more than 10 percent of its allocation under any of those sections.

(B) ELIGIBLE INSTITUTIONS FOR REALLOCATION- An institution of higher education may receive a reallocation of excess allocations under this paragraph if the institution--
(i) participates in the program for which excess allocations are being reallocated; and
(ii) is located in an area affected by a 2008 natural disaster.

(C) BASIS OF REALLOCATION- The Secretary shall determine the manner in which excess allocations shall be reallocated to institutions under subparagraph (A), and shall give additional consideration to the needs of institutions located in an area affected by a 2008 natural disaster.

(D) ADDITIONAL WAIVER AUTHORITY- Notwithstanding any other provision of law, in order to carry out this paragraph, the Secretary may waive or modify any statutory or regulatory provision relating to the reallocation of excess allocations under subpart 3 of part A or part C of title IV of the Higher Education Act of 1965 in order to ensure that assistance is received by institutions described in subsection (a)(2)(B).

(b) Definitions- In this section:

(1) 2008 NATURAL DISASTER- The term '2008 natural disaster' means a major disaster that the President declared to exist, in accordance

with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170) that was caused by hurricanes, floods, and other natural disasters during calendar year 2008

(2) AREA AFFECTED BY A 2008 NATURAL DISASTER- The term 'area affected by a 2008 natural disaster' means a county or parish that has been designated by the Federal Emergency Management Agency for disaster assistance for individuals and households as a result of a 2008 natural disaster.

(3) INSTITUTION OF HIGHER EDUCATION- The term 'institution of higher education' has the meaning given that term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002).

(4) SECRETARY- The term 'Secretary' means the Secretary of Education.